

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE SUMMARY

Betting (Off-course Totalizator Agency) Ordinance 1964¹

This Ordinance legalises off-course betting in the Australian Capital Territory to the extent that bets that could lawfully be made in the Territory at a licensed racecourse during a race meeting may be made through the Board—whether or not a racemeeting is being conducted at a licensed racecourse in the Territory on the day the bet is made.

To implement this, Part II of the Ordinance established the Australian Capital Territory Totalizator Agency Board which is, it is specifically provided, for all purposes to be regarded as an instrumentality independent of the Executive Government of the Commonwealth. The Board's functions are to conduct or provide off-course totalizator betting facilities in respect of races held within or outside the Territory and it is empowered to enter into agreement with the off-course totalizator agencies of the States or other Territories.

Part III of the Ordinance legalizes off-course betting and deals with the method in which bets may be placed with the Board. The only bets that are acceptable are amounts of five shillings or multiples thereof and are to be in cash unless the punter has a sufficient credit account with the Board to cover the bet. It is an offence for a person under the age of 21 years to make a bet through the Board; and there is a corresponding offence for a person in charge of an office or agency of the Board or any employee of the Board at such office or agency to accept bets or wagers from a person 'apparently under the age of twenty one years' or from a person believed to be under that age.

City Area Leases Ordinance 1964

All land in the Canberra City Area is held from the Commonwealth and the Minister for Interior is authorised under the Principal Ordinance² to grant leases for 'residential', 'business' or 'residential and business' purposes. The Ordinance further provides that land so leased shall not be used for any purpose other than the purpose specified in the lease.

Leases granted under the Ordinance recite the purposes to which the land so leased may be put and the lessee covenants to use the land only for such purposes. Normally a breach of such a covenant would render the lessee liable to an action for damages or to eviction on the lessor exercising his right of re-entry.

¹ The Gaming and Betting Ordinance 1964 and the Games, Wagers and Betting-houses Ordinance 1964 made consequential amendments to the Gaming and Betting Act 1906 (N.S.W.) and the Games, Wagers and Betting-houses Act 1901 (N.S.W.) respectively in so far as those acts apply to the Territory.

² City Area Leases Ordinance 1936-1963.

However, the Commonwealth as lessor, rather than exercise its common law rights has enacted in the 1964 Ordinance that a breach of the 'purpose' covenant renders the lessee guilty of an offence and liable to a fine not exceeding One hundred pounds plus Ten pounds for each day on which the contravention continues after the first day.

It is a defence, in the case of land leased for residential purposes, if the lessee proves that the use of the land does not—

- (i) constitute a substantial nuisance;
- (ii) substantially disturb the occupier of any adjoining land;
- (iii) substantially interfere with the 'nature or amenities' of the neighbourhood; and
- (iv) cause 'untidiness' in the neighbourhood³.

Education Ordinance 1964

This Ordinance provides, *inter alia*, that the Minister may grant educational scholarships; it further provides that where a person is administering a trust fund or trust property established for such purposes he may transfer the fund or property to the Commonwealth.

Where such fund or property is transferred to the Commonwealth or where a person gives or bequeaths money or property to the Commonwealth for the purposes of establishing educational scholarships the Minister may, though 'considering the wishes of the transferor or donor', alter the terms of the trust or gift as he thinks fit. However, the Minister shall not be deemed to be a trustee of such trust or gift.

Gun Licence Ordinance 1964

Provides that a 'spear gun' is not a 'gun' for the purposes of the Ordinance.

Motor Traffic Ordinance 1964

This Ordinance is a miscellaneous collection of amendments to the Principal Ordinance.⁴

Provision is made for a form of 'diamond turn' and for obedience to traffic lights of the three colour variety.

'*Owner onus*' parking has also been introduced. The owner of a vehicle involved in a parking infringement may be liable whether or not he personally committed the offence. Once a fine has been imposed either on the owner or the actual offender then no further fine may be imposed on the other party. Thus the fine may be imposed either on the owner or the actual offender but not on both.

³ There is similar provision in relation to a sublessee. It should be noted however that the exact nature of the penalty is far from clear.

⁴ Motor Traffic Ordinance 1936-1963.

It is a defence to such a charge that the car was stolen or illegally used; the owner may also escape liability by furnishing to the Commissioner of Police a statutory declaration that another person, who he must name, was in charge of the vehicle at the time of the alleged offence. If the court is satisfied of this or that the owner has made due inquiry in this regard to discover the name of the offender it shall dismiss the charge—furthermore such statutory declaration is evidence of the facts contained therein.

Where a corporation is the owner of an illegally parked vehicle the declaration must also show that such vehicle was not being used for the purposes of the corporation. However, where the vehicle is owned by the Commonwealth, the driver alone is responsible.

‘*On the spot*’ parking penalties. In the case of parking offences, a Police Officer may, instead of laying an information serve a ‘parking infringement notice’.

Service of a parking infringement notice may be effected by post or personally in which case it must bear the full name and address of the owner or it may be effected by affixing it securely to the allegedly offending vehicle in which case it may be addressed to ‘the owner’. This must specify the particular offence.

If the person receiving such a notice signs a declaration that he does not want court proceedings and pays the fine of two pounds no further proceedings are to be taken and no conviction recorded.

Theatres and Public Halls Ordinance 1964

Section 27 (1) of the Principal Ordinance ⁵ provides, *inter alia*, that it is an offence to provide public entertainment on Sundays.

The present Ordinance provides, *inter alia*, that section 27 (1) shall not apply to ‘public entertainment consisting of the screening of cinematograph films that commences to be held after eight o’clock in the evening on a Sunday.’

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⁵ Theatres and Public Halls Ordinance 1928-1946.