

CONCURRENCE COPY

TROTTING AUTHORITY (AMENDMENT) BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to reconstitute the Trotting Authority of New South Wales (“the Authority”), and in particular—
 - (i) to provide that the Authority shall consist of 5 members instead of 8 members (Schedule 1 (2)—proposed section 6 (1));
 - (ii) to provide that the members of the Authority shall be appointed by the Governor on the recommendation of the Minister instead of being nominated by the Minister or being nominated as representatives of certain clubs and groups in the trotting industry (Schedule 1 (2)—proposed section 6 (1));
 - (iii) to enable any one of the members of the Authority to be appointed by the Governor as Chairman of the Authority (Schedule 1 (2)—proposed section 6);
 - (iv) to prevent employees of trotting clubs or trotting associations being appointed as members of the Authority (Schedule 1 (4)); and
 - (v) to enable the Governor to appoint acting members or an acting Chairman to act during the illness or absence, or a vacancy in the office of, a member or the Chairman of the Authority (Schedule 1 (4));
- (b) to reconstitute the Trotting Appeals Tribunal (“the Tribunal”) and to provide for appeals against decisions of the stewards of the Authority to be made to the Tribunal instead of being made in the first instance to the Authority, and in particular—
 - (i) to provide that the Tribunal may be constituted by a person qualified to be a District Court Judge in addition to a person who is a District Court Judge (Schedule 2 (5)—proposed section 17A (1) and (2));
 - (ii) to enable a person qualified to be appointed as the Tribunal to be appointed to act as the Tribunal during the illness or absence, or a vacancy in the office, of the Tribunal (Schedule 2 (5)—proposed section 17A (3));

- (iii) to enable assessors appointed by the Minister to assist and advise the Tribunal, but not to adjudicate on any matter before the Tribunal (Schedule 2 (5)—proposed section 17A (4)–(6));
 - (iv) to retain the right of appeal to the Authority in relation to a decision of a committee of a trotting club or association but to remove the right of appeal to the Authority in relation to a decision of the stewards of the Authority (Schedule 2 (6)—proposed section 18);
 - (v) to retain the right of appeal to the Tribunal in relation to a decision of the Authority and to provide for a right of appeal to the Tribunal in relation to a decision of the stewards of the Authority (Schedule 2 (6)—proposed section 19);
 - (vi) to make it clear that the regulations may provide for the suspension of a decision appealed against pending the determination of the appeal (Schedule 2 (7) (b)); and
 - (vii) to provide for all the expenses incurred by the Tribunal to be paid out of the Trotting Authority Fund (Schedule 2 (3));
- (c) to provide for the transfer of \$39,186 from the Trotting Authority Benevolent Fund to the Trotting Authority Fund (Schedule 3, clause 7);
- (d) to enable the first person appointed as the Tribunal after the reconstitution of the Tribunal to be appointed until the age of 71 years instead of 70 years (Schedule 3, clause 8); and
- (e) to make other provisions of a consequential, ancillary or minor nature.
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TROTting AUTHORITY (AMENDMENT) BILL, 1983

No. , 1983.

A BILL FOR

An Act to amend the Trotting Authority Act, 1977, with respect to the constitution of the Trotting Authority of New South Wales and appeals, and in other respects.

[MR CLEARY—14 *September*, 1983.]

Trotting Authority (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Trotting Authority (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall
10 commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 1, and Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 5, in its application to Schedule 2, and Schedule 2 shall
15 commence on such day (whether the same day as the day appointed and notified under subsection (2) or a different day) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

20 3. The Trotting Authority Act, 1977, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

25 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE RECONSTITUTION OF THE AUTHORITY.

Trotting Authority (Amendment).

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 57, 1977.

- 5 **5.** The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Savings, transitional and other provisions.

6. Schedule 3 has effect.

SCHEDULE 1.

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(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE RECONSTITUTION OF THE AUTHORITY.

(1) Section 3—

Omit the matter relating to Schedule 1, insert instead:—

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SCHEDULE 1.—PROVISIONS RELATING TO THE MEMBERS OF THE AUTHORITY.

SCHEDULE 2.—PROVISIONS RELATING TO THE PROCEDURE OF THE AUTHORITY.

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SCHEDULE 3.—PROVISIONS RELATING TO OFFICERS AND EMPLOYEES OF THE AUTHORITY.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

(2) Section 6—

5 Omit the section, insert instead:—

Members of the Authority.

6. (1) The Authority shall consist of 5 members appointed by the Governor on the recommendation of the Minister.

10 (2) Of the members, one shall, in and by the instrument of appointment of the member, or by another instrument executed by the Governor, be appointed as Chairman of the Authority.

(3) Schedule 1 has effect with respect to the members.

(4) Schedule 2 has effect with respect to the procedure of the Authority.

15 (3) Section 7 (3)—

After section 7 (2), insert:—

(3) Schedule 3 has effect with respect to officers and employees of the Authority.

(4) Schedules 1–3—

20 Omit Schedule 1, insert instead:—

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

SCHEDULE 1.

(Sec. 6 (3).)

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PROVISIONS RELATING TO THE MEMBERS OF THE AUTHORITY.

Employee of club, etc., not eligible.

1. A person who is an employee of a trotting club or trotting association is not eligible to be appointed as a member.

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Age of members.

2. A person of or above the age of 70 years is not eligible to be appointed as a member.

Chairman of the Authority.

3. (1) The Governor may remove a member from the office of Chairman.

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(2) A person who is a member and Chairman shall be deemed to have vacated office as Chairman if the person—

- (a) is removed from that office by the Governor under subclause (1);
- (b) resigns that office by instrument in writing addressed to the Minister;
- or

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(c) ceases to be a member.

Acting members and acting Chairman.

4. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise and perform all the functions of the member.

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(2) The Governor may, under subclause (1), appoint 2 or more persons to act in the offices of all or any of the members and, if an occasion arises for a person to act in any such office, such one of those 2 or more persons as the Minister determines may act in the office on that occasion.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

5 (3) The Governor may, from time to time, appoint a member to act in the office of Chairman during the illness or absence of the Chairman, and the member, while so acting, shall have and may exercise and perform all the functions of the Chairman.

(4) The Governor may remove any person from any office to which the person was appointed under subclause (1) or (3).

10 (5) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

15 (6) For the purposes of this clause, a vacancy in the office of a member or the Chairman shall be deemed to be an absence from office of the member or Chairman, as the case may be.

(7) In subclause (3), clauses 1, 2, 9, 10, 11 and 12 and Schedule 2—

(a) a reference to a member includes a reference to a person acting in the office of a member;

20 (b) a reference to the appointment of a member includes a reference to the appointment of a person to act in the office of a member; and

(c) a reference to the office of a member includes a reference to the office of a person appointed to act in the office of a member.

Term of office.

25 5. Subject to this Schedule, a member shall hold office for such period not exceeding 3 years as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration.

30 6. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.***Filling of vacancy in office of member.**

- 5 7. In the event of the office of any member becoming vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

8. (1) A member shall be deemed to have vacated office if the member—
- (a) dies;
 - 10 (b) absents himself or herself from 3 consecutive ordinary meetings of the Authority of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Authority (which leave the Authority is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of
 - 15 those meetings, the member is excused by the Authority for being absent from those meetings;
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - 20 (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - 25 (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable;
 - (f) is an employee of a trotting club or trotting association;
 - (g) resigns the office by instrument in writing addressed to the Minister;
 - 30 (h) attains the age of 70 years; or
 - (i) is removed from office by the Governor under subclause (2) or (3).
- (2) The Governor may remove a member from office.
- (3) Without affecting subclause (2), the Governor may remove from office a member who contravenes the provisions of clause 9.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.***Disclosure of pecuniary interests.**

- 5 9. (1) A member who has a direct or indirect pecuniary interest in a matter that is being considered, or is about to be considered, at a meeting of the Authority shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.
- 10 (2) A disclosure by a member at a meeting of the Authority that the member—
- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- 15 (c) has some other specified interest relating to a specified company or other body or a specified person,
- shall be deemed to be a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure.
- 20 (3) The Authority shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Authority from time to time.
- 25 (4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines, be present during any deliberation of the Authority, or take part in any decision of the Authority, with respect to that matter.
- 30 (5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Authority.
- (6) Nothing in this clause applies to or in respect of an interest of a member in a matter which arises by reason only that the member is—
- (a) concerned in the management of a trotting club or trotting association; or
- 35 (b) the owner, trainer or driver of trotting horses.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.***Effect of certain other Acts.**

5 10. (1) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a member and a member is not, as a member, subject to the provisions of that Act.

10 (2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

15 (3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Liability of members, etc.

20 11. No matter or thing done by the Authority, and no matter or thing done by any member or by any person acting under the direction of the Authority shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever

Proof of certain matters not required.

25 12. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of, or the holding of office by, any member; or
- (d) the presence of a quorum at any meeting of the Authority.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

SCHEDULE 2.

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(Sec. 6 (4).)

PROVISIONS RELATING TO THE PROCEDURE OF THE AUTHORITY.

General procedure.

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1. The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to any procedure that is specified in this Act or prescribed by the rules or regulations, be as determined by the Authority.

Quorum.

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2. Three members shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and perform all the functions of the Authority.

Presiding member.

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3. (1) The Chairman or, in the absence of the Chairman, another member elected as chairman for the meeting by the members present shall preside at a meeting of the Authority.

(2) The person acting as chairman at any meeting of the Authority shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting.

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4. A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present shall be the decision of the Authority.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

SCHEDULE 3.

(Sec. 7 (3).)

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PROVISIONS RELATING TO OFFICERS AND EMPLOYEES
OF THE AUTHORITY.**Preservation of rights of certain servants previously public servants, etc.**

1. (1) In this clause—

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“servant” means an officer or employee of the Authority;

“statutory body” means any body declared under clause 2 to be a statutory
body for the purposes of this Schedule;

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“superannuation scheme” means a scheme, fund or arrangement under
which any superannuation or retirement benefits are provided and
which is established by or under any Act.(2) Subject to subclause (3) and to the terms of appointment, where a
servant was, immediately before being appointed as a servant—

(a) an officer of the Public Service or a Teaching Service;

(b) a contributor to a superannuation scheme;

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(c) an officer employed by a statutory body; or

(d) a person in respect of whom provision was made by any Act for the
retention of any rights accrued or accruing to the person as an officer
or employee,

he or she—

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(e) shall retain any rights accrued or accruing to him or her as such an
officer, contributor or person;(f) may continue to contribute to any superannuation scheme to which
he or she was a contributor immediately before being appointed as a
servant; and

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(g) shall be entitled to receive any deferred or extended leave and any
payment, pension or gratuity,

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

5 as if he or she had continued to be such an officer, contributor or person during his or her service as a servant and—

(h) his or her service as a servant shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and

10 (i) he or she shall be deemed to be an officer or employee, and the Authority shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.

15 (3) If a servant would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he or she shall not be so entitled upon becoming (whether upon appointment as a servant or at any later time while holding office as a servant) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her
20 and the Authority in any case where he or she becomes a contributor to any such other superannuation scheme.

(4) Subclause (3) does not prevent the payment to a servant upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason
25 of resignation, to be an officer or employee for the purposes of the scheme.

(5) A servant shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Declaration of statutory bodies.

30 2. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Trotting Authority (Amendment).

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS.

(1) Section 3—

5 At the end of the section, insert:—

SCHEDULE 4.—PROVISIONS RELATING TO THE TRIBUNAL.

(2) Section 4, definition of “assessor”—

Before the definition of “Assistance Fund”, insert:—

10 “assessor” means a person appointed as an assessor of the Tribunal
under section 17A (4);

(3) Section 11 (3) (a1)—

After section 11 (3) (a), insert:—

15 (a1) all expenses (including remuneration payable under clause 4
of Schedule 4) incurred by the Tribunal in the exercise or
performance of the functions of the Tribunal under this Act;

(4) Section 17 (2)—

Omit the subsection.

(5) Section 17A—

After section 17, insert:—

20 **Provisions relating to the Tribunal.**

17A. (1) In this section, “qualified person” means a Judge
of the District Court or a person qualified to be appointed as a Judge
of the District Court.

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.*

(2) The Minister may, upon the recommendation of the Attorney General, appoint a qualified person as the Tribunal.

5 (3) The Minister may from time to time, upon the recommendation of the Attorney General, appoint a qualified person to act as the Tribunal during the illness or absence of the person appointed as the Tribunal or during a vacancy in the office of the Tribunal, and the qualified person, while so acting, shall be deemed to be the
10 Tribunal.

(4) The Minister may, for the purposes of this Act, appoint persons who, in the opinion of the Minister, have special knowledge of, and experience in, the trotting industry to be assessors of the Tribunal.

15 (5) The Tribunal may, in hearing appeals under this Act, be assisted by one or more assessors.

(6) An assessor assisting the Tribunal as referred to in subsection (5) may assist and advise the Tribunal, but shall not adjudicate on any matter before the Tribunal.

20 (7) Schedule 4 has effect with respect to the Tribunal.

(6) Sections 18, 19—

Omit the sections, insert instead:—

Appeals to Authority.

25 18. (1) Any person who is aggrieved by a decision of a committee of a trotting club or trotting association may, in accordance with the regulations, appeal against the decision to the Authority, which shall be the only body to which an appeal against the decision shall lie.

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.*

5 (2) Proceedings on an appeal under this section shall be held as in open court at a meeting of the Authority at which a quorum is present.

(3) The decision of the Authority in respect of an appeal under this section shall be deemed to be the decision of the committee of the trotting club or trotting association, as the case may be.

Appeals to Tribunal.

10 19. (1) Any person who, or any trotting club or trotting association that, is aggrieved by—

(a) a decision of stewards of the Authority; or

(b) a decision of the Authority (including a decision in respect of an appeal under section 18),

15 may, in accordance with the regulations, appeal against the decision to the Tribunal, which shall be the only body to which an appeal against the decision shall lie.

(2) Proceedings on an appeal under this section shall be held as in open court before the Tribunal.

20 (3) The decision of the Tribunal in respect of an appeal under this section shall be final and conclusive and shall be deemed to be—

(a) in the case of an appeal against a decision of stewards of the Authority—the decision of the stewards; or

25 (b) in the case of an appeal against a decision of the Authority—the decision of the Authority.

*Trotting Authority (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.*

(7) (a) Section 20 (1) (a), (b)—

Omit the paragraphs, insert instead:—

- 5 (a) appeals to the Authority under section 18;
 (b) appeals to the Tribunal under section 19;

(b) Section 20 (1) (c1)—

After section 20 (1) (c), insert:—

- 10 (c1) the suspension of a decision appealed against under this
 Act pending the determination of the appeal;

(8) Schedule 4—

At the end of the Act, insert:—

SCHEDULE 4.

(Sec. 17A (7).)

15 PROVISIONS RELATING TO THE TRIBUNAL.

Age of Tribunal or assessors.

1. A person of or above the age of 70 years is not eligible to be appointed—
 (a) as, or to act as, the Tribunal; or
 (b) as an assessor.

20 **Terms of office.**

2. Subject to this Schedule, a person appointed as—
 (a) the Tribunal; or
 (b) an assessor,

25 shall hold office for such period, not exceeding 3 years, as may be specified in the
 instrument of appointment, but is eligible (if otherwise qualified) for re-
 appointment.

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.***Effect of appointment of a Judge of the District Court as the Tribunal.**

5 3. (1) The appointment of a person who is a Judge of the District Court as, or to act as, the Tribunal shall not, nor shall the person's service as the Tribunal, affect the person's tenure of the office of Judge of the District Court or the person's rank, title, status, precedence, salary or other rights or privileges as a holder of that office.

10 (2) A Judge of the District Court may, notwithstanding that he or she holds office as, or acts as, the Tribunal, exercise and perform the functions of a Judge of the District Court.

(3) The service, as the Tribunal, of a Judge of the District Court shall, for all purposes, be taken to be service as a Judge of the District Court.

Remuneration.

15 4. A person (not being a Judge of the District Court) holding office as, or acting as, the Tribunal and an assessor are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of each of them.

Vacation of office.

20 5. (1) A person (being a Judge of the District Court) holding office as the Tribunal shall be deemed to have vacated that office if the person—

(a) ceases to be a Judge of the District Court; or

(b) resigns that office by instrument in writing addressed to the Minister.

25 (2) A person (not being a Judge of the District Court) holding office as the Tribunal or a person holding office as an assessor shall be deemed to have vacated that office if the person—

(a) dies;

30 (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

(c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.*

- 5 (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable;
- (e) resigns that office by instrument in writing addressed to the Minister;
- (f) attains the age of 70 years; or
- (g) is removed from office by the Minister under subclause (3).
- 10 (3) The Minister may remove from office—
- (a) a person (not being a Judge of the District Court) holding office as the Tribunal; or
- (b) an assessor.
- 15 (4) The Minister may remove from office a person (not being a Judge of the District Court) appointed to act as the Tribunal.

Effect of certain other Acts.

6. (1) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of—
- 20 (a) a person as, or to act as, the Tribunal; or
- (b) an assessor,
- and a person holding office as, or acting as, the Tribunal or an assessor is not, as the Tribunal or an assessor, subject to the provisions of that Act.
- (2) The office of the Tribunal shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Staff to assist Tribunal.

7. For the purposes of this Act, the Tribunal may, with the approval of the Minister, make use of the services of—
- 25 (a) any officers or employees of the Authority; or
- 30 (b) any officers or temporary employees of a Department administered by the Minister.
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Trotting Authority (Amendment).

SCHEDULE 3.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

- 5 1. Expressions used in this Schedule shall, except in so far as the context or subject-matter otherwise indicates or requires, have the same meanings respectively as in the Principal Act.

Existing members of Authority.

- 10 2. (1) A person who, immediately before the day appointed and notified under section 2 (2), held office as a member of the Authority—

(a) shall cease to hold office as such on that day; and

(b) is eligible, if otherwise qualified, to be appointed as a member of the Authority.

- 15 (2) A person referred to in subclause (1) who ceases to hold office as a member of the Authority by reason of the operation of subclause (1) is not entitled to be paid any remuneration or compensation by reason of the person's so ceasing to hold that office.

First meeting of Authority after its reconstitution.

- 20 3. The Minister shall call the first meeting of the Authority to be held on or after the day appointed and notified under section 2 (2).

Existing Tribunal.

- 25 4. The person who, immediately before the day appointed and notified under section 2 (3), held office as the Tribunal—

(a) shall cease to hold office as such on that day; and

- (b) is eligible, if otherwise qualified, to be appointed as the Tribunal.

Trotting Authority (Amendment).

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Appeals pending before the Authority or Tribunal.**

5 5. (1) In this clause, "appointed day" means the day appointed and notified under section 2 (3).

(2) Where an appeal under section 18 of the Principal Act was made to the Authority before the appointed day and the appeal has not been determined, the Authority may hear and determine the appeal as if this Act had not been enacted.

10 (3) Where an appeal under section 19 of the Principal Act was made to the Tribunal before the appointed day and the appeal has not been determined, the Tribunal may hear and determine the appeal as if this Act had not been enacted.

Existing regulations.

15 6. Any regulations in force under Part V of the Principal Act immediately before the day appointed and notified under section 2 (3) shall, to the extent that they could have been made on or after that day, be deemed to have been made under Part V of the Principal Act, as amended by this Act.

Transfer of certain money.

20 7. Notwithstanding anything to the contrary in the Principal Act, the sum of \$39,186 shall, on the date of assent to this Act, be paid out of the Benevolent Fund and paid into the Trotting Authority Fund established under the Principal Act.

Special provision relating to Trotting Appeals Tribunal.

8. A reference in clauses 1 and 5 (2) (f) of Schedule 4 to the Principal Act, as amended by this Act, to the age of 70 years shall, in respect of—

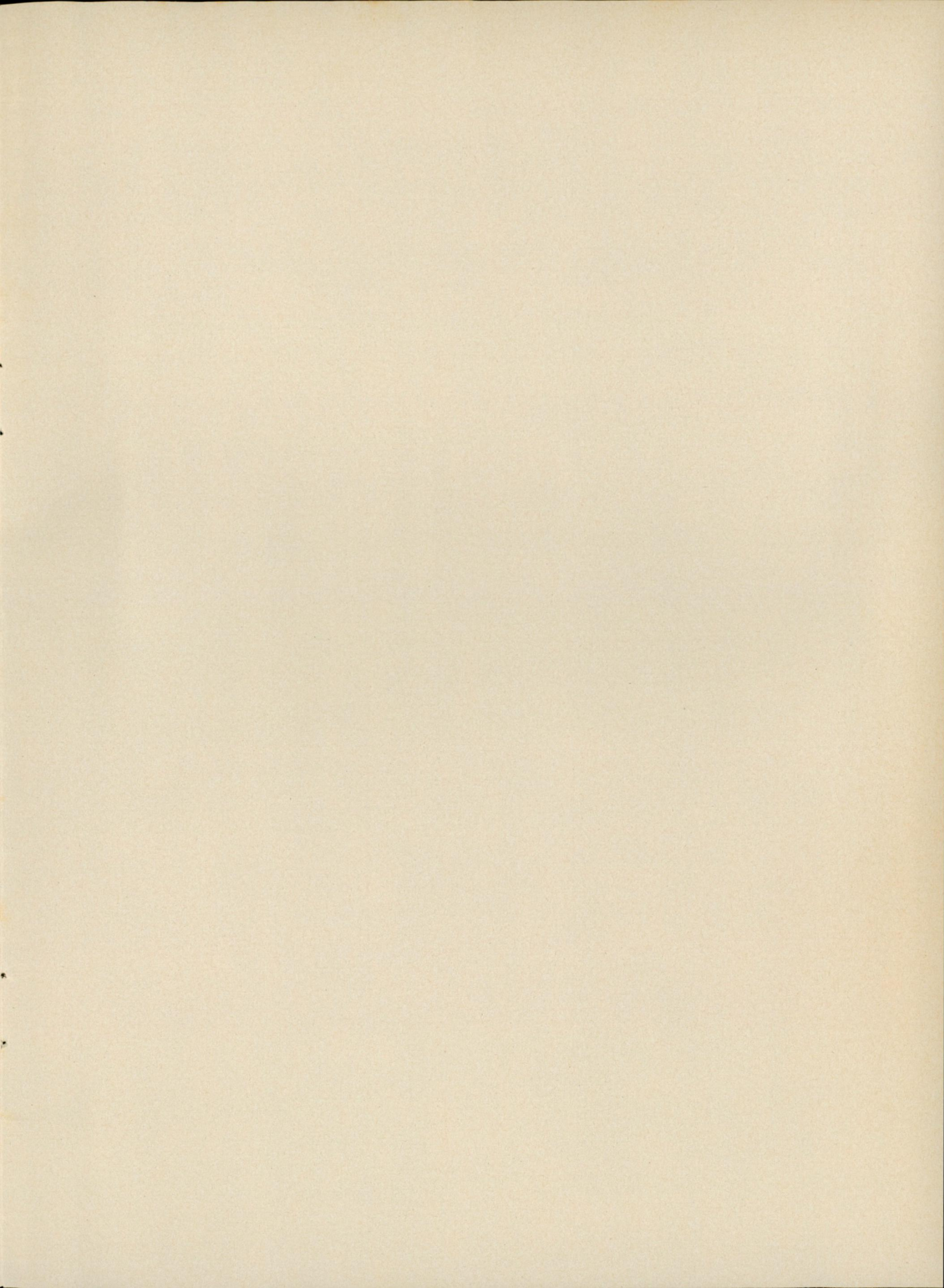
25 (a) the first appointment of a person as the Tribunal under section 17A (2) of that Act, as so amended, and any re-appointment of the person; and

(b) the holding of office by the person,

be read and construed as a reference to the age of 71 years.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983



TROTTING AUTHORITY (AMENDMENT) ACT, 1983, No. 80

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 80, 1983.

An Act to amend the Trotting Authority Act, 1977, with respect to the constitution of the Trotting Authority of New South Wales and appeals, and in other respects. [Assented to, 23rd September, 1983.]

Trotting Authority (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Trotting Authority (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 1, and Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 5, in its application to Schedule 2, and Schedule 2 shall commence on such day (whether the same day as the day appointed and notified under subsection (2) or a different day) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Trotting Authority Act, 1977, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE RECONSTITUTION OF THE AUTHORITY.

Trotting Authority (Amendment).

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 57, 1977.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Savings, transitional and other provisions.

6. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE RECONSTITUTION OF THE AUTHORITY.

(1) Section 3—

Omit the matter relating to Schedule 1, insert instead:—

SCHEDULE 1.—PROVISIONS RELATING TO THE MEMBERS OF THE AUTHORITY.

SCHEDULE 2.—PROVISIONS RELATING TO THE PROCEDURE OF THE AUTHORITY.

SCHEDULE 3.—PROVISIONS RELATING TO OFFICERS AND EMPLOYEES OF THE AUTHORITY.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

(2) Section 6—

Omit the section, insert instead:—

Members of the Authority.

6. (1) The Authority shall consist of 5 members appointed by the Governor on the recommendation of the Minister.

(2) Of the members, one shall, in and by the instrument of appointment of the member, or by another instrument executed by the Governor, be appointed as Chairman of the Authority.

(3) Schedule 1 has effect with respect to the members.

(4) Schedule 2 has effect with respect to the procedure of the Authority.

(3) Section 7 (3)—

After section 7 (2), insert:—

(3) Schedule 3 has effect with respect to officers and employees of the Authority.

(4) Schedules 1-3—

Omit Schedule 1, insert instead:—

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

SCHEDULE 1.

(Sec. 6 (3).)

PROVISIONS RELATING TO THE MEMBERS OF THE AUTHORITY.

Employee of club, etc., not eligible.

1. A person who is an employee of a trotting club or trotting association is not eligible to be appointed as a member.

Age of members.

2. A person of or above the age of 70 years is not eligible to be appointed as a member.

Chairman of the Authority.

3. (1) The Governor may remove a member from the office of Chairman.

(2) A person who is a member and Chairman shall be deemed to have vacated office as Chairman if the person—

(a) is removed from that office by the Governor under subclause (1);

(b) resigns that office by instrument in writing addressed to the Minister;
or

(c) ceases to be a member.

Acting members and acting Chairman.

4. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise and perform all the functions of the member.

(2) The Governor may, under subclause (1), appoint 2 or more persons to act in the offices of all or any of the members and, if an occasion arises for a person to act in any such office, such one of those 2 or more persons as the Minister determines may act in the office on that occasion.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

(3) The Governor may, from time to time, appoint a member to act in the office of Chairman during the illness or absence of the Chairman, and the member, while so acting, shall have and may exercise and perform all the functions of the Chairman.

(4) The Governor may remove any person from any office to which the person was appointed under subclause (1) or (3).

(5) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(6) For the purposes of this clause, a vacancy in the office of a member or the Chairman shall be deemed to be an absence from office of the member or Chairman, as the case may be.

(7) In subclause (3), clauses 1, 2, 9, 10, 11 and 12 and Schedule 2—

- (a) a reference to a member includes a reference to a person acting in the office of a member;
- (b) a reference to the appointment of a member includes a reference to the appointment of a person to act in the office of a member; and
- (c) a reference to the office of a member includes a reference to the office of a person appointed to act in the office of a member.

Term of office.

5. Subject to this Schedule, a member shall hold office for such period not exceeding 3 years as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration.

6. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.***Filling of vacancy in office of member.**

7. In the event of the office of any member becoming vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

8. (1) A member shall be deemed to have vacated office if the member—

- (a) dies;
- (b) absents himself or herself from 3 consecutive ordinary meetings of the Authority of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Authority (which leave the Authority is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Authority for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable;
- (f) is an employee of a trotting club or trotting association;
- (g) resigns the office by instrument in writing addressed to the Minister;
- (h) attains the age of 70 years; or
- (i) is removed from office by the Governor under subclause (2) or (3).

(2) The Governor may remove a member from office.

(3) Without affecting subclause (2), the Governor may remove from office a member who contravenes the provisions of clause 9.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.***Disclosure of pecuniary interests.**

9. (1) A member who has a direct or indirect pecuniary interest in a matter that is being considered, or is about to be considered, at a meeting of the Authority shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure by a member at a meeting of the Authority that the member—

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Authority shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Authority from time to time.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines, be present during any deliberation of the Authority, or take part in any decision of the Authority, with respect to that matter.

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Authority.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter which arises by reason only that the member is—

- (a) concerned in the management of a trotting club or trotting association;
or
- (b) the owner, trainer or driver of trotting horses.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

Effect of certain other Acts.

10. (1) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a member and a member is not, as a member, subject to the provisions of that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Liability of members, etc.

11. No matter or thing done by the Authority, and no matter or thing done by any member or by any person acting under the direction of the Authority shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

Proof of certain matters not required.

12. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of, or the holding of office by, any member; or
- (d) the presence of a quorum at any meeting of the Authority.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

SCHEDULE 2.

(Sec. 6 (4).)

PROVISIONS RELATING TO THE PROCEDURE OF THE AUTHORITY.

General procedure.

1. The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to any procedure that is specified in this Act or prescribed by the rules or regulations, be as determined by the Authority.

Quorum.

2. Three members shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and perform all the functions of the Authority.

Presiding member.

3. (1) The Chairman or, in the absence of the Chairman, another member elected as chairman for the meeting by the members present shall preside at a meeting of the Authority.

(2) The person acting as chairman at any meeting of the Authority shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting.

4. A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present shall be the decision of the Authority.

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

SCHEDULE 3.

(Sec. 7 (3).)

PROVISIONS RELATING TO OFFICERS AND EMPLOYEES
OF THE AUTHORITY.

Preservation of rights of certain servants previously public servants, etc.

1. (1) In this clause—

“servant” means an officer or employee of the Authority;

“statutory body” means any body declared under clause 2 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of appointment, where a servant was, immediately before being appointed as a servant—

(a) an officer of the Public Service or a Teaching Service;

(b) a contributor to a superannuation scheme;

(c) an officer employed by a statutory body; or

(d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee,

he or she—

(e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;

(f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as a servant; and

(g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

Trotting Authority (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
RECONSTITUTION OF THE AUTHORITY—*continued.*

as if he or she had continued to be such an officer, contributor or person during his or her service as a servant and—

- (h) his or her service as a servant shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and
- (i) he or she shall be deemed to be an officer or employee, and the Authority shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.

(3) If a servant would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he or she shall not be so entitled upon becoming (whether upon appointment as a servant or at any later time while holding office as a servant) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her and the Authority in any case where he or she becomes a contributor to any such other superannuation scheme.

(4) Subclause (3) does not prevent the payment to a servant upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

(5) A servant shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Declaration of statutory bodies.

2. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Trotting Authority (Amendment).

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS.

(1) Section 3—

At the end of the section, insert:—

SCHEDULE 4.—PROVISIONS RELATING TO THE TRIBUNAL.

(2) Section 4, definition of “assessor”—

Before the definition of “Assistance Fund”, insert:—

“assessor” means a person appointed as an assessor of the Tribunal under section 17A (4);

(3) Section 11 (3) (a1)—

After section 11 (3) (a), insert:—

(a1) all expenses (including remuneration payable under clause 4 of Schedule 4) incurred by the Tribunal in the exercise or performance of the functions of the Tribunal under this Act;

(4) Section 17 (2)—

Omit the subsection.

(5) Section 17A—

After section 17, insert:—

Provisions relating to the Tribunal.

17A. (1) In this section, “qualified person” means a Judge of the District Court or a person qualified to be appointed as a Judge of the District Court.

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.*

(2) The Minister may, upon the recommendation of the Attorney General, appoint a qualified person as the Tribunal.

(3) The Minister may from time to time, upon the recommendation of the Attorney General, appoint a qualified person to act as the Tribunal during the illness or absence of the person appointed as the Tribunal or during a vacancy in the office of the Tribunal, and the qualified person, while so acting, shall be deemed to be the Tribunal.

(4) The Minister may, for the purposes of this Act, appoint persons who, in the opinion of the Minister, have special knowledge of, and experience in, the trotting industry to be assessors of the Tribunal.

(5) The Tribunal may, in hearing appeals under this Act, be assisted by one or more assessors.

(6) An assessor assisting the Tribunal as referred to in subsection (5) may assist and advise the Tribunal, but shall not adjudicate on any matter before the Tribunal.

(7) Schedule 4 has effect with respect to the Tribunal.

(6) Sections 18, 19—

Omit the sections, insert instead:—

Appeals to Authority.

18. (1) Any person who is aggrieved by a decision of a committee of a trotting club or trotting association may, in accordance with the regulations, appeal against the decision to the Authority, which shall be the only body to which an appeal against the decision shall lie.

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.*

(2) Proceedings on an appeal under this section shall be held as in open court at a meeting of the Authority at which a quorum is present.

(3) The decision of the Authority in respect of an appeal under this section shall be deemed to be the decision of the committee of the trotting club or trotting association, as the case may be.

Appeals to Tribunal.

19. (1) Any person who, or any trotting club or trotting association that, is aggrieved by—

(a) a decision of stewards of the Authority; or

(b) a decision of the Authority (including a decision in respect of an appeal under section 18),

may, in accordance with the regulations, appeal against the decision to the Tribunal, which shall be the only body to which an appeal against the decision shall lie.

(2) Proceedings on an appeal under this section shall be held as in open court before the Tribunal.

(3) The decision of the Tribunal in respect of an appeal under this section shall be final and conclusive and shall be deemed to be—

(a) in the case of an appeal against a decision of stewards of the Authority—the decision of the stewards; or

(b) in the case of an appeal against a decision of the Authority—the decision of the Authority.

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.*

(7) (a) Section 20 (1) (a), (b)—

Omit the paragraphs, insert instead:—

- (a) appeals to the Authority under section 18;
- (b) appeals to the Tribunal under section 19;

(b) Section 20 (1) (c1)—

After section 20 (1) (c), insert:—

- (c1) the suspension of a decision appealed against under this Act pending the determination of the appeal;

(8) Schedule 4—

At the end of the Act, insert:—

SCHEDULE 4.

(Sec. 17A (7).)

PROVISIONS RELATING TO THE TRIBUNAL.

Age of Tribunal or assessors.

1. A person of or above the age of 70 years is not eligible to be appointed—
 - (a) as, or to act as, the Tribunal; or
 - (b) as an assessor.

Terms of office.

2. Subject to this Schedule, a person appointed as—
 - (a) the Tribunal; or
 - (b) an assessor,

shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.***Effect of appointment of a Judge of the District Court as the Tribunal.**

3. (1) The appointment of a person who is a Judge of the District Court as, or to act as, the Tribunal shall not, nor shall the person's service as the Tribunal, affect the person's tenure of the office of Judge of the District Court or the person's rank, title, status, precedence, salary or other rights or privileges as a holder of that office.

(2) A Judge of the District Court may, notwithstanding that he or she holds office as, or acts as, the Tribunal, exercise and perform the functions of a Judge of the District Court.

(3) The service, as the Tribunal, of a Judge of the District Court shall, for all purposes, be taken to be service as a Judge of the District Court.

Remuneration.

4. A person (not being a Judge of the District Court) holding office as, or acting as, the Tribunal and an assessor are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of each of them.

Vacation of office.

5. (1) A person (being a Judge of the District Court) holding office as the Tribunal shall be deemed to have vacated that office if the person—

- (a) ceases to be a Judge of the District Court; or
- (b) resigns that office by instrument in writing addressed to the Minister.

(2) A person (not being a Judge of the District Court) holding office as the Tribunal or a person holding office as an assessor shall be deemed to have vacated that office if the person—

- (a) dies;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Trotting Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO APPEALS—*continued.*

- (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable;
- (e) resigns that office by instrument in writing addressed to the Minister;
- (f) attains the age of 70 years; or
- (g) is removed from office by the Minister under subclause (3).

(3) The Minister may remove from office—

- (a) a person (not being a Judge of the District Court) holding office as the Tribunal; or
- (b) an assessor.

(4) The Minister may remove from office a person (not being a Judge of the District Court) appointed to act as the Tribunal.

Effect of certain other Acts.

6. (1) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of—

- (a) a person as, or to act as, the Tribunal; or
- (b) an assessor,

and a person holding office as, or acting as, the Tribunal or an assessor is not, as the Tribunal or an assessor, subject to the provisions of that Act.

(2) The office of the Tribunal shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Staff to assist Tribunal.

7. For the purposes of this Act, the Tribunal may, with the approval of the Minister, make use of the services of—

- (a) any officers or employees of the Authority; or
 - (b) any officers or temporary employees of a Department administered by the Minister.
-

Trotting Authority (Amendment).

SCHEDULE 3.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. Expressions used in this Schedule shall, except in so far as the context or subject-matter otherwise indicates or requires, have the same meanings respectively as in the Principal Act.

Existing members of Authority.

2. (1) A person who, immediately before the day appointed and notified under section 2 (2), held office as a member of the Authority—

(a) shall cease to hold office as such on that day; and

(b) is eligible, if otherwise qualified, to be appointed as a member of the Authority.

(2) A person referred to in subclause (1) who ceases to hold office as a member of the Authority by reason of the operation of subclause (1) is not entitled to be paid any remuneration or compensation by reason of the person's so ceasing to hold that office.

First meeting of Authority after its reconstitution.

3. The Minister shall call the first meeting of the Authority to be held on or after the day appointed and notified under section 2 (2).

Existing Tribunal.

4. The person who, immediately before the day appointed and notified under section 2 (3), held office as the Tribunal—

(a) shall cease to hold office as such on that day; and

(b) is eligible, if otherwise qualified, to be appointed as the Tribunal.

Appeals pending before the Authority or Tribunal.

5. (1) In this clause, "appointed day" means the day appointed and notified under section 2 (3).

(2) Where an appeal under section 18 of the Principal Act was made to the Authority before the appointed day and the appeal has not been determined, the Authority may hear and determine the appeal as if this Act had not been enacted.

Trotting Authority (Amendment).

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(3) Where an appeal under section 19 of the Principal Act was made to the Tribunal before the appointed day and the appeal has not been determined, the Tribunal may hear and determine the appeal as if this Act had not been enacted.

Existing regulations.

6. Any regulations in force under Part V of the Principal Act immediately before the day appointed and notified under section 2 (3) shall, to the extent that they could have been made on or after that day, be deemed to have been made under Part V of the Principal Act, as amended by this Act.

Transfer of certain money.

7. Notwithstanding anything to the contrary in the Principal Act, the sum of \$39,186 shall, on the date of assent to this Act, be paid out of the Benevolent Fund and paid into the Trotting Authority Fund established under the Principal Act.

Special provision relating to Trotting Appeals Tribunal.

8. A reference in clauses 1 and 5 (2) (f) of Schedule 4 to the Principal Act, as amended by this Act, to the age of 70 years shall, in respect of—

- (a) the first appointment of a person as the Tribunal under section 17A (2) of that Act, as so amended, and any re-appointment of the person; and
- (b) the holding of office by the person,

be read and construed as a reference to the age of 71 years.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 23rd September, 1983.*