

**TROTTHING AUTHORITY (AMENDMENT) ACT,  
1981, No. 3**

**New South Wales**



ANNO TRICESIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 3, 1981.**

An Act to amend the Trotthing Authority Act, 1977, to establish the Trotthing Authority Assistance Fund and the Trotthing Authority Benevolent Fund, to provide for the administration of those Funds and to transfer to the Trotthing Authority of New South Wales the property and administration of 2 privately established benevolent funds. [Assented to, 24th March, 1981.]

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*Trotting Authority (Amendment).*

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**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, 1981".

**Commencement.**

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act 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.

**Amendment of Act No. 57, 1977.**

3. The Trotting Authority Act, 1977, is amended in the manner set forth in Schedule 1.

**Transfer of certain property to the Authority.**

4. (1) In this section—

"appointed day" means the day appointed and notified under section 2 (2);

"Authority" means the Trotting Authority of New South Wales constituted by the Trotting Authority Act, 1977;

"Benevolent Fund" means the Trotting Authority Benevolent Fund established under section 13B of the Trotting Authority Act, 1977, as amended by this Act;

"former trustees" means—

- (a) in relation to the Trotting Club Fund—the persons who, immediately before the appointed day, were the trustees of the Trotting Club Fund; and

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(b) in relation to the Weston Fund—the persons who, immediately before the appointed day, were the trustees of the Weston Fund;

“Trotting Club Fund” means the Trust Fund established by deed dated 16th March, 1964, and otherwise known as the New South Wales Trotting Club Benevolent Fund;

“Weston Fund” means the Trust Fund established by deed dated 23rd October, 1974, to assist the dependants of the late Stephen Weston.

**(2)** In respect of the Trotting Club Fund and the Weston Fund, on and from the appointed day—

- (a) the trusts, terms and conditions upon which those Funds were held immediately before that day shall be revoked and annulled;
- (b) a former trustee shall vacate his office as such a trustee and shall be freed and discharged from any duties, liabilities or obligations as such a trustee;
- (c) the provisions of a trust instrument under which a former trustee was appointed as a trustee of either of those Funds, being provisions relating to the appointment of new trustees or the retirement of trustees, shall cease to have effect;
- (d) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, were vested in or belonged to the former trustees shall vest in and belong to the Authority;
- (e) all money and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the former trustees shall be money and liquidated and unliquidated claims payable to or recoverable by the Authority;

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- (f) all suits, actions and proceedings pending immediately before that day at the suit of the former trustees shall be respectively suits, actions and proceedings pending at the suit of the Authority and all suits, actions and proceedings so pending at the suit of any person against the former trustees shall be respectively suits, actions and proceedings pending at the suit of that person against the Authority;
- (g) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by the former trustees and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Authority;
- (h) the Authority may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subsection and for the prosecution of suits, actions and proceedings so referred to as the former trustees might have done but for the enactment of this Act;
- (i) the Authority may enforce and realise any security or charge existing immediately before that day in favour of the former trustees and may exercise any powers thereby conferred on the former trustees as if the security or charge were a security or charge in favour of the Authority;
- (j) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the former trustees shall be debts, money and claims due or payable by, or recoverable against, the Authority;
- (k) all liquidated and unliquidated claims for which the former trustees would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Authority shall be liable; and

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- (1) any property (other than money referred to in subsection (3)) vested in or received by the Authority pursuant to this subsection in respect of property which, immediately before that day, comprised those Funds shall be held by the Authority and may be applied in or towards the assistance of a person to whom section 13B (4) (a) of the Trotting Authority Act, 1977, as amended by this Act, applies.
- (3) On and from the appointed day—
- (a) any money vested in or received by the Authority pursuant to subsection (2) in respect of property which, immediately before that day, comprised the Trotting Club Fund shall be deemed to be money received by the Authority for payment into the Benevolent Fund; and
- (b) any money vested in or received by the Authority pursuant to subsection (2) in respect of property which, immediately before that day, comprised the Weston Fund shall be deemed to be money acquired by the Authority pursuant to section 13E of the Trotting Authority Act, 1977, as amended by this Act, subject to the condition (to which the Authority shall be deemed to have agreed pursuant to that section) that the money be invested, that the income from the investment of the money be paid to Lorraine Weston, the mother of the infant children of the late Stephen Weston, or any other guardian, for the time being, of those children, for the purposes of providing school clothing, school books and school fees for those children during their infancy and that the income continue to be so paid until the youngest of those children shall have attained the age of 18 years or until such other time as the Minister may determine under subsection (5) and that money and income shall be carried to a separate account in the Benevolent Fund accordingly.
- (4) Every person who, immediately before the appointed day, was in receipt of any periodic payment or who enjoyed any other benefit as a beneficiary under the Trotting Club Fund or the Weston Fund shall, on and from the appointed day, subject to this

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section and to any determination of the Minister under subsection (5), continue to receive the same periodic payment or to enjoy the same benefit out of the Benevolent Fund.

(5) The Minister may, at any time, make any determination in respect of a person referred to in subsection (3) (b) or (4) that could have been made by the former trustees in respect of the Trotting Club Fund or the Weston Fund, as the case may require, had this Act not been enacted, and any such determination shall have effect according to its tenor.

(6) To the extent to which, by a deed, will or other instrument that takes effect on or after the appointed day, any property is devised, bequeathed, given, granted, released, conveyed or appointed to the former trustees or to any other person to be applied for the purposes of the Trotting Club Fund or the Weston Fund the deed, will or other instrument shall be read and construed and shall take effect as if a reference therein—

- (a) to the former trustees were a reference to the Authority; and
- (b) to the Trotting Club Fund or the Weston Fund were a reference to the Benevolent Fund.

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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977.

- (1) (a) Section 4, definition of "Assistance Fund"—

Before the definition of "Authority", insert :—

"Assistance Fund" means the Trotting Authority Assistance Fund established under section 13A;

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*Trotting Authority (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977—  
*continued.*

(b) Section 4, definition of “Benevolent Fund”—

After the definition of “Authority”, insert :—

“Benevolent Fund” means the Trotting Authority  
Benevolent Fund established under section  
13B;

(2) Section 8 (2) (e1)—

After section 8 (2) (e), insert :—

(e1) with the approval of the Minister, to accept, hold  
and administer property on trust or subject to a  
condition that the property be applied for or  
towards any one or more of the following pur-  
poses :—

- (i) the promotion or advancement of trotting;
- (ii) the development and welfare of the trotting industry;
- (iii) the assistance of persons who are or have, at any time, been associated with the trotting industry;
- (iv) the assistance of persons who are or have, at any time, been the dependants of persons associated with the trotting industry;

(3) (a) Section 11 (2)—

After “Act”, insert “, other than money required to be  
paid into the Assistance Fund or the Benevolent  
Fund”.

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*Trotting Authority (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977—  
*continued.*

(b) Section 11 (3)—

Omit the subsection, insert instead :—

(3) There shall be paid out of the Fund—

- (a) all expenses (including payments to members, officers and employees of the Authority) incurred by the Authority in the exercise or performance of its functions under this Act;
- (b) money granted or advanced on loan pursuant to section 8 (2) (e); and
- (c) such amounts as the Minister may from time to time direct be paid into the Assistance Fund or the Benevolent Fund (which direction the Minister is hereby authorised to give).

(4) Sections 13A–13E—

After section 13, insert :—

**Trotting Authority Assistance Fund.**

13A. (1) There shall be established by the Authority, in a bank in New South Wales, a fund to be called the “Trotting Authority Assistance Fund”.

(2) There shall be paid into the Assistance Fund—

- (a) such amounts as the Minister, pursuant to section 11 (3) (c), has directed be paid into the Assistance Fund;
- (b) any money received by the Authority for payment into the Assistance Fund;



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*Trotting Authority (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977—  
*continued.*

- (c) any money acquired by the Authority pursuant to section 13E, not being money so acquired on trust or subject to a condition that it be applied in or towards the assistance of a person to whom section 13B (4) (a) applies;
- (d) any money received by the Authority—
  - (i) in respect of any loan advanced from money within the Assistance Fund;
  - (ii) in payment of interest on any such loan; and
  - (iii) in payment of any charges, costs and expenses incurred in respect of any such loan; and
- (e) the income derived from the investment of any money within the Assistance Fund.

(3) Where any money authorised to be paid into the Assistance Fund pursuant to subsection (2) (c) is subject to a trust or condition to which the Authority has agreed, the money (and any interest or income derived from the investment of that money) shall be carried to a separate account in the Assistance Fund established for the purpose of the trust or of fulfilling the condition.

(4) There may be paid out of the Assistance Fund—

- (a) in respect of money which has not been carried to a separate account in the Assistance Fund—
  - (i) with the approval of the Minister, grants or loans (whether with or without interest) to any person for or towards any one or more of the purposes referred to in section 8 (2) (e1); and

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*Trotting Authority (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977—  
*continued.*

- (ii) such amounts as the Minister may from time to time direct be paid into the Benevolent Fund (which direction the Minister is hereby authorised to give);
- (b) in respect of money which has been carried to a separate account in the Assistance Fund, that money (and any interest or income derived from the investment of that money) subject to the trust or condition on which that money is held; and
- (c) all charges, costs and expenses incurred by the Minister or the Authority in the exercise or performance of his or its functions in respect of the Assistance Fund, those charges, costs and expenses being borne by or apportioned to any separate account in the Assistance Fund to such extent, if any, as the Authority may determine.

**Trotting Authority Benevolent Fund.**

13B. (1) There shall be established by the Authority, in a bank in New South Wales, a fund to be called the "Trotting Authority Benevolent Fund".

(2) There shall be paid into the Benevolent Fund—

- (a) such amounts as the Minister, pursuant to section 11 (3) (c), has directed be paid into the Benevolent Fund;
- (b) any money received by the Authority for payment into the Benevolent Fund;

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*Trotting Authority (Amendment).*


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SCHEDULE 1—*continued.*AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977—  
*continued.*

- (c) any money acquired by the Authority pursuant to section 13E on trust or subject to a condition that it be applied in or towards the assistance of a person to whom subsection (4) (a) applies;
- (d) any money received by the Authority—
  - (i) in respect of any loan advanced from money within the Benevolent Fund;
  - (ii) in payment of interest on any such loan; and
  - (iii) in payment of any charges, costs and expenses incurred in respect of any such loan; and
- (e) the income derived from the investment of any money within the Benevolent Fund.

(3) Where any money authorised to be paid into the Benevolent Fund pursuant to subsection (2) (c) is, under the terms of a trust, or by virtue of a condition, to which the Authority has agreed, required to be applied in or towards the assistance of a specified person or a specified class or description of persons, being a person or persons from within the class of persons to whom subsection (4) (a) applies, the money (and any interest or income derived from the investment of that money) shall be carried to a separate account in the Benevolent Fund established for the purpose of the trust or of fulfilling the condition.

(4) There may be paid out of the Benevolent Fund—

- (a) in respect of money which has not been carried to a separate account in the Benevolent Fund, with the approval of the Minister, grants or

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*Trotting Authority (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE TROTTING AUTHORITY ACT, 1977—  
*continued.*

loans (whether with or without interest) to any person who is in indigent circumstances and who is or has, at any time, been—

- (i) an owner, trainer or driver of trotting horses;
  - (ii) a person employed in a stable of trotting horses;
  - (iii) a person who has rendered valuable service to trotting; or
  - (iv) a dependant of a person referred to in subparagraph (i), (ii) or (iii);
- (b) in respect of money which has been carried to a separate account within the Benevolent Fund, that money (and any interest or income derived from the investment of that money) subject to the trust or condition on which that money is held; and
- (c) all charges, costs and expenses incurred by the Minister or the Authority in the exercise or performance of his or its functions in respect of the Benevolent Fund, those charges, costs and expenses being borne by or apportioned to any separate account in the Benevolent Fund to such extent, if any, as the Authority may determine.

**Delegation by Minister.**

13c. (1) The Minister may, by instrument in writing, delegate to the Authority the exercise or performance of his function of approving the payment of grants, or the making of loans, referred to in section 13A (4) (a) or 13B (4) (a), and may, by instrument in writing, revoke any such delegation.

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*Trotting Authority (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977—  
*continued.*

(2) Where the Minister makes a delegation under subsection (1), the Authority may, while the delegation remains unrevoked, exercise or perform the delegated function from time to time in accordance with the terms of the delegation.

(3) A delegation under subsection (1) may be made subject to such conditions or limitations as to the exercise or performance of the delegated function, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding a delegation under subsection (1), the Minister may continue to exercise or perform the delegated function.

(5) The approval, by the Authority, of the payment of a grant, or the making of a loan, referred to in section 13A (4) (a) or 13B (4) (a), while acting in the exercise of a delegation under subsection (1), has the same force and effect as if the approval were an approval of the Minister under section 13A (4) (a) or 13B (4) (a), as the case may require, and shall be deemed to be an approval of the Minister under section 13A (4) (a) or 13B (4) (a), as the case may require.

(6) An instrument purporting to be executed by the Authority in its capacity as a delegate of the Minister under this section shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Minister and, until the contrary is proved, shall be deemed to be an instrument executed by the Authority in its capacity as a delegate of the Minister under this section.

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*Trotting Authority (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977—  
*continued.*

**Investment of certain money.**

13D. Money within the Assistance Fund or the Benevolent Fund may, pending its application, be invested by the Authority with the Treasurer or in any manner in which trustees are for the time being authorised to invest trust funds.

**Power of Authority to accept gifts, etc.**

13E. (1) The Authority, with the approval of the Minister, may acquire, by gift *inter vivos*, devise or bequest, any property for a purpose referred to in section 8 (2) (e1) and may agree to a trust or condition on which the property is required to be held.

(2) The rule of law against remoteness of vesting shall not apply to any such trust or condition to which the Authority has agreed.

(3) Where the Authority acquires property under subsection (1)—

- (a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and
- (b) the property, or the value of the property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.

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*Trotting Authority (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE TROTGING AUTHORITY ACT, 1977—  
*continued.*

## (5) Section 21 (1)—

After “section 8 (2) (d)”, insert “, the exercise of a delegation under section 13c (1)”.

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