

AUSTRALIAN CAPITAL TERRITORY

Betting (Totalizator Agency) (Amendment) Ordinance 1986

No. 46 of 1986

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Principal Ordinance
4. Long title
5. Interpretation
6. Insertion of new Part—

PART IIA—AUSTRALIAN CAPITAL TERRITORY RACECOURSE DEVELOPMENT FUND

Division 1—Australian Capital Territory Racecourse Development Fund Advisory Committee

- 35A. Interpretation
- 35B. Establishment of Committee
- 35C. Functions of Committee
- 35D. Powers of Committee
- 35E. Membership of Committee
- 35F. Tenure of office
- 35G. Senior member of Committee
- 35H. Acting appointments
- 35J. Fees and allowances
- 35K. Resignation
- 35L. Termination of appointment
- 35M. Disclosure of interests
- 35N. Meetings of Committee

Division 2—Financial

- 35P. Establishment of Racecourse Development Fund
- 35Q. Moneys of Fund
- 35R. Application of moneys of Fund

TABLE OF PROVISIONS—*continued*

Section

- 35S. Payments out of Fund for purposes relating to racecourses, etc.
- 35T. Terms applicable to payments relating to racecourses, etc.
- 35U. Repayments
- 35V. Investment of moneys of Fund
- 35W. Accounting records
- 35X. Audit

Division 3—Reports

- 37Y. Furnishing of information
- 35Z. Annual report

AUSTRALIAN CAPITAL TERRITORY

Betting (Totalizator Agency) (Amendment) Ordinance 1986

No. 46 of 1986

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 14 August 1986.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLES
Minister of State for Territories

An Ordinance to amend the *Betting (Totalizator Agency) Ordinance 1964*

Short title

1. This Ordinance may be cited as the *Betting (Totalizator Agency) (Amendment) Ordinance 1986*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories by notice in the *Gazette*.

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Betting (Totalizator Agency) Ordinance 1964*.²

Long title

4. The title of the Principal Ordinance is amended by adding at the end “and for other purposes”.

Interpretation

5. Section 4 of the Principal Ordinance is amended—

(a) by inserting after the definition of “club” the following definition:

“ ‘Committee’ means the Australian Capital Territory Racecourse Development Fund Advisory Committee established by section 35B;”;

(b) by inserting after the definition of “doubles bet” the following definition:

“ ‘Fund’ means the Australian Capital Territory Racecourse Development Fund established under section 35P;”;

(c) by inserting after the definition of “racecourse” the following definition:

“ ‘Secretary’ means the Secretary of the Department;”.

6. After Part II of the Principal Ordinance the following Part is inserted:

**“PART IIA—AUSTRALIAN CAPITAL TERRITORY RACECOURSE
DEVELOPMENT FUND**

***Division 1—Australian Capital Territory Racecourse Development Fund
Advisory Committee***

Interpretation

“35A. In this Part—

‘member’ means a member of the Committee;

‘prescribed payment’ means a payment under section 35R for a purpose referred to in section 35S;

‘senior member’ means the senior member of the Committee.”.

Establishment of Committee

“35B. There is established by this Ordinance a Committee by the name of the Australian Capital Territory Racecourse Development Fund Advisory Committee.

Functions of Committee

“35C. The functions of the Committee are—

- (a) to furnish advice and make recommendations to the Minister with respect to matters relating to the making of payments under this Part; and
- (b) to monitor the application of those payments.

Powers of Committee

“35D. The Committee has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Membership of Committee

“35E. (1) The Committee shall consist of—

- (a) a member nominated by the Australian Capital Territory Gaming and Liquor Authority;
- (b) a member nominated by the Secretary, being a person who is an officer within the meaning of the *Public Service Act 1922* occupying, or performing the duties of, an office in the Department; and
- (c) 1 other member.

“(2) The members shall be appointed by the Minister as part-time members.

“(3) The member referred to in paragraph (1) (c) shall be a person who has special knowledge of, or special experience or interest in, matters relating to horse, trotting or dog racing in the Territory.

“(4) The appointment of a member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connectin with the nomination or appointment of the member.

“(5) The performance of the functions or the exercise of the powers of the Committee is not affected by reason only of there being a vacancy or vacancies in the membership of the Committee.

Tenure of office

“35F. Subject to this Ordinance, a member holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

Senior member of Committee

“35G. (1) The Minister shall appoint a member to be the senior member of the Committee.

“(2) The member appointed as the senior member holds office as the senior member until the expiration of his or her term of office as a member that is current at the time of being appointed as senior member, but is eligible to be re-appointed as the senior member.

“(3) A person shall not continue to hold the office of senior member if the person ceases to be a member.

Acting appointments

“35H. (1) The Minister may appoint a person to act as the senior member—

- (a) during a vacancy in the office of senior member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the senior member is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of the office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) The Minister may appoint a person to act as a member other than the senior member—

- (a) during a vacancy in the office of a member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when a member is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of the office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(3) The appointment of a person under sub-section (1) or (2) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(4) The Minister may at any time terminate the appointment of a person to act under this section.

“(5) Where—

- (a) a person is acting as the senior member in accordance with paragraph (1) (b); or
- (b) a person is acting as a member other than the senior member in accordance with paragraph (2) (b),

and the office of the senior member or member, as the case may be, becomes vacant while that person is so acting, subject to sub-section (3), that person may continue so to act until the Minister otherwise directs, the vacancy is filled for a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

“(6) The appointment of a person to act as the senior member or as a member other than the senior member ceases to have effect if the person resigns the appointment by writing signed by him or her and delivered to the Minister.

“(7) While a person is acting as the senior member or as a member other than the senior member, the person has and may exercise all the powers, and shall perform all the functions, of the senior member or a member, as the case may be.

“(8) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that—

- (a) the occasion for the person’s appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person’s appointment;
- (c) the person’s appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Fees and allowances

“35J. The Committee is a prescribed authority for the purposes of the *Remuneration Ordinance 1976*.

Resignation

“35K. A member may resign his or her office by writing signed by the member and delivered to the Minister.

Termination of appointment

“35L. (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

- “(2) The Minister shall terminate the appointment of a member if—
- (a) the member 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) the member is convicted, whether within or outside the Territory, of an offence punishable on conviction by imprisonment for a period of not less than 1 year;
 - (c) the member fails, without reasonable excuse, to comply with his or her obligations under section 35M;
 - (d) the member is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Committee;
 - (e) in the case of the member referred to in paragraph 35E (1) (a)—the Australian Capital Territory Gaming and Liquor Authority requests the Minister in writing to terminate the appointment of the member; or
 - (f) in the case of the member referred to in paragraph 35E (1) (b)—the Secretary requests the Minister in writing to terminate the appointment of the member.

Disclosure of interests

“35M. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee shall, as soon as practicable after the relevant facts have come to the member’s knowledge, disclose the nature of his or her interest at a meeting of the Committee.

“(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Committee and the member shall not, unless the Minister or the Committee otherwise determines—

- (a) be present during any deliberation of the Committee with respect to that matter; or
- (b) take part in any decision of the Committee with respect to that matter.

“(3) For the purpose of the making of a determination by the Committee under sub-section (2) in relation to a member who has made a disclosure under sub-section (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Committee for the purpose of making the determination; or
- (b) take part in the making by the Committee of the determination.

Meetings of Committee

“35N. (1) The Committee shall hold such meetings as are necessary for the efficient performance of its functions.

“(2) The Minister or the senior member may, at any time, convene a meeting of the Committee.

“(3) At a meeting of the Committee, the senior member and one other member constitute a quorum.

“(4) The senior member shall preside at all meetings of the Committee.

“(5) Questions arising at a meeting of the Committee shall be determined by a majority of the votes of the members present and voting.

“(6) At a meeting of the Committee, the senior member has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

“(7) The Committee shall keep a record of its proceedings.

“(8) In this section—

- (a) a reference to the senior member shall, if a person is acting as the senior member, be read as a reference to the person so acting; and
- (b) a reference to a member shall, if a person is acting as a member, be read as including a reference to the person so acting.

Division 2—Financial

Establishment of Racecourse Development Fund

“35P. (1) There is established by this Ordinance a fund by the name of the Australian Capital Territory Racecourse Development Fund.

“(2) The Minister shall cause to be established and maintained for the purposes of the Fund an account with a bank in the Territory.

“(3) Pending the application or investment in accordance with this Part of moneys of the Fund, the moneys shall be paid into the account referred to in sub-section (2).

“(4) The Fund shall be administered by the Minister.

Moneys of Fund

“35Q. There shall be paid to the credit of the Fund—

- (a) any moneys that the Minister has, in pursuance of sub-section 29 (3), directed the Board to pay to the Fund;
- (b) interest received on, and repayments of, loans made out of the Fund;
- (c) any moneys received by the Minister in pursuance of section 35U;
- (d) interest received in respect of moneys held in the account referred to in sub-section 35P (2);
- (e) income derived from the investment of moneys of the Fund; and
- (f) any other moneys that may be lawfully paid into the Fund.

Application of moneys of Fund

“35R. (1) Moneys of the Fund may be applied—

- (a) in payment or discharge of the costs, charges, expenses or other obligations incurred by the Committee in or in connection with the performance of its functions under this Ordinance;
- (b) in payment of the fees and allowances payable to members by virtue of this Ordinance; and
- (c) in making payments to a person or body for or in connection with any of the purposes referred to in section 35S.

“(2) In sub-section (1), ‘body’ does not include the National Exhibition Centre Trust.

Payments out of Fund for purposes relating to racecourses, etc.

“35S. (1) The purposes for or in connection with which payments may be made under section 35R to a person or body are—

- (a) the construction of a racecourse, training track or facilities ancillary to a racecourse or training track;
- (b) effecting improvements on a racecourse or to a training track or facilities ancillary to a racecourse or training track;
- (c) to discharge, wholly or in part, a liability incurred by the person or body in respect of—
 - (i) the construction of a racecourse, training track or facilities ancillary to a racecourse or training track; or

- (ii) improvements effected on a racecourse or to a training track or facilities ancillary to a racecourse or training track;
- (d) where the body to which the payment is made is a race club—to discharge, wholly or in part, a liability incurred by or on behalf of the race club in connection with a racecourse, being a racecourse in respect of which a licence issued under section 7 of the *Racecourses Ordinance 1935* has ceased to be in force; and
- (e) where the person to whom the payment is made is a person engaged in preparing horses, ponies or dogs for racing in races to be conducted or controlled by a race club—to enable or assist the person to transfer the training activities of the person, or facilities used in that preparation, to premises at or in the vicinity of a racecourse or training track.

“(2) A prescribed payment shall not be made unless the racecourse, training track or facilities to which the payment relates is or are, or will when constructed be, situated in the Territory.

“(3) A payment shall not be made for a purpose referred to in paragraph (1) (a), (b) or (c) unless the racecourse, training track or facilities to which the payment relates is or are, or will when constructed be, under the management or control of the National Exhibition Centre Trust or a race club or clubs.

“(4) A payment shall not be made for the purpose referred to in paragraph (1) (e) unless the racecourse or training track to or in the vicinity of which the training activities or facilities to which the payment relates are being transferred is a racecourse or training track that is under the management or control of the National Exhibition Centre Trust or a race club or clubs.

“(5) A prescribed payment may be made in connection with a training track or facilities ancillary to a training track whether the training track is or the facilities are situated on a racecourse or elsewhere.

“(6) In this section, ‘training track’ means an area of land used or intended to be used for the purpose of preparing horses, ponies or dogs for racing in races to be conducted or controlled by a race club.

Terms applicable to payments relating to racecourses, etc.

“35T. (1) A prescribed payment may be made by way of a grant or loan.

“(2) Where a prescribed payment is made by way of a grant, the Minister may, by instrument in writing, specify the manner in which, and the time within which, the amount of the payment, or a part of that amount, is to be expended.

“(3) Where a prescribed payment is made by way of a loan, interest is payable in respect of the payment at such rate, and the payment shall be made on such other terms and conditions, as the Minister determines.

Repayments

“35U. Where—

- (a) a prescribed payment is made by way of a grant; and
- (b) the amount of the payment or a part of that amount is not expended by the person to whom or the body to which the payment was made—
 - (i) for the purpose for which the payment was made; or
 - (ii) in the manner or within the time (if any) specified in an instrument under sub-section 35T (2) in relation to that payment,

an amount equal to the amount of the payment or that part of the amount of the payment, as the case requires, is payable by that person or body to the Minister for the purpose of the Fund.

Investment of moneys of Fund

“35V. Where there is an amount standing to the credit of the Fund that is not for the time being required to be applied in accordance with section 35R, that amount, or such part of that amount as the Minister determines, may be invested in a manner that is for the time being authorised for the investment of trust funds under the Trustee Act, 1925-1942, in its application in the Territory.

Accounting records

“35W. (1) The Minister shall cause to be kept proper accounts and records of transactions relating to the Fund.

“(2) The accounts and records kept in pursuance of sub-section (1) shall be kept in accordance with the accounting principles generally applied in commercial practice.

Audit

“35X. (1) The accounts and records kept in pursuance of sub-section 35W (1) shall be audited by a person appointed by the Minister, being a person who is a registered company auditor within the meaning of the *Companies Act 1981*.

“(2) The auditor appointed under sub-section (1) shall forthwith draw to the attention of the Minister any irregularity disclosed by the audit that, in the opinion of the auditor, is of sufficient importance to justify his or her so doing.

Division 3—Reports

Furnishing of information

“35Y. (1) The Committee shall keep the Minister informed of the general conduct of its operations.

“(2) If the Minister requests the Committee to furnish to the Minister information concerning a specific matter relating to its past, present or proposed operations, the Committee shall comply with the request.

Annual report

“35Z. The Committee shall, as soon as practicable after each 30 June, prepare and furnish to the Minister a report of its operations during the year that ended on that 30 June.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 22 August 1986.
 2. No. 14, 1964 as amended by No. 19, 1966; No. 13, 1968; No. 24, 1969; No. 13, 1972; No. 35, 1973; No. 47, 1974; No. 66, 1976; No. 65, 1977; Nos. 30 and 46, 1978; No. 36, 1979; No. 7, 1980; No. 12, 1981; Act No. 116, 1981; No. 38, 1982; No. 42, 1985.
-