

EXPLANATORY STATEMENT

**AUSTRALIAN CAPITAL TERRITORY
SEAT OF GOVERNMENT (ADMINISTRATION) ACT 1910
AUSTRALIAN CAPITAL TERRITORY GAMING AND LIQUOR AUTHORITY
ORDINANCE 1987
NO. 31 OF 1987**

ISSUED BY AUTHORITY OF THE MINISTER OF STATE FOR TERRITORIES

The Australian Capital Territory Gaming and Liquor Authority Ordinance 1987 replaces the Australian Capital Territory Gaming and Liquor Authority Act 1981 ("the Act"), which is repealed by proclamation pursuant to sub-section 22(2) of the Statute Law (Miscellaneous Provisions) Act (No. 1) 1983, and provides for the establishment, functions and powers of the Australian Capital Territory Gaming and Liquor Authority. The Ordinance achieves this and comes into effect upon the repeal of the Act.

The Act was introduced to place in the hands of one Authority the functions under the Betting (Totalizator Agency) Ordinance 1964, the Liquor Ordinance 1975 and the Poker Machine Control Ordinance 1975. It was intended at that time that an Ordinance would be introduced at a later stage to further rationalise the functions and to incorporate the financial and administrative provisions in one piece of legislation. The Ordinance achieves this.

Details of the Australian Capital Territory Gaming and Liquor Authority Ordinance 1987 are set out in the Attachment.

**AUSTRALIAN CAPITAL TERRITORY
GAMING AND LIQUOR AUTHORITY ORDINANCE 1987**

Section 1 cites the title of the proposed Ordinance as the Australian Capital Territory Gaming and Liquor Authority Ordinance 1987.

Section 2 provides for commencement of the Ordinance on a date to be fixed by the Minister of State for Territories by notice in the Gazette.

Section 3 deals with interpretation.

Sub-section 4(1) establishes the Australian Capital Territory Gaming and Liquor Authority ("the Authority").

Sub-section 4(2) provides that the Authority is a body corporate with perpetual succession, is to have a common seal, can acquire, hold and dispose of real and personal property, and can sue and be sued in its corporate name.

Sub-section 4(3) provides for the custody and use of the common seal of the Authority.

Sub-section 4(4) provides for judicial notice to be taken of the common seal of the Authority affixed to a document and for a presumption to be made that the common seal was duly affixed.

Sub-section 5(1) specifies the functions of the authority to be:

- a) to conduct or provide totalizator betting facilities in respect of races held within or outside the Territory either by operating its own totalizator or by means of agreements entered into with a body in a state or another Territory that is authorised to provide totalizator betting;
- b) to conduct lotteries or to act as an agent of a person conducting a lottery;
- c) to conduct, as a promoter, a pool betting competition under an approved pool betting scheme, or to act as an agent of such a promoter;
- d) under the Liquor Ordinance 1975, to consider and determine licensing matters, to conduct hearings and to recommend general standards relating to the construction of premises in respect of which licences are sought;

- e) under the Gaming Machine Ordinance 1987, to consider and determine licensing matters, to conduct inquiries and to undertake the acquisition of gaming machines for licensees.

Sub-section 5(2) provides that the Authority is to have any other additional functions as are given to it by the Betting (Totalizator Agency) Ordinance 1964, the Liquor Ordinance 1975 and the Gaming Machine Ordinance 1987, or any other Ordinance.

Sub-section 5(3) deals with interpretation for the purposes of section 5.

Section 5 provides that the Authority has power to do all things necessary to carry out its functions and duties under the Ordinance and any other Ordinance, plus any other power conferred on it.

Sub-section 7(1) provides that the Authority is to be subject to the directions of the Minister in the exercise of its powers and the performance of its functions.

Sub-section 7(2) specifies that the power of the Minister to direct the Authority under sub-section 7(1) is to be in relation to policy the Authority is to pursue.

Sub-section 7(3) imposes a duty on the Authority to comply with a direction given by the Minister.

Sub-section 7(4) specifies that a direction of the Minister is to be in writing.

Sub-section 8(1) allows the Authority to delegate its powers to a member of the staff of the Authority or to an officer of the Australian Public Service.

Sub-section 8(2) provides that a delegated power, when exercised by the delegate, is to be deemed to have been exercised by the Authority.

Sub-section 8(3) provides that the Authority may exercise a power notwithstanding that it has been delegated.

Sub-section 9(1) provides that the Authority is to have 5 members, one of whom is to be the senior member of the Authority, and another is to be the deputy senior member of the Authority.

Sub-section 9(2) specifies that the members of the Authority are to be appointed by the Minister.

Sub-section 9(3) provides that the senior member may be either a full-time member or a part-time member.

Sub-section 9(4) specifies that all members other than the senior member must be part-time members.

Sub-section 9(5) provides that if there is a defect or irregularity in connection with the appointment of a member, that appointment is not invalidated and cannot be called in question.

Sub-section 9(6) provides that if there is a vacancy in the membership of the Authority that does not affect the performance of the functions or the exercise of the powers of the Authority.

Section 10 prescribes the term of office of a member of the Authority as a period not exceeding 5 years and allows the re-appointment of a member.

Sub-section 11(1) authorises the appointment by the Minister of a person to act as the senior member of the Authority and prescribes the circumstances in which a person may be appointed, and limits such an appointment to a period not exceeding 12 months.

Sub-section 11(2) authorises the appointment by the Minister of a person to act as a member of the Authority other than the senior member and prescribes the circumstances in which a person may be appointed, and limits such an appointment to a period not exceeding 12 months.

Sub-section 11(3) prescribes the circumstances in which a person appointed to act as the senior member may be appointed on a part-time or full-time basis.

Sub-section 11(4) ensures that a person acting as the senior member of the Authority has the same powers and functions as the senior member.

Sub-section 11(5) ensures that a person acting as a member of the Authority has the same powers and functions as a member of the Authority, where there is a vacancy, or the member who is absent, as the case maybe.

Sub-section 11(6) allows the appointment of a person to act as a member or the senior member of the Authority to be effective only in certain circumstances as specified in the instrument of appointment.

Sub-section 11(7) empowers the Minister to determine the terms and conditions of the appointment of a person acting as the senior member or as a member and provides for an acting member to be removed from office.

Sub-section 11(8) provides that where a vacancy occurs while a person is acting as a member of the Authority, then that person may continue to act until the vacancy is filled or until 12 months after the vacancy occurs, or until the Minister otherwise directs, whichever first occurs.

Sub-section 11(9) provides for the resignation of an acting member of the Authority.

Sub-section 11(10) ensures that acts done by a person purporting to act as a member are valid notwithstanding there has been some irregularity or defect in the person's appointment or in the circumstances of the appointment.

Sub-section 11(11) deems an acting member or acting senior member to be a member or the senior member, as the case may be, for the purpose of the Betting (Totalizator Agency) Ordinance 1964, the Liquor Ordinance 1975 and the Gaming Machine Ordinance 1987, and for the provisions of the Ordinance, except the provision relating to remuneration.

Sub-section 12(1) provides for leave of absence to be granted to the senior member, if the senior member is a full-time member, on such terms and conditions as the Minister determines.

Sub-section 12(2) provides for leave of absence to be granted to a part-time member of the Authority.

Section 13 provides for the resignation of a member of the Authority.

Sub-section 14(1) provides that members of the Authority are to be remunerated according to determinations of the Remuneration Tribunal or as is prescribed.

Sub-section 14(2) provides for such allowances as are prescribed to be paid to a member of the Authority.

Sub-section 14(3) specifies that section 14 is to be subject to the Remuneration Tribunals Act 1973.

Sub-section 15(1) provides for the disclosure of a member's pecuniary interest in a matter to be considered by the Authority.

Sub-section 15(2) deems that a member has a pecuniary interest in a matter relating to a body that is the holder of a gaming machine licence or a licence under the Liquor Ordinance 1975 if that member is involved in the management of that body or receiving any fees, directly or indirectly, from that body.

Sub-section 15(3) provides that a member who has disclosed a pecuniary interest in a matter cannot be present while the Authority considers or makes a decision on the matter.

Sub-section 16(1) provides for the holding of meetings of the Authority.

Sub-section 16(2) authorises the senior member or the deputy senior member to convene a meeting of the Authority.

Sub-section 16(3) provides for the senior member to preside at meetings of the Authority.

Sub-section 16(4) provides for the deputy senior member to preside at a meeting if the senior member is not present; or if neither are present, the remaining members are to elect a member to preside.

Sub-section 16(5) provides that 3 members of the Authority will form a quorum.

Sub-section 16(6) provides that matters being considered by the Authority will be decided by a majority of votes.

Sub-section 16(7) provides that the member presiding at a meeting has a deliberative vote and also a casting vote in the event of an equality of votes.

Sub-section 16(8) empowers the member presiding at a meeting to regulate the conduct of proceedings at the meeting.

Sub-section 16(9) imposes a duty on the Authority to keep a record of proceedings at each meeting and to furnish a copy of that record to the Minister.

Sub-section 17(1) provides for the Authority to appoint a Chief Executive of the Authority.

Sub-section 17(2) provides that the Chief Executive is to manage the affairs of the Authority subject to the general directions of the Authority.

Sub-section 17(3) specifies that the terms and conditions of employment of the Chief Executive are to be determined by the Authority and approved by the Public Service Board.

Sub-section 18(1) provides that the staff employed by the Authority for its operations other than for its betting totalizator, lottery and pool betting functions, are to be persons employed under the Public Service Act 1922.

Sub-section 18(2) allows the Authority to employ such people as are necessary for its betting totalizator, lottery and pool betting functions.

Sub-section 18(3) provides for the terms and conditions of employment, other than superannuation, of persons employed by the Authority for its betting totalizator, lottery and pool betting functions to be determined by the Authority with the approval of the Public Service Board.

Sub-section 18(4) provides that the superannuation terms and conditions of persons engaged under sub-section 18(2) are to be determined by the Authority with the approval of the Minister for Finance.

Sub-section 19(1) specifies that the capital of the Authority is the aggregate of:

- a) the value of the property and assets vested in the former Authority at the commencement of the Ordinance;

- b) any amounts paid to the Authority out of a Parliamentary appropriation; and
- c) the surplus of the Authority for each financial year, less the aggregate of:
- d) the sum of the liabilities and obligations of the former Authority at the commencement of the Ordinance; and
- e) amounts of capital paid to the Commonwealth by the Authority.

Sub-section 19(2) provides for payment of the capital of the Authority to the Commonwealth, as the Minister determines.

Sub-section 19(3) specifies that in determining the amount of capital to be paid to the Commonwealth, the Minister is to have regard to advice given by the Authority.

Sub-section 19(4) specifies that a determination made under section 19 is to be in writing.

Sub-section 19(5) defines "surplus" of the Authority as the amount of revenue received or receivable remaining after deducting expenditure and provision for expenditure chargeable against that revenue.

Sub-section 20(1) empowers the Minister for Finance to lend moneys to the Authority out of Parliamentary appropriations for that purpose.

Sub-section 20(2) allows the Authority to borrow other than from the Commonwealth and otherwise raise money, with the approval of the Treasurer.

Sub-section 20(3) makes specific that the Authority, in raising moneys under sub-section 20(2), may deal with securities.

Sub-section 20(4) prohibits the Authority from borrowing or otherwise raising moneys from manufacturers or suppliers of gaming machines, or from a related corporation of a corporation that manufacturers or supplies gaming machines, notwithstanding sub-section 20(2).

Sub-section 20(5) authorises the Authority to give security over its assets for the repayment of any money, including interest, borrowed or otherwise raised.

Sub-section 20(6) prohibits the Authority from borrowing or otherwise raising money except in accordance with section 20.

Sub-section 20(7) provides that "related corporation" has the same meaning as in the Companies Act 1981.

Sub-section 21(1) limits the Authority to entering into a contract involving the payment or receipt by it of an amount less than \$100,000, except with the Minister's approval.

Sub-section 21(2) excludes from sub-section 21(1) contracts for the purchase by the Authority of gaming machines under section 32 of the Gaming Machine Ordinance 1987.

Paragraph 22(a) provides that the Authority is to prepare estimates of receipts and expenditure for each financial year and for any other period that the Minister directs.

Paragraph 22(b) provides for the estimates prepared by the Authority to be submitted to the Minister.

Paragraph 23(a) imposes a duty on the Authority to keep the Minister informed of the general conduct of its operations.

Paragraph 23(b) provides for the Authority to furnish to the Minister such information as the Minister may request.

Section 24 empowers the Minister to make regulations for the purposes of the Ordinance.

Section 25 deals with interpretation.

Sub-section 26(1) continues the employment on the same terms and conditions of persons employed by the former Authority as at the commencement date of the Ordinance.

Sub-section 26(2) specifies that the Authority has the same rights and obligations towards a person whose employment is continued under sub-section 26(1) as the former Authority had.

Section 27 transfers all rights, property, assets, liabilities and obligations as at the date of commencement of the Ordinance from the former Authority to the Authority.

Section 28 continues in force all contracts, agreements or arrangements that were in force immediately before the commencement of the Ordinance.

Section 29 provides that a reference in any instrument made, granted or issued before the commencement date of the Ordinance, to the former Authority has effect as if it were a reference to the Authority.

Section 30 provides that an act that was deemed to have been done by the former Authority under the Australian Capital Territory Gaming and Liquor Authority Act 1981, are to be deemed to have been done by the Authority, for the purposes of the operation of the Betting (Totalizator Agency) Ordinance 1964, the Liquor Ordinance 1975 and the Gaming Machine Ordinance 1987.

Sub-section 31(1) continues a cause of action against the former Authority to be against the Authority, in the case where proceedings had not been instituted before the commencement of the Ordinance.

Sub-section 31(2) substitutes the Authority for the former Authority in any proceedings that had been commenced but not completed before the commencement of the Ordinance.

Sub-section 31(3) provides that the rights and obligations of each party to proceedings instituted or continued by this section continues as if the Authority were the former Authority.

Section 32 provides for a mechanism for making entries in the Register of Titles for interest in land vested in the Authority by virtue of section 27.