

TASMANIA

**RACING (TASRACING PTY LTD)
(TRANSITIONAL AND CONSEQUENTIAL
PROVISIONS) BILL 2009**

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SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

**RACING (TASRACING PTY LTD)
(TRANSITIONAL AND CONSEQUENTIAL
PROVISIONS) BILL 2009**

*(Brought in by the Minister for Police and Emergency
Management, the Honourable James Glennister Cox)*

A BILL FOR

**An Act to provide for the transfer of property, rights,
liabilities and employees to Tasracing Pty Ltd as the
universal successor of the Tasmanian Racing Board and to
consequentially amend certain Acts**

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

*This Act may be cited as the *Racing (Tasracing
Pty Ltd) (Transitional and Consequential
Provisions) Act 2009.**

2. Commencement

*This Act commences immediately after the
commencement of the *Racing (Tasracing Pty
Ltd) Act 2009.**

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PART 2 – SAVINGS AND TRANSITIONAL

3. Interpretation

(1) In this Part –

“**asset**” has the same meaning as in the
Racing (Tasracing Pty Ltd) Act 2009;

“**Board**” has the same meaning as in the
Racing (Tasracing Pty Ltd) Act 2009;

“**Company**” has the same meaning as in the
Racing (Tasracing Pty Ltd) Act 2009;

“**director**” means a director of the Company;

“**incorporation day**” means the day on which
the Company is incorporated;

“**liability**” has the same meaning as in the
Racing (Tasracing Pty Ltd) Act 2009;

“**right**” has the same meaning as in the
Racing (Tasracing Pty Ltd) Act 2009;

“**TRB**” has the same meaning as in the
Racing (Tasracing Pty Ltd) Act 2009.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as it has in the *Racing Regulation Act 2004*.

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4. Vesting of assets, rights, liabilities, &c., in the Company

- (1) On and after the incorporation day, the following provisions have effect:
 - (a) the assets of the TRB vest in the Company by virtue of this section and without the need for any further transfer, assignment or assurance;
 - (b) the rights or liabilities of the TRB become by virtue of this section the rights or liabilities of the Company;
 - (c) legal or other proceedings commenced by or against the TRB before, and pending on, the incorporation day, or that are taken by virtue of section 15(1) of the *Racing Regulation Amendment (Governance Reform) (Transitional and Consequential Provisions) Act 2008* to be proceedings pending by or against the TRB, may be continued by or, as the case may be, against the Company;
 - (d) a judgment or order of a court obtained in those proceedings whether by or against the TRB, or that may be enforced by virtue of section 15(1) of the *Racing Regulation Amendment (Governance Reform) (Transitional and Consequential Provisions) Act 2008* by or against the TRB, may be enforced by or, as the case may be, against the Company;

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- (e) legal or other proceedings which could have been commenced by or against the TRB before, and pending on, the incorporation day, or that may be commenced by virtue of section 15(1) of the *Racing Regulation Amendment (Governance Reform) (Transitional and Consequential Provisions) Act 2008* by or against the TRB, may be commenced by or against the Company;
- (f) a document addressed to, and purporting to be served on, the TRB relating to those proceedings, or that is taken by virtue of section 15(1) of the *Racing Regulation Amendment (Governance Reform) (Transitional and Consequential Provisions) Act 2008* to have been served on the TRB, is taken to be served on the Company;
- (g) a reference to the TRB in any Act, in any instrument made under any Act, in any contract (other than a contract of employment), agreement, arrangement or undertaking or in any document of any kind, or that is taken by virtue of section 15(1) of the *Racing Regulation Amendment (Governance Reform) (Transitional and Consequential Provisions) Act 2008* to be, or include, a reference to the TRB, is taken to be, or include, a reference to the Company.

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- (2) The operation of this section is not to be regarded –
- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability; or
 - (d) as an event of default under any contract or other instrument.
- (3) State tax is not payable in respect of any document prepared to give effect to subsection (1).
- (4) In this section –
- “**State tax**” means application or registration fees, stamp duty or any other tax, duty, fee or charge imposed by any Act or law of Tasmania.

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5. Powers of Company in respect of matters arising under this Act

- (1) This section applies to –
 - (a) debts, money, claims, securities and charges relating to assets that vest in the Company under this Act; and
 - (b) liabilities that become liabilities of the Company under this Act.
- (2) On and after the incorporation day, the Company may –
 - (a) in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies, for the recovery of debts, money and claims to which this section applies that are payable to, or recoverable by, the TRB and for the prosecution of proceedings relating to any such debts, money or claims, as the TRB might have pursued but for the enactment of this Act; and
 - (b) enforce and realise any security or charge to which this section applies and which was in existence immediately before the incorporation day in favour of the TRB, and exercise any powers conferred under the security or charge on the TRB as if it were a security or charge in favour of the Company.

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6. Existing staff of TRB to be transferred

- (1) On the incorporation day, the employment of all employees of the TRB is terminated and they become employees of the Company.
- (2) On the incorporation day, the Company becomes the employer of each employee of the TRB.
- (3) An employee of the TRB –
 - (a) is taken to have been employed by the Company on the same terms and conditions, including remuneration, as the employee was receiving immediately before the incorporation day; and
 - (b) retains all existing and accrued rights relating to leave as if service as an employee of the Company were a continuation of his or her service as an employee of the TRB; and
 - (c) may claim those rights against the Company.
- (4) The period of service of an employee of the TRB is taken to be service as an employee of the Company.
- (5) Nothing in subsection (1) or (2) prevents any of the terms or conditions of employment of an employee of the TRB being altered by an award, industrial agreement or any other law having effect after the incorporation day.

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- (6) If the *Long Service Leave (State Employees) Act 1994* applied to an employee of the TRB immediately before the incorporation day, that Act continues to apply to that employee unless –
- (a) he or she gives written notice to the Company that he or she elects that that Act not apply; or
 - (b) an award or industrial agreement provides otherwise.
- (7) The termination of an employee's employment under subsection (1) is not to be regarded as a cessation of employment for superannuation purposes.
- (8) Nothing in this section entitles an employee of the TRB whose employment is terminated and who becomes an employee of the Company by virtue of subsection (1) to any payment or compensation in respect of that termination of employment.

7. Superannuation

- (1) The Company is to make adequate provision to meet any liability it may have under the *Retirement Benefits Act 1993* to pay pension and other benefits in respect of employees who by virtue of section 6 become employees of the Company.

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- (2) Nothing in this Act affects the superannuation entitlements of a person referred to in subsection (1) that were in existence immediately before the incorporation day.

8. *Rules of Racing, policies and guidelines*

- (1) The *Rules of Racing*, policies and guidelines of the TRB that were in force for a code of racing under the *Racing Regulation Act 2004* immediately before the incorporation day continue in force as the *Rules of Racing*, policies and guidelines of the Company for that code of racing on and after the incorporation day.
- (2) On or after the incorporation day, the *Rules of Racing*, policies and guidelines of the TRB so continued in force may at any time be amended, rescinded or rescinded and replaced by new *Rules of Racing*, policies and guidelines of the Company, in accordance with the *Racing Regulation Act 2004* as in force on and after the incorporation day.

9. *Warning-off notices, &c.*

Any notice issued by or on behalf of the TRB under section 54 of the *Racing Regulation Act 2004*, or that is taken by virtue of section 23 of the *Racing Regulation Amendment (Governance Reform) (Transitional and Consequential Provisions) Act 2008* to have been issued by the

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TRB, that was still in force immediately before the incorporation day continues in force on and after that day, according to its terms, as a warning-off notice issued by the Company.

10. Acts, &c., done by or to TRB

All acts, matters and things that before the incorporation day –

- (a) were done or omitted to be done by, or done in relation to, the TRB; or
- (b) had, by virtue of section 24 of the *Racing Regulation Amendment (Governance Reform) (Transitional and Consequential Provisions) Act 2008*, the same force and effect as if they had been done or omitted to be done by, or done in relation to, the TRB –

have, on and after that day, the same force and effect as if they had been done or omitted to be done by, or done or suffered in relation to, the Company.

11. Regulations

- (1) The Governor may make regulations of a savings or transitional nature consequent on the enactment of this Act or the *Racing (Tasracing Pty Ltd) Act 2009*.

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- (2) Without limiting the generality of subsection (1), regulations made under this section may supplement any of the provisions of this Act.
- (3) Regulations made under this section may –
 - (a) take effect on the incorporation day or a later day as specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made; and
 - (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
 - (c) authorise any matter to be from time to time determined, applied or regulated by the Minister, Company or Director.

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Part 3 – Miscellaneous

PART 3 – MISCELLANEOUS

12. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Racing; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Infrastructure, Energy and Resources.

13. Consequential amendments

The legislation specified in Schedule 1 is amended as specified in that Schedule.

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 13

Gaming Control Act 1993

1. Section 76ZDB is amended by omitting paragraph (c) from the definition of “regulatory Agency” and substituting:
 - (c) Tasracing Pty Ltd formed under the *Racing (Tasracing Pty Ltd) Act 2009*; or

Racing Regulation Act 2004

1. Section 3 is amended as follows:
 - (a) by omitting “the TRB” from the definition of “betting-only meeting” and substituting “Tasracing”;
 - (b) by omitting “, TRB” from the definition of “chairperson”;
 - (c) by omitting “, TRB” from the definition of “deputy chairperson”;
 - (d) by omitting the definition of “panel”;
 - (e) by inserting the following definition after the definition of “steward”:

“Tasracing” means Tasracing Pty Ltd formed under the *Racing (Tasracing Pty Ltd) Act 2009*;

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- (f) by omitting the definition of “TRB”.
2. Section 6(2)(c) is amended by omitting “the TRB” and substituting “Tasracing”.
3. Section 7(2) is amended as follows:
- (a) by omitting from paragraph (fa) “the TRB” and substituting “Tasracing”;
 - (b) by omitting from paragraph (fb) “the TRB” and substituting “Tasracing”;
 - (c) by omitting from paragraph (fc) “the TRB” and substituting “Tasracing”.
4. Section 10 is repealed.
5. Section 11 is amended as follows:
- (a) by omitting from subsection (1) “The TRB” and substituting “Tasracing”;
 - (b) by omitting from subsection (1)(r) “the TRB” and substituting “Tasracing”;
 - (c) by omitting subsections (2), (3), (4), (5), (6), (7), (8), (9), (10) and (11) and substituting the following subsection:

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(11) Tasracing must perform its functions and exercise its powers in accordance with the *Rules of Racing*.

(d) by omitting from subsection (12) “the TRB” twice occurring and substituting “Tasracing”.

6. Sections 12, 13, 14, 15 and 16 are repealed.
7. Division 2 of Part 3 is repealed.
8. Section 22(6)(e) is amended by omitting “the TRB” and substituting “Tasracing”.
9. Section 23(7)(e) is amended by omitting “the TRB” and substituting “Tasracing”.
10. Section 28(1)(a) is amended by omitting “the TRB” and substituting “Tasracing”.
11. Section 36(1)(c) is amended by omitting “the TRB” and substituting “Tasracing”.
12. Section 40 is amended as follows:

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- (a) by omitting from subsection (1) “the TRB” and substituting “Tasracing”;
- (b) by omitting from subsection (1A) “the TRB” and substituting “Tasracing”;
- (c) by omitting from subsection (2) “the TRB” and substituting “Tasracing”.

13. Section 44 is amended as follows:

- (a) by omitting from subsection (1) “the TRB” and substituting “Tasracing”;
- (b) by omitting from subsection (3)(a) “the TRB” and substituting “Tasracing”;
- (c) by omitting from subsection (3)(b) “the TRB” and substituting “Tasracing”;
- (d) by omitting from subsection (4) “the TRB” and substituting “Tasracing”.

14. Section 44A(1) is amended by omitting “the TRB” and substituting “Tasracing”.

15. Section 44B is amended as follows:

- (a) by omitting from subsection (1) “the TRB” and substituting “Tasracing”;

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- (b) by omitting from subsection (2) “The TRB” and substituting “Tasracing”.

16. Section 44C is amended as follows:

- (a) by omitting from subsection (1) “The TRB” and substituting “Tasracing”;
- (b) by omitting from subsection (2) “the TRB” and substituting “Tasracing”;
- (c) by omitting from subsection (3) “The TRB” and substituting “Tasracing”.

17. Section 44D is amended as follows:

- (a) by omitting “the TRB” first occurring and substituting “Tasracing”;
- (b) by omitting from paragraph (b) “the TRB” and substituting “Tasracing”.

18. Section 47 is amended as follows:

- (a) by omitting from subsection (4)(b) “the TRB” and substituting “Tasracing”;
- (b) by omitting from subsection (5) “the TRB” twice occurring and substituting “Tasracing”;

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- (c) by omitting from subsection (6) “the TRB” and substituting “Tasracing”.

19. Section 51 is amended as follows:

- (a) by omitting from subsection (2) “the TRB and IAB” and substituting “Tasracing and the IAB”;
- (b) by omitting from subsection (7) “the TRB” and substituting “Tasracing”.

20. Section 54 is amended as follows:

- (a) by omitting from subsection (2) “The TRB” and substituting “Tasracing”;
- (b) by omitting from subsection (2)(a) “the TRB or club” and substituting “Tasracing or the club”;
- (c) by omitting from subsection (2)(b) “the TRB or club” and substituting “Tasracing or the club”;
- (d) by omitting from subsection (4) “the TRB or” and substituting “Tasracing or the”;
- (e) by omitting from subsection (4) “TRB or” second occurring and substituting “Tasracing or the”;

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- (f) by omitting from subsection (6) “the TRB or” and substituting “Tasracing or the”;
 - (g) by omitting from subsection (12) “the TRB or” first occurring and substituting “Tasracing or the”;
 - (h) by omitting from subsection (12)(a) “the TRB or” twice occurring and substituting “Tasracing or the”;
 - (i) by omitting from subsection (12)(b) “the TRB or” and substituting “Tasracing or the”;
 - (j) by omitting from subsection (13) “the TRB or” and substituting “Tasracing or the”.
- 21.** Section 82(2)(b) is amended by omitting “the TRB” and substituting “Tasracing”.
- 22.** Section 106 is amended as follows:
- (a) by omitting subsection (2);
 - (b) by omitting subsection (4).
- 23.** Section 109(3)(c) is amended by omitting “the TRB” twice occurring and substituting “Tasracing”.

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24. Section 111 is amended as follows:

- (a) by omitting from subsection (2)(b) “the TRB” and substituting “Tasracing”;
- (b) by omitting from subsection (4) “The TRB” and substituting “Tasracing”;
- (c) by omitting from subsection (5) “the TRB” and substituting “Tasracing”;
- (d) by omitting from subsection (6) “The TRB” and substituting “Tasracing”;
- (e) by omitting from subsection (7)(b) “the TRB” and substituting “Tasracing”.

25. Schedules 1, 2 and 3 are repealed.

TOTE Tasmania (Racing Regulation) Act 2004

1. Section 3 is amended by omitting the definition of “TRB” and substituting the following definition:

“Tasracing” means Tasracing Pty Ltd formed under the *Racing (Tasracing Pty Ltd) Act 2009*.

2. Section 10(1) is amended as follows:

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- (a) by omitting “the TRB” twice occurring and substituting “Tasracing”;
 - (b) by inserting “and the *Racing (Tasracing Pty Ltd) Act 2009*” after “*Racing Regulation Act 2004*”.
3. Section 11(3) is amended as follows:
- (a) by omitting “the TRB” first occurring and substituting “Tasracing”;
 - (b) by omitting from paragraph (b) “the TRB” and substituting “Tasracing”.
4. Section 11A(1) is amended by omitting “the TRB” and substituting “Tasracing”.

TOTE Tasmania Act 2000

1. The long title is amended by omitting “**and administrative**”.

Workers Rehabilitation and Compensation Act 1988

1. Section 4DC is amended as follows:
- (a) by omitting from subsection (1) “the TRB” and substituting “Tasracing”;

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- (b) by omitting from subsection (2)(a) “the TRB” and substituting “Tasracing”;
- (c) by omitting from subsection (2)(b) “the TRB” and substituting “Tasracing”;
- (d) by omitting the definition of “TRB” from subsection (4) and substituting the following definition:

“Tasracing” means Tasracing Pty Ltd formed under the *Racing (Tasracing Pty Ltd) Act 2009*.