

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

CLAUSE NOTES

Clause 1	Short Title and citation.
Clause 2	The Act will commence immediately after the commencement of the <i>Racing (Tasracing Pty Ltd) Act 2009</i> .
Clause 3	This clause provides definitions for the purpose of this Act. It also provides for expressions used in this Act to have the same meaning as those contained in the <i>Racing Regulation Act 2004</i> .
Clause 4	<p>This clause explains the legal effect of vesting TRB's assets, rights and liabilities in the Company, by:</p> <p>under subclause (1)(a), providing that the assets of the TRB become those of the Company without any further action required.</p> <p>under subclause (1)(b), providing that the rights and liabilities of the TRB become those of the Company;</p> <p>under subclause (1)(c), providing that any legal or other proceedings commenced by or against the TRB, or deemed to be by or against the TRB, before or pending on the incorporation day may be continued by or against the Company;</p> <p>under subclause (1)(d), providing that on or after the incorporation day any judgement or order obtained in respect of the TRB, or deemed to be enforceable against the TRB, may be enforced by or against the Company;</p> <p>under subclause (1)(e), providing that any legal or other proceedings that could have been commenced by or against the TRB, or deemed to be by or against the TRB, before or pending on the incorporation day may be commenced by or against the Company;</p> <p>under subclause (1)(f), providing that on or after the incorporation day any documents addressed to and served upon the TRB are taken to have been served on the Company;</p> <p>under subclause (1)(g), providing that on or after the incorporation day any reference to the TRB in any Act, instrument, contract (other than an employment contract), agreement, arrangement or undertaking, or in any document, is to be taken where appropriate to be or include a reference to the Company;</p> <p>under subclause (2), clarifying that the operation of this section does not have any of the consequences outlined;</p>

	<p>under subclause (3), providing that no State tax is payable for documentation prepared to give effect to the transfer; and</p> <p>under subclause (4), defining “State tax” for the purposes of this clause.</p>
<p>Clause 5</p>	<p>This clause specifies the powers of the Company in respect of matters arising under this Act, by:</p> <p>under subclause (1), clarifying that the section applies to the matters as outlined; and</p> <p>under subclause (2) empowering the Company, on or after the incorporation date, to pursue remedies, recovery of debts, money and claims that are payable to or recoverable by the TRB and to enforce or realise any security or charge in force against the TRB as if it were a security or charge against the Company.</p>
<p>Clause 6</p>	<p>This clause provides the basis for, and terms and conditions of, the transfer of employees from TRB to the Company, by:</p> <p>under subclause (1), providing that on the incorporation day, all employees of the TRB will become employees of the Company;</p> <p>under subclause (2), providing that on the incorporation day, the Company becomes the employer of all employees of the TRB;</p> <p>under subclause (3), providing that employees of the TRB will be employed on the same remuneration, terms and conditions as they were on immediately prior to transfer, and retain all accrued rights with the ability to claim those rights against the Company;</p> <p>under subclause (4), providing that the period of service of an employee of the TRB is to be taken to be the period of service with the Company;</p> <p>under subclause (5), providing that terms of employment can be changed or altered by an award, industrial agreement or law after a person becomes an employee of the Company;</p> <p>under subclause (6), providing that the <i>Long Service Leave (State Employees) Act 1994</i> continues to apply to an employee of the Company if he or she was an employee of the TRB immediately before the incorporation day, unless the employee elects that the Act not apply or an award of industrial agreement provides otherwise;</p> <p>under subclause (7), providing that the transfer of a TRB employee to the Company is not to be regarded as cessation of employment for superannuation purposes; and</p> <p>under sub-clause (8), providing that no transferred employee is entitled to compensation or any other payment in respect of the change of employer.</p>

Clause 7	This clause requires the Company to make adequate provision to meet liabilities under the <i>Retirement Benefits Act 1993</i> in respect of transferred employees, and makes it clear that nothing in this Act affects the current superannuation entitlements of such employees.
Clause 8	<p>This clause provides for the continuation of the <i>Rules of Racing</i>, policies and guidelines of the TRB by:-</p> <p>under paragraph (1), enabling the <i>Rules of Racing</i>, policies and guidelines in force for a code of racing under the <i>Racing Regulation Act 2004</i> immediately before the incorporation day to continue in force as the Rules of Racing, policies and guidelines for that code of racing after that day; and</p> <p>under paragraph (2), enabling the <i>Rules of Racing</i>, policies and guidelines as continued in force by this section to be, at any time, amended or rescinded and replaced by new rules, policies and guidelines under the <i>Racing Regulation Act 2004</i>.</p>
Clause 9	This clause specifies that any warning off notice issued by or on behalf of the TRB under section 54 of the <i>Racing Regulation Act 2004</i> , or by virtue of section 23 of the <i>Racing Regulation Amendment (Governance Reform) (Transitional and Consequential Provisions) Act 2008</i> , still in force immediately before the incorporation day, continues in force on and after that day, according to its terms, as a warning notice issued by the Company.
Clause 10	This clause ensures that decisions and actions of the TRB continue to have effect as decisions and actions of the Company.
Clause 11	This clause empowers the Governor to make regulations for the purposes of this Act or the Principal Act.
Clause 12	This clause provides for the administration of this Act.
Clause 13	This clause provides for consequential amendments specified in Schedule 1.

Schedule 1	Details consequential amendments to be made to the <i>Gaming Control Act 1993</i> , <i>Racing Regulation Act 2004</i> , <i>TOTE Tasmania (Racing Regulation) Act 2004</i> , <i>TOTE Tasmania Act 2000</i> and the <i>Workers Rehabilitation and Compensation Act 1988</i> , as follows -
<i>Gaming Control Act 1993</i>	The amendment relates to section 76ZDB Interpretation of Division (Betting Exchange Operations). The required amendment is the deletion of paragraph (c) of the definition of “regulatory Agency” to remove references to councils, which no longer exist. This will be replaced with a definition of “Tasracing”.
<i>Racing Regulation Act 2004</i>	<p>The amendments relate to a number of sections of this Act to reflect the transition of the TRB to a State-owned Company.</p> <p>The required amendments to section 3 Interpretation are the deletion of all references to “TRB” or “the TRB” and, where appropriate, substitution of “Tasracing”. The definition of “TRB” is replaced with a definition of “Tasracing”.</p> <p>The required amendment to section 6 Functions of Director is the deletion in paragraph (2)(c) of the words “the TRB” and substitution of “Tasracing”.</p> <p>The required amendments to section 7 Powers of the Director are in paragraph (2) and involve the deletion of all references to “the TRB” and substitution of “Tasracing”.</p> <p>Section 10 which established the Board is repealed as this entity will no longer exist.</p> <p>The required amendments to section 11 General Function and Powers of the TRB are the deletion of references in subsections (1), (1)(r) and (12) to “the TRB” and substitution of “Tasracing”.</p> <p>A further amendment to section 11 is the deletion of subsections (2) to (11) inclusive. Subsection (11) is replaced with a provision to ensure the Company performs its functions and exercises its powers in accordance with the <i>Rules of Racing</i>.</p> <p>Sections 12, 13, 14, 15 and 16 are repealed as the TRB is being abolished and the general provisions contained therein are either no longer relevant or have been provided for in the legislation regulating the Company.</p> <p>Division 2 of Part 3 TRB Membership is repealed as the Board will no longer be an entity.</p> <p>The required amendments to sections 22(6)(e), 23(7)(e), 28(1)(a), 36(1)(c), 40(1), 40(1A), 40(2), 44(1), 44(3)(a), 44(3)(b), 44(4), 44A(1), 44B(1), 44B(2), 44C(1), 44C(2), 44C(3), 44D, 44D(a), 47(4)(b), 47(5) and 47(6) are the deletion of all references to “the TRB” and substitution of “Tasracing”.</p>

	<p>The required amendments to section 51 Appointment of Stewards and other Racing Officials are the deletion in subsection (2) of the words “the TRB and IAB” and substitution of “Tasracing and the IAB”, and in subsection (7) the deletion of the words “the TRB” and substitution of “Tasracing”.</p> <p>The required amendments to section 54 Warning-off Notices are the deletion in subsections (2), (2)(a), (2)(b), (4), (6), (12), (12)(a), (12)(b) and (13) of all references to “the TRB” and substitution of “Tasracing” in line with the abolition of the TRB and the formation of the Company.</p> <p>The required amendment to section 82 Unclaimed Winnings is the deletion in subsection (2)(b) of the words “the TRB” and substitution of “Tasracing”.</p> <p>The required amendment to section 106 Protection of Racing Administrators and Officials is the deletion of subsections (2) and (4) as the TRB will no longer exist.</p> <p>The amendment to section 109 Regulations is the deletion in subsection (3)(c) of references to “the TRB” and substitution of “Tasracing”.</p> <p>The amendment to section 111 Rules of Racing is the deletion of references to “the TRB” and substitution of “Tasracing”.</p> <p>Schedules 1, 2 and 3 which dealt with meetings, employee superannuation and membership of the TRB are repealed as this entity will no longer exist.</p>
<p><i>TOTE Tasmania (Racing Regulation) Act 2004</i></p>	<p>The first amendment relates to section 3 Interpretation. The required amendment is the deletion of the definition of “TRB” as this entity will no longer exist. This will be replaced with a definition of “Tasracing”.</p> <p>The second amendment relates to section 10(1) Product Fee. The required amendment is the deletion of the words “the TRB” and substituting “Tasracing”, and the insertion of the words “and the <i>Racing (Tasracing Pty Ltd) Act 2009</i>” after “<i>Racing Regulation Act 2004</i>”.</p> <p>The third amendment relates to section 11(3) Amounts to be Set Aside. The required amendments are to subsections (3) and 3(b) by the deletion of references to “the TRB” and substitution of “Tasracing”.</p> <p>The fourth required amendment is to subsection (11A)(1) by the deletion of the words “the TRB” and substitution of “Tasracing”.</p>
<p><i>TOTE Tasmania Act 2000</i></p>	<p>The amendment relates to the long title. The required amendment is the deletion of “and administrative”. This function of TOTE Tasmania is no longer relevant.</p>

<i>Workers Rehabilitation and Compensation Act 1988</i>	The amendments relate to section 4DC which provides for the rehabilitation and compensation of jockey in respect of occupational injuries suffered by jockeys. The first three required amendments are to subsections (1), (2)(a) and (2)(b) by the deletion of “the TRB” as this entity will no longer exist. These will be replaced by “Tasracing”. The fourth required amendment is to subsection (4) by omitting the definition of “TRB” and substituting a definition of “Tasracing”.
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