

**1993**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**BETTING (TOTALIZATOR ADMINISTRATION)  
(AMENDMENT) BILL 1993**

**EXPLANATORY MEMORANDUM**

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**Outline**

The Betting (Totalizator Administration) Act 1964 provides for the conduct of totalizator betting in the ACT.

The Betting (Totalizator Administration) (Amendment) Bill 1993 amends the Act so that a statutory authority to be known as the Australian Capital Territory Totalizator Administration Board [ACTTAB] will conduct totalizator betting. ACTTAB will also be able to conduct lotteries, provide other betting services with the Minister's approval and act as an agent in relation to totalizator and lottery business. At present the totalizator business in the ACT is conducted by ACTTAB Limited a territory owned corporation [TOC].

The Bill provides for the operation of ACTTAB. Its objectives will be to ensure efficient and cost effective operations and to maximise returns to the ACT. It will have Board of from 3 to 5 members. The Chief Executive Officer of ACTTAB will be a member of the Board, but will not be able to hold office as Chairperson or Deputy Chairperson.

The Bill provides for ACTTAB Limited's Chief Executive Officer, staff assets and liabilities to be transferred to ACTTAB.

**Financial implications**

Nil for the ACT Budget although costs will be incurred by ACTTAB in changing administration arrangements from a TOC to a statutory authority.

The Bill consists of four Parts.

#### PART I - PRELIMINARY

Part 1 consists of 3 clauses that deal with machinery matters and specify : the short title of the Bill; the manner in which provisions of the Bill may be commenced and the Act that is being amended.

#### PART II - AMENDMENTS OF PRINCIPAL ACT

Part II consists of seven clauses that make amendments to the Betting (Totalizator Administrative) Act 1964.

##### Clause 4 - Amendment of Long Title

Clause 4 provides for the amendment to the long title of the Principal Act so that the long title will become:

"An Act to provide for betting on horse and greyhound races and other sporting events and for related purposes."

##### Clause 5 - Interpretation

Clause 5 amends section 4 of the Act. Section 4 of the Act is an interpretation provision and the proposed amendment will insert definitions of the terms 'Board' and 'member' and will omit the term 'TAB'.

##### Clause 6 - Substitution of Part II of the Act

Clause 6 will repeal Part II of the Act and substitute a new Part II. New Part II consists of 4 Divisions and deals with the establishment and function of the Australian Capital Territory Totalizator Administrative Board (the ACTTAB), the appointment of a Chief Executive Officer, power of delegation and application of the Audit Act 1989.

New Division 1 consists of six sections and deals with the establishment, function and powers of the ACTTAB.

New section 5 provides for the establishment of the Australian Capital Territory Totalizator Administration Board. The Board is to be a body corporate that may be called the "ACTTAB".

New section 5A specifies that the objectives of the Board are to:

- (a) ensure the efficient and cost effective operation of the Board; and
- (b) maximise sustainable returns to the Territory from totalizator betting services.

New section 5B grants an exclusive right on the Board. The section specifies that the Board has, in the Territory, the exclusive right to conduct or provide totalizator betting services for races and other sporting events whether within or outside the Territory.

New section 5C specifies the functions of the Board.

New subsection 5C(1) specifies that the Board may:

- (a) conduct or provide totalizator betting services:
  - (i) in respect of races and other sporting events whether held within or outside the Territory - by operating its own totalizator; and
  - (ii) by agreement with a body in a State or another Territory that is authorised by a law of that State or other Territory to conduct or provide off-course totalizator betting;
- (b) conduct lotteries;

(c) act as an agent of the person conducting a lottery for the sale of tickets, or shares in tickets, in a lottery; and

(d) provide such other service relating to betting as may be approved in writing by the Minister

New subsection 5C(2) specifies that the Board shall perform such other functions and duties as are conferred on it by the Act or any other Act.

New section 5D specifies that the Board has power to do all things necessary or convenient to be done in connection with its performance of its functions.

New section 5E empowers the Minister to give directions to the Board and imposes a duty on the Minister to ensure that a direction is tabled in the Legislative Assembly. The section also imposes a duty on the Board to obey any such directive.

New subsection 5E(1) empowers the Minister to give directions to the Board in relation to the exercise by the Board of its powers or the performance of its functions. Any direction is to be made by instrument.

New subsection 5E(2) imposes a duty on the Board to comply with a directive given by the Minister.

New subsection 5E(3) imposes a duty on the Minister to table any direction in the Legislative Assembly within 7 sitting days of the directive being given.

New subsection 5E(4) imposes an obligation on the Board to publish particulars of any directive given in the annual report.

New Division 2 consists of 13 new sections and deals with the constitution of the Board and meetings of the Board.

New section 5F is an interpretation section that defines the term 'member' for the purposes of Division 2. For the purposes of Division 2 the term 'member' means a member of the Board other than the Chief Executive Officer.

New section 5G deals with the membership of the Board.

New subsection 5G(1) specifies that the Board shall consist of:

- (a) the Chief Executive Officer; and
- (b) no fewer than 2 nor more than 4 other members approved by the Minister by instrument.

New subsection 5G(2) specifies that a member shall be a person having appropriate qualifications and experience having regard to the functions of the Board.

New subsection 5G(3) specifies that the appointment of a member shall not be invalid because of any defect or irregularity with the appointment.

New subsection 5G(4) specifies that a member shall hold office on such terms and conditions specified in the Act and as are determined in writing by the Minister.

New subsection 5G(5) specifies that the performance of the functions or the exercise of power by the Board shall not be affected by reason only of there being a vacancy in the membership of the Board.

New section 5H specifies that any member of its Board holds office for the period specified in the instrument of appointment provided that the period does not exceed 5 years. If member is eligible for re-appointment.

New section 5J imposes a duty on the Minister to appoint a Chairperson and Deputy Chairperson from the members of the Board. Because of the definition of member in new section 5F the Chief Executive Officer is not eligible for appointment to either position.

New section 5K provides for payment of members of the Board. The section specifies that amount of remuneration and allowances may be prescribed by regulation. If, however, there is in existence a determination of the Remuneration Tribunal of the Commonwealth then that determination shall apply.

New section 5L empowers the Minister to grant leave of absence to a member of the Board on such terms as the Minister determines.

New section 5M imposes a duty on a member, including the Chief Executive Officer, to declare a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board. Any disclosure is to be recorded in the minutes of the Board. The section prohibits a member who has made such disclosure from being present at any relevant discussions of the Board unless the Minister determines otherwise.

New section 5N specifies that a member may resign by providing the Minister with a written statement.

New section 5P empowers the Minister to appoint a person to act as a member of the Board.

New section 5Q deals with the termination of the appointment of a member or acting member.

New subsection 5Q(1) provides the Minister with a discretion to terminate an appointment of a member or acting member because of misbehaviour or physical or mental incapacity.

New subsection 5Q(2) imposes a duty on the Minister to terminate the appointment of a member or acting member who:

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;
- (b) is absent for 3 consecutive meetings, except on approved leave; or
- (c) fails to disclose a direct or indirect pecuniary interest.

New section 5R empowers the Chairperson or in her or his absence, the Deputy Chairperson, to convene Board meetings:

- (a) as the Chairperson or the Deputy Chairperson considers necessary for the efficient performance of the Board's functions; and
- (b) where the Minister directs.

New section 5S deals with the procedure at meetings.

New subsection 5S(1) specifies that the Chairperson shall preside at all Board meetings at which he or she is present.

New subsection 5S(2) specifies that where the Chairperson is not present at a meeting then the Deputy Chairperson shall preside.

New subsection 5S(3) specifies that where both the Chairperson and the Deputy Chairperson are absent from a meeting then the members present at the meeting shall elect a member present to chair the meeting.



New subsection 5S(4) empowers the member presiding at a Board meeting to give directions regarding the procedure to be followed with the meeting.

New subsection 5S(5) specifies that questions arising at a meeting shall be decided by a majority of the votes of the persons present and voting.

New subsection 5S(6) specifies that, the member presiding at a meeting has a deliberative vote and a casting vote where there is a tied vote.

New subsection 5S(7) imposes a duty on the Board to keep minutes of its proceedings.

New section 5T specifies that a meeting of the Board a majority of the members of the Board, including the Chief Executive Officer, shall constitute a quorum.

New Division 3 consists of seven new sections and deals with the appointment of the Chief Executive Officer, staff of the Authority and the employment of consultants.

New section 5U deals with the appointment of the Chief Executive Officer.

New subsection 5U(1) imposes a duty on the Minister to appoint, after consultation with the Board, a person to be Chief Executive Officer.

New subsection 5U(2) specifies that the Chief Executive Officer shall hold office, for a period not exceeding five years, on such terms and conditions, specified in the Act and as are determined by the Minister.

New subsection 5U(3) imposes a duty on the Chief Executive Officer to manage the affairs of the Board in accordance with the general directions of the Board.

New section 5V empowers the Board to grant the Chief Executive Officer leave of absence.

New section 5W specifies that the Chief Executive Officer may resign by giving the Minister a written instrument informing her or him of the intention to resign.

New section 5X provides for the termination of the appointment of the Chief Executive Officer.

New subsection 5X(1) provides the Minister with a discretion to terminate the appointment of the Chief Executive Officer for misbehaviour or for physical or mental incapacity.

New subsection 5X(2) imposes a duty on the Minister to terminate the appointment of the Chief Executive Officer if the Chief Executive Officer:

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) engages in paid employment outside the duties of his or her office without the approval of the Board;
- (c) fails to disclose a direct or indirect pecuniary interest; or
- (d) is convicted of an offence punishable by imprisonment for 1 year.

New section 5Y empowers the Minister to appoint, after consultation with the Board, a person to act as Chief Executive Officer during the absence of that officer or a vacancy in that Office.

New section 5Z empowers the Board to appoint such officers or engage such employees as the Board considers necessary for the purposes of the Act. The terms and conditions of employment of persons appointed or engaged shall be determined by the Board.

New section 5ZA empowers the Board to engage consultants to the Board.

New Division 4 has two sections and deals with delegations by the Board and the application of the Audit Act 1989.

New section 5ZB empowers the Board to delegate any or all of its powers under the Act or any other law of the Territory, other than the power of delegation; to the Chief Executive Officer, a member of the Board or an employee of the Board.

New section 5ZC specifies that the Board shall be a public authority to which Divisions I and 2 of Part IX of the Audit Act 1989 apply. Divisions I and 2 of Part IX of the Audit Act 1989 specify requirements for public authorities for the keeping of accounts in accordance with commercial practices. Section 93, which is in Division 2 of Part X of the Audit Act 1989, imposes an obligation on public authorities to prepare an annual report and financial statement. New subsection 5ZC(2) specifies that a report required under section 93 of the Audit Act 1989 shall include:

- (a) particulars of any directive given by the Minister;
- (b) a statement by the Board indicating how effect was given to a direction of the Minister.

Clause 7 of the Bill amends section 8 of the Act by omitting subsection 8(2). Subsection 8(2) is now redundant.

Clause 8 amends the Act by inserting after two new provisions.

New section 12 imposes a prohibition on the Board entering

into a contract involving the payment of an amount exceeding \$250,000 unless the Minister has given written approval.

New section 13 imposes a duty on the Board to make such payments to the Consolidated Revenue Fund from the operating surplus of the Board as the Minister, after consultation with the Board, determines.

Clause 9 amends the Act by inserting new Part IV which deals with miscellaneous matters.

New section 47 imposes a duty on the Board to prepare quarterly reports of its operations.

New section 48 specifies that the Board shall prepare annual reports.

New section 49 empowers the Executive to make regulations.

Clause 10 of the Bill amends a number of sections in the Act by omitting the acronym 'TAB' and substituting the word 'Board'.

Part. III of the Bill contains nine clauses and deals with transitional, savings and consequential amendments.

Clause 11 is an interpretation provision for the purposes of Part III of the Bill.

Clause 12 protects the entitlements of existing staff of the former corporation. Clause 12 specifies that where before the commencement of the Bill a person, other than the Chief Executive Officer, was a member of the existing corporation then that person shall be taken to be an officer or employee of the Board with the same terms and conditions of employment and with a continuation of all benefits accrued. Clause 12 also specifies that a transferred employee is to be taken to have continuous employment.

Clause 13 is a transitional provision that seeks to protect the entitlements of the Chief Executive Officer. Clause 13 specifies that the person holding the appointment of Chief Executive Officer as at the commencement of the Bill shall be taken to be Chief Executive Officer with effect from the commencement of the Bill with the same terms and conditions of employment.

Clause 14 specifies that all rights, property, or assets that exist as at the commencement of the Bill shall be taken to be vested in the Board and that the Board is liable to pay or discharge such debts, liabilities or obligations that existed at the commencement of the Bill.

Clause 15 specifies that the Board shall be taken to be a party to contracts, agreements or arrangements that existed at the commencement of the Bill.

Clause 16 specifies the Board shall be taken to have replaced the TAB in respect to any instrument made, granted or issued before the commencement of the Bill.

Clause 17 provides for the continuation of any relevant legal action by or against the Board that before the commencement of the Bill had arisen but proceedings had not been instituted or proceedings had been instituted in a court, tribunal, commission or other body and those proceedings have not been complete.

Clause 18 provides for the registration by the Registrar of Titles of any interest in land that becomes vested in the Board through the operation of new section 14.

Clause 19 provides for the amendment of Schedule 1 to the Territory Owned Corporations Act 1990 by omitting reference to the "ACTTAB Limited".

Part IV of the Bill provides for the renumbering of Parts and sections of the Act. Clause 20 provides for the renumbering

of the Act:

- (a) so that Parts are renumbered in a single series so that they bear consecutive Roman numerals; and
- (b) so that sections are renumbered in a single series so that they bear consecutive Arabic numerals.

Clause 20 also specifies that where a provision of the Act or another law of the Territory makes reference to a provision of the Act that reference shall be taken to be construed as a reference to that provision as so renumbered.