

1996

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

**BETTING (CORPORATISATION)
(CONSEQUENTIAL AMENDMENTS) BILL 1996**

EXPLANATORY MEMORANDUM

**Circulated by Authority of the Minister for Business, Employment and
Tourism
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The *Betting (Corporatisation) (Consequential Amendments) Bill 1996* ("the Bill") is part of a package of two Bills required to enable the Australian Capital Territory Totalizator Administration Board ("the Board") to be converted into a Territory owned corporation under the provisions of the *Territory Owned Corporations Act 1990*. The corporation will have the name ACTTAB Limited ("the Company"). The other Bill is entitled the *Betting (Corporatisation) (Consequential Provisions) Bill 1996*.

These two Bills facilitate the corporatisation of the Board by transferring rights and liabilities from the Board to the Company, by detailing the terms and conditions of employment of transferred and new employees and for other transitional matters and for the consequential amendment of a number of Territory enactments.

The Bill amends the following Territory enactments as a consequence of the corporatisation of the Board:

- *Betting (Totalizator Administration) Act 1964*
- *Public Interest Disclosure Act 1994*
- *Public Sector Management Act 1994*
- *Territory Owned Corporations Act 1990*

The Bill also contains transitional provisions to ensure that after 1 July 1996 certain actions taken prior to that date continue to have effect. This will facilitate an orderly administrative change and negate the need for such actions to be commenced anew.

There are no direct costs associated with this Bill. The corporatisation should result in significant efficiency gains to Government.

Details of the Bill follow.

DETAILS

Citation

Clause 1 provides that the Bill, when enacted, will be known as the *Betting (Corporatisation) (Consequential Amendments) Act 1996*.

Commencement

Clause 2 provides that the Act will commence on 1 July 1996 which is the commencement day specified in the *Betting (Corporatisation) (Consequential Provisions) Bill 1996*, apart from section 1 and Part II of the *Betting (Totalizator Administration) Act 1964* which will commence on the gazettal of the Bill or on 1 July 1996, whichever first occurs, and section 41 of the same Act which will commence when the *Financial Management Act 1996* commences.

Amendment of Acts

Clause 3 provides that the Acts appearing in the Schedule are amended as set out therein.

Amendment of Ombudsman Regulations

Clause 4 omits regulation 2A and Schedule 1A, which relate to prescribed authorities, and which are now redundant.

Saving, application and transitional provisions

Clause 5 makes various transitional amendments.

Subclause 5(1) is an interpretation provision for the purposes of this clause and defines the terms "Board", "Company", "former Fund", "new Fund" and "relevant day".

Subclause 5(2) provides that an act or thing done by the Board under another law before the relevant day is deemed to have been done by the Company for the purposes of that law after that day.

Subclause 5(3) provides that section 34 of the *Betting (Totalizator Administration) Act 1964* as amended by the Bill applies in respect of the financial year commencing on 1 July 1995. This ensures that payments under that section need to be made for the 1995/1996 financial year.

Subclause 5(4) ensures that certain determinations made before 1 July 1996 continue to be disallowable instruments notwithstanding the repeal of the certain paragraphs of section 37 which designated them as disallowable instruments.

Subclause 5(5) ensures that a payment to or from the former Fund, in respect of anything done on or after the commencement of new section 41 of the *Betting (Totalizator Administration) Act 1964* shall be taken to have been made to or from the new fund.

Subclause 5(6) continues in force the rules of betting which existed under the *Betting (Totalizator Administration) Act 1964* before its amendment by the Bill.

Schedule 1

The Schedule amends various Acts as follows:

Betting (Totalizator Administration) Act 1964

The Betting (Totalizator Administration) Act is amended for a number of purposes, including the following:

- (a) to provide for the grant of a licence to the Company to conduct or provide totalisator services in the Territory;
- (b) to allow the Company to enter into an agreement with a bookmaker and accept fixed price bets on sports betting events as an agent of the bookmaker and to allow the Company to take bets on sports betting events, as well as on races and other sporting events, on the totalisator;
- (c) to make changes consequential upon certain financial management reforms;
- (d) to rename the Australian Capital Territory Racecourse Development Fund as the Racing Development Fund and to extend the purposes for which payments may be made from the Fund to encompass the promotion, advancement, conduct or administration of racing; and
- (e) to remove the involvement which the Board had in relation to direct financial payments to the Fund and declared race clubs.

Title - a technical amendment is made to the Act's long title as the Act now relates to the Company's operations.

Section 1 - a technical amendment to the short title of Act which will now read *Betting (ACTTAB Limited) Act 1964*.

Section 3 - technical amendments are made to various definitions in the Act.

A new definition of "sports betting event" is included. The definition gives the term the same meaning as it has in the *Bookmakers Act 1985*. The Bookmakers Act provides the Minister with the power to determine that a sporting or other event is a sports betting event. Events that have been determined in the past include:

- the AFL Grand Final
- American basketball games
- United Kingdom soccer games

This definition is necessary because the Company will be able to take bets on sports betting events as an agent of a bookmaker or to take such bets on the totalisator.

Other terms which are defined include "bet", "rules of sports betting" and "sporting event".

Part II - which dealt with matters such as the constitution and meetings of the former Board, is repealed as unnecessary and a new Part II headed "Exclusive Licence" is inserted.

New Part II comprises new sections 4 to 7 which provide for the grant by the Minister of an exclusive licence to the Company to provide totalisator betting services.

It is a requirement that there exists a deed of agreement between the Minister and the Company for the licence to be granted. The duration of the licence is 20 years and the licence is not transferable. Further, there can only be one such licence in existence at any time.

Part III of the Act (sections 32 to 39) is extensively amended. The Part dealt with the former Board's financial relationship with the ACT and it provided for moneys to be paid by the former Board to the ACT, the Racecourse Development Fund and to declared race clubs.

Section 32 required the Board to make a monthly payment of a percentage, as determined by the Minister, of the amount of bets received on races, to the ACT. The section is amended so that the Company continues to make the monthly payment but also makes a yearly payment of a determined percentage of the amount of bets received, to the ACT. This latter payment was formerly made by the Board direct to the Fund. The determined percentage of both kinds of payment excludes a calculation based on turnover on bets placed on sports betting events and other sporting events.

Section 33 required the Board to pay a percentage, as determined by the Minister, of the amount of bets to declared race clubs and is repealed as such payments will in future be paid from the Fund under new paragraph 43(2)(a).

Section 34 required the Board to pay a percentage of bets to the Fund. The section is repealed and a new section substituted which requires the Minister to pay all of the monthly and annual payments made by the Company to the ACT under section 32, to the Fund. Both payments are to be made by the Minister as soon as practicable after they are received from the Company.

Section 35 required the Board to pay a percentage of its profits to declared race clubs in proportions determined by the Minister. The section is repealed.

Section 36 provides for the Minister to declare a race club. The section is not affected by the Bill.

Section 37 provides that various determinations made by the Minister are disallowable instruments. The section is amended consequentially to reflect the changes outlined above.

Section 38 provided that the Board was not to enter into a contract involving the payment of more than \$250,000 without the approval of the Minister. The section is repealed.

Section 39 provided for the payment to the ACT of any surplus funds of the Board. The section is repealed as section 32 of the *Territory Owned Corporations Act 1985* enables dividends to be paid out of the Company's profits.

The heading of Part IV and section 41 are amended to change the name of the "Australian Capital Territory Racecourse Development Fund" to the "Racing Development Fund".

Section 41, which dealt with the establishment of the Racecourse Development Fund, is repealed and a new section 41 inserted which requires the Treasurer to specify an account under the *Financial Management Act 1996* as the Racing Development Fund.

Section 42 is amended consequentially.

Section 43, relating to the application of the moneys of the fund, is replaced by a new section which provides that the moneys may be applied in making a monthly payment to a declared race club of an amount (if any) approved in writing by the Minister or in making payments for the purposes referred to in section 44.

Section 44 sets out the purposes for which payments may be made from the Racing Development Fund. The section is amended in several technical respects and also to extend the purposes for which a payment may be made to include a purpose approved by the Minister, whether or not it is concerned with infrastructure, relating to the promotion, advancement, conduct or administration of racing.

Sections 48, 49 and 50 relating to the investment of Fund moneys, accounting records and audit, respectively, are repealed as a consequence of financial management reforms.

The Heading to Part V is amended so that it reads "Betting" rather than "Totalizator Betting". This reflects the new activities that may be conducted by the Company.

Section 51 is repealed and a new section substituted. The new section 51 is a key provision. It sets out the betting activities that may be conducted by the Company.

Under the section the Company may:

- (a) accept a totalisator bet on a race or sporting event or sports betting event [see subsection 51(3)] and
- (b) enter into an agreement with a bookmaker who hold a sports betting licence under the *Bookmakers Act 1985* to accept fixed price bets on behalf of the bookmaker [see subsection 51(4)].

An agreement with a bookmaker must be in accordance with the rules of sports betting and the Act [see subsection 51(5)].

The Company and its employees and agents must conduct betting activities at the Company's offices or agencies [see subsection 51(6)]. Failure to do so carries a penalty of 50 penalty units for a natural person and 250 penalty units for a body corporate.

The Company may accept telephone bets, provided the bettor has an account with the Company and the account contains sufficient moneys at the time a bet is placed to cover the bet [see subsection 51(7)].

Subsection 51(8) provides that a contract arising from the acceptance of a bet from a person outside the ACT is taken to be entered into in the ACT.

A new section 52 is inserted to create an offence where the Company, without reasonable excuse, provides credit to a person for the purposes of betting. The penalty is 250 penalty units.

Section 53 creates offences relating to underage betting. The penalty for being an underage bettor remains unchanged, but has been converted to 5 penalty units. The penalty for accepting an underage bet at an office or agency of the Company has been reviewed and is now 10 penalty units in the case of a natural person and 50 penalty units in the case of a body corporate.

Subsection 54(1) is amended to make it clear that a copy of the rules of betting, the rules of sports betting and the Act must be available for inspection at an office or agency of the Company.

Subsection 54(2) makes it an offence for a person who has the management or control of an office or agency of the Company to not have the copies available for inspection. The penalty for this offence has been converted to penalty units.

Sections 55 and 56 are repealed and a new section 55 is substituted. The repealed sections provided for the Board to provide the Minister with quarterly reports and for the Minister to make an annual report. As requirements for financial and annual reports are contained in the Territory Owned Corporations Act the need for sections 55 and 56 no longer exists. Clause 9 of the *Betting (Corporatisation) (Consequential Provisions) Bill 1996* in relation to quarterly, financial and annual reports of the Board should also be noted.

The new section 55 provides for the Company to make rules of betting and for these to be a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Further amendments are made to substitute "Company" for "Board" throughout the Act.

Public Interest Disclosure Act 1994

The Public Interest Disclosure Act is amended so that persons who disclose information relating to the Company receive the protection provided by the Act.

This is achieved by amending the definition of "Territory instrumentality" in section 3 so that it includes a Territory owned corporation. The definition has been re-cast because at present it refers to the Public Sector Management Act definition of the term. Section 3 is also amended by inserting a new subsection (2) which enables the Minister, by notice in the Gazette, to declare that a body is or is not a Territory instrumentality for the purposes of the Act.

Public Sector Management Act 1994

Section 5 of the Public Sector Management Act is amended to make it clear the Act does not apply to the Company unless specific provision is made to the contrary.

Section 251(2)(r)(i) is amended so that Public Sector Management Standards can be made regarding the mobility of staff between public employment areas. Clause 8 of the *Betting (Corporatisation) (Consequential Provisions) Bill 1996* should also be noted in relation to staff mobility.

Territory Owned Corporations Act 1990.

The Territory Owned Corporations Act is amended by inserting "ACTTAB Limited" into Schedule 1. The effect of this provision is to make the Company a Territory owned corporation under the umbrella of the *Territory Owned Corporations Act 1990*.

Further, a new Schedule 5 has been added to the Territory Owned Corporations Act which specifies modifications of the Act in relation to the Company only. Schedule 5 qualifies the operation of sections 14, 16, 30 and 33A of the Act. The effect of the modification of sections 14 and 16 is to facilitate the acquisition or establishment by the Company of subsidiaries which will not be wholly owned.

Schedule 5 qualifies the operation of section 30 in respect of the vesting of the assets of the Board in the Company by virtue of clause 5 of the *Betting (Corporatisation)(Consequential Provisions) Bill 1996*. The intention is that the Company will not be liable for the payment to the ACT of capital gains tax on the transfer of those assets to the Company on 1 July 1996 which were acquired by the Board before 20 September 1985 and that assets which were acquired by the Board on or after that date and are disposed of by the Company will be dealt with as if the Board had disposed of the asset.

The Schedule also excludes the application of section 33A to the Company or its staff. This is because subclauses 8(8) and(9) of the *Betting (Corporatisation)(Consequential Provisions) Act 1996* provide for the matters dealt with by section 33A.