



AUSTRALIAN CAPITAL TERRITORY

Betting (Corporatisation) (Consequential Provisions) Act 1996

No. 32 of 1996

An Act to provide for various matters as a consequence of the corporatisation of the body providing betting and totalisator services

[Notified in ACT Gazette S130: 1 July 1996]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Betting (Corporatisation) (Consequential Provisions) Act 1996*.

Commencement

2. (1) Sections 1, 2, 3 and 5 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on 1 July 1996.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“Board” means the former Australian Capital Territory Totalizator Administration Board established by the *Betting (Totalizator Administration) Act 1964*;

“Company” means ACTTAB Limited;

“relevant day” means the day referred to in subsection 2 (2).

(2) In this Act, a reference to rights and liabilities of a person shall be read as including a reference to—

(a) assets of the person; and

(b) in relation to any contract, agreement or arrangement to which the person is a party—the rights and liabilities of the person in relation to the contract, agreement or arrangement.

Status of Company as successor of Board

4. (1) The Company shall, for all purposes, be taken to be the successor of the Board.

(2) Without limiting the generality of subsection (1), subsections 5 (1) and (2) and 10 (1), and subsections 12 (1) and 13 (2) in their application in relation to the Territory, do not affect the status of the Company as the successor of the Board.

Transfer of rights and liabilities

5. (1) Rights and liabilities of the Board existing immediately before the relevant day shall, by force of this subsection, vest in the Company on the relevant day except to the extent that the Minister specifies under subsection (2) rights and liabilities of the Board that vest in the Territory.

(2) For the purposes of subsection (1), the Minister may, by notice in writing published in the *Gazette* before the relevant day, specify rights and liabilities of the Board that vest in the Territory.

(3) A notice under subsection (2) may provide that the Territory is substituted for the Board in a contract, agreement or arrangement specified in the notice and the notice shall be taken to specify the rights and liabilities of the Board in the contract, agreement or arrangement.

(4) Rights and liabilities specified or taken to be specified in a notice under subsection (2) shall, by force of this subsection, vest in the Territory on the relevant day.

(5) A reference to the Board in a contract, agreement or arrangement shall (except in relation to matters that occurred before the relevant day) be read as a reference—

- (a) in the case of a contract, agreement or arrangement affected by subsection (1)—to the Company; and
- (b) in the case of a contract, agreement or arrangement affected by subsection (4)—to the Territory.

(6) This section does not apply to any contract under which the Board was an employer.

Registration of changes in title to land

6. (1) Where, by reason of the operation of section 5, an interest in land in the Territory becomes vested in the Company, the Company may lodge with the Registrar-General a notice signed by the Company stating that that interest in land is vested in the Company by virtue of the operation of section 5.

(2) Where, by reason of the operation of section 5, an interest in land in the Territory becomes vested in the Territory, the Minister may lodge with the Registrar-General a notice signed by the Minister stating that that interest in land is vested in the Territory by virtue of the operation of section 5.

(3) Where the Registrar-General receives a notice under this section, he or she shall make such entries in the relevant registers kept by the Registrar, and do such other things, as are necessary to reflect the operation of section 5.

Proceedings and evidence

7. (1) Where—

- (a) at any time before the relevant day a cause of action had accrued by or against the Board in respect of a right or liability vested in the Company or the Territory under section 5;
- (b) immediately before the relevant day the period of limitation applicable to that cause of action had not expired; and
- (c) immediately before the relevant day proceedings in respect of that cause of action had not been instituted;

those proceedings may be instituted by or against the Company or the Territory, as the case requires, as if this Act had not been passed and the proceedings were being instituted by or against the Board.

(2) Where, before the relevant day, a cause of action had accrued by or against the Board in respect of a right or liability vested in the Company or the Territory under section 5, Part III of the *Limitation Act 1985* applies in respect of the institution of proceedings by or against the Company or the Territory, as the case requires, as if the cause of action had accrued by or against the Company or the Territory, as the case may be.

(3) Where, immediately before the relevant day—

(a) proceedings were pending by or against the Board in respect of a right or liability vested in the Company or the Territory under section 5; and

(b) those proceedings had not been completed;

those proceedings may be continued by or against the Company or the Territory, as the case requires, as if this Act had not been passed and the proceedings were being continued by or against the Board.

(4) The court, tribunal, commission or other body in which, or before which, proceedings have been instituted or continued in accordance with this section may give directions in relation to the institution or continuance of those proceedings.

(5) Any book or document which, but for this Act, would have been admissible in evidence in proceedings by or against the Board is admissible in proceedings by or against the Company or the Territory.

(6) In this section—

“cause of action” includes a right of review (including a right of review under the *Ombudsman Act 1989*) or any other civil proceeding.

Employees and employment conditions

8. (1) In this section—

“award” has the same meaning as in the *Industrial Relations Act 1988* of the Commonwealth;

“eligible employment”, in relation to a benefit relating to the employment of a transferred employee, means—

(a) employment with the Board or the Territory; or

(b) employment with an employer other than the Board or the Territory that was recognised by the Board or the Territory, as the case may be, as employment for the purposes of that benefit;

“employee” means a transferred employee or a new employee;

“management standards” means management standards under the Public Sector Act;

“new employee” means a person, other than a transferred employee, who becomes an employee of the Company on or after the relevant day;

“Public Sector Act” means the *Public Sector Management Act 1994*;

“relevant staff organisation” has the same meaning as in the Public Sector Act;

“transferred employee” means a person employed by the Company in accordance with subsection (2).

(2) Subject to subsection (3), where, immediately before the relevant day, a person was employed by the Territory as part of the staff of the Board under the Public Sector Act, the person ceases on the relevant day to be employed under that Act and shall, on and after the relevant day, be employed by the Company.

(3) For the purposes only of section 6 of the *Australian Capital Territory Government Service (Consequential Provisions) Act 1994* of the Commonwealth, a transferred employee who was an officer under the Public Sector Act immediately before the relevant day shall, during the period commencing on the relevant day and ending at the expiration of—

- (a) 30 June 1998;
- (b) his or her employment with the Company; or
- (c) the day immediately preceding a day specified under subsection (6);

whichever first occurs, continue to be an officer within the meaning of the Public Sector Act and as such be taken to be on leave without pay.

(4) The management standards may provide for the incidents attaching to the leave referred to in subsection (3).

(5) For the purposes of subsection (3), a transferred employee who is dismissed and reinstated shall be taken to have continued to be a transferred employee during the period between his or her dismissal and reinstatement.

(6) Where the Minister administering the Public Sector Act is satisfied—

- (a) that a provision of a law of the Commonwealth provides, or on its commencement will provide, in relation to mobility between employment with the Company and the Australian Public Service of persons referred to in subsection (3); and
- (b) that the provision came into operation on a day or will commence on a particular day;

the Minister may specify that day by notice in the *Gazette*.

(7) At the expiration of the day immediately preceding the day specified under subsection (6), subsection (3) shall be taken to have expired or will expire, as the case may be.

(8) A transferred employee retains benefits, if any, in respect of—

- (a) long service leave;
- (b) maternity leave;
- (c) parental leave;
- (d) recreation leave; and
- (e) leave of absence on account of illness;

that had accrued to that employee immediately before the relevant day.

(9) In addition to any relevant award conditions, the benefits referred to in paragraphs (8) (a) to (e) (inclusive) shall accrue to an employee on the same basis that they accrued to transferred employees immediately before the relevant day.

(10) For the purposes of subsections (8) and (9), a reference in—

- (a) the Public Sector Act;
- (b) the management standards; or

(c) a declaration under section 19 of the *Public Sector Management (Consequential and Transitional Provisions) Act 1994*;

to a person or thing mentioned in Column 1 of the following table shall be taken to be a reference to the corresponding person or thing mentioned in Column 2 of the following table:

Public Service reference	Corresponding Company reference
Commissioner	Board of Directors of the Company
relevant Chief Executive officer	Chief Executive Officer of the Company
employee	permanent employee of the Company
public employee	casual employee of the Company
	employee of the Company

(11) For the purposes of subsection (10), the regulations may provide that a reference to a person or thing provided for in or under the Public Sector Act relating to employment in the Service shall be taken to be a reference to a person or thing relating to employment by the Company that is specified for that purpose in the regulations.

(12) The Company shall, in consultation with relevant staff organisations, establish and maintain appeal, review and grievance procedures in respect of employment matters.

(13) To the extent that the entitlement of a transferred employee to a benefit relating to his or her employment is determined by the employee's period of employment before he or she became a transferred employee, the period of eligible employment of the employee that is relevant to that benefit shall be taken to have been employment with the Company.

(14) Any matter or thing relating to the employment of a transferred employee that occurred before the relevant day may be dealt with or provided for on or after that day as if the person had been employed by the Company at that time.

(15) Any matter or thing relating to the employment of a transferred employee that was pending under the Public Sector Act immediately before the relevant day and that would, but for this subsection, lapse on that day may, on and after that day, be completed as if the Public Sector Act still applied.

(16) Any matter or thing relating to the employment of a transferred employee that was in effect under the Public Sector Act immediately before the relevant day and that would, but for this subsection, cease to have effect on that day shall, on and after that day, continue in effect as if the person had been employed by the Company at that time.

(17) The provisions of the *Occupational Health and Safety Act 1989* apply in relation to employees subject to the modifications and adaptations specified in Schedule 3 to the Public Sector Act.

(18) This section is intended to operate subject to any applicable award or any applicable agreement between the Company and employees of the Company.

Financial statements and final reports of the Board

9. (1) For the purposes of section 93 of the *Audit Act 1989* as in force immediately before the relevant day the Company shall, on behalf of the Board, submit to the Auditor-General financial statements in respect of the operations of the Board during the period commencing on 1 July 1995 and ending immediately before the relevant day.

(2) For the purposes of section 8 of the *Annual Reports (Government Agencies) Act 1995*, the Company shall, on behalf of the Board, present to the Chief Executive of the appropriate administrative unit a report relating to the operations of the Board in respect of the period mentioned in subsection (1).

(3) The report shall include—

- (a) particulars of any direction under section 9 of the *Betting (Totalizator Administration) Act 1964* as in force immediately before the relevant day given by the Minister during the period to which the report relates; and
- (b) a statement by the Company indicating how effect has been given to the direction.

(4) For the purposes of section 55 of the *Betting (Totalizator Administration) Act 1964* as in force immediately before the relevant day, the Company shall, on behalf of the Board, prepare and submit to the Minister, as soon as practicable after 30 June 1996, a report on the operation of that Act during the period commencing on 1 April 1996 and ending on 30 June 1996.

Transfer of records relating to Territory functions

10. (1) Where, immediately before the relevant day, a power or function was conferred on the Board under a law and by reason of an amendment of the law that took effect on that date the power or function became a power or function of the Territory or an officer of the Territory, the Company shall transfer to the Territory the documents maintained by the Board for the purpose of the law.

(2) Where it is not practicable for the Company to transfer a document to the Territory within a reasonable period after the relevant day, the Company shall grant the Territory reasonable access to the document pending its transfer to the Territory.

References to the Board etc.

11. Subject to any regulation made under this Act, a reference to the Board, an officer of the Board or any matter or thing relating to the Board in—

- (a) any other enactment or in any subordinate law; or
- (b) any instrument or document (not being an instrument or document affected by subsection 5 (5));

shall (except in relation to matters that occurred before the relevant day) be read as a reference to the Company, an officer of the Company or to any corresponding matter or thing relating to the Company, respectively.

Arrangements

12. (1) The Minister and the Company may, by instrument, enter into an arrangement relating to any matter arising from, connected with or consequential upon—

- (a) the assumption by the Company or the Territory of any powers or functions; or
- (b) the vesting of any assets, rights or liabilities previously vested in the Board.

(2) Without limiting the generality of subsection (1), an arrangement may provide, whether or not subject to conditions or limitations, for the exercise—

- (a) by the Minister of any power vested in the Company by an enactment or subordinate law; or
- (b) by the Company of any power vested in the Territory by an enactment or subordinate law.

(3) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Regulations

13. (1) The Executive may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision—

- (a) conferring powers or functions on the Company or the Territory substantially corresponding to, or related to, any power or function held by the Board immediately before the relevant day;
- (b) in relation to any matter arising from, connected with or consequential upon—
 - (i) the conferral on the Company or the Territory of any power or function referred to in paragraph (a);
 - (ii) the vesting in the Company or the Territory of any asset, right or liability vested in the Board immediately before the relevant day; or

- (c) modifying an enactment or subordinate law (including the *Betting (Corporatisation) (Consequential Amendments) Act 1996* or an enactment or subordinate law amended by that Act) for any purpose mentioned in paragraph (a) or (b) including (but not limited to) changing references to the Board, an officer of the Board or any matter or thing relating to the Board to substitute references to the Territory, an officer of the Territory or any matter or thing relating to the Territory, respectively.

(3) A regulation that is expressed to modify an enactment or subordinate law may take the form of an alteration of the text of the enactment or subordinate law so that the enactment or subordinate law operates as modified but the regulation does not amend the text of the enactment or subordinate law.

(4) The power conferred by this section to modify an enactment or subordinate law expires on 30 June 1997.

(5) Subsection (4) does not apply to a regulation that is expressed to be made for the purposes of paragraph (2) (a) or (b).

[Presentation speech made in Assembly on 23 May 1996]

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