

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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*(As read a first time)*

**AUSTRALIAN CAPITAL TERRITORY GAMING AND LIQUOR  
AUTHORITY BILL 1981**

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1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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Presented and read a first time, 27 May 1981

*(Minister for the Capital Territory)*

## **A BILL**

FOR

### **An Act to establish a Gaming and Liquor Authority for the Australian Capital Territory and for related purposes**

#### **PART I—PRELIMINARY**

##### **Short title**

1. This Act may be cited as the *Australian Capital Territory Gaming and Liquor Authority Act* 1981.

##### **Commencement**

2. This Act shall come into operation on a day to be fixed by Proclamation.

##### **Interpretation**

3. In this Act, unless the contrary intention appears—

“Authority” means the Australian Capital Territory Gaming and Liquor Authority established by section 4;

“Betting Ordinance” means the *Betting (Totalizator Agency) Ordinance* 1964 of the Australian Capital Territory as amended and in force immediately before the commencement of this Act;

- “Chairman” means the Chairman of the Authority;
- “commencing day” means the day fixed under section 2;
- “Deputy Chairman” means the Deputy Chairman of the Authority;
- “Liquor Licensing Board” means the Liquor Licensing Board of the Australian Capital Territory established by the Liquor Ordinance;
- “Liquor Ordinance” means the *Liquor Ordinance* 1975 of the Australian Capital Territory as amended and in force immediately before the commencement of this Act;
- “member” means a member of the Authority;
- “Poker Machine Licensing Board” means the Poker Machine Licensing Board of the Capital Territory established by the Poker Machine Ordinance;
- “Poker Machine Ordinance” means the *Poker Machine Control Ordinance* 1975 of the Australian Capital Territory as amended and in force immediately before the commencement of this Act;
- “TAB” means the Australian Capital Territory Totalizator Agency Board established by the Betting Ordinance.

## **PART II—ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF AUTHORITY**

### **Establishment of Authority**

4. (1) There is established by this Act an Authority by the name of the Australian Capital Territory Gaming and Liquor Authority.

(2) The Authority—

- (a) is a body corporate, with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3) The common seal of the Authority shall be kept in such custody as the Authority directs and shall not be used except as authorized by the Authority.

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

### **Constitution of Authority**

5. (1) The Authority shall consist of 5 members appointed by the Minister.

(2) The Minister may appoint a person who is, or is to be, a member to be Chairman of the Authority.

(3) The Minister may appoint a person who is, or is to be, a member to be Deputy Chairman of the Authority.

(4) Subject to sub-section (5), the members shall be appointed as part-time members.

(5) Where the Minister appoints a person who is to be a member to be Chairman, that member may be appointed as a full-time member.

(6) Subject to this Act, a member holds office for such period, not exceeding 5 years, as is specified in the instrument of his appointment but is eligible for re-appointment.

(7) A person who—

(a) is the secretary of a body, whether corporate or unincorporate, that is the holder of, or that has applied for, a licence under the *Liquor Ordinance 1975* of the Australian Capital Territory as amended and in force at any time; or

(b) directly or indirectly receives any remuneration, emoluments or fees from a body, whether corporate or unincorporate, that is the holder of, or that has applied for, a licence under that Ordinance,

is not eligible to be appointed as a member.

### **Acting appointments**

6. (1) The Minister may appoint a person to act as Chairman—

(a) during a vacancy in the office of Chairman, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Chairman is absent from duty or from the Territory or is for any reason unable to perform the functions of his office.

(2) A person appointed to act during any period, or during all periods, when the Chairman is absent from duty or from the Territory or is for any reason unable to perform the functions of his office may be appointed—

(a) where the Chairman is a member who has been appointed on a full-time basis—either on a full-time basis or on a part-time basis; or

(b) where the Chairman is a member who has been appointed on a part-time basis—on a part-time basis.

(3) While a person is acting as Chairman in pursuance of an appointment made under sub-section (1), he has and may exercise all the powers, and shall perform all the functions, of the Chairman.

(4) The Minister may appoint a person to act as a member—

(a) during a vacancy in the office of a member (other than the Chairman), whether or not an appointment has previously been made to the office; or

(b) during any period when a member (other than the Chairman) is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of his office.

(5) While a person is acting as a member in pursuance of an appointment made under paragraph (4) (a), he has and may exercise all the powers, and

shall perform all the functions, of a member (other than the Chairman or the Deputy Chairman).

(6) While a person is acting as a member in pursuance of an appointment made under paragraph (4) (b), he has and may exercise all the powers, and shall perform all the functions, of the member who is absent from duty or from the Territory or is unable to perform the functions of his office.

(7) An appointment of a person under sub-section (1) or (4) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(8) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Chairman or as a member; and
- (b) terminate such an appointment at any time.

(9) Where—

- (a) a person is acting in the office of Chairman in pursuance of an appointment made under paragraph (1) (b); or
- (b) a person is acting in the office of a member in pursuance of an appointment made under paragraph (4) (b),

and that office becomes vacant while that person is so acting, then, subject to sub-section (7), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(10) The appointment of a person to act as Chairman, or as a member, ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

(11) The validity of anything done by a person purporting to act in pursuance of an appointment under sub-section (1) or (4) shall not be called into question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

(12) Where a person is acting as Chairman in pursuance of an appointment made under sub-section (1) or as a member in pursuance of an appointment under sub-section (4), the person shall, for the purposes of the provisions of this Act, other than sections 9 and 10, and for the purposes of—

- (a) the *Betting (Totalizator Agency) Ordinance* 1964 of the Australian Capital Territory as amended and in force from time to time;
- (b) the *Liquor Ordinance* 1975 of the Australian Capital Territory as amended and in force from time to time; and
- (c) the *Poker Machine Control Ordinance* 1975 of the Australian Capital Territory as amended and in force from time to time,

be deemed to be the Chairman, or a member, as the case may be.

### **Leave of absence**

7. (1) The Minister may grant leave of absence to the Chairman (being a full-time member) upon such terms and conditions as to remuneration or otherwise as the Minister determines.

(2) The Minister may grant to a part-time member leave of absence from a meeting of the Authority.

### **Resignation**

8. A member may resign his office by writing signed by him and delivered to the Minister.

### **Remuneration and allowances**

9. (1) Subject to this section, a member shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) A member shall be paid such allowances as are prescribed.

(3) Sub-sections (1) and (2) have effect subject to the *Remuneration Tribunals Act* 1973.

### **Termination of appointment**

10. (1) The Minister may terminate the appointment of a member by reason of misbehaviour or physical or mental incapacity.

(2) If—

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

(b) the Chairman, being a full-time member—

(i) engages, except with the approval of the Minister, in any paid employment outside the duties of his office;

(ii) is absent from duty, except on leave granted by the Minister in accordance with sub-section 7 (1), for 14 consecutive days or for 28 days in any period of 12 months;

(c) a part-time member is absent, except on leave granted by the Minister in accordance with sub-section 7 (2), from 3 consecutive meetings of the Authority;

(d) a member is convicted, whether within or outside the Australian Capital Territory, of—

(i) an offence against a law relating to gaming or betting; or

(ii) an offence against any other law punishable on conviction by imprisonment for a period of not less than one year; or

(e) a member fails, without reasonable excuse, to comply with his obligations under section 11,

the Minister shall terminate the appointment of that member.

### **Disclosure of interests**

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

**(2)** A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Authority and the member shall not—

- (a)** be present during any deliberation of the Authority with respect to that matter; or
- (b)** take part in any decision of the Authority with respect to that matter.

### **Meetings**

**12. (1)** The Authority shall hold such meetings as are necessary for the efficient performance of the functions of the Authority.

**(2)** The Chairman or, if the Chairman is not available, the Deputy Chairman may convene meetings of the Authority.

**(3)** The Chairman shall preside at all meetings of the Authority at which he is present.

**(4)** If the Chairman is not present at a meeting of the Authority—

- (a)** the Deputy Chairman shall preside at that meeting; or
- (b)** if the Deputy Chairman is not present, the members present shall appoint one of their number to preside at that meeting.

**(5)** At a meeting of the Authority, 3 members constitute a quorum.

**(6)** Questions arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting.

**(7)** The member presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**(8)** The member presiding at a meeting of the Authority may regulate the conduct of proceedings at the meeting.

**(9)** The Authority shall keep minutes of proceedings at meetings of the Authority.

### **Delegation by Authority**

**13. (1)** The Authority may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to a member of the staff of the Authority or to an officer of the Australian Public Service any functions or powers that are conferred on it by or under this Act or under an Ordinance of the Australian Capital Territory, other than this power of delegation.

**(2)** Any act or thing done in the performance of a function or the exercise of a power by a person to whom that function or that power has been delegated



by the Authority under sub-section (1) has the same force and effect as if it had been done by the Authority.

(3) Where, under this Act or any Ordinance of the Australian Capital Territory that confers functions or powers on the Authority, the performance of a function or the exercise of a power by the Authority is dependent upon the opinion, belief or state of mind of the Authority in relation to a matter and that function or power has been delegated under sub-section (1), that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

(4) A delegation under sub-section(1) does not prevent the performance of a function or the exercise of a power by the Authority.

(5) Where a person purports to perform a function or exercise a power conferred on the Authority by or under this Act or an Ordinance of the Australian Capital Territory, it shall be presumed, unless the contrary is established, that the person is duly authorized by a delegation under sub-section (1) to perform the function or exercise the power.

(6) A document purporting to be signed by a person as a delegate of the Authority shall be deemed, unless the contrary is established, to have been signed by such a delegate and to have been so signed pursuant to the performance of a function or the exercise of a power duly delegated to the person by the Authority.

### **Functions of Authority**

14. (1) The Authority has such functions and duties as were, immediately before the commencing day, conferred or imposed on the TAB by the Betting Ordinance.

(2) The Authority has such functions and duties as were, immediately before the commencing day, conferred or imposed on the Liquor Licensing Board by the Liquor Ordinance.

(3) The Authority has such functions and duties as were, immediately before the commencing day, conferred or imposed on the Poker Machine Licensing Board by the Poker Machine Ordinance.

### **General powers of Authority**

15. (1) The Authority has power to do all things necessary or convenient to be done in connection with, or incidental to, the performance of its functions.

(2) In the exercise of its powers and in the performance of its functions, the Authority is subject to the directions of the Minister.

### **Authority not to be subject to taxation**

16. The Authority is not subject to taxation under any law of the Commonwealth or of a State.

## PART III—AMENDMENTS OF ORDINANCES

### *Division 1—Amendments of the Betting Ordinance*

#### **Principal Ordinance**

17. The Betting Ordinance is in this Division referred to as the Principal Ordinance.

#### **Interpretation**

18. Section 4 of the Principal Ordinance is amended—

- (a) by inserting after the definition of “accounting year” the following definition:  
“ ‘Authority’ means the Australian Capital Territory Gaming and Liquor Authority established by section 4 of the *Australian Capital Territory Gaming and Liquor Authority Act 1981*;”;
- (b) by inserting after the definition of “betting” the following definition:  
“ ‘Chairman’ means the Chairman of the Authority;”;
- (c) by inserting after the definition of “club” the following definition:  
“ ‘Deputy Chairman’ means the Deputy Chairman of the Authority;”;
- (d) by omitting the definition of “member” and substituting the following definition:  
“ ‘member’ means a member of the Authority;”;
- (e) by omitting the definitions of “the Board”, “the Chairman” and “the Deputy Chairman”.

#### **Repeal**

19. Sections 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15 of the Principal Ordinance are repealed.

### *Division 2—Amendments of the Liquor Ordinance*

#### **Principal Ordinance**

20. The Liquor Ordinance is in this Division referred to as the Principal Ordinance.

#### **Interpretation**

21. Section 4 of the Principal Ordinance is amended—

- (a) by inserting before the definition of “bar-room” in sub-section (1) the following definition:  
“ ‘Authority’ means the Australian Capital Territory Gaming and Liquor Authority established by section 4 of the *Australian Capital Territory Gaming and Liquor Authority Act 1981*;”;
- (b) by omitting from sub-section (1) the definition of “Board”; and
- (c) by omitting from sub-section (1) the definition of “Chairman” and substituting the following definition:

“ ‘Chairman’ means the Chairman of the Authority;”.

### **Repeal**

22. Sections 6, 7, 8, 9, 10, 11, 12, 14 and 14A of the Principal Ordinance are repealed.

### **Application for permit**

23. Section 62 of the Principal Ordinance is amended by omitting from paragraph (b) “the Registrar” and substituting “the Commonwealth”.

### **Payment of licence fees**

24. Section 94 of the Principal Ordinance is amended by omitting “him” and substituting “the Commonwealth” (wherever occurring).

### **Payment of balance of renewal fee**

25. Section 94A of the Principal Ordinance is amended by omitting from paragraph (2) (a) “the Registrar” and substituting “the Commonwealth”.

## ***Division 3—Amendments of the Poker Machine Ordinance***

### **Principal Ordinance**

26. The Poker Machine Ordinance is in this Division referred to as the Principal Ordinance.

### **Interpretation**

27. Section 3 of the Principal Ordinance is amended by omitting the definitions of “Board” and “Chairman” and substituting the following definitions:

“ ‘Authority’ means the Australian Capital Territory Gaming and Liquor Authority established by section 4 of the *Australian Capital Territory Gaming and Liquor Authority Act 1981*;

“ ‘Chairman’ means the Chairman of the Authority;”.

### **Repeal**

28. Sections 5, 6, 7, 8, 9, 10, 11, 12 and 13 of the Principal Ordinance are repealed.

## ***Division 4—Amendment of Ordinances***

### **Ordinances may be amended**

29. (1) Nothing in this Act prevents the amendment by an Ordinance under the *Seat of Government (Administration) Act 1910* of any provisions of—

- (a) the Betting Ordinance as amended by this Act;
- (b) the Liquor Ordinance as amended by this Act; or
- (c) the Poker Machine Ordinance as amended by this Act.

(2) This Part shall be deemed to be an Ordinance of the Australian Capital Territory for the purposes of section 38 of the *Interpretation Ordinance* 1967 of the Australian Capital Territory as amended and in force from time to time.

(3) Where a Division of this Part amends an Ordinance of the Australian Capital Territory, the provisions of that Division shall be construed with that Ordinance and as part of it.

#### **PART IV—TRANSFER OF ASSETS AND LIABILITIES AND SAVINGS PROVISIONS**

##### **Transfer of assets, liabilities, &c.**

**30. (1)** On the commencing day—

- (a) any rights, property or assets that, immediately before that day, were vested in the TAB are, by force of this sub-section, vested in the Authority; and
- (b) the Authority becomes, by force of this sub-section, liable to pay or discharge any debts, liabilities or obligations of the TAB that existed immediately before that day.

**(2)** On the commencing day—

- (a) any rights, property or assets that, immediately before that day, were vested in the Poker Machine Licensing Board are, by force of this sub-section, vested in the Authority; and
- (b) the Authority becomes, by force of this sub-section, liable to pay or discharge any debts, liabilities or obligations of the Poker Machine Licensing Board that existed immediately before that day.

(3) Without limiting the generality of sub-section (1), for the purpose of the application, in relation to any event that occurred before the commencing day, of the *Compensation (Commonwealth Government Employees) Act* 1971 in relation to a person who, at any time before the commencing day, was an employee within the meaning of that Act by virtue of being, or having been—

- (a) general manager of the TAB appointed under section 16 of the Betting Ordinance; or
  - (b) employed by the TAB under section 17 of the Betting Ordinance,
- the Authority shall be deemed to be the prescribed authority of the Commonwealth in relation to that employee.

##### **General manager and employees of TAB**

**31. (1)** A person who, immediately before the commencing day, was the general manager appointed by the TAB under section 16 of the Betting Ordinance shall be deemed to have been appointed, on the commencing day, by the Authority under that section to be the general manager, and shall be deemed to have been appointed on the same terms and conditions as the terms and conditions on which the person held the appointment as general manager immediately before the commencing day.

(2) A person who, immediately before the commencing day, was employed by the TAB under section 17 of the Betting Ordinance shall, on and from the commencing day, be deemed to be employed by the Authority under that section, and shall be deemed to be employed on the same terms and conditions as the terms and conditions on which he was employed immediately before the commencing day.

(3) The Authority has, in relation to a person to whom sub-section (1) or (2) applies, the same rights and obligations in relation to that person and in relation to that person's appointment or employment, as the case may be, as the TAB had in relation to that person and in relation to that person's appointment or employment immediately before the commencing day.

### **Contracts, agreements and arrangements**

32. Any contract, agreement or arrangement entered into by or on behalf of the TAB or the Poker Machine Licensing Board as a party and in force immediately before the commencing day continues in force notwithstanding the repeals effected by sections 19 and 28 but that contract, agreement or arrangement has effect, on and after the commencing day, as if—

- (a) the Authority were substituted for the TAB or the Poker Machine Licensing Board, as the case may be, as a party to the contract, agreement or arrangement; and
- (b) any reference in the contract, agreement or arrangement to the TAB or the Poker Machine Licensing Board, as the case may be, were (except in relation to matters that occurred before that day) a reference to the Authority.

### **Proceedings**

33. Where, immediately before the commencing day, proceedings to which the TAB or the Poker Machine Licensing Board was a party were pending in any court or tribunal, the Authority is, by force of this section, substituted for the TAB or the Poker Machine Licensing Board, as the case may be, as a party to the proceedings.

### **Exemption from taxation**

34. Stamp duty or other tax under a law of the Commonwealth or of a State or Territory is not payable in respect of the vesting in the Authority of any rights, property or assets of the TAB or of the Poker Machine Licensing Board under this Part or in respect of any documents or instruments executed for the purposes of this Part.

### **Registration of changes in title to land**

35. (1) Where, by reason of the operation of sub-section 30 (1) or (2), any interest in land situated in the Territory becomes vested in the Authority, the Crown Solicitor may lodge with the Registrar of Titles of the Australian Capital Territory a notice, signed by the Crown Solicitor or by an officer of the Attorney-General's Department authorized by the Crown Solicitor, stating that that interest in land is vested in the Authority by virtue of the operation of

sub-section 30 (1) or (2), as the case may be, and the Registrar shall make such entries in his registers, and do such other things, as are necessary to reflect the operation of sub-section 30 (1) or (2), as the case may be, in relation to that interest in land.

(2) The Registrar or a Deputy Registrar of Titles of the Australian Capital Territory may, by notice in writing given to the TAB, require the TAB to produce to him any Crown lease or other document in the possession or within the control of the TAB affecting land in the Australian Capital Territory in which an interest has become vested in the Authority by reason of the operation of sub-section 30 (1).

(3) The Registrar or a Deputy Registrar of Titles of the Australian Capital Territory may, by notice in writing given to the Poker Machine Licensing Board, require the Poker Machine Licensing Board to produce to him any Crown lease or other document in the possession or within the control of the Poker Machine Licensing Board affecting land in the Australian Capital Territory in which an interest has become vested in the Authority by reason of the operation of sub-section 30 (2).

(4) If the TAB fails to comply with a requirement in a notice given to the TAB under sub-section (2), the TAB is, in respect of each day (including a day of a conviction under this sub-section or a subsequent day) during which the failure continues, guilty of an offence punishable upon conviction by a fine not exceeding \$200.

(5) If the Poker Machine Licensing Board fails to comply with a requirement in a notice given to the Poker Machine Licensing Board under sub-section (3), the Poker Machine Licensing Board is, in respect of each day (including a day of conviction under this sub-section or a subsequent day) during which the failure continues, guilty of an offence punishable upon conviction by a fine not exceeding \$200.

(6) If a requirement under sub-section (2) or (3) requires the production of a Crown Lease or other document within a particular period or before a particular time, the obligation to produce the Crown lease or other document continues, notwithstanding that that period has expired or that time has passed, until the Crown lease or other document is produced.

(7) Charges against the TAB for any number of offences under sub-section (4) may be joined in the same information if those offences relate to a failure to produce the same document.

(8) Charges against the Poker Machine Licensing Board for any number of offences under sub-section (5) may be joined in the same information if those offences relate to a failure to produce the same document.

(9) If the TAB is found guilty of more than one offence under sub-section (4), the court may impose one penalty in respect of all the offences, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.

(10) If the Poker Machine Licensing Board is found guilty of more than one offence under sub-section (5), the court may impose one penalty in respect of all the offences, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.

### **References in certain Ordinances**

36. (1) References in the *Betting (Totalizator Agency) Ordinance* 1964 of the Australian Capital Territory as amended and in force from time to time, or in any instrument made under that Ordinance, to the Board or to the Australian Capital Territory Totalizator Agency Board shall, after the commencement of this Act, be read as references to the Authority in the performance of the functions conferred on the Authority by sub-section 14 (1).

(2) References in the *Liquor Ordinance* 1975 of the Australian Capital Territory as amended and in force from time to time, or in any instrument made under that Ordinance, to the Board or to the Liquor Licensing Board of the Australian Capital Territory shall, after the commencement of this Act, be read as references to the Authority in the performance of the functions conferred on the Authority by sub-section 14 (2).

(3) References in the *Poker Machine Control Ordinance* 1975 of the Australian Capital Territory as amended and in force from time to time, or in any instrument made under that Ordinance, to the Board or to the Poker Machine Licensing Board of the Capital Territory shall, after the commencement of this Act, be read as references to the Authority in the performance of the functions conferred on the Authority by sub-section 14 (3).

### **Authority deemed to have done certain things**

37. Any act or thing done by or on behalf of the TAB, the Liquor Licensing Board or the Poker Machine Licensing Board before the commencement of this Act shall, for the purposes of the operation after the commencement of this Act of—

- (a) the *Betting (Totalizator Agency) Ordinance* 1964 of the Australian Capital Territory as amended and in force from time to time;
- (b) the *Liquor Ordinance* 1975 of the Australian Capital Territory as amended and in force from time to time; or
- (c) the *Poker Machine Control Ordinance* 1975 of the Australian Capital Territory as amended and in force from time to time,

as the case may be, shall be deemed to have been done by or on behalf of the Authority.

### **Regulations**

38. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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