

NORTHERN TERRITORY OF AUSTRALIA
RACING AND BETTING AMENDMENT ACT 1993

No.48 of 1993

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NORTHERN TERRITORY OF AUSTRALIA

No. 48 of 1993

AN ACT

to amend the *Racing and Betting Act* and
to repeal the *Racing Commission Act*

[Assented to 27 September 1993]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act* 1978 of the Commonwealth, as follows:

PART 1 - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Racing and Betting Amendment Act 1993*.

2. COMMENCEMENT

This Act shall come into operation on the commencement of the *Racing and Gaming Authority Act 1993*.

3. PRINCIPAL ACT

The *Racing and Betting Act* is in this Act referred to as the Principal Act.

PART 2 - AMENDMENTS OF RACING AND BETTING ACT

4. DEFINITIONS

Section 4(1) of the Principal Act is amended -

- (a) by inserting after the definition of "area of jurisdiction" the following:

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"'Authority' means the Racing and Gaming Authority established by the *Racing and Gaming Authority Act*";;

(b) by omitting from the definition of "Commission" the words "the *Racing Commission Act*" and substituting "this Act";

(c) by omitting the definition of "Chairman" and substituting the following:

"'Chairperson' means the Chairperson of the Commission;"; and

(d) by omitting from the definition of "employee" the words "employed by" and substituting "employed by the Authority";

(e) by omitting from the definition of "member" the words "and includes the Chairman" and substituting "appointed under section 7(1)(b)".

5. NEW SECTIONS

The Principal Act is amended by inserting in Part II, after section 5, the following:

"6. RACING COMMISSION

"(1) There is established by this Act a commission to be known as the Racing Commission.

"(2) The Commission -

(a) is a body corporate with perpetual succession;

(b) shall have a common seal; and

(c) is capable, in its corporate name, of acquiring, holding and disposing of real (including leasehold) and personal property and of suing and being sued.

"(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall assume that it was duly affixed.

"(4) The Commission is a prescribed statutory corporation within the meaning and for the purposes of the *Financial Administration and Audit Act*, other than section 68 of that Act.

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"7. COMPOSITION OF COMMISSION

"(1) Subject to this Act, the Commission shall consist of -

- (a) the Chief Executive Officer of the Authority or his or her nominee who is the Chairperson of the Commission; and
- (b) 4 persons appointed by the Minister on the grounds of their knowledge and experience of the racing industry in the Territory.

"(2) The exercise of the powers or the performance of the functions of the Commission shall not be affected by reason only of there being a vacancy in the office of a member.

"8. CERTAIN PERSONS NOT QUALIFIED FOR APPOINTMENT, &c.

"A person who is or becomes -

- (a) a member (other than an honorary member) of a registered club;
- (b) interested or concerned, whether directly or indirectly, in the business carried on by a bookmaker or the holder of a licence under a law of the Territory to operate a casino;
- (c) a person having the management or control of an office or agency established under section 23 of the *Totalizator Administration and Betting Act*;
- (d) the owner, lessee or trainer of a horse used for horse-racing or trotting or a greyhound used for greyhound-racing; or
- (e) a rider or driver of horses, whether professionally or not, in horse-races or trotting,

shall not be appointed a member or continue in office as such a member.

"9. DUTIES OF CHAIRPERSON

"The Chairperson shall, in accordance with the decisions and subject to the directions of the Commission, administer the affairs of the Commission.

"10. TENURE OF OFFICE

"(1) Subject to this Part, a member shall be appointed for a period not exceeding 3 years and is eligible for reappointment.

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"(2) Notwithstanding subsection (1), unless a member sooner vacates office or is removed from office under this Part, the member shall continue in office until a successor is appointed.

"11. RESIGNATION OF MEMBERS

"A member may resign from office by writing signed by the member and delivered to the Minister.

"12. DISMISSAL OF MEMBERS

"(1) The Minister may remove a member from office for inability, inefficiency, misbehaviour or physical or mental incapacity.

"(2) Where a member -

- (a) is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Commission; or
- (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of the member's remuneration for their benefit,

the Minister shall terminate the appointment of the member.

"13. LEAVE OF ABSENCE

"The Minister may grant leave of absence to a member.

"14. MEETINGS

"(1) The Chairperson shall convene such meetings of the Commission as are necessary for the exercise of its powers and the performance of its functions under this or any other Act.

"(2) At a meeting of the Commission -

- (a) the Chairperson shall preside;
- (b) the Chairperson and 2 members constitute a quorum;
- (c) questions arising shall be determined by a majority of the votes of the persons present and voting and, in the event of an equality of votes, the Chairperson shall have a casting vote; and
- (d) subject to this Act, the Commission shall determine its own procedure.

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"(3) The Commission shall keep records of its meetings.

"15. PROTECTION OF MEMBERS, &c.

"No action or proceeding, civil or criminal, shall lie against the Commission, the Chairperson or a member for or in respect of an act or thing done or omitted to be done whether under this or any other Act, in good faith by the Commission, the Chairperson or member.

"16. DEPUTIES OF MEMBERS

"(1) The Minister may appoint a person to be the deputy of a member.

"(2) A deputy appointed under subsection (1) shall, in the event of the absence from a meeting of the Commission of the member for whom the member is the deputy, be entitled to attend the meeting and, when so attending, shall be deemed to be a member both for the purposes of this Act and for the purposes of the *Remuneration (Statutory Bodies) Act*.

"(3) An act done by a deputy appointed under subsection (1) as a deputy shall not, in any proceedings, be questioned on the ground that the occasion for the exercise of any powers or the performance of any functions did not arise or had ceased.

"16A. DISCLOSURE OF INTEREST

"(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which the member is not a director, shall, as soon as practicable after the relevant facts have come to the member's attention, disclose the nature of the interest at a meeting of the Commission.

"16B. DELEGATION

"(1) The Commission may, in writing under its common seal, delegate to a member or an employee any of its powers and functions under this Act, except this power of delegation.

"(2) A power delegated under this section may be exercised by the delegate in accordance with the instrument of delegation and, where so exercised, shall, for the purposes of this Act, be deemed to have been exercised by the Commission.

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"(3) A delegation under this section to an employee may be to an employee from time to time holding, acting in or performing the duties of an office, designation or position.

"(4) A delegation under this section is revocable at will and does not prevent the exercise of a power so delegated by the Commission.

"16C. COSTS AND EXPENSES OF COMMISSION

"(1) The costs and expenses of the Commission, other than the payment of remuneration, allowances and expenses to the Chairperson and the members, in exercising its powers and performing its functions under and in relation to this Act shall be met by the Territory.

"(2) All other costs and expenses of the Commission under this Act or any other Act, including the payment of remuneration, allowances and expenses to the members, shall be met from the revenue of the Commission.

"16D. MONEY PROPERTY OF TERRITORY

"The money of, and all debts and other money owing to, the Commission are the property of the Territory and -

- (a) are and shall be held;
- (b) may be recovered; and
- (c) may be applied,

by and in the name of the Commission on behalf of the Territory.

"16E. RULES

"The Commission may make rules providing for the custody of its property and the form and use of its common seal."

6. FUNCTIONS OF COMMISSION

Section 17 of the Principal Act is amended -

- (a) by omitting from paragraph (a) subparagraph (ii);
- (b) by omitting from paragraph (b) "lotteries, soccer football pools," (twice occurring); and
- (c) by omitting from paragraph (g) "or the Lotteries and Gaming Act".

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7. CHARGES PAYABLE TO COMMISSION

Section 54(2) of the Principal Act is amended by omitting "Chairman" and substituting "Chairperson".

8. CHARGES PAYABLE TO COMMISSION

Section 59(2) of the Principal Act is amended by omitting "Chairman" and substituting "Chairperson".

PART 3 - REPEAL OF RACING COMMISSION ACT

9. REPEAL

The *Racing Commission Act*, Act No. 15 of 1991, is repealed.

10. TRANSITIONAL AND SAVINGS

(1) In this section -

"Commission" means the Racing Commission established by section 6 of the Principal Act as inserted by section 5 of this Act;

"former Commission" means the Racing Commission established by the Repealed Act and existing immediately before the commencement of this Act;

"Repealed Act" means the Act repealed by section 9.

(2) On the commencement of this Act -

(a) any levy, fee, charge, interest, debt or money payable to the former Commission shall become payable to and be recoverable by the Commission;

(b) all liabilities, contracts (including contracts of service) and engagements, and all rights and authorities of any nature whatsoever of the former Commission shall become liabilities, contracts, engagements, rights and authorities of the Commission; and

(c) all rights, authorities and licences granted or issued by the former Commission shall continue in force on the same terms and conditions on which they were granted or issued or on which they arose as if such rights, authorities and licences had been granted or issued by the Commission.

(3) All estates and interests in property, real and personal, and rights (except property mentioned in subsection (2)) held by the former Commission immediately before the commencement of this Act are, by virtue of this

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section and without further assurance, vested in the Commission, and the Commission has such powers as are necessary to take possession of, recover and deal with such property and enforce such rights.

(4) On the commencement of this Act, a member of the former Commission appointed under section 5(1)(b) of the Repealed Act shall be deemed to be or to have been appointed as a member of the Commission under section 7(1)(b) of the Principal Act, as inserted by section 5 of this Act, for the remainder of the period for which the member was appointed under the Repealed Act.

(5) For the purposes of section 68 of the *Financial Administration and Audit Act*, the former Commission, in respect of the financial year in which this Act comes into force, is not a prescribed statutory corporation within the meaning and for the purposes of that section and the report that the former Commission would otherwise have been required to prepare under that section shall be prepared by and form part of the report for the financial year prepared under that section by the Authority established by the *Racing and Betting Authority Act*.
