

TASMANIAN INTERNATIONAL VELODROME
MANAGEMENT AUTHORITY ACT 1984

No. 71 of 1984

TABLE OF PROVISIONS

<p style="text-align: center;">PART I</p> <p style="text-align: center;">PRELIMINARY</p> <p>1. Short title.</p> <p>2. Commencement.</p> <p>3. Interpretation.</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">THE TASMANIAN INTERNATIONAL VELODROME MANAGEMENT AUTHORITY</p> <p>4. Constitution of Tasmanian International Velodrome Management Authority.</p> <p>5. Membership of Authority.</p> <p>6. Authority subject to general control and direction of the Minister.</p> <p>7. Functions of the Authority.</p> <p>8. Powers of the Authority.</p> <p>9. Appointment of manager, officers, &c., of Authority.</p> <p>10. Delegation by Authority.</p> <p style="text-align: center;">PART III</p> <p style="text-align: center;">FINANCES OF THE AUTHORITY</p> <p>11. Funds of the Authority.</p> <p>12. Temporary investment of Authority's funds.</p> <p>13. Accounts of Authority.</p> <p>14. Audit of Authority's accounts.</p> <p>15. Authority's power to borrow for working expenses.</p>	<p>16. Depreciation account.</p> <p>17. Reserve accounts.</p> <p>18. Guarantees.</p> <p>19. Payments by Authority to Con- solidated Revenue Fund.</p> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">MISCELLANEOUS AND SUPPLEMENTAL</p> <p>20. Annual report.</p> <p>21. Recovery of fees or charges.</p> <p>22. By-laws.</p> <p>23. Transitional provisions.</p> <p style="text-align: center;">SCHEDULE 1</p> <p style="text-align: center;">PROVISIONS WITH RESPECT TO MEMBERSHIP OF THE AUTHORITY</p> <p style="text-align: center;">SCHEDULE 2</p> <p style="text-align: center;">PROVISIONS WITH RESPECT TO MEETINGS OF THE AUTHORITY</p> <p style="text-align: center;">SCHEDULE 3</p> <p style="text-align: center;">PROVISIONS WITH RESPECT TO APPOINTMENT AND TERMS AND CONDITIONS OF EMPLOYMENT OF OFFICERS AND EMPLOYEES OF AUTHORITY</p> <p style="text-align: center;">SCHEDULE 4</p> <p style="text-align: center;">TRANSITIONAL PROVISIONS</p>
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TASMANIAN INTERNATIONAL VELODROME
MANAGEMENT AUTHORITY ACT 1984

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No. 71 of 1984
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AN ACT to provide for the establishment of an authority for the management of a proposed velodrome and indoor sports and entertainment centre at the Kate Reed State Recreation Area, to prescribe the functions and powers of the Authority, and to provide for related matters.

[Royal Assent 22 November 1984]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—This Act may be cited as the *Tasmanian International Velodrome Management Authority Act 1984*. Short title.

2—This Act shall commence on the day on which it receives the royal assent. Commencement.

Interpretation.

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

- “ the Authority ” means the Tasmanian International Velodrome Management Authority constituted under section 4;
- “ financial year ” means a period of 12 months ending on 30th June in any year;
- “ functions ” includes duties;
- “ the Minister ” means the Minister for the time being administering the *Crown Lands Act 1976*;
- “ officer of the Authority ” means a person appointed as an officer of the Authority under section 9;
- “ velodrome ” means an enclosed velodrome proposed to be built by the Minister in the Kate Reed State Recreation Area at Launceston and includes an indoor sports and entertainment centre proposed to be appurtenant to the velodrome.

PART II

THE TASMANIAN INTERNATIONAL VELODROME MANAGEMENT AUTHORITY

Constitution
of Tasmanian
International
Velodrome
Management
Authority.

4—(1) There is constituted by this Act a body corporate with the corporate name of the Tasmanian International Velodrome Management Authority.

(2) The Authority—

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) may do and be subject to all other things that corporations may by law do and be subject to and that are necessary for, or incidental to, the purpose for which it was constituted; and
- (e) has the functions imposed, and the powers conferred, on it by, or under, this or any other Act.

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

5—(1) The Authority shall consist of 5 members to be appointed by the Governor, of whom— Membership of Authority.

(a) one shall be the Director-General of Lands or an officer of the Department of Lands nominated by the Minister; and

(b) one shall be the Director of Recreation or another officer of The Division of Recreation of the Education Department nominated by the Minister responsible for recreation.

(2) The Governor shall, by an instrument of appointment under subsection (1), appoint one of the members of the Authority to be chairman of the Authority and another member to be deputy chairman of the Authority.

(3) Schedule 1 has effect with respect to the membership of the Authority.

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

6—In the performance of its functions and the exercise of its powers the Authority shall be subject to the general control and direction of the Minister. Authority subject to general control and direction of the Minister.

7—(1) Notwithstanding the provisions of the *Crown Lands Act* 1976, the functions of the Authority are to provide for the care, control, management, maintenance, and improvement of the velodrome. Functions of the Authority.

(2) In the performance of its functions and the exercise of its powers, it shall be the policy of the Authority—

(a) to promote and encourage the use of the velodrome to the best advantage of the State; and

(b) to conduct its affairs so that it will become a viable commercial enterprise as soon as practicable.

Powers of
the Authority.

8—(1) Without limiting the generality of the provisions of section 4 (2) (*d*) but subject to subsection (2), the Authority may—

- (a) make available on such terms as it thinks fit any building or facility in the velodrome for any purpose for which, in the opinion of the Authority, that building or facility is suited;
- (b) enter into any contract, agreement, or arrangement with any person or body, whether corporate or unincorporate, for the purpose of the performance of its functions or the exercise of its powers;
- (c) provide or cause to be provided meals, refreshments, and catering services in connection with the use of any building or facility in the velodrome;
- (d) authorize, on such terms and conditions as it thinks fit, any person to sell any wares in the velodrome; and
- (e) appoint and engage as an independent contractor, on such terms and conditions as may be arranged, any person or group of persons—
 - (i) to perform such of its functions and exercise such of its powers as the Authority may require; and
 - (ii) to provide such services as the Authority may require in connection with the performance of its functions and the exercise of its powers.

(2) The Authority shall not, except with the consent of the Minister, grant a lease or licence, or enter into any other contract under subsection (1) for a period of more than 5 years.

Appointment
of manager,
officers, &c.,
of Authority.

9—(1) The Authority shall appoint a manager and may appoint and employ such other officers and such employees as may be necessary for the performance of its functions or the exercise of its powers under this Act.

(2) A person appointed as manager under subsection (1) shall act as secretary of the Authority.

(3) Schedule 3 has effect with respect to the appointment, and the terms and conditions of employment, of officers and employees appointed or employed under this section.

10—(1) The Authority may, by instrument in writing, delegate Delegation by Authority. to an officer of the Authority specified in the instrument the performance or exercise of such of its functions and powers under this Act or any other Act (other than this power of delegation) as are specified in the instrument, and may, by instrument in writing, revoke wholly or in part any such delegation.

(2) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding any delegation under this section, the Authority may continue to perform or exercise all or any of the functions or powers delegated.

(5) Any act or thing done by, or to, a delegate of the Authority while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by, or to, the Authority and shall be deemed to have been done by, or to, the Authority.

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

(7) Where the exercise of a power by the Authority is dependent on the opinion or belief of the Authority, a delegate of the Authority under this section may, in exercising that power, act on his own opinion or belief.

PART III

FINANCES OF THE AUTHORITY

11—(1) The Authority shall, with the approval of the Treasurer, Funds of the Authority. establish such bank accounts as it considers necessary.

(2) The funds of the Authority shall be paid to the credit of such of the accounts referred to in subsection (1) as it determines and shall consist of—

- (a) any money appropriated by Parliament for the purposes of the Authority;
- (b) money received by way of fees and charges imposed by it under this Act;
- (c) all money derived by the Authority from the leasing of any part of the velodrome or the sale or other disposal by the Authority of any property that the Authority has power to sell or dispose of;
- (d) all money borrowed by the Authority under this Act; and
- (e) all other money received from any other source by the Authority.

(3) The funds of the Authority shall be applied only—

- (a) in payment or discharge of the expenses, charges, and obligations incurred or undertaken by the Authority in the performance of its functions or the exercise of its powers; or
- (b) in the payment of any remuneration payable under this Act.

Temporary investment of Authority's funds.

12—The Authority may invest any money that it is holding and for which it has no immediate use—

- (a) in such manner as the Treasurer may approve; or
- (b) with the approval of the Treasurer, by a deposit bearing interest with a person approved by the Reserve Bank of Australia as a dealer in the short-term money market.

Accounts of Authority.

13—The Authority shall cause to be kept proper accounts and records in relation to all of its operations and shall, on or before 31st August in each year, prepare a statement of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and the transactions of the Authority with respect to the preceding financial year.

Audit of Authority's accounts.

14—(1) The accounts of the Authority are subject to the *Audit Act* 1918.

(2) The Authority shall pay to the Consolidated Revenue Fund towards defraying the costs and expenses of any audit under this section such amounts, and at such times, as the Treasurer may require.

15—(1) The Authority may, with the consent of the Treasurer, but subject to subsection (3), borrow by overdraft on its bank accounts for the purpose of performing any of its functions or exercising any of its powers under this Act. Authority's power to borrow for working expenses.

(2) The Treasurer may, subject to subsection (3), grant a loan to the Authority for the purpose of—

- (a) meeting working expenses; or
- (b) paying off any overdraft, either wholly or in part,

and the loan shall be on such terms as to repayment, payment of interest, and otherwise, as the Treasurer may determine.

(3) The total amount borrowed by the Authority under this section during a financial year ending on or after 30th June 1986 shall not exceed one-half of its revenue during the preceding financial year.

16—(1) The Authority shall make such annual provision as the Treasurer may approve for the depreciation of its assets, and the amount so set aside shall be credited to a special account to be known as the “ depreciation account ”. Depreciation account.

(2) The money provided pursuant to subsection (1) may be applied by the Authority for—

- (a) meeting repayments required in respect of money advanced or lent to the Authority;
- (b) financing the purchase of new assets or the replacement of, or otherwise making good the depreciation of, its assets; and
- (c) making investments in such manner as the Treasurer may approve.

Reserve
accounts.

17—(1) Subject to subsection (2), the Authority may, out of the money received by it under this Act, set aside such amount as it considers necessary for the purpose of—

- (a) making provision for undetermined losses or liabilities; or
 - (b) creating a reserve, or reserves, against contingencies,
- or for such other purpose as may be determined by the Authority.

(2) The Authority shall not exercise the power conferred on it by subsection (1) unless the Treasurer has approved of the amount of each provision or reserve, and the purpose for which each provision or reserve is made.

Guarantees.

18—(1) The Treasurer may execute a guarantee either alone or jointly with some other person, in favour of a bank or another person or a body of persons, whether corporate or unincorporate, for the repayment of, and payment of interest on, any loan (including a bank overdraft) made to the Authority for the purpose of performing any of its functions or exercising any of its powers under this Act.

(2) The following provisions shall apply to, and in respect of, a guarantee executed under subsection (1):—

- (a) the guarantee may include any interest, charges, and expenses chargeable by the creditor against the Authority and the expenses of enforcing or obtaining, or endeavouring to enforce or obtain, payment of the debt guaranteed, that interest, those charges, or those expenses.
- (b) the guarantee may be expressed to include compound interest;
- (c) the creditor shall, if required to do so by the Treasurer, obtain, take and hold, or retain and hold securities for the payment of the principal debt of such nature as the Treasurer may require;
- (d) the guarantee shall not be enforceable against the Treasurer unless and until the creditor has exercised his rights and remedies under all securities held by, or for, him in respect of the debt guaranteed, other than the guarantee;
- (e) the creditor shall not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.

(3) Subject to subsection (2), a guarantee executed under subsection (1) may be subject to such terms and conditions as the Treasurer thinks fit.

(4) The amount of any liability incurred under a guarantee executed under this section is a charge on the Consolidated Revenue Fund and is payable out of that Fund without further appropriation than this subsection.

19—The Authority shall, on or before 30th June in each year, pay to the Consolidated Revenue Fund such amount, if any, as the Treasurer, having regard to the financial viability of the Authority, may determine.

Payments by
Authority to
Consolidated
Revenue Fund.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

20—(1) The Authority shall, not later than 15th November after the end of each financial year, submit to the Minister, in relation to that financial year—

Annual
Report.

- (a) a report of its affairs and activities;
- (b) a copy of the statement of accounts referred to in section 13; and
- (c) a copy of the Auditor-General's report with respect to those accounts.

(2) The Minister shall cause a copy of the report and accounts of the Authority, together with a copy of the Auditor-General's certificate with respect to those accounts, to be laid on the table of each House of Parliament within 14 sitting days of that House after receipt by him of the report and accounts.

21—Any fees or charges payable to the Authority under this Act may be recovered by the Authority as a debt or liquidated demand in a court of competent jurisdiction.

Recovery of
fees or charges.

22—(1) The Authority may make by-laws for the purposes of this Act.

By-laws.

(2) Without limiting the generality of subsection (1), by-laws may be made relating to the conduct, control, and management of the velodrome.

- (3) By-laws under this section—
- (a) may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the by-laws, or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified;
 - (b) may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, any of the by-laws and may provide in respect of any such offence for the imposition of a penalty not exceeding \$500 and, in the case of a continuing offence, a further penalty not exceeding \$10 for each day during which the offence continues;
 - (c) may authorize any matter or thing to be from time to time determined, applied, or regulated by any person or body specified in the by-laws; and
 - (d) may, if they are made with the approval of the Minister, have effect in any place that is outside the velodrome and within the Kate Reed State Recreation Area.
- (4) By-laws under this section are not statutory rules within the meaning of the *Rules Publication Act 1953*.

Transitional
provisions.

23—The transitional provisions specified in Schedule 4 have effect.

SCHEDULE 1

Section 5 (3)

PROVISIONS WITH RESPECT TO MEMBERSHIP OF THE AUTHORITY

1—A member of the Authority, other than a member referred to in section 5 (1) (a) or (b), shall be appointed for such term, not exceeding 3 years, as is specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time for a term, not exceeding 3 years, specified in the instrument of his re-appointment.

Term of office.

2—Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his time to the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member of the Authority.

Provisions relating to members.

3—A member of the Authority shall be paid such remuneration, expenses, and allowances as the Governor may determine, but no such determination shall apply in respect of a member of the Authority who holds office in the Public Service unless the Public Service Board approves of the determination.

Remuneration, &c., of members.

4—The provisions of the *Public Service Act 1973* do not apply to, or in respect of, the appointment of a member of the Authority and a member of the Authority shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

Public Service Act 1973 not to apply.

5—(1) The Governor may appoint any person (including a member of the Authority other than the chairman of the Authority) to act in the office of the chairman or appoint any person to act in the office of a member of the Authority other than the chairman while the chairman or that member of the Authority, as the case may be, is absent from his office through illness or any other cause.

Appointment of substitute to act during absence of member of Authority.

(2) A member of the Authority other than the chairman shall, for the purposes of subclause (1), be deemed to be absent from his office if he is acting in the office of chairman pursuant to subclause (1).

(3) A member of the Authority shall, for the purposes of subclause (1), be deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 7.

(4) A person shall not be concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the office of a member of the Authority, and all things done or omitted to be done by that person while so acting shall be as valid, and shall have the same consequences, as if they had been done or omitted to be done by that member.

Vacation of
office.

6—(1) A member of the Authority shall be deemed to have vacated his office—

- (a) when he dies;
- (b) if he 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 or estate for their benefit;
- (c) if he is absent from 3 consecutive ordinary meetings of the Authority of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or unless, before the expiration of 3 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (d) if he is convicted in the State of a crime or an offence which is punishable by imprisonment for a period of not less than 12 months, or if he is convicted elsewhere than in the State of an offence which, if committed in the State, would be a crime or an offence so punishable;
- (e) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation; or
- (f) if he is removed from office by the Governor under subclause (2).

(2) The Governor may remove from office a member of the Authority if the Governor is satisfied that the member—

- (a) has participated in, or has claimed to be entitled to participate in, the profit of, or any benefit arising from, any contract, agreement, or arrangement made by or on behalf of the Authority, other than a contract, agreement, or arrangement for a service ordinarily supplied by the Authority, on the same terms as that service is supplied to other persons in the same situation;
- (b) has voted at any meeting of the Authority in respect of any matter in which he was at that time interested (otherwise than as a member of the public or as an elector of, or ratepayer to, any municipality, or as a shareholder in a company in which there were at that time more than 20 members and of which he was not at that time a director or officer); or
- (c) is unable to perform adequately the duties of his office.

(3) A member of the Authority shall not be removed from office otherwise than in accordance with this clause.

Filling of
casual
vacancies.

7—On the occurrence of a vacancy in the office of a member of the Authority otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to the vacant office for the balance of his predecessor's term of office.

8—(1) No act or proceeding of the Authority or of any person acting pursuant to any direction of the Authority is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken, or commenced, there was a vacancy in the membership of the Authority. Validity of proceedings, &c.

(2) All acts and proceedings of the Authority or of any person acting pursuant to any direction of the Authority are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the Authority or that any person was disqualified from acting as, or incapable of being, a member of the Authority, as valid as if the member had been duly appointed and was qualified to act, or capable of being, a member, and as if the Authority had been fully constituted.

9—In any proceedings by or against the Authority, unless evidence is given to the contrary, no proof shall be required of— Presumptions.

- (a) the constitution of the Authority;
 - (b) any resolution of the Authority;
 - (c) the appointment of any member of the Authority; or
 - (d) the presence of a quorum at any meeting of the Authority.
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SCHEDULE 2

Section 5 (4)

PROVISIONS WITH RESPECT TO MEETINGS OF THE AUTHORITY

Convening of
meetings of
the Authority.

1—Meetings of the Authority may be convened by the chairman of the Authority or by any 3 members of the Authority.

Procedure at
meetings.

2—(1) Three members of the Authority shall form a quorum at any duly convened meeting of the Authority.

(2) Any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority.

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

(4) Where a member of the Authority discloses an interest in any lease, licence, or other contract granted or entered into, or proposed to be granted or entered into, by the Authority—

(a) the disclosure shall be recorded in the minutes of the Authority;
and

(b) the member shall not be present during any deliberation of the Authority with respect to that matter.

Voting.

3—At any meeting of the Authority—

(a) the members present are each entitled to a deliberative vote;

(b) subject to paragraph (c), where the votes cast on any question are equally divided, the question shall remain unresolved until the next meeting of the Authority;

(c) where a question remains unresolved from a previous meeting and the votes cast on that question are again equally divided, the question shall be referred to the Minister for resolution; and

(d) any such resolution of a question by the Minister shall be binding on the Authority and the Authority shall not, without the concurrence of the Minister, pass a further resolution rescinding or varying the first-mentioned resolution.

Chairman.

4—(1) The chairman of the Authority shall preside at all meetings of the Authority at which he is present.

(2) If the chairman of the Authority is not present at a meeting of the Authority, a member of the Authority elected by the members present shall preside at that meeting.

General
procedure.

5—The procedure for the calling of, and for the conduct of business at, meetings of the Authority shall, subject to any procedure that is specified in this Schedule, be as determined by the Authority.

SCHEDULE 3

Section 9 (3)

PROVISIONS WITH RESPECT TO APPOINTMENT AND TERMS AND CONDITIONS
OF EMPLOYMENT OF OFFICERS AND EMPLOYEES OF AUTHORITY

1—In this Schedule—

Interpretation.

“employee” means a person who is employed by the Authority as a part-time or casual employee;

“officer of the Public Service” means a person employed in any capacity in any branch of the Public Service but does not include a person temporarily so employed;

“Public Service” has the meaning assigned to that expression in the *Public Service Act 1973*.

2—A person who has attained the age of 65 years shall not be appointed or employed as an officer or employee of the Authority and an officer or employee of the Authority shall cease to be employed as such on attaining that age.

Age of officers and employees.

3—An officer or employee of the Authority shall perform such functions as the Authority may from time to time determine.

Officers, &c., to perform functions determined by Authority.

4—Subject to the provisions of this Schedule, the terms and conditions of employment (including remuneration, allowances, and leave) of officers and employees of the Authority shall, subject to any award or industrial agreement relating to persons engaged in the work for which they are appointed and employed, be as determined by the Authority.

Certain terms and conditions of employment of officers, &c., to be determined by Authority.

5—(1) An officer or employee of the Authority, in his capacity as such an officer or employee, is not subject to the provisions of the *Public Service Act 1973*.

Officers and employees not subject to *Public Service Act 1973*, &c.

(2) An officer of the Authority shall be deemed to be an employee within the meaning of the *Retirement Benefits Act 1982*.

(3) The Authority shall be deemed to be a State authority within the meaning of the *State Employees (Long-Service Leave) Act 1950* and, in relation to officers and employees of the Authority, the Authority shall be deemed to be the prescribed authority for the purposes of that Act.

6—(1) If an officer of the Public Service is appointed under section 9 as an officer of the Authority, he is entitled to retain all his existing and accruing rights as to leave and retirement benefits as if his service as an officer of the Authority were a continuation of his service as an officer of the Public Service.

Provisions applicable where officer of Public Service is appointed as officer of Authority.

(2) Where a person appointed as an officer of the Authority was, immediately before his appointment, an officer of the Public Service, sections 32 and 33 of the *Public Service Act 1973* shall continue to apply in respect of that person as if his service as an officer of the Authority were service as an officer of the Public Service and, for the purpose of those sections, he shall be deemed to be an officer of the Public Service while he remains an officer of the Authority.

(3) Where a person referred to in subclause (2) ceases to be an officer of the Authority and becomes an officer of the Public Service, his service as an officer of the Authority shall be regarded as service in the Public Service for the purposes of determining his rights as an officer of the Public Service.

SCHEDULE 4

Section 23

TRANSITIONAL PROVISIONS

1—The Governor may, at any time after the day on which this Act receives the royal assent, appoint, on such terms and conditions as he thinks fit, a suitable person to act as manager of the velodrome. Interim appointment of manager.

2—A person appointed as manager under clause 1—

(a) may perform such of the functions, and exercise such of the powers, of the Authority as may be specified in the instrument of his appointment; and Functions and powers of manager.

(b) shall be entitled to such expenses and allowances as the Governor may approve.

3—(1) On the request of the Minister, the Treasurer may make such arrangements as appear to him necessary to afford to the Authority such financial assistance as it may require to enable it to commence its operations. Financial provision.

(2) An amount required for any financial assistance under subclause (1) may be paid out of money provided by Parliament for the purpose.
