

Queensland



RACING ACT 2002

Act No. 58 of 2002

Queensland



RACING ACT 2002

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Queensland



Racing Act 2002

Act No. 58 of 2002

An Act to provide for the racing industry in Queensland, including betting on races and sporting contingencies, and for other purposes

[Assented to 14 November 2002]

The Parliament of Queensland enacts—

CHAPTER 1—INTRODUCTION

1 Short title

This Act may be cited as the *Racing Act 2002*.

2 Commencement

(1) Subject to subsection (2), this Act commences on a day to be fixed by proclamation.

(2) Section 398(1) and schedule 2, part 1, in relation to the amendment of the *Racing and Betting Amendment Act (No. 2) 2001*, are taken to have commenced on 4 April 2002.

3 Act binds all persons

(1) This Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

(2) Nothing in this Act makes the State liable to be prosecuted for an offence.

4 Main purposes of Act and how they generally are achieved

(1) The main purposes of this Act are—

- (a) to maintain public confidence in the racing of animals in Queensland for which betting is lawful; and
- (b) to ensure the integrity of all persons involved with racing or betting under this Act; and
- (c) to safeguard the welfare of all animals involved in racing under this Act.

(2) Generally, the main purposes are achieved by providing for the following—

- (a) the process for approving an applicant as a control body;
- (b) the approval of a suitable applicant as the control body to manage a code of racing;
- (c) the performance by each control body of its function under this Act of managing its code of racing;
- (d) controls relating to the welfare of animals involved in racing, including the control of drugs;
- (e) the establishment of the Racing Animal Welfare and Integrity Board and the accreditation of entities in relation to drug testing and related matters;
- (f) the establishment of the Racing Appeals Tribunal to hear and decide appeals against some decisions under this Act;
- (g) the persons who may carry on bookmaking, including a process for obtaining an eligibility certificate from the gaming executive before a person may be licensed by a control body as a racing bookmaker who may carry on bookmaking at a licensed venue when it is under the control of that control body;
- (h) the investigation of matters under, and enforcement of compliance with, this Act by authorised officers;
- (i) offences and legal proceedings generally;
- (j) miscellaneous and transitional matters, especially how matters under the repealed Act may continue or otherwise be dealt with under this Act.

5 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

6 Betting under this Act is lawful

(1) If betting on the outcome of a race or sporting contingency is conducted under this Act, the betting is lawful.

(2) Subsection (1) does not limit the *Wagering Act 1998*.

CHAPTER 2—CONTROL BODIES TO MANAGE CODES OF RACING

PART 1—MAIN PURPOSES OF CHAPTER

7 Main purposes of ch 2 and how they generally are achieved

(1) The main purposes of this chapter are—

- (a) to establish a process by which an eligible corporation may be approved as the control body for a code of racing with responsibility for managing the code, including the involvement of animals, clubs, participants and venues in the code; and
- (b) to provide for the relationships among the Minister, the chief executive and each control body in relation to the approval of the control body and the code of racing; and
- (c) to foster regional interests relating to thoroughbred racing.

(2) Generally, the main purposes of this chapter are achieved by providing for the following—

- (a) criteria defining eligible corporations and eligible individuals to establish which corporations may apply for approval as control bodies;
- (b) requirements for each approval applicant for a code of racing or proposed code of racing;
- (c) assessment procedures relating to an approval application, requirements to investigate business associates and executive associates of the approval applicant, including, for example, obtaining their fingerprints and criminal histories;
- (d) powers and obligations of a control body for its code of racing, including obligations to implement plans forming part of the approval application;
- (e) reporting requirements that apply to a control body and mechanisms for the Minister to monitor and discipline a control body, including by giving directions to or auditing a control body or taking disciplinary action relating to the approval of a control body;

- (f) structures for regional entities involved in thoroughbred racing, including provisions about racing associations and the establishment of the Queensland Regional Racing Council.

(3) This chapter also provides for offences relevant to matters dealt with in the chapter.

PART 2—CONTROL BODIES GENERALLY

Division 1—Meaning of eligible corporation and eligible individual

8 Meaning of “eligible corporation”

A corporation is an “eligible corporation” if it—

- (a) is registered under the Corporations Act; and
- (b) has a constitution under the Corporations Act that, at all times, requires—
 - (i) at least 3 directors; and
 - (ii) the persons appointed or employed as executive officers of the corporation to be eligible individuals.

9 Meaning of “eligible individual”

An “eligible individual” is an individual who—

- (a) is not affected by bankruptcy action; and
- (b) does not have a disqualifying conviction; and
- (c) is not subject to an exclusion action under any control body’s rules of racing; and
- (d) is not licensed by, or is not an executive officer of a corporation that is licensed by, a control body; and
- (e) is not a member of a committee, or employee, of—
 - (i) a licensed club; or

- (ii) an association formed to promote the interests of 1 or more participants in a code of racing, whether or not formed under this Act; and
- (f) is not disqualified from managing corporations, under the Corporations Act, part 2D.6.¹

Division 2—Applying for approval as control body for a code of racing

10 An eligible corporation may apply for approval as a control body

(1) An eligible corporation may apply to the Minister for approval as the control body for—

- (a) a code of racing; or
- (b) a proposed code of racing.

(2) The eligible corporation may apply for approval as the control body for the application code even if the corporation is, or has applied to be, the control body for another code of racing or proposed code of racing.

(3) The approval applicant may—

- (a) withdraw the approval application; or
- (b) amend the approval application subject to the matters prescribed under a regulation about the way in which an approval application may proceed after it is amended.

(4) If—

- (a) the eligible corporation applies for approval as the control body for a code of racing while another corporation is approved (the “**current approval**”) as the control body for the code of racing; and
- (b) it is more than 1 year before the current approval of the other corporation ends;

the Minister and the chief executive need not take, or begin to take, an action or make a decision relating to the approval application until the period beginning on the day that is 1 year before the current approval ends.

¹ Corporations Act, part 2D.6 (Disqualification from managing corporations)

(5) The application mentioned in subsection (1) must be in the approved form.

11 Approval application to be accompanied by specific matters

(1) An approval application must be accompanied by the following—

- (a) the application fee prescribed under a regulation;
- (b) the approval applicant's written agreement to pay an amount that is the cost of any mediation under section 17² divided equally among the number of approval applicants who are given a notice about the mediation under that section;
- (c) a copy of the approval applicant's constitution under the Corporations Act;
- (d) a consent signed by each person who the approval applicant considers is a business associate or executive associate of the approval applicant for the following—
 - (i) if the associate is an individual—the individual's fingerprints being taken for the chief executive;
 - (ii) for information about the associate to be obtained for the chief executive;
 - (iii) for the associate's background to be investigated for the chief executive;
- (e) the approval applicant's written agreement to obtain a consent of the type mentioned in paragraph (d) for a person whom the chief executive believes is a business associate or executive associate of the approval applicant but whose consent does not accompany the approval application;
- (f) the approval applicant's plans for developing, operating and managing the application code and a timetable for implementing the plans.

(2) The plans mentioned in subsection (1)(f) must include the approval applicant's proposals for policies for the following—

- (a) selling a product to persons lawfully conducting wagering under the *Wagering Act 1998*;

2 Section 17 (Chief executive must call meeting of all approval applicants)

-
- (b) controlling lawful betting on races at race meetings, held under its control as a control body, by persons carrying on bookmaking under chapter 6;³
 - (c) licensing animals, clubs, participants and venues involved in the application code to ensure—
 - (i) the integrity of racing activities to be held under the approval; and
 - (ii) the safety of persons involved in racing or training licensed animals; and
 - (iii) the welfare of licensed animals and animals that may be licensed for the application code;
 - (d) safeguarding the public interest in the application code;
 - (e) providing or participating in an appropriate education and training system for persons who are likely to—
 - (i) engage in activities requiring a licence from it as a control body; or
 - (ii) participate in the application code but are not required to be licensed;
 - (f) a website, and the information to be accessible through the website including policies and rules required to be published on the website under sections 84 and 94;
 - (g) veterinary services to be provided at race meetings and trials held under its control as a control body;
 - (h) if, as a control body, it proposes to have a policy allowing a licence holder to appeal against a decision made by a steward of the control body to an appeal committee established by it—appeals to an appeal committee.
- (3) Also, the plans mentioned in subsection (1)(f) must include the approval applicant's proposals for procedures for the following—
- (a) allocating sufficient resources to ensure—
 - (i) the welfare of animals that may be licensed; and
 - (ii) the prevention and management of other practices that may impact adversely on the integrity of any code of racing;

3 Chapter 6 (Racing bookmakers)

- (b) identifying the approval applicant's way of separating its commercial operations for the application code from its regulatory operations for the code.

(4) The proposals for the policies and the procedures must be well developed and, based on the assumption that the application is approved, capable of implementation by the approval applicant within 18 months after the Minister's approval of the application.

(5) The written agreement mentioned in subsection (1)(b), and the consent mentioned in subsection (1)(d), must be in the approved form.

12 Evidence of matters to be included in an approval application

An approval application must include evidence establishing each of the following—

- (a) the approval applicant is an eligible corporation;
- (b) each of its executive officers is an eligible individual;
- (c) each of its executive officers has experience in the application code, business and financial management, law, leadership or marketing.

Division 3—Referral of approval application to chief executive for processing

13 Minister to refer an approval application to the chief executive for assessment and other action

(1) After receiving an approval application, the Minister must refer it to the chief executive for assessment.

(2) The chief executive must—

- (a) require the approval applicant, by notice (an “**advertising notice**”) given to the applicant, to advertise information about the approval application; and
- (b) assess whether the approval applicant is suitable to be approved as the control body for the application code.

14 Advertising notice about an approval application

(1) The advertising notice must state—

- (a) the form of, and the information to be included in, the advertisement; and
- (b) the newspapers or other publications in which the advertisement must appear; and
- (c) the days on which the advertisement must appear in the stated newspapers or other publications.

(2) Without limiting subsection (1)(a), the chief executive must require each advertisement to state that a person may object to the approval application, by giving a written submission to the chief executive in a way and by a date stated in the advertisement (the “**closure date**”).

(3) The closure date must be at least 28 days after the advertisement first appears in a newspaper or other publication as required under subsection (1).

(4) The approval applicant is liable for all expenses relating to the advertisement.

15 Objection to approval application

(1) A person (an “**objector**”) may object to an approval application by written submission given to the chief executive by the closure date stated in the advertisement.

(2) The submission must state the objector’s reasons for objecting and, if applicable, may include conditions to which the objector believes an approval relating to the approval application should be subject.

Division 4—When there is more than 1 approval application relating to a particular type of animal racing

16 Application of div 4

This division applies if—

- (a) both of the following apply—
 - (i) an objector’s reasons for objecting to an approval application states the objector is the appropriate eligible

corporation to be approved as the control body for the application code;

- (ii) the objector makes an approval application for the application code within 28 days after the closure date; or
- (b) before the closure date for an approval application, another eligible corporation, other than an objector, makes an approval application for the application code.

17 Chief executive must call meeting of all approval applicants

(1) The chief executive must, by notice given to each of the approval applicants, call a meeting of them to explore the possibility of all of the approval applicants reaching a mediated agreement about the eligible corporation that should be approved as the control body for the application code.

Example of a mediated agreement—

The approval applicants may agree to form an eligible corporation in which they each have equal rights to appoint that corporation's executive officers, to withdraw each of their approval applications and to support an application by the formed eligible corporation to be the control body for the application code.

(2) The chief executive may arrange for a suitably qualified person to be the mediator at the meeting.

(3) If a mediated agreement can not be reached at the meeting, the chief executive must include information about the mediation in the chief executive's report to the Minister under section 19.

Division 5—Assessment actions by chief executive for approval applications

18 Assessment of an approval application if only 1 application

(1) The chief executive must assess an approval application referred to the chief executive under section 13(1).⁴

⁴ Section 13 (Minister to refer an approval application to the chief executive for assessment and other action)

(2) The chief executive must prepare and give to the Minister a report relating to the approval application (the **“assessed application”**) covering the following to the extent that is applicable—

- (a) the assessed application;
- (b) submissions given to the chief executive under section 15 about the assessed application;
- (c) reports about the criminal histories of individuals who are business associates and executive associates of the approval applicant, given to the chief executive under section 23(2);⁵
- (d) the chief executive’s assessment, as mentioned in section 13(2)(b), about whether the approval applicant is suitable to be approved as the control body for the application code.

(3) This section is subject to section 19.

19 Assessment of an approval application if more than 1 application

(1) This section applies if the chief executive calls a meeting of approval applicants under section 17(1) and there is no mediated agreement supported by all of the approval applicants.

(2) The chief executive must assess each of the approval applications.

(3) The chief executive must prepare and give to the Minister a single report relating to each of the approval applications (the **“assessed applications”**) covering the following to the extent that is applicable—

- (a) the assessed applications;
- (b) submissions given to the chief executive under section 15 about the assessed applications;
- (c) reports about the criminal histories of individuals who are business associates and executive associates of the approval applicants, given to the chief executive under section 23(2);
- (d) the chief executive’s assessment, as mentioned in section 13(2)(b), about whether each approval applicant is suitable to be approved as the control body for the application code;

5 Section 23 (Obtaining the criminal history of an individual)

- (e) an assessment about the merits of each approval application compared to the other approval applications;
- (f) the chief executive's recommendation about which approval applicant is best qualified and most suitable to be the control body for the code.

20 Assessing approval applicant or approval applicants

(1) This section applies to the chief executive in assessing an approval application as mentioned in section 18 or 19.

(2) The chief executive must decide whether the approval applicant is suitable to be approved as the control body for the application code.

(3) For subsection (2), the chief executive must have regard to, and if necessary, investigate each of the following—

- (a) the approval application, matters accompanying or included in the approval application as mentioned in section 11,⁶ and evidence given by the approval applicant in support of the application about the matters mentioned in section 12;⁷
- (b) the approval applicant's business reputation, current financial position and financial background;
- (c) the suitability of every business associate and executive associate of the approval applicant to be associated with the approval applicant as a control body;
- (d) if the approval applicant has a business association with another entity—
 - (i) the entity's character or business reputation; and
 - (ii) the entity's current financial position and financial background.

(4) In deciding about the suitability of a business associate or executive associate of the approval applicant, the chief executive must have regard to, and if necessary investigate, each of the following—

- (a) the associate's character or business reputation;

6 Section 11 (Approval application to be accompanied by specific matters)

7 Section 12 (Evidence of matters to be included in an approval application)

- (b) the associate's current financial position and financial background;
- (c) if the associate has a business association with another entity—
 - (i) the entity's character or business reputation; and
 - (ii) the entity's current financial position and financial background.

21 Chief executive may require further information or documents to support approval application as part of investigations under s 20

(1) For an investigation under section 20 relating to an approval applicant, the chief executive may, by notice given to the approval applicant, require the applicant to give the chief executive further information or a document relating to any of the following within a reasonable time stated in the notice—

- (a) the approval application;
- (b) the approval applicant;
- (c) a business associate or executive associate of the approval applicant;
- (d) an entity with which the approval applicant has a business association.

(2) For an investigation under section 20 relating to a business associate or executive associate of an approval applicant, the chief executive may, by notice given to the associate and a copy of the notice to the approval applicant, require the associate to give the chief executive information or a document relating to the following within a reasonable time stated in the notice—

- (a) the association with the approval applicant;
- (b) an entity with which the associate has a business association.

(3) When making the requirement, the chief executive must warn the approval applicant and associate that the approval application will not be considered further until the requirement is complied with.

22 Chief executive must request fingerprints of business associates and executive associates of the approval applicant

The chief executive must, by notice given to an approval applicant, ask the applicant to make arrangements with the chief executive for the fingerprints of each of the approval applicant's business associates and executive associates, who is an individual, to be taken for the chief executive.

23 Obtaining the criminal history of an individual

(1) After obtaining an individual's fingerprints, the chief executive may, by notice given to the commissioner of the police service, ask the commissioner for a written report on the individual's criminal history.

(2) After receiving the request, the commissioner must give the report on the individual's criminal history to the chief executive.

(3) The report is to contain—

- (a) relevant information in the commissioner's possession; and
- (b) relevant information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions; and
- (c) other relevant information to which the commissioner has access.

Division 6—Ministerial decision about approval applications

24 Minister to consider and decide approval application

(1) This section applies after the Minister is given an assessment report.

(2) Before making a decision about an approval application, the Minister must consider the following—

- (a) the assessment report;
- (b) the approval application or approval applications dealt with in the report;
- (c) further documents given to the chief executive by the approval applicant in support of the application or an amendment of the application;

- (d) submissions given to the chief executive under section 15(1)⁸ and, to the extent applicable, any other approval applications and any mediated agreement as mentioned in section 17(1), relating to the application code;
- (e) conditions the Minister believes should apply if the application is approved.

(3) The Minister must not grant the application unless the Minister is satisfied—

- (a) the approval application is accompanied by, and includes, all matters mentioned in section 11⁹ and otherwise complies with that section; and
- (b) the approval applicant has provided evidence satisfactory to the Minister about the matters mentioned in section 12;¹⁰ and
- (c) either of the following—
 - (a) if the approval application relates to an existing code of racing, the approval applicant is suitable to be approved as the control body for the existing code of racing;
 - (b) if the approval application relates to a proposed code of racing, the proposed code of racing is suitable to be a code of racing and the approval applicant is suitable to be approved as the control body for the proposed code of racing.

(4) Without limiting subsection (3), if the Minister is considering more than 1 approval application, the Minister must decide which approval applicant is best qualified and most suitable to be the control body for the application code.

25 Information notice about Minister's decision

(1) After the Minister makes a decision about an approval application, the Minister must give the approval applicant an information notice about the decision.

8 Section 15 (Objection to approval application)

9 Section 11 (Approval application to be accompanied by specific matters)

10 Section 12 (Evidence of matters to be included in an approval application)

(2) If the Minister grants the application, the information notice must state the conditions imposed by the Minister to which the approval is to be subject.

(3) If the Minister's decision is that, should the approval applicant rectify a matter within a period, the Minister would give the approval applicant an approval under section 26, the information notice must state the matter to be rectified, the way it may be rectified and a reasonable period for the matter to be rectified.

Example for subsection (3)—

The approval application may be approved on the condition that the approval applicant's constitution is changed in a stated way within a stated period.

26 When Minister must give an approval to approval applicant

(1) This section applies if the Minister decides an approval applicant is suitable to be approved as the control body for the application code.

(2) After all of the following have happened, the Minister must give the approval applicant an approval as the control body for the code of racing signed by the Minister—

- (a) the Minister has given the approval applicant an information notice about the decision under section 25;
- (b) the approval applicant has given the chief executive a notice stating—
 - (i) there have been no changes to the information in the approval application, or the other documents or information given to the Minister or chief executive, that are likely to affect the Minister's decision; and
 - (ii) if applicable—a matter to be rectified, as stated in the information notice as mentioned in section 25(3), has been rectified and the way it has been rectified;
- (c) the approval applicant has paid the fee under section 29¹¹ in relation to the first year of the approval.

(3) After giving an approval under subsection (2), the Minister must publish in the gazette a notice that—

11 Section 29 (Yearly fee payable by each control body)

- (a) if the approval application related to a proposed code of racing—the type of animal racing stated in the notice is a code of racing; and
 - (b) the Minister has approved the approval applicant as the control body for the code of racing stated in the notice.
- (4) The notice mentioned in subsection (2)(b) must be in the approved form.

27 Form of approval

The approval of the control body must state each of the following—

- (a) the name of the control body, its Australian Company Number and its business address;
- (b) the date of the approval and the date on which the approval takes effect;
- (c) the code of racing for which the approval is given;
- (d) conditions imposed by the Minister to which the approval is subject.

Division 7—Other matters relating to approvals and approval applications

28 Approval has effect for 6 years unless it is cancelled or suspended

(1) A control body's approval continues in force until the earliest of the following happens—

- (a) the sixth anniversary of its approval effect day;
- (b) the approval is cancelled.

(2) Also, if a control body's approval is suspended, the approval does not have force for the period of the suspension.

(3) This section does not apply to an approval given to a continuing control body under section 365.¹²

12 Section 365 (Minister to give each continuing control body an approval)

29 Yearly fee payable by each control body

(1) A control body must pay a fee to the chief executive in relation to each year for which its approval has effect.

(2) A regulation may prescribe—

- (a) the amount of the fee payable under this section relating to each year; and
- (b) the date (the “**due date**”) by which the fee relating to each year is payable.

(3) If a fee is not paid by the due date—

- (a) the amount of the fee is a debt owing to the State; and
- (b) the failure to pay is a ground for taking, as mentioned in section 52(1)(d),¹³ disciplinary action relating to the approval of the control body.

30 Regulation may prescribe a condition applying to an approval

(1) A regulation may prescribe a condition (a “**regulation condition**”) to which the approval of each control body is subject.

(2) A regulation condition applies to a control body even if the control body was approved as a control body before the regulation commenced.

(3) If there is an inconsistency between an express condition stated in an approval and a regulation condition, the regulation condition applies to the extent of the inconsistency.

31 Variation of approval of control body

(1) A control body may apply to the Minister for a variation of its approval as a control body.

(2) The application must be in the approved form and accompanied by the application fee prescribed under a regulation.

(3) The Minister must consider the application and either grant or refuse to grant the application.

¹³ Section 52 (Grounds for disciplinary action relating to the approval of a control body for its code of racing)

(4) After the Minister makes a decision about the application, the Minister must give the applicant an information notice about the decision.

- (5) If the Minister grants the application, the information notice must—
- (a) state the conditions imposed by the Minister to which the approval is to be subject; and
 - (b) include a direction to the control body to return the approval to the Minister, within 14 days after the date of the information notice, for relevant action by the Minister.

32 Destruction of fingerprints

(1) After the Minister refuses to grant an approval application or an approval is cancelled, the chief executive must destroy the fingerprints of any individual who is a business associate or executive associate of the approval applicant or the control body.

(2) Also, if the chief executive is satisfied an individual who was a business associate or executive associate of a control body is no longer a business associate or executive associate of the control body, the chief executive must destroy the individual's fingerprints.

PART 3—CONTROL BODIES FOR CODES OF RACING

Division 1—Function and powers of control bodies

33 Function of control body

(1) The function under this Act of a control body is to manage its code of racing.

- (2) A control body has—
- (a) the powers stated in this Act for performing its function; and
 - (b) all other powers necessary for exercising the powers stated in this Act or discharging the obligations imposed on the control body under this Act.

34 Powers of control body for its code of racing

- (1) A control body may do any of the following for its code of racing—
- (a) license animals, clubs, participants and venues that, under its policies, are suitable to be licensed for the code;
 - (b) assess the performance of licensed animals, clubs, participants and venues against the relevant policies of the control body to ensure the animals, clubs, participants and venues continue to be suitable to be licensed;
 - (c) prepare and implement plans and strategies for developing, promoting and marketing the commercial operations of the code;
 - (d) encourage and facilitate the development of ancillary racing activities for the code, including, for example, the breeding and training of animals;
 - (e) establish, manage and fund a facility or process for the education and training of persons who wish to be licensed by the control body or who otherwise participate in the code;
 - (f) distribute an amount, subject to its policies, to a licensed club for use—
 - (i) as prize money for races held by the club; or
 - (ii) for a purpose relating to the operations of the club; or
 - (iii) to undertake research and analysis for the code;
 - (g) make decisions about, and allocate funding for, venue development and other infrastructure relevant to the code;
 - (h) enter into reciprocal arrangements with entities in other States, or in countries other than Australia, that have similar powers to the control body for recognising—
 - (i) the licensing, however described, of animals, clubs, participants and venues for animal racing; and
 - (ii) the activities conducted by, or under the control of, the entities in the other States or the countries; and
 - (iii) the cancellation or suspension of a licence, however described; and
 - (iv) the disqualification of a person who held a licence, however described; and

- (v) another matter or thing relating to managing the control body's code of racing.

(2) To the extent a control body believes necessary or desirable for performing the control body's function, the control body may, by notice given to a licensed club, give a direction to the club (a "**control body direction**") relating to—

- (a) the operations of the club, including, for example, matters in relation to the licensed club's assets; or
- (b) a licensed venue for which the club is the licence holder.

(3) A control body direction may require a licensed club to do something or to refrain from doing something.

(4) As mentioned in section 101(1)(a),¹⁴ if the licensed club is not complying, or has not complied with the control body direction, the control body may suspend or cancel the club's licence.

35 Control body may charge fees for its services

(1) A control body may charge fees for services it provides as part of managing its code of racing.

(2) A fee charged by the control body for a service, including matters relating to licensing, must reflect the reasonable cost to the control body of providing the service.

(3) Despite subsection (1), a control body may not charge a fee for a service provided to the Minister or the chief executive under this Act.

Division 2—Obligations of control bodies other than for policies

36 Obligation to implement plans as stated in approval application

(1) This section applies to the following that, under section 11(1)(f),¹⁵ accompanied a control body's approval application—

- (a) its plans for developing, operating and managing its code of racing; and

14 Section 101 (Grounds for suspension or cancellation)

15 Section 11 (Approval application to be accompanied by specific matters)

(b) the timetable for implementing the plans.

(2) Subject to the regulation conditions and stated conditions in the control body's approval, the control body must implement the plans as stated in the timetable.

37 Obligation to have internal controls

A control body must have internal controls to effectively perform its function of managing its code of racing, including, for example, information systems that—

- (a) separate the control body's commercial operations for the code of racing from its regulatory operations for the code; and
- (b) record all of the control body's actions under its licensing scheme relating to animals, clubs, participants and venues.

38 Obligation to have racing calendar for code of racing

(1) A control body must prepare a program (the “**racing calendar**”) that includes the following matters for the period in relation to which the racing calendar is published (the “**calendar period**”)—

- (a) the dates on which, and places at which, race meetings are to be held for the code of racing during the calendar period;
- (b) information about the races to be held at each race meeting, including, for example, the length of the race, the types of animals eligible for the race and the prize;
- (c) information about dates relevant for each race, including, for example, deadlines for nominating and paying nomination fees;
- (d) a change to the control body's rules of racing that take effect during the calendar period;
- (e) a change to a previous racing calendar;
- (f) a declaration of a sporting contingency under section 255.¹⁶

(2) The control body must make the racing calendar for a calendar period available at least 7 days before the start of, and during, the calendar period.

16 Section 255 (Bookmaking on certain declared sporting contingencies)

(3) The control body may comply with subsection (2) by making the racing calendar available on its website for at least 7 days before the start of, and during, the calendar period.

(4) The control body may publish the racing calendar in, or as part of, another publication of the control body that includes other information, including, for example, advertising.

39 Obligation to have program to audit licensed animals, clubs, participants and venues

(1) By 31 December each year, a control body must give to the chief executive a copy of its program, for the following year, to audit periodically the suitability of every licensed animal, club, participant and venue to continue to be licensed.

(2) The control body must implement the program during the relevant year.

40 Obligation to enter into agreement about scientific and professional services

A control body must enter into an agreement with an accredited facility, independent of the control body, for the provision of integrated scientific and professional services—

- (a) for analysing things relating to licensed animals for the presence of drugs and other substances; and
- (b) for related matters.

Division 3—Annual reporting by control bodies and related issues

41 Annual reporting by control body

(1) Within 14 days after each anniversary day of the commencement of this section, a control body must give to the chief executive a plan for managing its code of racing for a period of at least 1 year starting on that anniversary day.

(2) Within 14 days after each anniversary day of a control body's approval effect day, the control body must give to the chief executive a notice about whether the control body has been an eligible corporation for

the year before the anniversary day and is, on that anniversary day, an eligible corporation.

(3) A notice under subsection (1) or (2) must be in the approved form.

42 Notice about change of executive officers

(1) If an executive officer of a control body resigns, or the executive officer's appointment or employment otherwise ends, the control body must give notice about the resignation, or the end of the appointment or employment, to the chief executive under subsection (2).

(2) The notice mentioned in subsection (1) must—

- (a) be in the approved form; and
- (b) be given within 14 days after the resignation, or the end of the appointment or employment, of a person as an executive officer; and
- (c) if, at the time of the resignation or end of the appointment or employment, the executive officer was no longer an eligible individual, include the reason why the executive officer was no longer an eligible individual.

(3) If a person is appointed or employed as an executive officer of a control body after the control body's approval, the control body must give notice about the appointment or employment to the chief executive under subsection (4).

(4) The notice mentioned in subsection (3) must—

- (a) be in the approved form; and
- (b) be given within 14 days after the appointment or employment of the person as an executive officer; and
- (c) state that the person is an eligible individual; and
- (d) be accompanied by a consent signed by the person for the following—
 - (i) the person's fingerprints being taken for the chief executive;
 - (ii) for personal information about the person to be obtained for the chief executive;

(iii) for the person's background to be investigated for the chief executive.

(5) Subsections (1) and (3) do not apply to a continuing control body.

43 Notice of event resulting in a control body not being an eligible corporation

(1) Within 14 days after an event happening relating to a control body that makes the control body no longer an eligible corporation, the control body must give notice about the event to the chief executive under subsection (2).

(2) The notice must—

- (a) be in the approved form; and
- (b) include the control body's plan and timetable for making the corporation an eligible corporation.

(3) The giving of a notice under subsection (1) does not limit the chief executive's power under section 53¹⁷ to give the control body a show cause notice.

(4) Subsection (1) does not apply to a continuing control body.

44 Notice of event resulting in executive officer no longer being an eligible individual

(1) Within 14 days after an event happening that results in an executive officer of a control body being no longer an eligible individual, the executive officer must give notice about the event to the chief executive.

(2) The notice must be in the approved form.

(3) Subsection (1) does not apply to a continuing control body.

17 Section 53 (Show cause notice)

PART 4—ACTIONS RELATING TO CONTROL BODIES AND CODES OF RACING

Division 1—Ministerial directions to control bodies

45 Minister may give a direction to control body about its policies or rules

(1) This section applies if the Minister believes that, for 1 or more of the following reasons, it is necessary to give a control body a direction under this section—

- (a) to ensure public confidence in the integrity of the Queensland racing industry;
- (b) to ensure the control body is managing its code of racing in the interests of the code;
- (c) to ensure the welfare of the control body's licensed animals;
- (d) to ensure the control body's actions are accountable and its decision-making processes are transparent;
- (e) to ensure the control body's rules of racing, as authorised by its policies, have sufficient regard to the rights and liberties of individuals as mentioned in the *Legislative Standards Act 1992*, section 4(3).

(2) The Minister may, by notice given to the control body, direct the control body to do 1 or more of the following and take into account matters stated in the direction—

- (a) make a new policy about a matter;
- (b) review an existing policy;
- (c) make rules of racing about a matter, as authorised by the control body's policies;
- (d) review existing rules of racing.

(3) The notice must state a date by which the direction must be complied with.

(4) The date stated must be reasonable having regard to the nature of the matters to be done under the direction.

Division 2—Audit regime and other investigations

46 Program for auditing suitability of control bodies

(1) Each year, the chief executive must prepare and give to the Minister a program for assessing the suitability of control bodies to manage the relevant codes of racing.

(2) The program may focus on a particular control body or on a particular criterion relating to all control bodies.

(3) The Minister may approve the program for the year, with or without changes.

47 Investigations into suitability of a control body

(1) The chief executive may investigate a control body to find out whether it is suitable to continue to manage its code of racing.

(2) However, the chief executive may investigate a control body under this section only if—

- (a) the chief executive suspects the control body is no longer suitable to continue to manage the code of racing; or
- (b) the investigation is undertaken as part of a program approved by the Minister under section 46(3).

48 Investigation into suitability of associate of control body

(1) The chief executive may investigate a control body associate to decide whether the associate is a suitable person to be, or to continue to be, associated with the control body's operations.

(2) However, the chief executive may investigate the control body associate only if—

- (a) the chief executive suspects the associate is not, or is no longer, a suitable person to be associated with a control body's operations; or
- (b) the investigation is part of an investigation of the control body, undertaken as part of a program approved by the Minister under section 46(3); or

- (c) for a control body other than a continuing control body—the person became a control body associate of the control body after its approval effect day.

49 Requirement to give information or document for investigation

(1) In investigating a control body or a control body associate, the chief executive may, by notice given to the control body or the associate, require the control body or associate to give the chief executive information or a document the chief executive believes relevant to the investigation.

(2) The notice must include—

- (a) a time, that is reasonable in the circumstances, by which the control body or control body associate must comply with the requirement; and
- (b) a warning that it is an offence to fail to comply with the requirement, unless the control body or associate has a reasonable excuse.

(3) If the requirement is made to a control body associate, the chief executive must give a copy of the notice to the control body.

50 Failure to give information or document for investigation

(1) A person to whom a notice is given under section 49(1) must comply with the requirement in the notice within the time stated in the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

(3) The person does not commit an offence against this section if the information or document sought by the chief executive is not in fact relevant to the investigation.

51 Criminal history report for investigation

(1) If the chief executive, in investigating a person under section 47 or 48, asks the commissioner of the police service for a written report on the

person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

- (a) relevant information in the commissioner's possession; and
- (b) relevant information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions; and
- (c) other relevant information to which the commissioner has access.

Division 3—Disciplinary action against control bodies

52 Grounds for disciplinary action relating to the approval of a control body for its code of racing

(1) Each of the following is a ground to take disciplinary action relating to an approval of a control body for its code of racing—

- (a) the control body is not an eligible corporation;
- (b) an executive officer of the control body is not an eligible individual;
- (c) the control body is no longer suitable to manage the code;
- (d) the control body contravenes a provision of this Act, whether or not a penalty is provided for the contravention;
- (e) the control body fails to comply with a condition relating to its approval;
- (f) the control body contravenes a direction given to the control body by the Minister under section 45;¹⁸
- (g) the control body fails to take disciplinary action under chapter 3 relating to a licence holder when the control body is required to do so under the chapter;
- (h) in its approval application, or a notice or other document that the control body is required under this Act to give to the Minister or chief executive, the control body stated something it knew was false or misleading in a material particular.

18 Section 45 (Minister may give a direction to control body about its policies or rules)

(2) For forming a belief that the ground mentioned in subsection (1)(c) exists, the Minister may have regard to the same issues to which the Minister may have regard in deciding whether an approval applicant for approval as a control body is suitable to be approved as a control body.

(3) There are no other grounds for taking disciplinary action against a control body other than the grounds mentioned in subsection (1).

(4) This section does not apply to a continuing control body.

53 Show cause notice

(1) If the Minister believes a ground exists to take disciplinary action relating to the approval of a control body for its code of racing, the Minister must, subject to section 56(1)(a), give the control body a notice (a “**show cause notice**”).

(2) The show cause notice must state the following—

- (a) the disciplinary action the Minister proposes taking under this division (the “**proposed action**”);
- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action includes suspension—the proposed suspension period;
- (e) if the proposed action includes varying the approval—the change that it is proposed to make to a condition stated in the approval or the new condition to which it is proposed to make the approval subject;
- (f) if the proposed action includes censuring the control body—the proposed censure;
- (g) an invitation to the control body to show, within a stated period (the “**show cause period**”), why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 28 days after the day the show cause notice is given to the control body.

54 Consideration of representations

(1) The control body may make written representations about the show cause notice to the Minister in the show cause period.

(2) The Minister must consider all written representations (the “**accepted representations**”) made under subsection (1).

55 Immediate suspension of an approval

(1) This section applies to the approval of a control body other than a continuing control body.

(2) The Minister may suspend the approval immediately if the Minister believes—

- (a) a ground exists to take disciplinary action relating to the approval of the control body for its code of racing; and
- (b) the circumstances are so extraordinary that it is imperative to suspend the approval immediately to ensure—
 - (i) the safety of persons, or the welfare of animals, at a race meeting to be held under the control of the control body; or
 - (ii) the public interest in the code of racing is not adversely affected.

(3) The suspension—

- (a) can be effected only by the Minister giving the control body an information notice about the decision to suspend it, together with a show cause notice; and
- (b) operates immediately the information notice is given to the control body; and
- (c) continues to operate until the show cause notice is finally dealt with.

56 Censuring control body

(1) The Minister may censure a control body if the Minister—

- (a) believes a ground exists to take disciplinary action relating to the approval of the control body but does not believe that giving a show cause notice to the control body is warranted; or

- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to take disciplinary action relating to the approval of a control body but does not believe disciplinary action is warranted.

(2) The censure may be effected only by the Minister giving the control body an information notice about the decision to censure it.

57 Direction to control body to rectify matter

(1) This section applies if, after considering the accepted representations for a show cause notice, the Minister—

- (a) still believes a ground exists to take disciplinary action relating to the approval of a control body; and
- (b) believes a matter relating to the ground to take disciplinary action is capable of being rectified and it is appropriate to give the control body an opportunity to rectify the matter.

(2) The Minister may direct the control body to rectify the matter.

(3) The direction can be effected only by the Minister giving the control body an information notice about the decision to give the direction, including the period for rectifying the matter.

(4) The period stated in the information notice must be reasonable having regard to the nature of the matter to be rectified.

(5) A control body must comply with a direction under this section within the period for rectifying the matter stated in the information notice, unless it has a reasonable excuse.

Maximum penalty—400 penalty units.

(6) The control body can not be prosecuted, or have disciplinary action relating to its approval taken against it, for the ground giving rise to the information notice unless the control body—

- (a) fails to comply with the notice within the stated period; and
- (b) does not have a reasonable excuse for failing to comply with the notice.

(7) The Minister's power to give a direction to a control body under another provision of this Act is not limited by the Minister's power to give a direction under this section.

58 Action by Minister

(1) Subject to section 57(6), this section applies if—

- (a) there are no accepted representations for a show cause notice; or
- (b) after considering the accepted representations for a show cause notice, the Minister still believes a ground for disciplinary action exists relating to the approval.

(2) The Minister may—

- (a) if the proposed action was to suspend the approval—suspend the approval for not longer than the proposed suspension period; or
- (b) if the proposed action was to vary the approval—vary the approval in the proposed way; or
- (c) if the proposed action was to cancel the approval—cancel the approval or take another form of disciplinary action.

(3) More than 1 type of disciplinary action relating to the approval of a control body may be taken under this section.

(4) If the Minister decides to take action under subsection (2), the Minister must immediately give the control body an information notice about the decision.

(5) The information notice must include a direction to the control body to return the approval to the Minister, within 14 days after receiving the information notice, for relevant action by the Minister.

(6) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the control body;
- (b) the day of effect stated in the information notice.

Division 4—Other provisions about control bodies

59 Control body is unit of public administration

On and after the approval effect day for a control body, the control body is a unit of public administration under the *Crime and Misconduct Act 2001*, to the extent of the control body's operations for the purposes of performing its function under this Act.

60 Audit by auditor-general

(1) At the request of the Minister, the auditor-general may audit a control body.

(2) For subsection (1)—

(a) the auditor-general is taken to be auditing an entity under the *Financial Administration and Audit Act 1977*, section 78;¹⁹ and

(b) the control body is taken to have consented to the audit.

(3) However, despite section 78 of that Act and subsection (2)(b), the control body can not revoke or otherwise withdraw the consent mentioned in subsection (2)(b).

(4) A control body audited under this section is liable for the fees charged by the auditor-general for the audit, as mentioned in the *Financial Administration and Audit Act 1977*, section 95.²⁰

(5) Subsection (1) does not apply to a continuing control body.

(6) The *Financial Administration and Audit Act 1977* applies to continuing control bodies as statutory bodies under that Act.

PART 5—PROVISIONS RELATING TO ENTITIES INVOLVED IN THOROUGHBRED RACING***Division 1—Racing associations*****61 Racing associations**

The following racing associations established under the repealed Act are continued in existence—

(a) the South-East Queensland Racing Association;

(b) the Downs and South-West Queensland Racing Association;

19 *Financial and Administration and Audit Act 1977*, section 78 (By-arrangement audits)

20 *Financial and Administration and Audit Act 1977*, section 95 (Audit fees)

- (c) the North Queensland Racing Association;
- (d) the Capricornia Racing Association;
- (e) the Central Western Queensland Racing Association.

62 Composition of each racing association

(1) A racing association is comprised of members as prescribed under a regulation.

(2) The members of a racing association must be appointed in the way prescribed under a regulation.

(3) The election of members of a racing association must be by secret ballot conducted in a way approved by the chief executive.

(4) For approving a secret ballot, the chief executive may consult with the electoral commissioner.

(5) A person who is ineligible to be a member of the thoroughbred control body under schedule 1, part 2, section 11G, other than under section 11G(1)(f),²¹ is ineligible to be a member of a racing association.

(6) The office of a member of a racing association becomes vacant if the person is ineligible to be a member.

63 Functions of each racing association

A racing association's functions are—

- (a) to provide advice to the thoroughbred control body about race meetings held by each member club of the racing association; and
- (b) if the racing association must, under section 68(2),²² nominate a person to be a council member—to nominate a person to be a council member; and
- (c) to prepare submissions for the council about the funding that each member club of the racing association requires to hold races on which the TABQ does not, or is unlikely to, offer wagering.

21 Schedule 1, part 2, section 11G (Ineligibility for membership of Thoroughbred Racing Board)

22 Section 68 (Composition of council)

64 Powers of racing association

A racing association has power to do all things necessary or convenient for the performance of its functions.

Division 2—Queensland Regional Racing Council

65 Definitions for div 2

In this division—

“**non-TABQ clubs**” means clubs for which the TABQ does not, or is unlikely to, offer wagering on the majority of the clubs’ races of thoroughbred horses.

“**non-TABQ races**” means races of thoroughbred horses on which the TABQ does not, or is unlikely to, offer wagering.

66 Establishment of Queensland Regional Racing Council

The Queensland Regional Racing Council established under the repealed Act is continued.

67 Functions of council

(1) The council’s functions are—

- (a) to consider submissions made by racing associations about the funding that the member clubs of each of the racing associations require to hold non-TABQ races; and
- (b) to develop a distribution strategy for prize money and other funding that the member clubs of each of the racing associations require for holding non-TABQ races, and to make recommendations to the thoroughbred control body about the distribution strategy; and
- (c) to make recommendations to the thoroughbred control body about racing calendars for non-TABQ races, including information of the type mentioned in section 38(1)(a), (b) and (c);²³ and

23 Section 38 (Obligation to have racing calendar for code of racing)

- (d) to monitor the performance of non-TABQ races and non-TABQ clubs and to report to the thoroughbred control body about the races and clubs.
- (2) Also, the council must give the thoroughbred control body—
- (a) a written report about matters relating to the council's performance of its functions once each year; and
 - (b) if the thoroughbred control body asks the council to give it written reports on particular matters—additional reports as requested.

68 Composition of council

(1) The members of the council are the chairpersons of the racing associations.

(2) However, if a chairperson of a racing association can not be a council member under subsection (3), the racing association must, by notice given to the thoroughbred control body, nominate another person who is a member of the racing association to be the council member instead of the chairperson of the racing association.

- (3) A person can not be a council member if the person—
- (a) holds office as a member of a racing association because of a nomination by a TABQ club, other than a nomination made jointly with other clubs; or
 - (b) is a member of a committee of a TABQ club.

(4) A person who, under subsection (2), is nominated by a racing association to be a council member remains a council member only while the person continues to hold the nomination of the racing association.

(5) In this section—

“TABQ club”, in relation to a person, means a club for which the TABQ offered wagering on the majority of the club's races of thoroughbred horses in the financial year immediately preceding the financial year in which the person became the racing association's chairperson or was nominated to be a council member.

Division 3—Provisions applying to racing associations and council**69 Definition for div 3**

In this division—

“thoroughbred entity” means—

- (a) a racing association; or
- (b) the council.

70 Thoroughbred entity responsible for conduct of its business

Subject to this division, a thoroughbred entity must conduct its business, including its meetings, in the way it considers appropriate.

71 Chairperson of thoroughbred entity

(1) A thoroughbred entity must elect a member of the entity as its chairperson.

(2) A member elected as the chairperson of a thoroughbred entity must give the thoroughbred control body notice about the election.

72 Presiding at meetings

(1) The chairperson of a thoroughbred entity must preside at all meetings of the thoroughbred entity at which the chairperson is present.

(2) If the chairperson of a thoroughbred entity is absent from a meeting of the entity or the office is vacant, a member elected by the members present at the meeting must preside.

73 Times and places of meetings

(1) Meetings of a thoroughbred entity must be held at the times and places the chairperson of the thoroughbred entity decides.

(2) However—

- (a) a thoroughbred entity must meet as often as is necessary for it to perform its functions and at least twice each year; and

- (b) the chairperson of a thoroughbred entity must call a meeting if asked, in writing, to do so by at least 3 members of the entity.

(3) A meeting of each racing association required under subsection (2)(a) must take place within 28 days before each scheduled meeting of the council as notified by the chairperson of the council to the chairperson of the racing association.

74 Quorum

A quorum for a meeting of a thoroughbred entity is 3 members.

75 Attendance by proxy

(1) A member of a thoroughbred entity may attend a meeting by proxy.

(2) A member is not entitled to preside at a meeting merely because the member is the proxy holder for another member who, if present, would be entitled to preside.

76 Conduct of meetings

(1) A question at a meeting of a thoroughbred entity is decided by a majority of the votes of the members present.

(2) Each member present at a meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

(3) A member present at a meeting who abstains from voting is taken to have voted for the negative.

(4) A thoroughbred entity may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of use of technology—

Teleconferencing.

(5) A member who takes part in a meeting under subsection (4) is taken to be present at the meeting.

(6) A resolution is validly made by a thoroughbred entity, even if it is not passed at a meeting, if—

- (a) notice of the resolution is given under procedures approved by the thoroughbred entity; and
- (b) at least 3 of its members give written agreement to the resolution.

77 Minutes

A thoroughbred entity must keep—

- (a) minutes of its meetings; and
- (b) a record of resolutions made under section 76(6).

CHAPTER 3—CONTROL BODIES MANAGING THEIR CODES OF RACING

PART 1—INTRODUCTION

78 Purposes of ch 3

(1) The main purposes of this chapter are to provide for—

- (a) the way each control body may perform its function of managing its code of racing when it becomes responsible for managing the code; and
- (b) particular provisions applying to licensed clubs.

(2) Generally, the control body performs its function by—

- (a) making policies about the management of its code of racing, especially about its licensing scheme for controlling activities relating to the animals, clubs, participants and venues and about the way in which races are to be held for its code of racing; and
- (b) making rules of racing about things dealt with in a policy; and
- (c) giving directions to licensed clubs and ensuring compliance by taking disciplinary action relating to the licence of a club that does not comply with a direction.

(3) A control body's policies ensure there is guidance for persons involved in the code of racing and transparent decision-making relating to matters dealt with by the policies.

(4) This chapter also provides for offences relevant to matters dealt with in the chapter.

79 Policies and rules of racing are statutory instruments

The policies and rules of racing made by a control body for its code of racing are statutory instruments within the meaning of the *Statutory Instruments Act 1992*.

PART 2—POLICIES

Division 1—General provisions about policies

80 Policy may be made because of this Act or a Ministerial direction, or for good management

(1) A control body may make a policy for its code of racing because—

- (a) the policy is required by this Act or by a Ministerial direction; or
- (b) the control body believes it is good management to have the policy.

(2) A regulation may prescribe that a policy for a matter mentioned in section 81 must include provisions, or provisions of a type, stated in the regulation for that policy.

81 Matters for which a control body must have a policy

A control body must have a policy for its code of racing about each of the following—

- (a) the way the control body must develop policies, including the consultation it must undertake as part of the development of a policy;
- (b) safeguarding the public interest in the code;

- (c) its licensing scheme as mentioned in division 2;
- (d) providing or participating in an appropriate education and training system for persons who—
 - (i) engage, or wish to engage, in activities requiring a licence from the control body; or
 - (ii) participate in the code but are not required to be licensed;
- (e) providing or participating in an appropriate program for testing or training licensed animals, including holding trials;
- (f) lawful betting on races held under the control of the control body, including selling a product to a person lawfully conducting wagering under the *Wagering Act 1998*;
- (g) a website, and the information to be accessible through the website including its policies and rules required to be published on the website under sections 84 and 94;
- (h) if its policies provide that it is authorised to have rules of racing allowing a licence holder to appeal against a decision made by a steward of the control body to an appeal committee established by it—appeals to an appeal committee;
- (i) the formation and management of clubs eligible to be licensed by the control body to hold race meetings;
- (j) the allocation of race days, and the provision of funding, to licensed clubs;
- (k) the standard required of licensed venues, including criteria for different categories of venues;
- (l) the employment by the control body of the following persons who will not be required to be licensed—
 - (i) its officials and other staff;
 - (ii) other persons who perform services for the control body;
- (m) the way in which races are to be held for its code of racing, including, for example, classes of races, nominations, prize money, dead heats, gear and equipment and colours that may be worn by riders;
- (n) decisions that may be made by stewards, for the control body, in relation to the way in which races may be held and, generally, decision-making by the control body;

- (o) record keeping, including keeping records about decisions;
- (p) making its officials and other staff, and licence holders, aware of their duties under laws, including, for example, the *Anti-Discrimination Act 1991*;
- (q) ensuring that its licence holders who have access to a licensed animal at a licensed venue, or its officials at a licensed venue for the control body, are not, or are not likely to be, affected by liquor or another substance;
- (r) handicapping, including handicapping licensed animals for the code and the appropriate qualifications for handicappers;
- (s) the welfare of licensed animals;
- (t) the types of spending that, in the control body's opinion, are or are not for the purposes of part 5, division 4;²⁴
- (u) the disposal of assets under section 113;
- (v) fees the control body will charge, including fees that are part of the control body's licensing scheme;
- (w) forms to be approved by the control body for its code of racing.

82 Further provisions about particular policies

(1) A control body's policy about providing or participating in an appropriate education and training system for persons may provide for the control body, by itself or together with another entity, to establish, manage or fund a facility or process for providing the appropriate system.

(2) A control body's policy about the welfare of licensed animals must provide for the control body to enter into an agreement with an accredited facility independent of the control body for the provision of services relating to the matters stated in the policy.

(3) This section does not limit section 81 in relation to—

- (a) the control body's policy about providing or participating in an appropriate education and training system; and
- (b) the control body's policies about the welfare of licensed animals.

24 Part 5, division 4 (Provisions for licensed clubs that are non-proprietary entities)

83 Form of each policy

(1) A policy must state the following—

- (a) its name;
- (b) the date it is made by the control body;
- (c) the day it takes effect;
- (d) its purpose;
- (e) who will be affected by it;
- (f) how the control body will make decisions about matters provided for by the policy;
- (g) whether or not rules of racing are to be made for the policy.

(2) A control body makes a policy when the policy is entered into the control body's minutes as having been made by it.

(3) A policy can not take effect on a day that is earlier than the date the policy is made by the control body.

(4) If a control body wishes to amend a policy, it must make a new policy.

84 Availability of policies

(1) A control body must ensure that its policies are publicly available.

(2) Without limiting subsection (1), for each of its policies, the control body must—

- (a) give a copy of the policy to the chief executive within 14 days after it makes the policy; and
- (b) make the policy available for inspection, free of charge, at its business address during its ordinary office hours and on its website; and
- (c) give a copy of the policy to a person if the person asks for a copy.

(3) If a control body charges for copies of its policies, the control body is not required under subsection (2)(c) to give a person a copy of the policy without charging the person.

85 Application of policy

To remove any doubt, it is declared that a policy may apply to an animal, club, participant or venue even though it was not licensed when the policy was made.

Division 2—Policy about licensing scheme

86 Purposes of control body's licensing scheme

The purposes of a control body's licensing scheme for its code of racing are to ensure—

- (a) the integrity of racing activities conducted as part of the code; and
- (b) the safety of persons involved in racing or training licensed animals; and
- (c) the welfare of licensed animals while involved in racing or training, or activities associated with racing or training.

87 Control body's policy for a licensing scheme

(1) In developing the control body's policy for its licensing scheme, the control body must consider the privileges and duties that are to attach to a licence it issues and other matters relevant to an effective licensing scheme.

(2) The control body's policy for its licensing scheme must provide for all of the following matters—

- (a) the licences the control body may issue for its code of racing, including identifying the activities for which a licence is required;
- (b) the way a licence may be applied for, having regard to section 88;
- (c) the criteria for each type of licence including appropriate qualifications for, and disqualifications from, obtaining the licence;
- (d) the way the control body will deal with an application for a licence, including the applicant's right to make further representations relating to the application;

- (e) the grant, issue and form of a licence, including, for example, whether the licence is to include a photograph of the licensee;
- (f) giving an information notice for a decision relating to an application;
- (g) the duration of a licence, its renewal and the procedure for surrendering it;
- (h) how and when the suitability of licensed animals, clubs, participants and venues will be audited to decide if a licensed animal, club, participant or venue continues to be suitable to be licensed;
- (i) the grounds for taking disciplinary action relating to a licence in relation to matters dealt with in the control body's rules of racing or as mentioned in subsection (5);
- (j) when and how a licence may be immediately suspended in order to protect the safety of persons or welfare of animals;
- (k) how disciplinary action relating to a licence, other than immediate suspension, must be taken including the following—
 - (i) the procedure for giving a licence holder notice of the grounds for taking the disciplinary action;
 - (ii) the proposed action;
 - (iii) the way the licence holder may make representations about the proposed action;
- (l) keeping a register of licences and correcting the register;
- (m) exhibiting and producing a licence;
- (n) replacing a lost licence;
- (o) requiring a licence holder to give the control body notice of—
 - (i) a change of address; or
 - (ii) a change to the place for the keeping of a licensed animal;
or
 - (iii) if the licence holder is a corporation—a change to the corporation's executive officers;
- (p) appointing the control body's officials, their functions and powers and issuing identity cards to them;
- (q) serving notices on licence holders.

(3) Without limiting subsection (1), the control body's policy for its licensing scheme may provide for the following matters—

- (a) whether an applicant for a licence should be required to give notice about the application by advertisement in a newspaper, in another publication or by a sign placed on land, because of the particular nature of the licence;
- (b) whether there should be provision for provisional or temporary licences;
- (c) attaching conditions to the grant of a licence, including, for example, that the licence may allow access to the licence holder's place of business or where a licensed animal is kept.

(4) A control body's policy for its licensing scheme about licensed clubs must provide that when auditing a licensed club, the control body must have regard to the following for a period stated in the policy—

- (a) the number of race meetings allotted to the licensed club;
- (b) the number of races held at each race meeting;
- (c) the number of licensed animals in each race.

(5) The control body's policy for its licensing scheme relating to licensed animals, clubs, participants and venues must provide that, after auditing a licensed animal, club, participant or venue, if the control body is not satisfied it is suitable to continue to be licensed, the control body must take disciplinary action relating to the licence.

(6) This section does not limit section 81.²⁵

88 Application for licence

(1) A control body's policy for its licensing scheme must require a person who wishes to obtain a licence for an animal, club, participant or venue (the "**proposed licensee**") to apply for the licence in a control body form.

(2) To the extent it is relevant to the application for the licence, the application must include all of the following—

- (a) the type of licence applied for;

25 Section 81 (Matters for which a control body must have a policy)

- (b) the type of work or activity to be performed by the proposed licensee;
- (c) particulars of the proposed licensee;
- (d) if the proposed licensee is an individual, appropriate training courses completed, or appropriate experience obtained, by the proposed licensee.

(3) A control body's policy for its licensing scheme relating to the licensing of a club must provide for all of the following—

- (a) for the club's application to be accompanied by a copy of a national police certificate for each executive officer of the applicant;
- (b) the application can not be granted if an executive officer of the applicant has a conviction for any of the following, other than a spent conviction—
 - (i) an offence under this Act or the repealed Act;
 - (ii) an indictable offence, or a summary offence that involved dishonesty, fraud, stealing or unlawful betting, under any other Act;
 - (iii) an offence under a law of another State, that is prescribed under a regulation as a law about racing or betting;
- (c) the extent to which the control body must have regard to another conviction stated on the national police certificate other than a conviction mentioned in paragraph (b).

(4) A control body's policy for its licensing scheme may require an application for a licence, other than a licence for a club, to be accompanied by a copy of a national police certificate for—

- (a) if the applicant is an individual—the individual; or
- (b) if the applicant is a corporation—each executive officer of the corporation.

(5) If a national police certificate is required under subsection (4), the control body may consider all convictions stated in the national police certificate as relevant to the application for the licence.

89 Licences may not be transferred

A control body's policy for a licensing scheme must not allow a person licensed by the control body to transfer the licence to another person.

*Division 3—Other matters about policies***90 Same animal, participant or venue may be licensed by control bodies**

(1) This Act does not prevent an animal, participant or venue licensed by a control body for its code of racing being licensed by another control body for its code of racing.

(2) A control body must not prevent an animal, participant or venue licensed by it for its code of racing being licensed by another control body.

PART 3—RULES OF RACING*Division 1—General provisions about rules of racing***91 Obligation to have rules of racing for code of racing**

(1) A control body must make rules of racing for its code of racing, including matters that it believes necessary for the good management of racing under the code.

(2) In making its rules of racing, a control body must have regard to whether the rules have sufficient regard to the rights and liberties of individuals as mentioned in the *Legislative Standards Act 1992*, section 4(3).

Example for subsection (2)—

In making its rules of racing, the control body for thoroughbred racing must consider whether its proposed system for deciding a protest has sufficient regard to natural justice for the jockeys in the race.

(3) Failure to comply with subsection (2) does not affect the validity of the rules.

(4) A control body's rules of racing must be consistent with this Act and the control body's policies.

(5) To the extent of an inconsistency between a provision of this Act and the rules, the provision prevails over the rules.

92 Matters for which rules of racing may provide

(1) A control body's rules of racing for its code of racing may provide for a matter only if the control body, in a policy, authorises the making of rules of racing in relation to the matter.

(2) To remove doubt, it is declared that this section applies even if a provision of this Act states that a control body's rules of racing may provide for a matter.

(3) This section does not apply to the making of rules of racing under section 93.

93 Urgent rules of racing

(1) A control body may make rules of racing for its code of racing for a matter, that the control body has not, in a policy, authorised.

(2) The control body may make rules under this section for the matter if a provision of the rules states—

- (a) the rules are made as a matter of urgency; and
- (b) the rules do not have effect for a period longer than 6 months after the day the rules take effect.

94 Availability of rules of racing

(1) A control body must ensure that its rules of racing are publicly available.

(2) Without limiting subsection (1), the control body must—

- (a) give a copy of the rules to the chief executive within 14 days after a control body makes the rules; and
- (b) make its rules available for inspection, free of charge, at its business address during its ordinary office hours and on its website; and
- (c) give a copy of its rules to a person if the person asks for a copy.

(3) If a control body charges for copies of its rules, the control body is not required under subsection (2)(c) to give a person a copy without charging the person.

Division 2—Appeals under rules of racing

95 Appeal against some decisions of steward under rules of racing

(1) A control body's rules of racing for its code of racing may allow a person aggrieved by a reviewable decision to appeal against the decision to an appeal committee established by the control body.

(2) In this section—

“reviewable decisions” means either or both of the following decisions—

- (a) a decision by a steward, for the control body, suspending a licence held by a person for a period of not more than 3 months;
- (b) a decision by a steward, for the control body, imposing a penalty of at least \$100 but not more than \$2 000.

96 Establishment of appeal committee

A control body's rules of racing may provide for the following in relation to an appeal committee—

- (a) the establishment of an appeal committee, including establishment from time to time or for a period of time;
- (b) remuneration, if any, to be paid by the control body to the members of the committee;
- (c) how an appeal is started;
- (d) time limits that apply for an appeal;
- (e) how a member of the appeal committee must disclose to the other committee members and the parties to the appeal any conflict of interest, financial or otherwise, relating to the proceeding that could conflict with the proper performance of the member's functions for the proceeding.

97 Matters relating to establishment of appeal committee

(1) An appeal committee established by a control body must be constituted by 3 individuals, consisting of—

- (a) 1 individual who is a lawyer of at least 5 years standing; and
- (b) 1 individual who has a thorough knowledge of the rules; and
- (c) 1 other individual of the type mentioned in paragraph (a) or (b).

(2) Before a control body appoints an individual to an appeal committee, the control body must obtain a national police certificate relating to the individual.

(3) A member of an appeal committee must not be any of the following—

- (a) an executive officer of the control body or 1 of its officials or other members of staff;
- (b) a licence holder of the control body or an executive officer of a licence holder;
- (c) a member of a committee, or an employee, of an association formed to promote the interests of 1 or more participants in a code of racing, other than a racing association;
- (d) an individual who has any of the following convictions other than a spent conviction—
 - (i) a conviction under this Act;
 - (ii) a conviction under the repealed Act;
 - (iii) a conviction under a law of another State, that is prescribed under a regulation as a law about racing or betting;
 - (iv) a conviction for an offence that involved dishonesty, fraud, stealing or unlawful betting.

(4) An individual who is a member of an appeal committee (the “**committee member**”) must excuse himself or herself from the committee and the control body must appoint another individual to the committee if—

- (a) for a code of racing in which the control body does not require owners of its licensed animals to be licensed—the committee member owns a licensed animal that was involved in the race that is the subject of the appeal; or

- (b) the committee member is a relative of, or has a business relationship with, a person involved in the appeal.

98 How appeal committee may consider an application for appeal

(1) To the extent a matter relating to the procedure of an appeal committee is not provided for under this Act or the relevant control body's rules of racing, the appeal committee may decide its own procedure.

(2) In making a decision relating to an appeal, the appeal committee—

- (a) must observe natural justice; and
- (b) is not bound by the rules of evidence; and
- (c) may inform itself of anything in the way it considers appropriate.

(3) An appeal is by way of rehearing, unaffected by the original decision, on the material before the steward who made the decision appealed against and any further evidence allowed by the appeal committee.

99 Powers of appeal committee on appeal

(1) On an appeal, an appeal committee may make any decision that the steward who made the decision appealed against could have made.

(2) Without limiting subsection (1), the appeal committee may—

- (a) confirm the decision appealed against; or
- (b) vary the decision; or
- (c) set aside the decision and substitute its own decision.

100 Form of decisions of appeal committee

After an appeal committee gives its decision on an appeal, the appeal committee must give each of the following an information notice about the decision—

- (a) the person who appealed against the decision;
- (b) the steward who made the decision;
- (c) the control body for which the steward made the decision.

PART 4—CONTROL BODIES MAY TAKE CERTAIN ACTION AGAINST LICENSED CLUBS

101 Grounds for suspension or cancellation

(1) Each of the following is a ground for suspending or cancelling a licensed club's licence—

- (a) the club is not complying, or has not complied, with a control body direction given to the club;
- (b) a ground that another provision of this Act states is a ground for suspending or cancelling a licensed club's licence;²⁶
- (c) for a non-proprietary club—the club contravened section 112 or 113.²⁷

(2) Subsection (1)(c) applies whether there is or was a prosecution relating to the contravention of section 112.

(3) Subsection (1) does not limit the grounds that, under the control body's rules of racing about disciplinary action, may be grounds for taking disciplinary action relating to a licensed club's licence.

102 Show cause notice

(1) If a control body believes a ground exists to cancel or suspend a licensed club's licence as mentioned in section 101(1), the control body must, subject to section 105(1)(a), give the club a notice (a “**show cause notice**”).

(2) The show cause notice must state the following—

- (a) the action the control body proposes taking under this part (the “**proposed action**”);
- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances forming the basis for the grounds;

²⁶ See section 108 and schedule 1, part 2, section 14(3).

²⁷ Section 112 (Application of revenues, profits etc. of licensed club that is or was a non-proprietary entity) or 113 (Prohibition of disposal of assets etc. of non-proprietary entity)

- (d) if the proposed action is to suspend the licence, the proposed suspension period;
- (e) an invitation to the club to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 28 days after the day the show cause notice is given to the club.

103 Representations about show cause notice

(1) The licensed club may make written representations about the show cause notice to the control body in the show cause period.

(2) The control body must consider all written representations (the “**accepted representations**”) made under subsection (1).

104 Immediate suspension of licensed club’s licence

(1) The control body may suspend the licensed club’s licence immediately if the control body believes—

- (a) a ground exists to suspend or cancel the licence; and
- (b) the circumstances are so extraordinary that it is imperative to suspend the licence immediately to ensure—
 - (i) the public interest is not affected in an adverse and material way; or
 - (ii) the conduct of racing by the club is not jeopardised in a material way.

(2) The suspension—

- (a) can be effected only by the control body giving the club an information notice, together with a show cause notice; and
- (b) operates immediately the notice is given to the club; and
- (c) continues to operate until the show cause notice is finally dealt with.

105 Censuring licensed club

(1) The control body may censure a licensed club if the control body—

- (a) believes a ground exists to suspend or cancel the club's licence but does not believe that giving a show cause notice to the club is warranted; or
- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the licensed club's licence but does not believe its suspension or cancellation is warranted.

(2) The censure can be effected only by the control body giving the club an information notice about the control body's decision to censure it.

106 Direction to licensed club to rectify matter

(1) This section applies if, after considering the accepted representations for a show cause notice, the control body—

- (a) still believes a ground exists to suspend or cancel the licensed club's licence; and
- (b) believes a matter relating to the ground to suspend or cancel the licence is capable of being rectified and it is appropriate to give the club an opportunity to rectify the matter.

(2) The control body may direct the club to rectify the matter.

(3) The direction can be effected only by the control body giving the club an information notice about the control body's decision to give the direction to it, including the period for rectifying the matter.

(4) The period stated in the information notice must be reasonable having regard to the nature of the matter to be rectified.

(5) A licensed club must comply with a direction under this section within the period for rectifying the matter stated in the information notice, unless it has a reasonable excuse.

Maximum penalty—400 penalty units.

(6) The licensed club can not be prosecuted, or have its licence suspended or cancelled, for the ground giving rise to the information notice unless the club—

- (a) fails to comply with the notice within the period stated in the notice as the period for rectifying the matter; and
- (b) does not have a reasonable excuse for failing to comply with the notice.

(7) A control body's power to give a direction to a licensed club under another provision of this Act is not limited by the control body's power to give a direction under this section.

107 Suspension or cancellation

(1) Subject to section 106(6), this section applies if—

- (a) there are no accepted representations for a show cause notice; or
- (b) after considering the accepted representations for the show cause notice, the control body still believes the ground exists to cancel or suspend the licensed club's licence.

(2) The control body may—

- (a) if the proposed action was to suspend the licence—suspend the licence for a period not longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the licence—
 - (i) cancel the licence; or
 - (ii) suspend the licence for a period.

(3) If the control body decides to take action under subsection (2), the control body must immediately give the licensed club an information notice about the decision.

(4) If the control body's decision is that the licence is cancelled or suspended, the information notice must include a direction to the club to return the licence to the control body, within 14 days of receiving the notice, for relevant action by the control body.

(5) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the licensed club;
- (b) the day of effect stated in the information notice.

PART 5— PROVISIONS APPLYING TO LICENSED CLUBS

Division 1—Contravention of this part constitutes a ground for suspending or cancelling a licensed club's licence

108 Contravention by licensed club constitutes a ground for disciplinary action

(1) If a licensed club contravenes a provision of this part, the contravention constitutes a ground for suspending or cancelling the licensed club's licence.

(2) For subsection (1), it is immaterial whether the licensed club is prosecuted for an offence constituted by the contravention.

(3) This part does not limit the matters that a control body's policy about its licensing scheme may provide is a ground for disciplinary action relating to the licence of a club.

Division 2—Race meetings

109 Licensed club to hold race and betting meeting at licensed venue when under control of control body that licensed club and venue

(1) A licensed club must not hold a contest, contingency or event in which 2 or more animals compete against each other for the purpose of providing a contest, contingency or event on which bets may be made, unless it is held—

- (a) at a licensed venue of the licensed club; and
- (b) under the control of the control body that licensed the club and venue.

Maximum penalty—200 penalty units.

(2) A licensed club must not hold a meeting at which betting is carried on and at which a race is not held, unless the meeting is held—

- (a) at a licensed venue of the licensed club; and

- (b) under the control of the control body that licensed the club and venue.

Maximum penalty—200 penalty units.

Division 3—Audited accounts of licensed clubs and related matters

110 Licensed club to give audited accounts to control body

(1) Within 3 months after the end of each financial year, the responsible entity for a licensed club for the financial year must give to the control body that licensed the club statements signed by the club’s auditor.

(2) The statements must be in the control body form.

(3) If the club was a non-proprietary club during the financial year, the control body form must provide for statements about the following—

- (a) the club’s income and expenditure, on an accrual basis;
- (b) particulars of each amount paid by the club for a charitable, benevolent, patriotic or special purpose approved by the control body;
- (c) particulars of other payments or expenditure made by the club of the type mentioned in section 112(3);
- (d) its assets and liabilities as at the end of the financial year.

(4) If the club was other than a non-proprietary club during the financial year, the control body form must provide for statements about the following—

- (a) the club’s income and expenditure, on an accrual basis;
- (b) its assets and liabilities as at the end of the financial year.

(5) In this section—

“**responsible entity**”, for a licensed club for a financial year, means—

- (a) if the corporation that was a licensed club during the financial year continues to be a licensed club—the licensed club; or
- (b) if the corporation that was a licensed club during the financial year is no longer licensed as a licensed club but the corporation continues to exist—the corporation; or

- (c) if the corporation that was a licensed club during the financial year is no longer licensed as a licensed club and the corporation no longer exists—each of the persons who was an executive officer of the corporation immediately before the licence ended.

Division 4—Provisions for licensed clubs that are non-proprietary entities

111 Definitions for div 4

In this division—

“dispose”, of an asset, includes distribute, forfeit, relinquish possession of, sell or otherwise give up, the asset.

“non-proprietary entity” means—

- (a) a licensed club that is a non-proprietary club; or
- (b) a corporation that was a licensed club and, when it was licensed, was a non-proprietary club.

“relevant control body” relating to a non-proprietary entity, means the control body that licensed the entity.

112 Application of revenues, profits etc. of licensed club that is or was a non-proprietary entity

(1) A non-proprietary entity must not divide, directly or indirectly, money comprising the entity’s revenues, profits or other assets, however derived, among the individual members of the entity or any of them.

(2) The non-proprietary entity may apply amounts comprising its revenues and profits—

- (a) for encouraging the relevant control body’s code of racing in Queensland if the application is under 1 of the control body’s policies for that purpose; and
- (b) for a charitable, benevolent, patriotic or special purpose, if the application is under the relevant control body’s written approval obtained before the entity applies the amounts.

(3) This section does not prevent—

- (a) a payment to a member of a non-proprietary entity as—

- (i) principal and interest payable for amounts lent to the entity by that member, calculated at a rate not exceeding the rate for the time being approved by the Reserve Bank of Australia as the maximum rate of interest chargeable by banks for overdraft accommodation; or
 - (ii) rent for a lease of a licensed venue that is the property of the member, if the lease was approved by the Minister before its execution; or
 - (iii) reimbursement for reasonable expenses incurred by the member under 1 of the relevant control body's policies that provides the expenses may be incurred; or
- (b) an expenditure by the non-proprietary entity for—
- (i) providing reasonable entertainment for the entity's members in common with other persons; and
 - (ii) defraying a member's expenses for attending, with the approval of the entity before attending—
 - (A) a conference or meeting of persons interested or concerned in racing or in the control, holding or supervision of race meetings; or
 - (B) a conference or meeting with the relevant control body or with the Minister; or
 - (C) a place to promote the entity's interests; or
- (c) a payment to 1 of the entity's members of prize money, or for the award of a trophy, won by a licensed animal at a race meeting held by the entity; or
- (d) a payment by the entity of a reasonable amount to a person, whether or not a member of the entity, for legal, accounting, secretarial or other professional services requested by or given to the entity.

113 Prohibition of disposal of assets etc. of non-proprietary entity

- (1) A non-proprietary entity may not dispose of any of its asset unless—
- (a) if the asset is an amount comprising the entity's revenues and profits—the amount is applied under section 112(2) or (3); or

- (b) if the asset is an interest in real property and is used for a purpose mentioned in subsection (2)—the asset is disposed of under that subsection; or
- (c) if the asset is not an amount mentioned in paragraph (a) or an interest in real property used for a purpose mentioned in subsection (2), the asset is disposed of under—
 - (i) 1 of the relevant control body’s policies; or
 - (ii) a written approval of the relevant control body, obtained before the disposal and relating to that asset.

(2) Despite this Act or another Act, or a law, custom or practice, the entity must not dispose of an interest in real property that is used for the following purposes without the approval of the Minister obtained before the disposal—

- (a) a licensed venue;
- (b) a place for exercising, conditioning or training licensed animals.

(3) An approval given for subsection (2) must be published in the gazette.

(4) The Minister may, under subsection (2), approve the disposal of an asset that is an interest in real property used for a purpose mentioned in that subsection only if the following happened before the entity sought the Minister’s approval—

- (a) the majority of the entity’s members present at a meeting of it approved of the disposal;
- (b) the relevant control body’s approval was obtained.

CHAPTER 4—INTEGRITY CONTROL

PART 1—RACING ANIMAL WELFARE AND INTEGRITY BOARD

Division 1—Establishment, functions and powers of integrity board

114 Establishment of Racing Animal Welfare and Integrity Board

The Racing Animal Welfare and Integrity Board is established.

115 Functions and powers of integrity board

(1) The integrity board's functions are to monitor all of the following and to advise and make recommendations to the chief executive about them—

- (a) the policies of each control body about the welfare of licensed animals and other matters affecting the integrity of a control body's code of racing;
- (b) the performance of functions and exercise of powers by integrity officers;
- (c) the quality and range of services for drug control relating to licensed animals and associated services that accredited facilities or secondary facilities provide;
- (d) the way things for analysis are taken or dealt with, and the way accredited facilities analyse things;
- (e) other matters the chief executive refers to the integrity board or the integrity board considers appropriate.

(2) Also, the integrity board's function mentioned in subsection (1)(c) includes advising, and making recommendations to, the chief executive about each accreditation application and the quality and range of services for drug control relating to licensed animals and associated services to be provided by facilities mentioned in the accreditation application.

(3) Further, the integrity board has the function of—

- (a) developing or adopting procedures about the way things for analysis are to be taken and dealt with; and

- (b) publishing the procedures, and amendments of the procedures, in a way prescribed under a regulation.

(4) The integrity board has power to do all things necessary or convenient to be done for the performance of its functions.

Division 2—Membership

116 Membership of integrity board

(1) There are to be at least 3, and not more than 4, members of the integrity board.

(2) The Minister must, by gazette notice, appoint individuals as board members who are, under section 117, qualified for appointment as board members.

(3) A board member is to be appointed for a term of not more than 3 years.

(4) The Minister must, by gazette notice, appoint 1 member as board chairperson.

117 Qualification for appointment as board member

(1) An individual is qualified for appointment as a board member only if the individual has—

- (a) qualifications and technical skills in at least 1 of the following areas—
 - (i) clinical veterinary practice at a venue at which animals race;
 - (ii) analytical chemistry;
 - (iii) veterinary epidemiology; or
- (b) qualifications and experience in at least 1 of the following areas—
 - (i) law or judicial process;
 - (ii) biological science, for example, bacteriology, health, medicine or microbiology.

(2) An individual is not qualified for appointment as, or to continue as, a board member if the individual—

- (a) is affected by bankruptcy action; or
- (b) has a disqualifying conviction; or
- (c) is subject to an exclusion action under any control body's rules of racing; or
- (d) is a control body associate, or employee, of a control body; or
- (e) is licensed by, or an executive officer of a corporation that is licensed by, a control body; or
- (f) is a member of a committee, or an employee, of—
 - (i) a licensed club; or
 - (ii) an association formed to promote the interests of 1 or more participants in a code of racing, whether or not formed under this Act; or
- (g) is named in an accreditation certificate in any capacity, or is a member of the staff of, or is otherwise engaged in any activity relating to, an accredited facility or a secondary facility for an accredited facility; or
- (h) is disqualified from managing corporations, under the Corporations Act, part 2D.6.²⁸

118 Resignation

A board member may resign his or her appointment as a board member by signed notice given to the Minister.

119 Vacation of office

- (1) A board member is taken to have vacated office if the member—
- (a) dies; or
 - (b) is not qualified to continue as a board member under section 117(2); or
 - (c) resigns under section 118; or

²⁸ Corporations Act, part 2D.6 (Disqualification from managing corporations)

- (d) is absent from 3 consecutive board meetings of which due notice has been given, unless the member is on a leave of absence mentioned in section 120.

(2) If the office of a member becomes vacant under subsection (1), the Minister may, subject to section 117, appoint another individual to be a board member.

(3) In this section—

“**board meeting**” means either of the following—

- (a) if the member does not attend—a meeting with a quorum present;
- (b) if the member attends—a meeting with or without a quorum present.

120 Leave of absence for a board member and person acting as member

(1) The Minister may approve a leave of absence for a board member (the “**approved absent member**”).

(2) Subject to section 117, the Minister may appoint another individual qualified for appointment as a board member to act in the office of the approved absent member while the member is absent on the leave.

(3) If the approved absent member is the board chairperson, the Minister may appoint another board member to act in the chairperson’s office while the chairperson is absent on the approved leave.

121 Effect of vacancy in membership of integrity board

Despite section 116(1), the performance of a function, or exercise of a power, by the integrity board is not affected merely because of a vacancy in the membership of the integrity board.

122 Remuneration of board members

A board member is entitled to the remuneration and allowances decided by the Governor in Council.

Division 3—Integrity board business

123 Conduct of business

Subject to this division, the integrity board must conduct its business, including the board meetings, in the way it considers appropriate.

124 Time and place of, and quorum for, board meetings

(1) Board meetings must be held at the times and places the board chairperson decides.

(2) Subject to section 128(5), a quorum for a board meeting is 2 board members.

125 Presiding at board meetings

(1) The board chairperson must preside at all board meetings at which the chairperson is present.

(2) If the chairperson is absent from a board meeting, or the office is vacant, a board member elected by the other members present at the meeting must preside.

126 Conduct of board meetings

(1) A question at a board meeting is decided by a majority of the votes of the board members present.

(2) Each board member present has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

(3) A board member present at the meeting who abstains from voting is taken to have voted for the negative.

(4) The integrity board may hold its meetings, or allow board members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of use of technology—

Teleconferencing.

(5) A board member who takes part in a meeting under subsection (4) is taken to be present at the meeting.

(6) A resolution is validly made by the integrity board, even if it is not passed at a board meeting, if—

- (a) notice of the resolution is given under procedures approved by the integrity board; and
- (b) a majority of the board members give written agreement to the resolution.

127 Minutes and records

The integrity board must keep—

- (a) minutes of its meetings; and
- (b) a record of resolutions made under section 126(6).

128 Disclosure of interest

(1) If a board member becomes aware that the member has a conflict of interest about an issue being considered, or about to be considered, by the integrity board, the member must disclose the nature of the conflicting interest to a board meeting.

(2) Unless the board otherwise directs, the member must not—

- (a) be present when the board considers the issue; or
- (b) take part in a decision of the board about the issue.

(3) The member must not be present when the board is considering whether to give a direction under subsection (2).

(4) If there is another board member who must, under subsection (1), also disclose an interest in the issue, the other member must not—

- (a) be present when the board is considering whether to give a direction under subsection (2); or
- (b) take part in making the decision about giving the direction.

(5) If—

- (a) because of this section, a board member is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (2); and

(b) there would be a quorum if the member were present;

the remaining member present is a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

(6) A board member has a conflict of interest about an issue if the member has an interest, financial or otherwise, that could conflict with the proper performance of the member's duties.

(7) A disclosure under subsection (1) must be recorded in the board's minutes.

PART 2—ACCREDITATION OF FACILITIES

129 Accreditation application

(1) A person responsible for a facility that the person believes has the capacity to analyse things relating to licensed animals may apply to the chief executive for accreditation of the facility as an accredited facility (an “**accreditation application**”).

(2) The accreditation application must be in the approved form and accompanied by the application fee prescribed under a regulation.

(3) Without limiting the matters that may be required in the approved form, the accreditation application must state the following—

- (a) a person, other than an analyst, who is to be responsible for taking delivery, for the proposed facility, of things for analysis;
- (b) an analyst who has the qualifications prescribed under a regulation to be an accredited analyst;
- (c) a veterinary surgeon who has the qualifications prescribed under a regulation to be an accredited veterinary surgeon;
- (d) another facility proposed as a secondary facility, to which things for analysis will be delivered, if the things can not be analysed at the proposed facility within a reasonable time;
- (e) the following persons for the other facility that is proposed as a secondary facility—

- (i) a person, other than an analyst, who is to be responsible for taking delivery, for the other facility, of things for analysis;
- (ii) an analyst who has the qualifications prescribed under a regulation to be an accredited analyst.

130 Chief executive may ask for further information

The chief executive may, by notice given to the applicant, ask the applicant to give the chief executive any further information or documents about the application within a reasonable period stated in the notice.

131 Chief executive may accredit facilities

(1) The chief executive may accredit a proposed facility as an accredited facility.

(2) However, the chief executive may accredit the proposed facility only if the chief executive is satisfied—

- (a) the facility's procedures for analysis, including its security systems relating to analysing things relating to licensed animals, are of a standard to ensure the integrity of the analysis; and
- (b) the facility's staff involved in analysing things relating to licensed animals have the necessary experience or expertise to perform the analysis; and
- (c) persons engaged as veterinary surgeons for the facility have the necessary experience or expertise to provide advice about the nature and effect of drugs and code substances in relation to licensed animals; and
- (d) the facility has entered into an arrangement for services, relating to analysing things that can not be analysed at the facility within a reasonable time, with a proposed secondary facility stated in the accreditation application; and
- (e) the proposed secondary facility has—
 - (i) procedures for analysis that are of a standard to ensure the integrity of the analysis, including quality assurance procedures and security systems, relating to analysing things relating to licensed animals; and

- (ii) staff involved in analysing things relating to licensed animals who have the necessary experience or expertise to perform the analysis; and
 - (f) the facility otherwise complies with requirements prescribed under a regulation, including requirements for quality assurance procedures to be complied with when analysing things relating to licensed animals.
- (3) In deciding whether to accredit a proposed facility, the chief executive may have regard to—
- (a) advice given, or recommendations made, by the integrity board to the chief executive about the accreditation application; and
 - (b) any other matter that the chief executive believes is appropriate.
- (4) After the chief executive makes a decision about the accreditation application, the chief executive must give the applicant an information notice about the decision.
- (5) If the chief executive grants the application, the information notice must state the conditions imposed by the chief executive to which the accreditation is to be subject.

132 Accreditation certificate

- (1) This section applies if the chief executive grants the accreditation application of a facility.
- (2) The chief executive must issue to the applicant a certificate accrediting the facility (the “**accreditation certificate**”).
- (3) The accreditation certificate must state all of the following—
- (a) the name of the facility;
 - (b) the name of the person who holds the accreditation for the facility;
 - (c) the name of each person who, for the accredited facility, is—
 - (i) responsible for taking delivery of things for analysis; or
 - (ii) an accredited analyst; or
 - (iii) an accredited veterinary surgeon;
 - (d) the name of each secondary facility for the accredited facility and each person who, for each secondary facility, is—

- (i) responsible for taking delivery of things for analysis; or
- (ii) an accredited analyst;
- (e) conditions imposed by the chief executive to which the accreditation is subject.

133 Regulation may prescribe a condition applying to an accreditation

(1) A regulation may prescribe a condition to which the accreditation of an accredited facility is subject.

(2) A condition prescribed under subsection (1) applies in relation to an accredited facility even if the facility was accredited as an accredited facility before the regulation commenced.

(3) If there is an inconsistency between an express condition stated in an accreditation and a condition stated in a regulation, the condition in the regulation applies to the extent of the inconsistency.

134 Variation of accreditation by application of accreditation holder

(1) The accreditation holder for an accredited facility may apply to the chief executive for a variation of the accreditation for the accredited facility.

(2) The application must be in the approved form and accompanied by the application fee prescribed under a regulation.

(3) The chief executive must consider the application and either grant or refuse to grant the application.

(4) After the chief executive makes a decision about the application, the chief executive must give the applicant an information notice about the decision.

(5) If the chief executive grants the application, the information notice must—

- (a) state the conditions imposed by the chief executive to which the accreditation is to be subject; and
- (b) include a direction to the accreditation holder to return the accreditation to the chief executive, within 14 days after the date of the information notice, for relevant action by the chief executive.

PART 3—DISCIPLINARY PROCEEDINGS RELATING TO ACCREDITED FACILITY

135 Grounds for disciplinary action relating to accredited facility

(1) Each of the following is a ground to take disciplinary action relating to the accreditation of an accredited facility—

- (a) the accreditation holder or a person named²⁹ in the accreditation certificate contravened a provision of this Act, whether or not the provision is an offence;
- (b) the accreditation holder or a person named in the accreditation certificate failed to comply with a condition stated in the accreditation;
- (c) the chief executive is no longer satisfied about a matter mentioned in section 131(2) in relation to the accredited facility;
- (d) in the accreditation application, or a notice or other document that the accreditation holder or a person named in the accreditation certificate is required under this Act to give to the chief executive or another person, the accreditation holder or named person stated something the holder or person knew was false or misleading in a material particular.

(2) There are no other grounds for taking disciplinary action relating to the accreditation of an accredited facility other than the grounds mentioned in subsection (1).

136 Show cause notice

(1) If the chief executive believes a ground exists to take disciplinary action relating to the accreditation of an accredited facility, the chief executive must, subject to section 139(1)(a),³⁰ give the accreditation holder a notice (a “**show cause notice**”).

(2) The show cause notice must state the following—

- (a) the action the chief executive proposes to take (the “**proposed action**”);

29 See section 132(3) for persons who must be named in an accreditation certificate.

30 Section 139 (Censuring accreditation holder of an accredited facility)

- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action includes suspension of the accreditation—the proposed suspension period;
- (e) if the proposed action includes varying the accreditation—the proposed change to a condition imposed on the accreditation or the proposed new condition to be imposed on the accreditation;
- (f) an invitation to the accreditation holder to make, within a stated period (the “**show cause period**”), written representations to show why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 28 days after the day the show cause notice is given to the accreditation holder.

137 Representations about show cause notice

(1) The accreditation holder may make written representations about the show cause notice to the chief executive in the show cause period.

(2) The chief executive must consider all written representations (the “**accepted representations**”) made under subsection (1).

138 Immediate suspension of an accreditation

(1) The chief executive may suspend an accreditation of an accredited facility immediately if the chief executive believes—

- (a) a ground exists to take disciplinary action relating to the accreditation; and
- (b) the circumstances are so extraordinary that it is imperative to suspend the accreditation immediately to ensure—
 - (i) the safety of persons or the welfare of licensed animals; or
 - (ii) the public interest in a code of racing is not adversely affected.

(2) The suspension—

- (a) can be effected only by the chief executive giving the accreditation holder an information notice about the decision to

suspend the accreditation of the accredited facility, together with a show cause notice; and

- (b) operates immediately the information notice is given to the accreditation holder; and
- (c) continues to operate until the show cause notice is finally dealt with.

139 Censuring accreditation holder of an accredited facility

(1) The chief executive may censure the accreditation holder of an accredited facility if the chief executive—

- (a) believes a ground exists to take disciplinary action relating to the accreditation but does not believe that giving a show cause notice to the accreditation holder is warranted; or
- (b) after considering the accepted representations relating to a show cause notice, still believes a ground exists to take disciplinary action relating to the accreditation but does not believe disciplinary action is warranted.

(2) The censure can be effected only by the chief executive giving the accreditation holder an information notice about the decision to censure it.

140 Direction to accreditation holder to rectify matter

(1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive—

- (a) still believes a ground exists to take disciplinary action relating to the accreditation of an accredited facility; and
- (b) believes a matter relating to the ground to take disciplinary action is capable of being rectified and it is appropriate to give the accreditation holder an opportunity to rectify the matter.

(2) The chief executive may direct the accreditation holder to rectify the matter.

(3) The direction can be effected only by the chief executive giving the accreditation holder an information notice about the decision to give the direction, including the period for rectifying the matter.

(4) The period stated in the information notice must be reasonable having regard to the nature of the matter to be rectified.

(5) An accreditation holder must comply with a direction under this section within the period for rectifying the matter stated in the information notice, unless the accreditation holder has a reasonable excuse.

(6) Disciplinary action relating to the accreditation of the accredited facility can not be taken for the ground giving rise to the information notice unless the accreditation holder—

- (a) fails to comply with the notice within the stated period; and
- (b) does not have a reasonable excuse for failing to comply with the notice.

141 Action by chief executive

(1) Subject to section 140(6), this section applies if—

- (a) there are no accepted representation for a show cause notice; or
- (b) after considering the accepted representations for a show cause notice, the chief executive still believes a ground for disciplinary action exists relating to the accreditation.

(2) The chief executive may—

- (a) if the proposed action was to suspend the accreditation—suspend the accreditation for not longer than the proposed suspension period; or
- (b) if the proposed action was to vary the accreditation—vary the accreditation in the proposed way; or
- (c) if the proposed action was to cancel the accreditation—cancel the accreditation or take another form of disciplinary action.

(3) More than 1 type of disciplinary action relating to the accreditation may be taken under this section.

(4) If the chief executive decides to take action under subsection (2), the chief executive must immediately give the accreditation holder an information notice about the decision.

(5) If the chief executive's decision is that the accreditation is cancelled, suspended or varied, the information notice must include a direction to the accreditation holder to return the accreditation certificate to the chief executive, within 14 days after receiving the information notice, for relevant action by the chief executive.

(6) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the accreditation holder;
- (b) the day of effect stated in the information notice.

PART 4—DEALING WITH, AND ANALYSIS OF, THINGS

Division 1—Definitions

142 Definitions for pt 4

In this part—

“agreement”, between a control body and an accredited facility, means an agreement entered into under section 40.³¹

“deal”, in relation to a thing for analysis, means mark, seal or deliver the thing for analysis.

“nominated person” means—

- (a) for an accredited facility—a person named in the accredited facility’s accreditation certificate as a person responsible for taking delivery, for the accredited facility, of things for analysis; or
- (b) for a secondary facility for an accredited facility—a person named in the accredited facility’s accreditation certificate as a person responsible for taking delivery, for the secondary facility, of things for analysis.

“substance” includes an artefact, isomer or metabolite, of a substance.

³¹ Section 40 (Obligation to enter into agreement about scientific and professional services)

Division 2—Taking and dealing with things for analysis

143 Way control body may take or deal with a thing for analysis

(1) This section applies if a control body's policy about drug control relating to licensed animals provides for the analysis of things.

(2) If the results of the analysis are to be used by the control body only for research or survey purposes, the control body may take or deal with the thing in a way the control body considers is consistent with the research or survey purposes.

(3) If the results of the analysis are to be used by the control body for a purpose other than for research or survey purposes, the control body must take and deal with the thing for analysis under the integrity board's procedures mentioned in section 115(3) as in force at the relevant time.

(4) The control body must deliver the thing for analysis to—

- (a) if the thing is to be delivered under an agreement between the control body and an accredited facility—the accredited facility that is a party to the agreement; or
- (b) otherwise—another facility that has the capacity to analyse things relating to licensed animals if the delivery is approved by an integrity officer.

144 Way things taken for analysis by integrity officer or qualified person must be taken and dealt with

If, under section 285,³² an integrity officer takes a thing for analysis or arranges for a qualified person to take it, the thing must be taken and dealt with—

- (a) under the integrity board's procedures mentioned in section 115(3) as in force at the relevant time; or
- (b) in another way that the integrity officer believes will ensure the integrity of the analysis.

32 Section 285 (General powers of integrity officer after entering places)

145 Person must not interfere with container in which things are placed

(1) This section applies to a thing dealt with under section 143 or 144.

(2) A person must not interfere with a container in which the thing is placed by a control body under section 143, or an integrity officer or qualified person under section 144, unless the person has a reasonable excuse.

Maximum penalty—600 penalty units.

(3) Subsection (2) does not apply to an integrity officer or an analyst if the integrity officer or analyst interferes with the container as part of the process of allowing the thing to be analysed.

(4) In this section—

“**analyst**” means an analyst employed by an accredited facility or a secondary facility for an accredited facility.

“**interfere with**”, a container, means—

- (a) open, alter or break the container, or a seal placed on the container; or
- (b) remove or erase a mark or seal placed on the container.

Division 3—Analysing things delivered for analysis

146 Analysis of thing

(1) If a thing for analysis has been delivered to an accredited facility, a nominated person for the accredited facility must—

- (a) give a receipt for the thing in the way prescribed under a regulation; and
- (b) give the thing to an analyst at the accredited facility.

(2) However, if the thing can not be analysed at the accredited facility within a reasonable time, the nominated person may, instead of giving the thing to an analyst at the accredited facility, deliver the thing for analysis to a secondary facility for the accredited facility.

(3) If a nominated person for an accredited facility decides to deliver the thing for analysis to a secondary facility, the nominated person must deliver a notice with the thing stating all of the following—

- (a) the drugs and any code substances the analysis must cover;
- (b) the information required to be included in the written results of the analysis;
- (c) that if a drug or code substance mentioned in the notice is found in or on the thing, the results must include a certificate signed by an accredited analyst for the secondary facility;
- (d) the information required to be included in the certificate mentioned in paragraph (c).

(4) If a nominated person for an accredited facility has delivered a thing for analysis to a secondary facility for the accredited facility—

- (a) the nominated person for the secondary facility must give the thing to an analyst at the secondary facility; and
- (b) the analyst at the secondary facility must, after completing the analysis, give written results of the analysis to the nominated person for the accredited facility; and
- (c) the results must state the things mentioned in the notice delivered with the thing as mentioned in subsection (3).

147 Procedure after analysis

(1) This section applies if a thing for analysis is delivered to an accredited facility and either of the following applies—

- (a) an analyst at the accredited facility has carried out an analysis relating to the thing;
- (b) an analyst at a secondary facility for the accredited facility has carried out an analysis relating to the thing and given the results under section 146(4)(b) to the nominated person for the accredited facility.

(2) An analyst at the accredited facility must, after the completion of the analysis or receiving the results mentioned in section 146(4)(b), give a notice stating the results of the analysis (the “**notice of results**”) to—

- (a) if the thing was delivered to the accredited facility by a control body—the accredited veterinary surgeon for the accredited facility; or
- (b) if the thing was delivered to the accredited facility by an integrity officer—the integrity officer.

(3) The notice of results must include a certificate signed by an accredited analyst stating all of the following—

- (a) information to identify the thing analysed;
- (b) the date when, and the place at which, the thing was analysed;
- (c) no drug was found in or on the thing or if a drug was found—
 - (i) the fact that a drug was found and its name; and
 - (ii) if the control body or integrity officer who delivered the thing for analysis to the accredited facility asked for information about the amount or concentration of any drug found in the thing—the information requested;
- (d) for a thing delivered under an agreement between a control body and the accredited facility—no code substance was found in or on the thing or if a code substance was found—
 - (i) the fact that a code substance was found and its name; and
 - (ii) if the control body that delivered the thing for analysis to the accredited facility asked for information about the amount or concentration of any code substance found in the thing—the information requested.

148 If analysis can not be completed

(1) This section applies if—

- (a) a thing for analysis is delivered to an accredited facility; and
- (b) an analyst at the accredited facility, or a secondary facility for the accredited facility, fails to complete an analysis relating to the thing.

(2) The analyst must give a notice about the failure to complete the analysis to—

- (a) if the thing was delivered to the accredited facility by a control body—the control body; or
- (b) if the thing was delivered to the accredited facility by an integrity officer—the integrity officer.

(3) The notice under subsection (2) must state—

- (a) there was a failure to complete the analysis; and

- (b) the reason for the failure.

Examples for paragraph (b)—

1. The amount of the thing delivered for analysis was insufficient.
2. The condition of the thing delivered for analysis has deteriorated.

149 Certificate of accredited veterinary surgeon

(1) This section applies if—

- (a) a control body delivers a thing for analysis to an accredited facility; and
- (b) a drug or code substance is found in or on the thing; and
- (c) a notice of results is given to an accredited veterinary surgeon as mentioned in section 147.

(2) The accredited veterinary surgeon must give to the control body a certificate signed by the accredited veterinary surgeon stating—

- (a) the pharmacology of the drug or code substance; and
- (b) the effect of using the drug or code substance on the behaviour, performance or physical condition of a stated type of animal; and
- (c) if a drug is found in or on the thing and the drug is mentioned in the Standard for the Uniform Scheduling of Drugs and Poisons published by the Commonwealth—the schedule in which the drug is mentioned.

CHAPTER 5—RACING APPEALS TRIBUNAL

PART 1—ESTABLISHMENT AND MEMBERSHIP OF RACING APPEALS TRIBUNAL

150 Establishment of Racing Appeals Tribunal

The Racing Appeals Tribunal is established.

151 Membership of tribunal

- (1) There are to be 3 members of the tribunal.
- (2) The Governor in Council is to appoint the tribunal members.
- (3) The Governor in Council is to appoint 1 tribunal member as chairperson of the tribunal and another tribunal member as deputy chairperson of the tribunal.

152 Advertising for nominations for appointment

Before recommending a person to the Governor in Council for appointment as a tribunal member, the Minister must advertise in a newspaper circulating throughout the State for applications or expressions of interest from suitably qualified persons to be considered for selection as a tribunal member.

153 Qualification for appointment as tribunal member

A person is qualified for appointment as a tribunal member only if the person is a lawyer of at least 5 years standing.

154 Disqualification from membership

A person is not qualified to be appointed, or to continue, as a tribunal member if the person is any 1 of the following—

- (a) an executive officer, or an official or other member of staff of, a control body;
- (b) a licence holder of a control body or an executive officer of a licence holder;
- (c) a council member;
- (d) a member of a committee, or an employee, of an association formed to promote the interests of 1 or more participants in a code of racing;
- (e) an individual who has any of the following convictions other than a spent conviction—
 - (i) a conviction under this Act;
 - (ii) a conviction under the repealed Act;

- (iii) a conviction under a law of another State, that is prescribed under a regulation as a law about racing or betting;
- (iv) a conviction for an offence that involved dishonesty, fraud, stealing or unlawful betting.

155 Term of appointment

A tribunal member is to be appointed for a term of not more than 3 years.

156 Resignation

A tribunal member may resign his or her appointment as a tribunal member by signed notice given to the Minister.

157 Vacation of office

The office of a tribunal member becomes vacant if —

- (a) the member dies; or
- (b) the member resigns under section 156; or
- (c) the member's appointment is terminated under section 158.

158 Termination of appointment

(1) The Governor in Council may terminate a tribunal member's appointment if the Governor in Council is satisfied the member—

- (a) is mentally or physically incapable of satisfactorily performing the member's functions; or
- (b) performed the member's functions carelessly, incompetently or inefficiently; or
- (c) has engaged in conduct that could warrant dismissal from the public service if the member were a public service officer; or
- (d) is affected by bankruptcy action.

(2) The Governor in Council must terminate the appointment of a tribunal member if the member ceases to be qualified for appointment as a member.

159 Remuneration

A tribunal member is entitled to the remuneration and allowances decided by the Governor in Council.

160 Role of tribunal member

(1) A tribunal member's role includes professionally and efficiently performing the functions of the tribunal assigned or given to the member under this Act.

(2) A tribunal member must comply with procedures and policies implemented by the tribunal chairperson for the tribunal's adjudicative operations.

**PART 2—MATTERS RELATING TO TRIBUNAL
CHAIRPERSON****161 Role of tribunal chairperson**

(1) The tribunal chairperson's role includes the following—

- (a) directing the tribunal's adjudicative operations to ensure they are as fair, economical, informal and speedy as practical;
- (b) developing, with the participation of the other tribunal members, guiding principles that promote high quality and consistent decisions by the tribunal;
- (c) developing and implementing procedures and policies for the tribunal's adjudicative operations;
- (d) issuing practice directions of general application to proceedings;
- (e) managing the overall performance of tribunal members;
- (f) being responsible for the professional development and training of tribunal members in relation to the performance of their role.

(2) The tribunal chairperson may do all things necessary or convenient to be done for the performance of the chairperson's role.

162 Tribunal chairperson and secretary to work cooperatively

The tribunal chairperson and the secretary to the tribunal must work cooperatively to promote the effective and efficient operation of the tribunal.

163 Delegation and subdelegation

(1) The tribunal chairperson may delegate the chairperson's powers under this Act to the deputy tribunal chairperson.

(2) The tribunal chairperson may delegate to the secretary to the tribunal the chairperson's power to select the tribunal member or members to constitute the tribunal for a proceeding.

**PART 3—DISCLOSURE OF INTERESTS AND
PROTECTION OF TRIBUNAL MEMBERS****164 Disclosure of interest**

(1) If a tribunal member becomes aware that the member has a conflict of interest about a proceeding before the tribunal, the member must disclose the issue giving rise to the conflict—

- (a) if the member is the tribunal chairperson—to the parties to the proceeding; or
- (b) otherwise—to the tribunal chairperson and the parties to the proceeding.

(2) Subject to subsection (3), after making the disclosure, the tribunal member must disqualify himself or herself.

(3) However, the tribunal member may take part in, or continue to take part in, the proceeding, or exercise a power for the proceeding—

- (a) if the member is the tribunal chairperson—if the parties agree; or
- (b) otherwise—if the tribunal chairperson and the parties agree.

(4) A tribunal member has a conflict of interest about a proceeding if the member has an interest, financial or otherwise, that could conflict with the proper performance of the member's functions for the proceeding.

PART 4—ORGANISATION, JURISDICTION AND OPERATION OF TRIBUNAL

165 Constitution of tribunal

(1) The tribunal is constituted by—

- (a) 1 tribunal member selected by the tribunal chairperson, who may be the chairperson; or
- (b) more than 1 tribunal member selected by the tribunal chairperson, one of whom may be the chairperson.

(2) However, for a prescribed application or matter under the *Queensland Building Tribunal Act 2000*, section 26C,³³ the tribunal chairperson may select the presiding case manager to constitute the tribunal.

(3) The tribunal, as differently constituted by 1 or more tribunal members or by the presiding case manager, may sit at the same time and exercise the jurisdiction and powers of the tribunal.

166 Jurisdiction of tribunal

(1) The tribunal has jurisdiction to hear and decide appeals made to it under this chapter.

(2) The tribunal also has the other jurisdiction given to it under this Act.

167 Decisions that may be appealed

(1) Subject to subsection (4), a person aggrieved by any of the following decisions may appeal to the tribunal against the decision—

- (a) a control body's decision to—
 - (i) refuse to grant or renew a licence; or
 - (ii) take disciplinary action relating to a licence; or
 - (iii) take an exclusion action against a person; or
 - (iv) impose a monetary penalty on a person;

³³ *Queensland Building Tribunal Act 2000*, section 26C (Presiding case manager's power to deal with particular applications to central tribunals)

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- (b) a decision of an appeal committee made in relation to an appeal against a monetary penalty imposed by, or other decision of, a steward;
 - (c) the imposition of a monetary penalty by, or other decision of, a steward of a control body if there is no appeal to an appeal committee against the decision;
 - (d) another decision of a control body prescribed under a regulation.

(2) A steward of a control body may appeal to the tribunal against a decision of an appeal committee made on an appeal against the steward's decision.

(3) Subject to an order under section 169, if—

- (a) an appeal committee refuses to hear an appeal from a decision of a steward of the control body that established the committee; or
- (b) within 6 weeks after lodging an appeal mentioned in paragraph (a), the appeal has not been decided by the appeal committee;

the committee is taken to have decided to dismiss the appeal.

(4) Despite subsection (1), an appeal does not lie to the tribunal against any of the following decisions—

- (a) a decision relating to the eligibility of an animal to race or the conditions under which an animal can race;

Example for paragraph (a)—

A steward's decision requiring an animal to pass a stated examination or test before being allowed to race.

- (b) a decision cancelling or suspending the licence for an animal, unless the cancellation or suspension relating to that licence relates to—
 - (i) a decision to take disciplinary action relating to the licence of a licence holder; or
 - (ii) a decision to take an exclusion action, under the control body's rules of racing, against a person;
- (c) a decision about a protest or objection against placed animals relating to an incident that happened during a race or trial;
- (d) a decision imposing a penalty of not more than \$250;

- (e) a decision relating to a dispute between a racing bookmaker licensed by a control body and a person who placed a bet with the bookmaker for a race at a race meeting held under the control of the control body;
- (f) a decision to stop, restart, rerun, postpone or abandon a race.

168 Starting an appeal against decisions as allowed under s 167

(1) An appeal is started by—

- (a) lodging a notice of appeal with the secretary to the tribunal; and
- (b) paying to the secretary the following in the amounts prescribed under a regulation—
 - (i) an administration fee that is non-refundable;
 - (ii) an appeal deposit that is refundable in the circumstances prescribed under a regulation; and
- (c) serving a copy of the notice on—
 - (i) if section 167(1)(a) or (d) applies—the control body that made the decision; or
 - (ii) if section 167(1)(b) applies—the appeal committee that made the decision and the steward to whose decision the appeal committee’s decision relates; or
 - (iii) if section 167(1)(c) applies—the steward that made the decision; or
 - (iv) if section 167(2) applies—the appeal committee that made the decision.

(2) The notice of appeal must state fully the grounds of appeal and the facts relied on.

(3) The notice of appeal must be lodged with the secretary within 14 days of the appellant receiving notice of the decision being appealed.

(4) The tribunal may at any time extend the period for lodging the notice of appeal.

169 What happens if appeal committee refuses to hear or fails to decide an appeal

(1) This section applies if an appeal committee is taken under section 167(3) to have decided to dismiss an appeal (the “**dismissal decision**”) and the appeal committee lodges a written application with the secretary to the tribunal for an order that the time for consideration of the appeal by the appeal committee be extended.

(2) The tribunal may make the order.

(3) The tribunal may also make any further order relating to the adjournment or otherwise of an appeal made to the tribunal against the dismissal decision that the tribunal considers appropriate.

170 Suspension or variation of decision pending decision on appeal

(1) The tribunal may, on written application made by an appellant and lodged with the secretary to the tribunal, order that the decision appealed against—

- (a) must not be carried into effect; or
- (b) must be carried into effect only to the extent stated in the order pending the appeal being decided.

(2) The tribunal may impose conditions in an order made under subsection (1).

(3) The order is taken not to be in force during any period in which a condition imposed under subsection (2) is not being complied with.

(4) Subject to subsection (3), an order made under subsection (1) continues in force until the appeal to which it relates is withdrawn, dismissed or otherwise decided.

171 Tribunal to hear appeal

(1) The tribunal must start the hearing of an appeal as soon as practicable, but, in any event, not later than 28 days after the notice of appeal is lodged with the secretary to the tribunal.

(2) However, the tribunal may, by order, extend the period mentioned in subsection (1) if it considers the special circumstances of the case require it to do so.

172 Procedure generally

(1) To the extent a matter relating to the tribunal's procedures is not provided for by this Act or practice directions issued by the tribunal chairperson under section 161(1)(d), the tribunal may decide its own procedure.

(2) In making a decision relating to an appeal, the tribunal—

- (a) must observe natural justice; and
- (b) is not bound by the rules of evidence; and
- (c) may inform itself of anything in the way it considers appropriate.

(3) An appeal is by way of rehearing, unaffected by the decision appealed against, on the material before the entity that made the decision and any further evidence allowed by the tribunal.

173 Way question to be decided

(1) This section applies for deciding a question in a proceeding before the tribunal.

(2) If the tribunal is constituted by 2 or 3 tribunal members, the question is to be decided by a majority of the votes of the members.

(3) If the tribunal is constituted by 2 tribunal members and the votes are equal, the tribunal chairperson or, in the absence of the chairperson, the deputy tribunal chairperson also has a casting vote.

(4) If the tribunal is constituted by 1 tribunal member, the question is to be decided by the member.

174 Expert consultant

(1) The tribunal may, in hearing an appeal, employ an expert consultant who has appropriate knowledge of, and experience in, the racing industry as it considers appropriate.

(2) An officer of the public service may be employed under subsection (1).

(3) All advice and reports given to the tribunal by an expert consultant must be disclosed to the parties to the appeal.

(4) An expert consultant to the tribunal is entitled to the fees and expenses approved by the Governor in Council.

175 Hearing must held in public

The hearing of an appeal by the tribunal must be held in public at the time and place the tribunal decides.

176 Evidence

Evidence before the tribunal must be given—

- (a) orally unless the tribunal allows the evidence to be given wholly or partly in writing; and
- (b) on oath or by affirmation.

177 Attendance of witnesses

(1) The tribunal may direct the secretary to the tribunal to issue and to serve on a person a summons to attend before the tribunal to—

- (a) give evidence; or
- (b) to produce the thing stated in the summons.

(2) The tribunal may act under this section on its own initiative or on application by a party to an appeal.

178 Witness fees and expenses

(1) A person summonsed to attend before the tribunal is entitled to—

- (a) the witness fees and expenses prescribed under a regulation; or
- (b) if no fees or expenses are prescribed—the reasonable witness fees and expenses decided by the tribunal.

(2) If the summons requiring a person to attend before the tribunal is issued on an application by a party to a proceeding before the tribunal, the party must pay the fees and expenses to which the person is entitled.

179 Swearing or affirming witnesses

A tribunal member may—

- (a) require a witness appearing before the tribunal to take an oath or make an affirmation; and
- (b) may administer an oath or affirmation to the witness.

180 Offences by witnesses

(1) A person served with a summons to appear as a witness before the tribunal must not fail, without reasonable excuse—

- (a) to attend as required by the summons; or
- (b) to continue to attend as required by the tribunal until excused from further attendance.

Maximum penalty—200 penalty units.

(2) A person appearing as a witness before the tribunal must take an oath or make an affirmation if required to do so by a tribunal member.

Maximum penalty—200 penalty units.

(3) Also, a person appearing as a witness before the tribunal must not fail, without reasonable excuse—

- (a) to answer a question the person is required to answer by the tribunal; or
- (b) to produce the thing the person is required to produce by a summons.

Maximum penalty—200 penalty units.

(4) If the person is an individual, it is a reasonable excuse for the person to refuse to answer a question or to produce a thing on the ground that answering the question or producing the thing might tend to incriminate the person.

181 Power to adjourn

(1) The tribunal chairperson or, in the absence of the chairperson, the deputy tribunal chairperson may adjourn a proceeding before the tribunal.

(2) Also, the tribunal may adjourn a proceeding before it.

182 Presence and representation of party

(1) An individual who is a party to an appeal must attend personally at the hearing of the appeal unless excused from attending by the tribunal.

(2) A corporation or other body of persons that is a party to an appeal must attend at the hearing of the appeal through an officer of the corporation or body unless excused from attending by the tribunal.

(3) Also, each party to an appeal may be represented by a lawyer or, with the approval of the tribunal, by another person.

(4) Subsection (1) or (2) does not prevent the tribunal hearing an appeal or making a decision or order in the absence of a party who, after having been served with notice of the time and place of the hearing, fails to attend at the hearing.

183 Withdrawal of appeal

(1) An appellant may withdraw his or her appeal only with the tribunal's leave.

(2) If the tribunal gives leave for the withdrawal of an appeal, it may make the orders it considers appropriate.

(3) An order under subsection (2) may be for the payment of costs.

184 Joinder of person as party

(1) The tribunal may join a person as a party to an appeal if it is satisfied the person's interests will be affected by the outcome of the appeal.

(2) The tribunal may act under subsection (1) on application by the person or on its own initiative.

185 Costs

(1) Subject to section 183(3), each party to an appeal must pay the party's own costs.

(2) However, if the tribunal considers the application of subsection (1) would be unjust in a particular case, it may make an order about costs that it considers appropriate.

(3) An order of the tribunal for payment of an amount for costs is, on the filing of the prescribed documents in the registry of a court having jurisdiction for the recovery of amounts that include the amount concerned, taken to be a judgment of that court for the payment of the amount under the order.

(4) For subsection (3), the prescribed documents are—

- (a) a copy of the tribunal's order certified by the secretary to the tribunal to be a true copy; and

- (b) if the person to whom the amount is ordered to be paid is an individual—an affidavit by the person stating the amount unpaid under the order; and
- (c) if the entity to whom the amount is ordered to be paid is a corporation or a body of persons—an affidavit by an officer of the entity stating the amount unpaid under the order.

186 Powers of tribunal on appeal

(1) On an appeal, the tribunal may make any decision that the entity that made the decision appealed against could have made.

(2) Without limiting subsection (1), the tribunal may—

- (a) confirm the decision appealed against; or
- (b) vary the decision appealed against; or
- (c) set aside the decision appealed against and substitute its own decision.

187 Form of decisions of tribunal

A decision of the tribunal that finally decides matters the subject of a proceeding—

- (a) must be in writing; and
- (b) must state the decision, and the reasons for the decision; and
- (c) may be published.

188 Secretary must give information notice to parties

After the tribunal gives its decision on an appeal, its secretary must give each party to the appeal an information notice about the decision.

189 Effect of tribunal's decision

(1) The tribunal's decision relating to an appeal takes effect when it is given or the later date stated in the decision.

(2) A decision by the tribunal under section 186(2)(b) or (c) is, other than for this chapter, taken to be the decision of the entity that made the decision appealed against.

(3) The parties to an appeal to the tribunal must give effect to the tribunal's decision on the appeal, including any order as to a penalty or costs.

190 Contempt of tribunal

(1) A person must not—

- (a) insult the tribunal member, or any of the tribunal members, constituting the tribunal in a proceeding; or
- (b) deliberately interrupt a proceeding before the tribunal; or
- (c) create or continue, or join in creating or continuing, a disturbance at or near a place where the tribunal is conducting a proceeding; or
- (d) do anything that would constitute a contempt of court if the tribunal were a court of record.

Maximum penalty—200 penalty units.

(2) In this section—

“tribunal member” includes the presiding case manager.

191 Protection and immunity of tribunal members

(1) A tribunal member has, in performing the member's functions, the same protection and immunity as a District Court judge has in the performance of the judge's functions.

(2) A person appearing before the tribunal for someone else has the same protection and immunity as a barrister appearing for a party in a proceeding in the District Court.

(3) A witness, or a person required to be a witness, in a proceeding before the tribunal has the same protection as a witness in a proceeding in the District Court.

(4) In this section—

“tribunal member” includes the presiding case manager when the manager constitutes the tribunal under section 165(2).³⁴

34 Section 165 (Constitution of tribunal)

192 Annual report on operation of tribunal

(1) After the end of each financial year, but not later than 30 September, the tribunal chairperson must give the Minister a report containing—

- (a) a review of the operation of the tribunal during the financial year; and
- (b) any proposals for improving the operation of, and forecasts of the workload of, the tribunal in the present financial year.

(2) The department's annual report for a financial year must include a report on the operation of the tribunal during the financial year.

PART 5—APPEAL FROM TRIBUNAL TO DISTRICT COURT**193 Who may appeal**

(1) A party to an appeal to the tribunal may appeal to the District Court against the tribunal's decision on the appeal, including an order about costs, but only on a question of law.

(2) Matters relating to appealing to the District Court are contained in the *Uniform Civil Procedure Rules 1999*.

CHAPTER 6—RACING BOOKMAKERS**PART 1—REQUIREMENTS FOR RACING BOOKMAKERS' LICENCES AND FOR RELATED MATTERS****194 Requirement to hold racing bookmaker's licence**

(1) A person must not carry on bookmaking at a licensed venue at any time unless the person is a racing bookmaker whose licence was granted by the control body exercising control at the licensed venue at that time.

Maximum penalty—600 penalty units.

(2) A racing bookmaker who is an individual must have the person's licence with the person at all times the person is carrying on bookmaking at a licensed venue when it is under the control of the control body that granted the person's licence, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(3) A licensed executive officer of a corporation that is a racing bookmaker must have the corporation's licence, or a certified copy of the corporation's licence, with the person at all times the person is carrying on bookmaking for the corporation at a licensed venue when it is under the control of the control body that granted the corporation's licence, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

195 Requirement for racing bookmaker to hire licensed clerk

(1) A racing bookmaker must not, at a licensed venue, employ someone else in the conduct of the racing bookmaker's business unless the other person is a racing bookmaker's clerk whose licence was granted by the control body exercising control at the licensed venue at the time.

Maximum penalty—200 penalty units.

(2) A racing bookmaker that is a corporation does not commit an offence against subsection (1) merely because a licensed executive officer of the corporation carries on bookmaking for the corporation.

196 Requirement to hold licence as a racing bookmaker's clerk

(1) A person must not be employed by a racing bookmaker at a licensed venue in the conduct of the racing bookmaker's business unless the person is—

- (a) a racing bookmaker's clerk whose licence was granted by the control body exercising control at the licensed venue at that time; or
- (b) if the racing bookmaker is a corporation—a licensed executive officer of the corporation and is carrying on bookmaking for the corporation.

Maximum penalty—200 penalty units.

(2) A racing bookmaker's clerk at a licensed venue must have the person's licence with the person at all times the person is employed by a racing bookmaker in the conduct of the racing bookmaker's business at the licensed venue, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

197 Requirement to produce licence

(1) A racing bookmaker who is an individual and who is, or appears to be, carrying on bookmaking at a licensed venue must produce the person's licence to an official of the control body that is exercising control at the licensed venue if asked to do so by the official, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) A licensed executive officer of a corporation that is a racing bookmaker and who is, or appears to be, carrying on bookmaking for the corporation at a licensed venue must produce the corporation's licence, or a certified copy of the corporation's licence, to an official of the control body that is exercising control at the licensed venue if asked to do so by the official, unless the officer has a reasonable excuse.

Maximum penalty—40 penalty units.

(3) A racing bookmaker's clerk who is, or appears to be, employed in the conduct of a racing bookmaker's business at a licensed venue must produce the person's licence to an official of the control body that is exercising control at the licensed venue if asked to do so by the official, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

198 Requirement for control body to ensure certain persons have current licences

A control body must ensure that a person is not permitted, at any time, to carry on bookmaking, or to be employed by a racing bookmaker in the conduct of a racing bookmaker's business, at a race meeting held at a licensed venue when it is under the control of the control body, unless the person has a current appropriate licence with the person at the time.

199 Unlawful bookmaking by racing bookmaker

A racing bookmaker must not carry on bookmaking at a place unless—

- (a) when the racing bookmaker carries on the bookmaking, the place is a licensed venue under the control of the control body that licensed the racing bookmaker; and
- (b) at the place when the racing bookmaker is carrying on bookmaking—
 - (i) a race meeting is being held under this Act; and
 - (ii) betting with racing bookmakers may take place, under a direction given by the control body's steward who is in charge of the race meeting for the control body.

Maximum penalty—600 penalty units or 2 years imprisonment.

200 Requirements for betting by racing bookmakers

(1) This section applies to a racing bookmaker at a race meeting held at a licensed venue (the “**first venue**”) when it is under the control of a control body (the “**first control body**”).

(2) The racing bookmaker must not make a bet on a contest, contingency or event other than—

- (a) a race to be decided at the first venue; or
- (b) a race to be decided at another race meeting at another licensed venue controlled by a control body; or
- (c) a sporting contingency declared, under section 255,³⁵ by the first control body as a declared sporting contingency; or
- (d) a contest, contingency or event at a meeting for the racing of animals held outside Queensland that is under the control of an entity with which the first control body has entered into an arrangement as mentioned in section 34(1)(h).³⁶

Maximum penalty—400 penalty units.

35 Section 255 (Bookmaking on certain declared sporting contingencies)

36 Section 34 (Powers of control body for its code of racing)

(3) Subject to section 249,³⁷ the racing bookmaker must not make a bet with a person who is not present at the first venue at the time the bet is made.

Maximum penalty—400 penalty units.

PART 2—LICENSING OF PERSONS AS RACING BOOKMAKERS

201 Applicant for racing bookmaker's licence to hold eligibility certificate

An applicant to a control body for a racing bookmaker's licence must be a certificate holder.

202 What corporate licence must include

(1) This section applies to a racing bookmaker's licence for a corporation.

(2) The licence must state the name of each executive officer of the corporation who may carry on bookmaking for the corporation under the licence.

(3) A control body must not, under subsection (2), state an executive officer's name in the licence unless the executive officer—

- (a) is identified under section 218(2)³⁸ in the eligibility certificate for the corporation; and
- (b) is a person whom the control body believes has the experience and knowledge necessary to properly carry on bookmaking for the corporation under the licence.

37 Section 249 (When a racing bookmaker may make a bet with a person who is not present at a licensed venue)

38 Section 218 (Form of eligibility certificate)

PART 3—ELIGIBILITY CERTIFICATES

Division 1—Suitability of applicants and business and executive associates

203 Suitability of applicants for eligibility certificate

(1) This section applies to the gaming executive in deciding whether an applicant for an eligibility certificate is a suitable person to hold an eligibility certificate.

(2) The gaming executive may have regard to all of the following matters—

- (a) the applicant's character or business reputation;
- (b) the applicant's current financial position and financial background;
- (c) if the applicant has a business association with another entity—
 - (i) the other entity's character or business reputation; and
 - (ii) the other entity's current financial position and financial background;
- (d) if the applicant is a corporation—the persons who have a substantial holding in the applicant, or in a corporation that is a holding company of the applicant.

204 Suitability of associates

(1) This section applies to the gaming executive in deciding whether a business associate or executive associate of an applicant for an eligibility certificate is a suitable person to be associated with the applicant.

(2) The gaming executive may have regard to all of the following matters—

- (a) the associate's character or business reputation;
- (b) the associate's current financial position and financial background;
- (c) if the associate has a business association with another entity—
 - (i) the other entity's character or business reputation; and

- (ii) the other entity's current financial position and financial background;
- (d) if the associate is a corporation—the persons who have a substantial holding in the associate, or in a corporation that is a holding company of the associate.

205 Other matters about suitability

Sections 203 and 204 do not limit the matters the gaming executive may have regard to in deciding matters to which the sections relate.

Division 2—Applications for, and issue of, eligibility certificates

206 Application for eligibility certificate

An application for an eligibility certificate may only be made by an adult or a corporation.

207 Requirements about applications

- (1) An application for an eligibility certificate must—
 - (a) be made to the gaming executive; and
 - (b) be in a gaming executive form.
- (2) The application must be accompanied by—
 - (a) the application fee prescribed under a regulation; and
 - (b) if the applicant is an individual—a consent, in a gaming executive form, signed by the individual for the following—
 - (i) the individual's fingerprints to be taken for the gaming executive;
 - (ii) information about the individual to be obtained by the gaming executive;
 - (iii) the individual's background to be investigated by the gaming executive; and
 - (c) if the applicant is a corporation—a consent, in a gaming executive form, signed by each person the applicant considers is

a business associate or executive associate of the corporation for the following—

- (i) if the associate is an individual—the associate’s fingerprints to be taken for the gaming executive;
 - (ii) information about the associate to be obtained by the gaming executive;
 - (iii) the associate’s background to be investigated by the gaming executive; and
- (d) if the applicant is a corporation—the corporation’s agreement to obtain a consent of the type mentioned in paragraph (c) for a person whom the gaming executive believes to be a business associate or executive associate of the corporation but whose consent does not accompany the application.

208 Further information or documents to support application

(1) The gaming executive may, by notice given to an applicant for an eligibility certificate, require the applicant to give the gaming executive further information or a document about the application.

(2) The requirement must relate to information or a document that is necessary and reasonable to help the gaming executive decide the application.

(3) The notice must state a reasonable time of at least 28 days within which the requirement must be complied with.

(4) When making the requirement, the gaming executive must warn the applicant that the application for the eligibility certificate will not be considered further until the requirement is complied with unless the person has a reasonable excuse for the failure to comply.

209 Taking fingerprints

(1) On receipt of an application for an eligibility certificate, and compliance by the applicant with this part in relation to the application, the gaming executive must—

- (a) for an application by an individual—cause the fingerprints of the applicant to be taken; and

- (b) for an application by a corporation—cause the fingerprints to be taken of each of the business associates and executive associates of the applicant, who is an individual.

(2) The gaming executive may also cause the fingerprints to be taken of an individual who has consented, as mentioned in section 207(2)(d), to the individual's fingerprints being taken.

(3) However, if the gaming executive is satisfied an individual's fingerprints are already held by the gaming executive, the gaming executive need not cause the individual's fingerprints to be taken under this section.

210 Consideration of application

(1) The gaming executive must consider the application for an eligibility certificate and either grant or refuse to grant the application.

(2) However, the gaming executive is not required to decide an application for an eligibility certificate if—

- (a) the gaming executive has given a person a notice under section 208 or 214 relating to the application requiring the person to give the gaming executive information or a document as stated in the section; and
- (b) the person has failed, without reasonable excuse, to comply with the requirement within the time stated in the notice.

211 Conditions for granting application for eligibility certificate

The gaming executive may grant an application for an eligibility certificate only if the gaming executive is satisfied—

- (a) the applicant is a suitable person to hold an eligibility certificate; and
- (b) each business associate and executive associate of the applicant is a suitable person to be associated with the applicant.

212 Investigation of suitability of persons

(1) The gaming executive may investigate an applicant for an eligibility certificate to help the gaming executive decide whether the applicant is a suitable person to be a certificate holder.

(2) The gaming executive may investigate a business associate or executive associate of an applicant for an eligibility certificate to help the gaming executive decide whether the associate is a suitable person to be associated with the applicant.

(3) The gaming executive may investigate an executive officer of the holder of an eligibility certificate for the purpose of deciding whether to grant a request made under section 222.³⁹

213 Criminal history reports for investigations

(1) If the gaming executive, in investigating a person under section 212, asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the gaming executive.

(2) The report is to contain—

- (a) relevant information in the commissioner's possession; and
- (b) relevant information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions; and
- (c) other relevant information to which the commissioner has access.

214 Requirement of associate to give information or document for investigation

(1) In investigating a business associate or executive associate of an applicant, the gaming executive may, by notice given to the associate, require the associate to give the gaming executive information or a document the gaming executive believes is relevant to the investigation.

(2) The notice must state a reasonable time of at least 28 days within which the requirement must be complied with.

(3) When making the requirement, the gaming executive must—

- (a) warn the associate that the application for the eligibility certificate will not be considered further until the requirement is

³⁹ Section 222 (Gaming executive may amend eligibility certificate to show change in executive officers)

complied with; and

- (b) give a copy of the notice to the applicant.

215 Requirement of control body to give information or document for investigation

(1) In investigating an applicant, or a business associate or executive associate of an applicant, the gaming executive may, by notice given to a control body, require the control body to give the gaming executive information or a document the gaming executive believes is relevant to the investigation.

(2) The notice must state a reasonable time of at least 28 days within which the requirement must be complied with.

(3) When making the requirement, the gaming executive must warn the control body it is an offence to fail to comply with the requirement, unless the control body has a reasonable excuse.

216 Failure by control body to give information or document for investigation

(1) A control body of which a requirement is made under section 215 must comply with the requirement, unless the control body has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) The control body does not commit an offence against this section if the information or document sought by the gaming executive is not in fact relevant to the investigation.

217 Decision on application

(1) If the gaming executive grants an application for an eligibility certificate, the gaming executive must give the certificate to the applicant.

(2) If the gaming executive refuses to grant an application for an eligibility certificate, the gaming executive must give the applicant an information notice for the decision.

218 Form of eligibility certificate

(1) An eligibility certificate is to be in a gaming executive form.

(2) An eligibility certificate for a corporation must identify the corporation's executive officers who have been investigated by the gaming executive and have been found suitable to be associated with the certificate holder.

219 Period for which eligibility certificate has effect

An eligibility certificate continues to have effect until the earliest of the following happens—

- (a) the certificate lapses under section 220(3);
- (b) the certificate is cancelled under section 236;
- (b) a surrender of the certificate takes effect under section 240.⁴⁰

220 Date by which certificate holder must apply for racing bookmaker's licence

(1) An eligibility certificate must state the date by which the certificate holder stated in the certificate must apply for a licence as a racing bookmaker.

(2) The date must be at least 2 months after the date the certificate is given to the certificate holder.

(3) If the certificate holder does not apply to a control body for a racing bookmaker's licence before the date stated in the certificate, the certificate lapses at the end of the day stated in the certificate.

221 Corporate certificate holder must advise gaming executive of change in executive officers or persons with substantial holdings

(1) This section applies to a certificate holder that is a corporation.

(2) Within 14 days after any of the following changes, the certificate holder must give the gaming executive notice of the change—

⁴⁰ Sections 220 (Date by which certificate holder must apply for racing bookmaker's licence), 236 (Cancellation of eligibility certificate) and 240 (Surrender of eligibility certificate)

- (a) a change to the persons who are executive officers of the corporation;
- (b) a change to the persons who have substantial holdings in the corporation, or a holding company of the corporation.

Maximum penalty for subsection (2)—100 penalty units.

222 Gaming executive may amend eligibility certificate to show change in executive officers

(1) This section applies if a certificate holder has given the gaming executive notice under section 221(2)(a) and asks the gaming executive to amend the eligibility certificate to omit or include an executive officer as a person who has been investigated by the gaming executive and been found suitable to be associated with the certificate holder.

(2) The gaming executive may comply with the request.

(3) However, the gaming executive must not include the name of an executive officer in the certificate unless the gaming executive has investigated the executive officer and found the person to be suitable to be associated with the certificate holder.

Division 3—Investigations of certificate holders and their business and executive associates

223 Audit program

(1) The gaming executive may approve an audit program for investigating certificate holders, and the business associates and executive associates of certificate holders.

(2) The gaming executive is responsible for ensuring that investigations of certificate holders, and business associates and executive associates of certificate holders, are conducted under the audit program.

(3) A person may be investigated under an audit program only if there has not been an investigation of the same person within the preceding 3 years.

224 Investigations into suitability of certificate holder

(1) The gaming executive may investigate a certificate holder to find out whether the certificate holder is a suitable person to hold, or to continue to hold, an eligibility certificate.

(2) However, the gaming executive may investigate the certificate holder under this section only if—

- (a) the gaming executive suspects the certificate holder is not, or is no longer, a suitable person to hold an eligibility certificate; or
- (b) the investigation is made under an audit program approved by the gaming executive.

225 Investigation into suitability of associate of certificate holder

(1) The gaming executive may investigate a business associate or executive associate of a certificate holder to decide whether the associate is a suitable person to be, or to continue to be, associated with the certificate holder's operations.

(2) However, the gaming executive may investigate a business associate or executive associate of a certificate holder under this section only if—

- (a) the gaming executive suspects the associate is not, or is no longer, a suitable person to be associated with a certificate holder's operations; or
- (b) the investigation is part of an investigation under this division of the certificate holder in relation to whom the associate is a business associate or executive associate; or
- (c) the investigation is made under an audit program approved by the gaming executive; or
- (d) the person—
 - (i) became a business associate or executive associate of the certificate holder after the issue of the eligibility certificate to the certificate holder; or
 - (ii) has not been investigated previously under an audit program mentioned in paragraph (c).

226 Requirement to give information or document for investigation

(1) In investigating a certificate holder, or a business associate or executive associate of a certificate holder, the gaming executive may, by notice given to the person, require the person to give the gaming executive information or a document the gaming executive believes relevant to the investigation.

(2) The notice must state a reasonable time of at least 28 days within which the requirement must be complied with.

(3) When making the requirement, the gaming executive must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

227 Criminal history report for investigation

(1) If the gaming executive in investigating a person under section 224 or 225 asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the gaming executive.

(2) The report is to contain—

- (a) relevant information in the commissioner's possession; and
- (b) relevant information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions; and
- (c) other relevant information to which the commissioner has access.

228 Gaming executive may require control body to give information or document for investigation

(1) As part of an investigation under this division, the gaming executive may, by notice given to a control body, require the control body to give the gaming executive information or a document the gaming executive believes is relevant to the investigation.

(2) The notice must state a reasonable time of at least 28 days within which the requirement must be complied with.

(3) When making the requirement, the gaming executive must warn the control body it is an offence to fail to comply with the requirement, unless the control body has a reasonable excuse.

229 Failure to give information or document for investigation

(1) A person of whom a requirement is made under section 226 or 228 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

(3) The person does not commit an offence against this section if the information or document sought by the gaming executive is not in fact relevant to the investigation.

Division 4—Cancellation of eligibility certificates**230 Grounds for cancellation**

(1) A ground for cancelling an eligibility certificate exists if the certificate holder—

- (a) is not a suitable person to hold an eligibility certificate; or
- (b) is convicted for an offence—
 - (i) under this Act; or
 - (ii) the repealed Act; or
 - (iii) a law of another State, that is prescribed under a regulation as a law about racing or betting; or
- (c) is convicted of an indictable offence under another Act or law; or
- (d) contravenes a provision of this Act, whether or not a penalty is provided for the provision; or
- (e) is affected by bankruptcy action.

(2) Also, a ground for cancelling an eligibility certificate exists if—

- (a) a racing bookmaker's licence held by the certificate holder is cancelled by the control body for the licence concerned; or
- (b) the eligibility certificate was granted because of a materially false or misleading representation or declaration; or

- (c) a business associate or executive associate of the certificate holder is not a suitable person to be associated with a certificate holder.

(3) There are no other grounds for cancelling an eligibility certificate other than the grounds mentioned in subsections (1) and (2).

231 Show cause notice

(1) This section applies if the gaming executive believes—

- (a) a ground exists to cancel an eligibility certificate; and
- (b) the act, omission or other thing forming the ground is of a serious and fundamental nature; and
- (c) the public interest may be affected in an adverse and material way.

(2) The gaming executive must give the certificate holder a notice (a “**show cause notice**”) stating the following—

- (a) the action (the “**proposed action**”) the gaming executive proposes taking under this division;
- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances forming the basis for the grounds;
- (d) an invitation to the certificate holder to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 28 days after the day the show cause notice is given to the certificate holder.

(4) The certificate holder may make written representations about the show cause notice to the gaming executive in the show cause period.

232 Involvement of control bodies in show cause process

(1) The gaming executive must immediately give a copy of the show cause notice to each control body.

(2) A control body may make written representations about the notice to the gaming executive in the show cause period.

233 Consideration of representations

The gaming executive must consider all written representations (the “**accepted representations**”) made in the show cause period by—

- (a) the certificate holder; or
- (b) a control body.

234 Ending show cause process without further action

(1) This section applies if, after considering the accepted representations for the show cause notice, the gaming executive believes no ground exists to cancel the eligibility certificate.

(2) The gaming executive must not take any further action about the show cause notice.

(3) Notice that no further action about the show cause notice is to be taken must be given by the gaming executive to—

- (a) the certificate holder; and
- (b) each control body.

235 Censuring certificate holder

(1) This section applies if, after considering the accepted representations for the show cause notice, the gaming executive—

- (a) still believes a ground exists to cancel the eligibility certificate; and
- (b) does not believe cancellation of the certificate is warranted.

(2) This section also applies if the gaming executive has not given a show cause notice to the certificate holder but believes—

- (a) a ground exists to cancel the certificate; and
- (b) the giving of a show cause notice is not warranted.

(3) The gaming executive may censure the holder for a matter relating to the ground for cancellation.

(4) The censure may be effected only by the gaming executive giving the certificate holder an information notice about the decision to censure the holder.

236 Cancellation of eligibility certificate

(1) The gaming executive may cancel the eligibility certificate if, after considering the accepted representations for the show cause notice, the gaming executive still believes—

- (a) a ground exists to cancel the eligibility certificate; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) the public interest may be affected in an adverse and material way.

(2) Also, the gaming executive may cancel the eligibility certificate if there are no accepted representations for the show cause notice.

(3) The gaming executive must immediately give an information notice about the decision to cancel to the certificate holder.

(4) The information notice must include—

- (a) a direction to the certificate holder to return the eligibility certificate to the gaming executive within 14 days after the cancellation; and
- (b) a warning to the certificate holder that it is an offence to fail to comply with the direction, unless the certificate holder has a reasonable excuse.

237 Return of cancelled eligibility certificate

(1) A person must comply with a direction to the person in an information notice, as mentioned in section 236(4)(b), to return an eligibility certificate within 14 days after the cancellation, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) If a person is unable to comply with subsection (1) because the person's eligibility certificate has been lost or destroyed, the person must, within 14 days after the cancellation, give the gaming executive a statutory declaration stating details of the loss or destruction.

Maximum penalty—40 penalty units.

238 Automatic cancellation of all licences granted to racing bookmakers

(1) This section applies if a person's eligibility certificate is cancelled under section 236 and the person is the holder of a racing bookmaker's licence granted by a control body.

(2) On the cancellation of the eligibility certificate, the licence granted by the control body is cancelled.

(3) Subsection (2) has effect despite the control body's policies or rules of racing.

239 Notice to control bodies of decisions

(1) This section applies if the gaming executive decides to—

- (a) censure the certificate holder under section 235; or
- (b) cancel an eligibility certificate under section 236.

(2) After making the decision, the gaming executive must give notice about the decision to each control body.

Division 5—Other matters relating to eligibility certificates**240 Surrender of eligibility certificate**

(1) A certificate holder may surrender the holder's eligibility certificate by notice given to the gaming executive.

(2) The surrender of an eligibility certificate takes effect—

- (a) on the day the notice is given to the gaming executive; or
- (b) if a later day of effect is stated in the notice—on the later day.

(3) The gaming executive must give notice about the surrender to each control body.

241 Destruction of fingerprints

(1) After the gaming executive refuses to grant an application for an eligibility certificate or an eligibility certificate is surrendered or cancelled, the gaming executive must destroy the fingerprints of any individual who is—

- (a) the applicant or certificate holder; or
- (b) a business associate or executive associate of the applicant or certificate holder.

(2) Also, if the gaming executive is satisfied an individual who was a business associate or executive associate of an applicant or certificate holder is no longer a business associate or executive associate of the applicant or certificate holder, the gaming executive must destroy the individual's fingerprints.

Division 6—Appeals relating to eligibility certificates

242 Appeals

(1) This section applies if the gaming executive makes a decision—

- (a) refusing an application for an eligibility certificate; or
- (b) cancelling an eligibility certificate; or
- (c) censuring a certificate holder.

(2) The applicant or certificate holder may appeal to the gaming commission against the decision.

243 Starting an appeal against a decision of the gaming executive

(1) An appeal is started by—

- (a) lodging a notice of appeal with the registrar of the gaming commission; and
- (b) paying to the registrar the appeal fee prescribed under a regulation; and
- (c) serving a copy of the notice on the gaming executive.

(2) The notice of appeal must state fully the grounds of appeal and the facts relied on.

(3) The notice of appeal must be lodged with the registrar within 28 days after the appellant receives the information notice for the decision.

(4) The gaming commission may at any time extend the period for lodging the notice of appeal.

244 Stay of operation of decisions

(1) The gaming commission may grant a stay of the operation of a decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

- (a) may be given on conditions the gaming commission considers appropriate; and
- (b) operates for the period fixed by the commission; and
- (c) may be revoked or amended by the commission.

(3) The period of a stay under this section must not extend past the time when the gaming commission decides the appeal.

(4) An appeal against a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

245 Hearing procedures

(1) In deciding an appeal, the gaming commission—

- (a) has the same powers as the gaming executive; and
- (b) is not bound by the rules of evidence; and
- (c) must observe natural justice; and
- (d) may hear the appeal in public or in private.

(2) An appeal is by way of rehearing, unaffected by the gaming executive's decision, on the material before the gaming executive and any further evidence allowed by the gaming commission.

246 Power to gather evidence

(1) The gaming commission may, by notice signed by the registrar of the gaming commission and given to a person, require the person—

- (a) to give written answers to questions, or produce a document, stated in the notice for an appeal mentioned in the notice; or
- (b) to appear before the commission at a stated time and place to answer questions, or produce a stated document, relating to an appeal mentioned in the notice.

(2) The answers mentioned in subsection (1)(b) must, if the notice requires it, be verified by statutory declaration.

(3) A person must not, without reasonable excuse—

- (a) fail to comply with a requirement given to the person under this section; or
- (b) if appearing for examination before the gaming commission—
 - (i) fail to take an oath or make an affirmation when required to do so by a member of the gaming commission; or
 - (ii) fail to answer a question relevant to the subject of the appeal to the best of the person's knowledge, information or belief; or
 - (iii) fail to produce a document the person is required to produce under subsection (1)(b).

Maximum penalty—200 penalty units.

(4) A member of the gaming commission may administer an oath or affirmation to a person appearing before the commission for examination.

(5) If the person is an individual, it is a reasonable excuse for the person not to comply with a requirement to answer a question or produce a document if complying with the requirement might tend to incriminate the person.

247 Powers of gaming commission on appeal

(1) In deciding an appeal, the gaming commission may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the gaming executive with directions the commission considers appropriate.

(2) If the gaming commission substitutes another decision, the substituted decision is, for this Act (other than this division) taken to be the gaming executive's decision.

248 Appeals to District Court

(1) A party to an appeal to the gaming commission may appeal to the District Court against the commission's decision on the appeal but only on a question of law.

(2) Matters relating to appealing to the District Court are contained in the *Uniform Civil Procedure Rules 1999*.

PART 4—OTHER PROVISIONS ABOUT RACING BOOKMAKERS

249 When a racing bookmaker may make a bet with a person who is not present at a licensed venue

(1) At a race meeting, a racing bookmaker may make a bet with a person (the “**bettor**”) who is not present at the licensed venue where the meeting is being held if—

- (a) the bet is made through a system for bookmaking by telephone, approved by the control body exercising control of the venue at which the race meeting is held; and
- (b) the bettor’s consent to recording the betting transaction is obtained before the transaction starts; and
- (c) the details of the bet are confirmed with the bettor before the betting transaction ends, including, for example, the betting ticket number, account number and amount of the bet.

(2) A control body may approve a system for bookmaking by telephone if it is satisfied that—

- (a) all telephone calls on the system will be recorded; and
- (b) it can adequately supervise the system and its use.

250 Racing bookmakers to maintain policy of insurance or bond to indemnify bettors against default

(1) For each code of racing for which the racing bookmaker is licensed, the racing bookmaker must have an insurance policy or bond, acceptable to the control body responsible for managing the code.

(2) Without limiting subsection (1), an insurance policy or bond must—

- (a) indemnify persons who bet with the racing bookmaker for amounts payable under the control body’s rules of racing to the

persons by the racing bookmaker; and

- (b) include conditions required by the control body.

251 Control bodies to ensure racing bookmakers have policies of insurance or bond

(1) A control body must not license a person as a racing bookmaker, or renew a racing bookmaker's licence, unless the person or racing bookmaker has a policy of insurance or bond as mentioned in section 250.

Maximum penalty—100 penalty units.

(2) If a racing bookmaker does not have a policy of insurance or bond as mentioned in section 250, the control body must immediately suspend the racing bookmaker's licence until it is satisfied the racing bookmaker has the policy or bond.

(3) Each control body may make enquires, and do other acts, as it believes necessary to find out if a racing bookmaker has a policy of insurance or bond as mentioned in section 250.

252 Prohibition of betting by racing bookmaker with minor

(1) A racing bookmaker, or an agent or employee of a racing bookmaker, must not—

- (a) bet with a minor; or
(b) bet with a person who the racing bookmaker, agent or employee knows is betting for a minor.

Maximum penalty—400 penalty units.

(2) It is a defence to a charge for an offence against subsection (1) for the defendant to prove that at the time of the offence the defendant honestly and reasonably believed that the person whose age is material to the offence was an adult.

(3) A minor must not bet with a racing bookmaker or an agent or employee of a racing bookmaker.

Maximum penalty—400 penalty units.

(4) A person must not, for a minor, bet with a racing bookmaker or an agent or employee of a racing bookmaker.

Maximum penalty—400 penalty units.

253 Lawful bet by racing bookmaker is taken to be a valid contract

(1) This section applies if a racing bookmaker at a licensed venue makes a bet with another person as part of the lawful engagement of the racing bookmaker in bookmaking.

(2) The racing bookmaker is taken to have entered into a valid contract with the other person relating to the bet and may sue or be sued on the contract.

254 Payment and settlement of bets

(1) This section applies to the payment and settlement of a bet that was lawfully made by and with a racing bookmaker at a licensed venue.

(2) A regulation may approve a place for the payment and settlement of the bet.

(3) For the payment and settlement of the bet, that place is not an illegal betting place.

PART 5—MISCELLANEOUS**255 Bookmaking on certain declared sporting contingencies**

(1) A control body may declare a sporting contingency to be a declared sporting contingency for which racing bookmakers licensed by the control body may carry on bookmaking at a licensed venue, at a time when a race meeting is being held at the venue under the control of the control body.

(2) Before a control body declares a sporting contingency to be a declared sporting contingency, the control body must consider all of the following—

- (a) whether declaring the sporting contingency brings, or has the potential to bring, its code of racing, or racing bookmakers licensed by it, into disrepute;
- (b) whether declaring the sporting contingency will erode public confidence in the Queensland racing industry;

- (c) whether a decision about the result of the sporting contingency can be relied on by the control body, racing bookmakers and the public.

(3) Notice about the declaration of a sporting contingency by a control body must be given by the control body—

- (a) by publication in the control body's racing calendar; or
- (b) by making the notice available on its website; or
- (c) by giving each racing bookmaker licensed by the control body a copy of the declaration.

(4) A racing bookmaker must not carry on bookmaking on a sporting contingency, other than a race, unless—

- (a) the sporting contingency has been declared, under subsection (1), by the control body that licensed the racing bookmaker to be a declared sporting contingency; and
- (b) the bookmaking is carried on—
 - (i) at a licensed venue licensed by that control body; and
 - (ii) at a time when a race meeting is being held at the venue, under the control of the control body.

Maximum penalty for subsection (4)—400 penalty units.

256 Racing bookmaker's agent during certain periods

(1) This section applies if a racing bookmaker applies to the control body that licensed the racing bookmaker, in a control body form, to authorise a person to act as the racing bookmaker's agent by carrying on bookmaking as the racing bookmaker for a period.

(2) The control body may authorise the person to act as the racing bookmaker's agent and carry on bookmaking as the racing bookmaker for the period only if—

- (a) the racing bookmaker—
 - (i) is temporarily incapacitated through illness or accident; or
 - (ii) is on vacation for a period that, together with any previous period in which the racing bookmaker was on vacation, does not exceed 12 weeks in any year; or

(iii) is temporarily unable, for reasons acceptable to the control body, to carry on bookmaking for a period not exceeding 12 weeks; and

(b) the person nominated in the application as the racing bookmaker's agent is a racing bookmaker's clerk.

(3) The application must be signed by the racing bookmaker.

(4) However, if a racing bookmaker is unable to carry on bookmaking for a period due to incapacity caused by illness or accident, the control body may waive the requirement that the application be signed by the racing bookmaker if it is satisfied the person who signed and lodged the application is acting for the racing bookmaker.

(5) For this Act, the person authorised as the racing bookmaker's agent is taken to be the racing bookmaker during the period stated in the authority and this Act applies to the racing bookmaker's agent as if the agent were the racing bookmaker.

(6) The racing bookmaker's agent does not need to hold an eligibility certificate to be authorised as the racing bookmaker's agent.

257 Control body to give notice of certain actions about racing bookmakers to gaming executive

(1) If a control body licenses a certificate holder as a racing bookmaker, the control body must give notice about the licensing to the gaming executive within 14 days of the date of the licence.

(2) If a control body refuses to license a certificate holder as a racing bookmaker, the control body must give notice about the refusal to the gaming executive within 14 days of the date of the refusal.

(3) If a control body exercises disciplinary action relating to a racing bookmaker's licence, the control body must give notice about the disciplinary action to the gaming executive and each other control body within 14 days of the date of the action.

(4) The notice under subsection (2) or (3) must state the control body's reasons for the refusal or disciplinary action.

258 Gaming executive may give information to control body about racing bookmaker or applicant for eligibility certificate

(1) This section applies if, after an investigation under part 3⁴¹ or otherwise, the gaming executive has information about a racing bookmaker, or applicant for an eligibility certificate, that the gaming executive believes is appropriate to give to a control body that licenses the person in any capacity.

(2) The gaming executive may give the information to the control body.

259 Delegation by gaming executive

The gaming executive may delegate the gaming executive's powers under this chapter to an appropriately qualified public service employee.

260 Approval of forms for ch 6

The gaming executive may approve forms for this chapter.

CHAPTER 7—AUTHORISED OFFICERS

PART 1—APPOINTMENT AND FUNCTIONS

261 Appointment and qualifications

(1) The chief executive may appoint a person as either or both of the following—

- (a) a compliance officer;
- (b) an integrity officer.

(2) A reference in this Act to an “**authorised officer**” is a reference to a compliance officer or an integrity officer.

(3) However, the chief executive may appoint a person as an authorised officer only if—

- (a) the person is—
 - (i) a public service employee; or
 - (ii) a person, or a member of a class of persons, prescribed under a regulation; and
- (b) the chief executive is satisfied the person is appropriately qualified to exercise the powers of a compliance officer or an integrity officer.

(4) Subsection (3) does not limit the matters the chief executive may consider when deciding whether to appoint a person as an authorised officer.

262 Functions of authorised officers

(1) The main function of an authorised officer is to investigate and enforce compliance with this Act.

(2) A compliance officer's function to investigate compliance with this Act includes—

- (a) monitoring each control body's activities for its code of racing about licensed clubs, participants and venues; and
- (b) auditing each control body to assess whether the control body is complying with this Act, other than in relation to the welfare of licensed animals.

(3) An integrity officer's function to investigate compliance with this Act includes—

- (a) monitoring each control body's activities for its code of racing relating to the welfare of licensed animals; and
- (b) auditing each control body to assess whether the control body is complying with this Act in relation to the welfare of licensed animals; and
- (c) auditing each accredited facility to assess whether it is complying with conditions that apply to it under this Act.

263 Appointment conditions and limit on powers

(1) An authorised officer holds office on any conditions stated in—

- (a) the authorised officer's instrument of appointment; or

- (b) a signed notice given to the authorised officer; or
- (c) a regulation.

(2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the officer's functions or powers under this Act.

(3) In this section—

“**signed notice**” means a notice signed by the chief executive.

264 Issue of identity card to each authorised officer

(1) The chief executive must issue an identity card to each authorised officer.

(2) The identity card must—

- (a) contain a recent photo of the authorised officer; and
- (b) contain a copy of the authorised officer's signature; and
- (c) identify the type of authorised officer the person is appointed as under section 261(1); and
- (d) state an expiry date for the card.

(3) This section does not prevent the issuing of a single identity card to a person for this Act and other purposes.

265 Production or display of identity card

(1) In exercising a power under this Act in relation to another person, an authorised officer must—

- (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
- (b) have the identity card displayed so that it is clearly visible to the person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.

(3) For subsection (1), an authorised officer does not exercise a power in relation to a person only because the authorised officer has entered a place as mentioned in section 270(1)(b) or (2).

266 When authorised officer ceases to hold office

(1) An authorised officer ceases to hold office if any of the following happens—

- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the authorised officer ceases to hold office;
- (c) the authorised officer's resignation under section 267 takes effect.

(2) Subsection (1) does not limit the ways an authorised officer may cease to hold office.

(3) In this section—

“condition of office” means a condition on which the authorised officer holds office.

267 Resignation

(1) An authorised officer may resign by signed notice given to the chief executive.

(2) However, if holding office as an authorised officer is a condition of the authorised officer holding another office, the authorised officer may not resign as an authorised officer without resigning from the other office.

268 Return of identity card

A person who ceases to be an authorised officer must return the person's identity card to the chief executive within 14 days after ceasing to be an authorised officer, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

PART 2—POWERS OF AUTHORISED OFFICERS

Division 1—Entry to places other than vehicles

269 Application of div 1

This division applies to a place, other than a vehicle.

270 Power of entry

(1) An authorised officer may enter a place if—

- (a) its occupier consents to the entry; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) it is a place of business and the entry is made when the place is—
 - (i) open for carrying on activities for which the place is a place of business; or
 - (ii) otherwise open for entry; or
- (d) the entry is authorised by a warrant.

(2) For the purpose of asking the occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the authorised officer believes members of the public ordinarily are allowed to enter when they wish to contact the occupier.

(3) In this section—

“place of business” means any of the following places but does not include a part of a place where an individual resides—

- (a) a place used by a control body to conduct activities in relation to managing its code of racing;
- (b) a place used by a licence holder to conduct activities for which the licence holder is licensed or otherwise holds the licence;
- (c) a place that is an accredited facility or secondary facility.

271 Procedure for entry with consent

(1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 270(1)(a).

(2) Before asking for the consent, the authorised officer must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

- (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) the occupier gives the authorised officer consent to enter the place and exercise powers under this part; and
- (d) the time and date the consent was given.

(5) If the occupier signs the acknowledgment, the authorised officer must immediately give a copy to the occupier.

(6) If—

- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
- (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

272 Other entries without warrant

(1) This section applies if—

- (a) an authorised officer is intending to enter a place under section 270(1)(c); and

(b) the occupier of the place is present at the place.

(2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following—

- (a) comply with section 265(1);⁴²
- (b) tell the occupier the purpose of the entry;
- (c) tell the occupier the authorised officer is permitted under this Act to enter the place without the occupier's consent or a warrant.

273 Application for warrant

(1) An authorised officer may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all of the information the magistrate requires about the application in the way the magistrate requires.

Example for subsection (3)—

The magistrate may require additional information supporting the application to be given by statutory declaration.

274 Issue of warrant

(1) A magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against this Act; or
- (b) the evidence is at the place or, within the next 7 days, may be at the place.

(2) The warrant must state—

- (a) that a named authorised officer may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry; and

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- (ii) exercise the authorised officer's powers under this part; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant's issue, the warrant ends.

275 Special warrants

(1) An authorised officer may apply for a warrant (a **“special warrant”**) by electronic communication, fax, phone, radio or another form of communication if the authorised officer believes it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the authorised officer's remote location.

(2) Before applying for the special warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised officer may apply for the warrant before the application is sworn.

(4) After issuing the special warrant, the magistrate must immediately electronically communicate or fax a copy (a **“facsimile warrant”**) to the authorised officer if it is reasonably practicable to do so.

(5) If it is not reasonably practicable to electronically communicate or fax a copy to the authorised officer—

- (a) the magistrate must tell the officer—
 - (i) what the terms of the special warrant are; and
 - (ii) the date and time the special warrant is issued; and
- (b) the authorised officer must complete a form of warrant (a **“warrant form”**) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the special warrant; and
 - (iii) the terms of the special warrant.

(6) The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers stated in the special warrant issued.

(7) The authorised officer must, at the first reasonable opportunity, send the magistrate—

- (a) the sworn application; and
- (b) if the authorised officer completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the special warrant.

(9) If—

- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a special warrant; and
- (b) the warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a special warrant authorised the exercise of the power.

276 Warrants—procedure before entry

(1) This section applies if—

- (a) an authorised officer named in a warrant issued under this division for a place is intending to enter the place under the warrant; and
- (b) a person is present at the place.

(2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—

- (a) comply with section 265(1);⁴³
- (b) give the person a copy of—
 - (i) the warrant; or

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- (ii) if the entry is authorised by a facsimile warrant or warrant form mentioned in section 275(6)—the facsimile warrant or warrant form;
- (c) tell the person the authorised officer is permitted by the warrant to enter the place;
- (d) give the person an opportunity to allow the officer immediate entry to the place without using force.

(3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Division 2—Entry to vehicles

277 Application of div 2

This division applies to vehicles at or about a place—

- (a) used by a control body to conduct activities in relation to managing its code of racing; or
- (b) used by a licence holder to conduct activities for which the licence holder is licensed.

278 Power of entry

(1) An integrity officer may enter a vehicle if the integrity officer suspects—

- (a) the vehicle is being, or has been, used in relation to the commission of an interference offence; or
- (b) the vehicle, or an animal or thing in the vehicle, may provide evidence of the commission of an interference offence.

(2) In this section—

“**interference offence**” means an offence against section 317, 318, 319 or 327.⁴⁴

279 Procedure before entry

(1) This section applies if an integrity officer intends to enter a vehicle under section 278.

(2) If a person is present at the vehicle, the integrity officer must, before entering the vehicle, do or make a reasonable attempt to do the following things—

- (a) comply with section 265(1);⁴⁵
- (b) tell the person the purpose of the entry;
- (c) ask for the person’s consent to the entry;
- (d) tell the person the integrity officer is permitted under this Act to enter the vehicle without consent;
- (e) if the person is not the owner of the vehicle—advise the owner of the vehicle of the integrity officer’s intention to enter the vehicle.

(3) If a person is not present at the vehicle, the integrity officer must, before entering the vehicle—

- (a) take reasonable steps to find the owner of the vehicle; and
- (b) comply with subsection (2)(a) to (d) for the owner.

(4) Subsections (2)(e) and (3) do not require the integrity officer to take a step the integrity officer believes may frustrate or otherwise hinder an investigation under this Act or the purpose of the intended entry.

(5) In this section—

“**owner**”, of a vehicle, includes a person who appears to be in control of the vehicle.

44 Section 317 (Person must not possess prohibited thing at particular places), 318 (Person must not use prohibited thing on, or interfere with, a licensed animal), 319 (Person must not interfere with licence holder or official of a control body) or 327 (Interfering with particular things at licensed venue or places for holding trials)

45 Section 265 (Production or display of identity card)

280 Power to stop vehicle that may be entered

If a vehicle that an integrity officer may enter under this division is moving or about to move, the integrity officer may signal the person in control of the vehicle to stop, or not to move, the vehicle.

281 Failure to obey signal

(1) A person must not disobey a signal given under section 280, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) It is a reasonable excuse for a person to disobey the signal if—

- (a) to immediately obey the signal would endanger the person or someone else; and
- (b) the person obeys the signal as soon as it is practicable to obey it.

282 Other powers relating to vehicles that may be entered

(1) If an integrity officer may enter a vehicle under this division, the integrity officer may require the person in control of the vehicle—

- (a) to give the integrity officer reasonable help to enter the vehicle;
or
- (b) to bring the vehicle to a stated place and remain in control of the vehicle for a reasonable period to allow the integrity officer to exercise a power under this part.

(2) When making a requirement under subsection (1), the integrity officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

(3) A person must not fail to comply with a requirement under subsection (1), unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—200 penalty units.

Division 3—Powers for entry to all places

283 Application of div 3

(1) This division applies to an authorised officer who, under division 1 or 2, may enter or has entered a place.

(2) However, if an authorised officer, under section 270(2)⁴⁶ enters a place to ask the occupier's consent to enter premises, this division applies to the authorised officer only if the consent is given or the entry is otherwise authorised.

284 General powers of compliance officer after entering places

For performing a compliance officer's function under this Act, a compliance officer may do any of the following—

- (a) search any part of the place;
- (b) inspect, film, photograph, videotape or otherwise record an image of an animal, document or other thing at the place;
- (c) take an extract from, or copy, a document at the place;
- (d) take into the place the equipment, materials or persons the compliance officer reasonably requires for exercising a power under this part.

285 General powers of integrity officer after entering places

(1) For performing an integrity officer's function under this Act, an integrity officer may do any of the following—

- (a) search any part of the place;
- (b) open, using reasonable force, a stable, kennel or structure confining or containing an animal or other thing to examine the structure, animal or other thing;
- (c) inspect, film, photograph, videotape or otherwise record an image of an animal, document or other thing at the place;
- (d) take, or authorise another person to take, for analysis—

46 Section 270 (Power of entry)

- (i) a sample relating to a licensed animal at the place; or
- (ii) a thing, or a sample of or from a thing, attached to or used on a licensed animal at the place; or

Example for subparagraph (ii)—

1. A tongue tie from a horse.
2. Medication on or under bandages on a greyhound.

- (iii) another thing, or a sample of or from the thing, at the place;
- (e) mark, tag or otherwise identify a licensed animal at the place;
- (f) take an extract from, or copy, a document at the place;
- (g) take into the place the equipment, materials or persons the officer reasonably requires for exercising a power under this part;
- (h) take a necessary step to allow a power under paragraphs (a) to (g) to be exercised.

Example of a step for paragraph (h)—

Moving a licensed animal at the place to allow a sample to be taken from the animal.

(2) However, if the integrity officer does not believe that he or she is appropriately qualified to take a sample or thing for analysis under subsection (1)(d), the integrity officer must arrange for an appropriately qualified person (a “**qualified person**”) to take the sample or thing for the integrity officer.

(3) If an integrity officer or qualified person takes a sample or thing for analysis under subsection (1)(d), the integrity officer—

- (a) must comply with section 144⁴⁷ or ensure that section is complied with by the qualified person; and
- (b) give a receipt for the sample or thing to the person in charge of the animal or place from which it was taken; and
- (c) for a sample or thing with an intrinsic value—at the end of 6 months after the sample or thing was taken, return it to the

⁴⁷ See section 144 (Way things taken for analysis by integrity officer or qualified person must be taken and dealt with).

person who appears to be the owner of it or the person in charge of the animal or place from which it was taken.⁴⁸

(4) However, if for any reason it is not practicable to comply with subsection (3)(b), the integrity officer must leave the receipt at the place in a conspicuous position and in a reasonably secure way.

(5) The receipt mentioned in subsection (3)(b) must be in the approved form.

286 Power to require reasonable help or information

(1) An authorised officer may require the occupier of the place, or a person at the place, to give the officer—

- (a) reasonable help to exercise a power under this part; or
- (b) information to help the authorised officer ascertain whether this Act is being complied with.

(2) When making a requirement under subsection (1), the authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

(3) A person required to give reasonable help under subsection (1)(a), or give information under subsection (1)(b), must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(4) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

Division 4—Seizure

287 Definition for div 4

In this division—

“**thing**” includes a dead animal but does not include a live animal.

⁴⁸ See division 5 (Forfeiture) for what happens if the sample or thing can not be returned to its owner.

288 Power to seize evidence—entry without consent or warrant

An authorised officer who enters a place under this part without consent and without a warrant may seize a thing at the place only if the authorised officer believes—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
 - (i) destroyed, hidden or lost; or
 - (ii) used to commit, continue or repeat, an offence against this Act.

289 Power to seize evidence—entry with consent or warrant

(1) This section applies if an authorised officer enters a place under this part with the necessary consent of a person or with a warrant.

(2) If the authorised officer enters a place with the necessary consent, the authorised officer may seize a thing at the place if—

- (a) the authorised officer believes the thing is evidence of an offence against this Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the person when asking for the person's consent.

(3) If the authorised officer enters the place with a warrant, the authorised officer may seize a thing that is the evidence for which the warrant was issued.

(4) The authorised officer may seize anything else at the place if the authorised officer believes—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
 - (i) destroyed, hidden or lost; or
 - (ii) used to commit, continue or repeat an offence against this Act.

290 Securing seized things

Having seized a thing, an authorised officer may—

- (a) move the thing from the place where it was seized (the “**place of seizure**”); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it; or

Examples of restricting access to a thing—

- 1. Marking, sealing, tagging or otherwise identifying the thing to show access to it is restricted.
- 2. Sealing the entrance to a room where the thing is situated and marking the entrance to show access to the thing is restricted.

- (c) for equipment—make it inoperable.

Example of making equipment inoperable—

Dismantling equipment or removing a component of equipment without which the equipment is not capable of being used.

291 Offence to tamper with seized thing

(1) If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an authorised officer’s approval.

Maximum penalty—400 penalty units.

(2) If an authorised officer makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an authorised officer’s approval.

Maximum penalty—400 penalty units.

292 Powers to support seizure

(1) To enable a thing to be seized, an authorised officer may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and
- (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.

(2) The requirement—

- (a) must be made by notice given to the person; or

- (b) if for any reason it is not practicable to give a notice to the person—may be made orally and confirmed by notice given to the person as soon as it is practicable.

(3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.

(4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

(5) The notices mentioned in subsection (2) must be in the approved form.

293 Receipt for seized thing

(1) After an authorised officer seizes a thing, the authorised officer must give a receipt for it to the person from whom the thing was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

(3) The receipt must describe generally each thing seized and its condition.

(4) This section does not apply to a thing if it would be impracticable or unreasonable to expect the authorised officer to account for the thing given its condition, nature and value.

294 Return of seized thing

(1) This section applies to a seized thing if—

- (a) the thing has some intrinsic value; and
- (b) the thing has not been forfeited under division 5.

(2) The authorised officer must return the thing to its owner—

- (a) at the end of 6 months after the seizure; or
- (b) if a proceeding for an offence involving the thing is started within the 6 months—at the end of the proceeding and any appeal relating to the proceeding.

(3) Despite subsection (2), the authorised officer must promptly return a thing seized as evidence if the authorised officer stops being satisfied—

- (a) its continued retention as evidence is necessary; and
- (b) its continued retention is necessary to prevent the thing being used to continue, or repeat, an offence.

295 Access to seized thing

(1) Until a seized thing is forfeited or returned, an authorised officer must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Division 5—Forfeiture

296 Forfeiture by authorised officer

(1) A sample or thing taken for analysis under section 285(1)(d), or a thing seized under division 4, is forfeited to the State if the authorised officer who took, or arranged the taking of, the sample or thing or seized the thing—

- (a) after making reasonable efforts, can not return it to its owner; or
- (b) after making reasonable inquiries, can not find its owner.

(2) For subsection (1), the authorised officer is not required to—

- (a) make efforts if it would be unreasonable to make efforts to return the sample or thing to its owner; or
- (b) make inquiries if it would be unreasonable to make inquiries to find the owner.

Example for paragraph (b)—

The owner of the sample or thing has migrated to another country.

(3) Regard must be had to the sample's or thing's condition, nature and value in deciding—

- (a) whether it is reasonable to make efforts or inquiries; and
- (b) if efforts or inquiries are made—what efforts or inquiries, including the period over which they are made, are reasonable.

(4) In this section—

“owner”, for a sample or a thing taken for analysis, means the person in charge of the animal, thing or place from which the sample or thing was taken.

297 Forfeiture on conviction

(1) On conviction of a person for an offence against this Act, the court may order the forfeiture to the State of anything owned by the person and seized under division 4.

(2) The court may make any order to enforce the forfeiture it considers appropriate.

(3) This section does not limit the court’s powers under the *Penalties and Sentences Act 1992* or another law.

298 Dealing with forfeited sample or thing

(1) On forfeiture of a sample or thing to the State, the sample or thing becomes the State’s property and may be dealt with by the chief executive in a way the chief executive believes is appropriate.

(2) Without limiting subsection (1), the chief executive may destroy or dispose of the sample or thing.

Division 6—Other powers

299 Power to require name and address

(1) An authorised officer may require a person to state the person’s name and residential or business address if the authorised officer—

- (a) finds the person committing an offence against this Act; or
- (b) finds the person in circumstances that lead, or has information that leads, the authorised officer to suspect the person has just committed an offence against this Act.

(2) When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person’s name or address unless the person has a reasonable excuse.

(3) The authorised officer may also require the person to give evidence of the correctness of the stated name or required address if the authorised officer suspects the stated name or address is false.

300 Failure to give name or address

(1) A person of whom a requirement is made under section 299(1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) A person does not commit an offence against subsection (1) if—

- (a) the requirement was given because the authorised officer suspected the person had committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

301 Power to require information about contravention

(1) This section applies if an authorised officer believes—

- (a) this Act has been contravened; and
- (b) a person may be able to give information about the contravention.

(2) The authorised officer may require the person to give information to the person's knowledge about the contravention in a stated reasonable time and in a stated reasonable way.

(3) When making a requirement under subsection (2), the authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

302 Failure to give information about contravention

(1) A person of whom a requirement is made under section 301 must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If the person is an individual, it is a reasonable excuse for the person if complying with the requirement might tend to incriminate the person.

303 Power to require production of documents

(1) An authorised officer may require a person to make available for inspection by an authorised officer, or produce to an authorised officer for inspection, at a stated reasonable time and place, a document required to be kept by the person under this Act.

(2) The authorised officer may keep the document to copy it.

(3) The authorised officer must return the document to the person after copying it.

304 Failure to produce document

(1) A person required to make available, or produce, for inspection a document under section 303 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) It is not a reasonable excuse for a person that complying with the requirement might tend to incriminate the person.

PART 3—OFFENCES RELATING TO AUTHORISED OFFICERS**305 False or misleading statements**

(1) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—300 penalty units.

(2) In a proceeding for an offence against subsection (1), it is enough to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

306 False or misleading documents

(1) A person must not give an authorised officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—300 penalty units.

(2) Subsection (1) does not apply to a person if the person when giving the document—

- (a) tells the authorised officer to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(3) In a proceeding for an offence against subsection (1), it is enough to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.

307 Obstruction of authorised officer

(1) A person must not obstruct an authorised officer in the exercise of a power under part 2, unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

(2) If a person has obstructed an authorised officer and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—

- (a) it is an offence to obstruct the authorised officer unless the person has a reasonable excuse; and
- (b) the authorised officer believes the person’s conduct is an obstruction.

(3) In this section—

“**obstruct**” includes assault, hinder, resist and attempt or threaten to obstruct.

PART 4—NOTICE OF DAMAGE AND COMPENSATION

308 Notice of damage

(1) This section applies if—

- (a) an authorised officer damages something when exercising, or purporting to exercise, a power under part 2; or

(b) a person acting under the direction or authority of an authorised officer damages something.

(2) The authorised officer must give notice to the person who appears to the authorised officer to be the owner or person in possession of the thing.

(3) If for any reason it is not practicable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way at the place where the damage happened.

(4) The notice must state—

(a) the particulars of the damage; and

(b) that the person who suffered the damage may claim compensation under section 309.

(5) If the authorised officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised officer or person acting under the direction or authority of the authorised officer, the authorised officer may state the belief in the notice.

(6) However, an authorised officer need not comply with this section if the authorised officer believes the damage is trivial.

309 Compensation

(1) This section applies if a person incurs loss or damage because of the exercise, or purported exercise, of a power under part 2, other than because of a forfeiture under section 296 or 297.⁴⁹

(2) The person is entitled to be paid the reasonable compensation because of the loss or damage that is agreed between the chief executive and the person, or failing agreement, decided by a court.

(3) Compensation may be claimed and ordered to be paid in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.

⁴⁹ Section 296 (Forfeiture by authorised officer) or 297 (Forfeiture on conviction)

CHAPTER 8—OFFENCES

PART 1—OFFENCES

Division 1—Offences relating to administration of Act

310 Definitions for div 1

In this division—

“Act document” means—

- (a) an accreditation, approval, eligibility certificate, licence, identity card or other authority given under this Act; or
- (b) a document issued by or for a racing bookmaker evidencing a bet made with the racing bookmaker.

“background document” means—

- (a) an approved form, control body form, or gaming executive form, completed by a person about the person’s business reputation, character, criminal history, current financial position or financial background; or
- (b) a document accompanying an accreditation application, application for a licence, approval application, approved form, control body form or gaming executive form; or
- (c) the fingerprints of a person obtained by the chief executive, gaming executive or a control body; or
- (d) another document obtained by the chief executive, gaming executive or a control body, relating to the person’s business reputation, character, criminal history, current financial position or financial background.

“confidential information”, about someone, means information about—

- (a) the person’s business reputation, character, criminal history, current financial position or financial background; or
- (b) the person making an application under this Act.

“control body officer” means—

- (a) if the control body is a continuing control body, a member or an employee of the continuing control body; or
- (b) if the control body is a not a continuing control body, an executive officer or employee of the control body.

“**copy**” includes make a record.

“**court**” includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

“**forg**” includes counterfeit.

311 Protection for persons about whom confidential information or background documents obtained

(1) This section applies to a person, including a person who is or was a public service employee or control body officer, who, in the course of administering this Act or the repealed Act or because of an opportunity provided by involvement in administering this Act or the repealed Act—

- (a) acquired confidential information about someone else; or
- (b) gained access to a background document about someone else.

(2) The person must not do any of the following unless the person has a reasonable excuse for doing so—

- (a) disclose to anyone else the confidential information, or the contents of, or information contained in, a background document;
- (b) copy a background document;
- (c) give access to a background document to anyone else.

Maximum penalty—100 penalty units.

(3) A person has a reasonable excuse for doing a thing mentioned in subsection (2) if—

- (a) the person does the thing—
 - (i) in or for the performance of a function under this Act, including, for example, giving a document to the auditor-general if the information is relevant to an audit under section 60;⁵⁰ or

50 Section 60 (Audit by auditor-general)

- (ii) under the authority of this Act or another Act; or
 - (iii) with the consent of the person to whom the information or document relates; or
 - (iv) in compliance with lawful process requiring production of documents or giving evidence before a court; or
- (b) the disclosure was of a statistical nature that could not reasonably be expected to result in the identification of the person to whom it related.

312 Forgery and uttering Act documents

(1) A person must not—

- (a) forge an Act document; or
- (b) knowingly utter an Act document that is forged.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not pretend to be a person named in an Act document, whether or not the person refers to the document.

Example for subsection (2)—

1. If a person steals an authorised officer's identity card, the person must not pretend to be the authorised officer identified in the card.
2. A person must not pretend to be an authorised officer by telling someone else that the person is an authorised officer.

Maximum penalty—200 penalty units or 2 years imprisonment.

313 Making a false statement in application or other document

A person must not knowingly make a false statement—

- (a) in an accreditation application, application for a licence, application for an eligibility certificate or approval application; or
- (b) in a document the person is required to keep, or to give to the Minister, the chief executive, the gaming executive, a control body or another person, under this Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

Division 2—Offences relating to racing contingencies

314 Definitions for div 2

In this division—

“**conduct**”, in relation to a racing contingency, includes—

- (a) to arrange for a place to be used for the racing contingency; and
- (b) to advertise or otherwise promote the racing contingency and seek nominations for animals to race; and
- (c) to arrange for persons to carry on bookmaking at the racing contingency; and
- (d) to participate in the racing contingency other than merely by being present at the place where the racing contingency is being, or is about to be, held; and
- (e) to help in any of the activities mentioned in paragraphs (a) to (d).

“**racing contingency**” means a contest, contingency or event, other than a race meeting lawfully held under this Act, in which 2 or more animals compete against each other for the purpose of providing a contest, contingency or event on which bets are made.

315 Person must not conduct a racing contingency

(1) A person must not conduct a racing contingency.

Maximum penalty—200 penalty units.

(2) The occupier of a place must not allow a person to conduct a racing contingency at the place.

Maximum penalty—200 penalty units.

Division 3—Offences relating to prohibited things or interfering with licensed animals, persons or things

316 Definitions for div 3

In this division—

“interfere with”, in relation to a licensed animal, a licence holder or an official of a control body, means—

- (a) inflict or cause injury to the licensed animal, licence holder or official; or
- (b) threaten to inflict or cause injury to the licensed animal, licence holder or official; or
- (c) otherwise affect in a detrimental way the behaviour, performance or physical condition of the licensed animal, licence holder or official.

“possess”, a thing, means—

- (a) have custody of the thing; or
- (b) have control of it at any place, whether or not someone else has custody of it.

“prohibited thing” means any of the following—

- (a) a drug;
- (b) a noxious or toxic thing that could be used to affect the behaviour, performance or physical condition of an animal or person;
- (c) a thing that does, or is designed to do, any of the following and may be used on a licensed animal in a detrimental way—
 - (i) supply electrical energy or another form of energy;
 - (ii) conduct, discharge or store an electrical charge, current, voltage or another form of energy;
 - (iii) apply, deposit, propel or spray a substance;
- (d) a hypodermic syringe or needle or other medical or veterinary instrument.

“use”, a prohibited thing on a licensed animal, means—

- (a) to use it on, or administer it to, the animal; or
- (b) to cause it to be used on, or administered to, the animal.

317 Person must not possess prohibited thing at particular places

A person must not possess a prohibited thing at any of the following places unless the person has a reasonable excuse—

- (a) a licensed venue;
- (b) a place where a trial is held or to be held;
- (c) a place used for the purpose of training a licensed animal;
- (d) a kennel, stable or other place used for sheltering a licensed animal;
- (e) in or about a vehicle being, or about to be, used to transport a licensed animal;
- (f) another place where a licensed animal is located.

Maximum penalty—400 penalty units or 2 years imprisonment.

318 Person must not use prohibited thing on, or interfere with, a licensed animal

- (1) A person must not, unless the person has a reasonable excuse—
- (a) use a prohibited thing on a licensed animal; or
 - (b) interfere with a licensed animal.

Maximum penalty—600 penalty units or 2 years imprisonment.

- (2) For a veterinary surgeon, it is a reasonable excuse to use a prohibited thing on, or interfere with, a licensed animal—
- (a) to treat a condition or injury of the animal; or
 - (b) to do something else that accords with normal veterinary practice.

319 Person must not interfere with licence holder or official of a control body

(1) A person must not, unless the person has a reasonable excuse, interfere with a licence holder in relation to the licence holder's performance of an activity for which the licence holder is licensed.

Maximum penalty—400 penalty units or 2 years imprisonment.

(2) A person must not, unless the person has a reasonable excuse, interfere with an official of a control body performing a function or exercising a power under the control body's rules of racing.

Maximum penalty—400 penalty units or 2 years imprisonment.

Division 4—Unlawful bookmaking, places where betting done unlawfully and other provisions

320 Application of div 4

- (1) This division does not apply in relation to—
- (a) wagering lawfully conducted under the *Wagering Act 1998*; or
 - (b) betting by and with any 1 of the following persons as part of the person lawfully carrying on bookmaking, or conducting a racing bookmaker's business, at a licensed venue—
 - (i) a racing bookmaker;
 - (ii) if a racing bookmaker is a corporation—a licensed executive officer of the corporation;
 - (iii) a racing bookmaker's clerk.
- (2) This division does not affect in any way—
- (a) the *Charitable and Non-Profit Gaming Act 1999*; or
 - (b) the Criminal Code; or
 - (c) the *Suppression of Gambling Act 1895*; or
 - (d) the *Vagrants, Gaming and Other Offences Act 1931*; or
 - (e) the *Wagering Act 1998*.

321 Unlawful bookmaking other than by racing bookmakers etc.

A person must not carry on bookmaking unless the person is 1 of the following and lawfully carrying on bookmaking under the relevant racing bookmaker's licence—

- (a) a racing bookmaker;
- (b) if a racing bookmaker is a corporation—a licensed executive officer of the corporation;
- (c) a racing bookmaker's clerk who carries on bookmaking as part of conducting the racing bookmaker's business.

322 Illegal betting place

(1) Subject to subsection (2), a place is an “**illegal betting place**” if the place is opened, kept or used, wholly or partly, for 1 or more of the following—

- (a) bookmaking by the occupier of the place with someone else;
- (b) receiving money or other property by or for the occupier of the place as or for consideration for—
 - (i) any assurance, undertaking, promise or agreement, express or implied, to pay or give money or other property in relation to a race or sporting contingency; or
 - (ii) securing the paying or giving by someone else of money or other property in relation to a race or sporting contingency;
- (c) the payment or settlement of a bet made in relation to a race or sporting contingency.

(2) A place is not an illegal betting place for an activity mentioned in subsection (1) if—

- (a) the place is a licensed venue and the activity takes place when the venue is under the control of a control body for a race meeting;
or
- (b) the place may be lawfully used under another Act for the activity.

(3) Section 254(3) provides that other places are not illegal betting places for the payment and settlement of a bet.

323 Prohibition on opening, keeping, using or promoting an illegal betting place

(1) A person must not—

- (a) open, keep or use an illegal betting place; or
- (b) allow a place, of which the person is the occupier, to be opened, kept or used as an illegal betting place, whether the occupier is or is not present at the time the place is opened, kept or used as an illegal betting place; or
- (c) help, in any way, in operating an illegal betting place; or

Example for paragraph (c)—

A person, or the occupier, may invite someone else to use a service or facility at the illegal betting place.

- (d) advertise by any means, including electronically, that a place is opened, kept or used, wholly or partly for betting on a race or sporting contingency in Queensland or elsewhere, if that place is an illegal betting place.

(2) Subsection (3) applies to each of the following—

- (a) a person who is the occupier of an illegal betting place;
- (b) a person who is acting for the occupier of an illegal betting place;
- (c) a person who is in any way helping in operating an illegal betting place.

(3) The person must not, directly or indirectly, receive money or other property—

- (a) as a bet on a race or sporting contingency; or
- (b) as a deposit on a bet on condition of paying or giving money or other property in relation to a race or sporting contingency; or
- (c) as or for consideration for an assurance, undertaking, promise or agreement, express or implied, to pay or give money or other property in relation to a race or sporting contingency.

(4) A person must not give an acknowledgment on the receipt of money or other property, received in a way and for a purpose specified in subsection (3), purporting or intended to entitle the bearer or another person to receive money or other property in relation to a race or sporting contingency.

324 Contravention of s 321 or 323

(1) This section applies to a person who contravenes section 321 or 323 (a “**relevant section**”).

(2) The person is liable to—

- (a) for a first offence—a maximum penalty of 600 penalty units or 1 year’s imprisonment; or
- (b) for a second offence—a maximum penalty of 1 200 penalty units or 2 years imprisonment; or
- (c) for a third or subsequent offence—a maximum penalty of 4 000 penalty units or 5 years imprisonment.

(3) A person is liable for the penalty under this section—

- (a) for a second offence—if the person has been convicted of a single offence against a relevant section, or against the repealed Act, section 214, 216 or 217;⁵¹ or
- (b) for a third or subsequent offence—if the person has been convicted of 2 or more offences against a relevant section, or against the repealed Act, section 214, 216 or 217.

325 Using an illegal betting place

A person must not in any way use a service or facility at an illegal betting place, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

326 Prohibition of betting at public place

A person must not bet at a public place unless the betting is lawfully conducted under this Act or another Act.

Maximum penalty—100 penalty units.

Division 5—Other offences

327 Interfering with particular things at licensed venue or places for holding trials

(1) This section applies to all of the following—

- (a) a lighting, power or control system, lure drive, or any other plant or equipment, used in connection with holding a race or trial at a licensed venue or holding a trial at another place;
- (b) a course prepared or laid out for holding the race or trial.

(2) A person must not interfere with a thing to which this section applies without permission from the responsible person for the licensed venue or place.

51 Repealed Act, section 214 (Unlawful bookmaking by persons other than racing bookmakers etc.), 216 (Prohibition of opening, keeping or using a common betting house) or 217 (Possession of instrument of betting)

Maximum penalty—400 penalty units or 2 years imprisonment.

(3) In this section—

“**interfere with**”, in relation to the operation of plant or equipment or to a course, includes altering, damaging, destroying or removing the plant, equipment or course, or a part of the plant, equipment or course.

“**responsible person**”, for a licensed venue or a place, means—

- (a) for a day on which a race meeting is to be held at the licensed venue or on which a trial is to be held at the place—the control body controlling the licensed venue or place; or
- (b) for another day—the licensed club responsible for the licensed venue or the owner of the place.

328 Attempt to commit offence

(1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty for an attempt—the maximum penalty for the completed offence.

(2) The Criminal Code, section 4⁵² applies to subsection (1).

(3) A person may be convicted of attempting to commit an offence against this Act on a complaint or indictment charging the person with the offence.

PART 2—LEGAL PROCEEDINGS

Division 1—Evidence

329 Application of div 1

This division applies to a proceeding, under this Act, for an offence.

330 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of the Minister, the chief executive, the gaming executive or an authorised officer;
- (b) the authority of a person mentioned in paragraph (a) to do anything under this Act;
- (c) the approval of a corporation as a control body;
- (d) the accreditation of a facility as an accredited facility and the statement of a person as—
 - (i) an accredited analyst or accredited veterinary surgeon for the accredited facility; or
 - (ii) an accredited analyst for a secondary facility for the accredited facility.

331 Signatures

A signature purporting to be that of any of the following persons is evidence of the signature that it purports to be—

- (a) the Minister;
- (b) the chief executive;
- (c) the gaming executive;
- (d) the presiding case manager;
- (e) an authorised officer;
- (f) the secretary or a steward of a control body;
- (g) the secretary of a licensed club;
- (h) an accredited analyst;
- (i) an accredited veterinary surgeon.

332 Evidentiary aids—documents

(1) A document purporting to be a copy of an accreditation, appointment, approval, direction, licence, notice, order or other document made or given under this Act is evidence of the accreditation, appointment,

approval, direction, licence, notice, order or other document and of the matters contained in it.

(2) A document purporting to be signed by a control body's steward who, for the control body, was in charge of a race meeting held by a licensed club and stating any of the following matters is evidence of the matter—

- (a) on a stated day, or at a stated place, a race meeting was held or allotted to be held by the club;
- (b) a stated animal competed in, or had been entered to compete in, a race at the race meeting;
- (c) the times when, under a direction given by the steward, betting with racing bookmakers could take place at the race meeting.

(3) A certificate purporting to be signed by an accredited analyst stating any of the following matters is evidence of the matter—

- (a) a stated drug or code substance was found in or on a stated thing;
- (b) a stated amount or concentration of a stated drug or code substance was found in or on a stated thing.

(4) A certificate purporting to be signed by an accredited veterinary surgeon and stating the pharmacology of a stated drug or code substance is evidence of the matters contained in it.

333 Other evidentiary provisions

(1) In support of an allegation in a complaint or indictment about either of the following relating to a place, until the contrary is proved, it is sufficient to prove a bet was made or settled with, or paid to, a person at that place—

- (a) that the place stated in the complaint or indictment is an illegal betting place;
- (b) that a person is conducting bookmaking at the place stated in the complaint or indictment.

(2) A statement in a complaint or indictment of 1 or more of the following matters is evidence, for this Act, of the matter or matters—

- (a) a place was a public place at a stated time;
- (b) a particular person was, at a stated time, the occupier of a stated place;

- (c) a particular person was, at a stated time, a member of or holder of an office in the committee of a stated licensed club or other stated association;
- (d) on a stated day a race meeting was held, or allotted to be held, at a stated place;
- (e) an animal known by a stated name competed in, or had been entered to compete in, a race meeting on a stated day.

(3) Proof that a place is opened, kept or used wholly or partly for a purpose specified in section 323⁵³ is evidence that the place in question is opened, kept or used with the permission of the occupier of the place.

(4) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

Division 2—Matters about offence proceedings, indictable and summary offences

334 Types of offences

(1) Subject to subsection (2), an offence against this Act is a summary offence.

(2) An offence against section 321 or 323⁵⁴ is an indictable offence that is a misdemeanour.

335 Proceedings for indictable offence

(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

- (a) by way of summary proceeding under the *Justices Act 1886*; or
- (b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

53 Section 323 (Prohibition on opening, keeping, using or promoting an illegal betting place)

54 Section 321 (Unlawful bookmaking other than by racing bookmakers etc.) or 323 (Prohibition on opening, keeping, using or promoting an illegal betting place)

- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
 - (b) the magistrate believes the charge should be prosecuted on indictment.
- (3) If subsection (2) applies—
- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
 - (b) a plea of the person charged at the start of the proceeding must be disregarded; and
 - (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
 - (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).⁵⁵

336 Limitation on who may summarily hear indictable offence

- (1) The proceeding must be before a magistrate if it is a proceeding—
- (a) for the summary conviction of a person on a charge for an indictable offence; or
 - (b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if the proceeding is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

337 Limitation on time for starting summary proceeding

A proceeding for a summary offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

⁵⁵ *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

- (a) within 1 year after the commission of the offence; or
- (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

338 Increased penalties

A conviction for an offence against this Act or the repealed Act is not, after 10 years from the date of the conviction, receivable in evidence against a person for the purpose of subjecting the person to an increased penalty or to a forfeiture under this Act.

339 Executive officers must ensure corporation complies with Act

(1) The executive officers of a corporation must ensure the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of its executive officers committed the offence of failing to ensure that the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

(5) It is also a defence in a proceeding against an executive officer for the officer to prove information that tended to incriminate the corporation was obtained under section 286.⁵⁶

⁵⁶ Section 286 (Power to require reasonable help or information)

CHAPTER 9—MISCELLANEOUS PROVISIONS

Division 1—Miscellaneous provisions relating to racing and betting

340 Time race meeting taken to commence

A race meeting, under the control of a control body, is taken to commence at the time that, under the direction of the steward who is in charge of the race meeting for the control body, betting with racing bookmakers may commence.

341 Void betting contracts etc.

Subject to sections 253 and 342⁵⁷—

- (a) a contract relating to betting is void; and
- (b) a promise, whether express or implied, to do any of the following under or in relation to a contract relating to betting is void—
 - (i) to pay money to a person;
 - (ii) to pay money to a person by way of commission, fee, reward or otherwise;
 - (iii) to pay money to a person for services rendered; and
- (c) an action may not be brought in a court to recover money or other property—
 - (i) alleged to be won or lost on a bet; or
 - (ii) given to a person as a stakeholder for an event on which a bet has been made; or
 - (iii) lent or advanced for the purpose of betting.

342 Betting and other activities to which s 341 does not apply

Section 341 does not apply—

- (a) if the betting is conducted under any of the following Acts—

⁵⁷ Section 253 (Lawful bet by racing bookmaker is taken to be a valid contract)

- (i) the *Casino Control Act 1982*;
 - (ii) the *Charitable and Non-Profit Gaming Act 1999*;
 - (iii) the *Gaming Machine Act 1991*;
 - (iv) the *Interactive Gambling (Player Protection) Act 1998*;
 - (v) the *Keno Act 1996*;
 - (vi) the *Lotteries Act 1997*;
 - (vii) the *Wagering Act 1998*; or
- (b) to a subscription or contribution, or agreement to subscribe or contribute, for or to a prize, trophy or amount to be awarded to the winner of a lawful game, sport, pastime or exercise or to a person who receives or holds the subscription or contribution for that purpose.

Division 2—Forms and use of e-mail addresses

343 Approved forms

The chief executive may approve forms for use under this Act.

344 Electronic applications

(1) This section applies if—

- (a) this Act requires an application to be made in an approved form, gaming executive form or control body form; and
- (b) the form provides that the application may be made by electronically communicating it to an e-mail address for service stated in the form.

(2) The application may be made by electronically communicating the information required by the form in a format substantially similar to the relevant form.

345 Electronic notices about applications

(1) This section applies if an application under this Act has been made in an approved form, gaming executive form or control body form, whether or not it has been made under section 344.

(2) A notice from the Minister, chief executive, gaming executive or control body to the applicant about the application may be given by electronically communicating it to an e-mail address for service, as stated by the applicant in the form.

(3) A notice from the applicant to the Minister, chief executive, gaming executive or control body about the application may be given by electronically communicating it to an e-mail address for service for the Minister, chief executive, gaming executive or control body, as stated in the form.

346 E-mail address for service generally

(1) This section applies to each of the following persons (a “**notice recipient**”) if, under this Act, the Minister, chief executive, gaming executive or control body must or may give a notice to the notice recipient—

- (a) an accreditation holder;
- (b) a certificate holder;
- (c) a control body;
- (d) a licence holder.

(2) The Minister, chief executive, gaming executive or control body may give the notice to the notice recipient by electronically communicating it to the notice recipient at the e-mail address for service as stated for the notice recipient in—

- (a) the accreditation certificate, approval, eligibility certificate or licence relevant to the notice recipient; or
- (b) in a notice, in an approved form, gaming executive form or control body form, given by the notice recipient to the Minister, chief executive, gaming executive or control body about a change in the e-mail address for the notice recipient.

347 Acts Interpretation Act 1954, s 39 not limited by ss 344–346

Sections 344 to 346 do not limit the *Acts Interpretation Act 1954*, section 39.⁵⁸

58 *Acts Interpretation Act 1954*, section 39 (Service of documents)

*Division 3—Administrative and other matters***348 Protection from liability**

(1) This section applies to each of the following persons (a “**relevant person**”)—

- (a) the Minister;
- (b) the chief executive;
- (c) the gaming executive;
- (d) an authorised officer;
- (e) if an authorised officer has asked someone else to help the officer to exercise a power under this Act and the other person is giving the help—the other person;
- (f) a person who is or was a public service employee of the department, or another department administered by the gaming executive;
- (g) a person who is required to comply, and is complying, with a requirement under section 282(1), 286(1), 292(1) or (3), 301(2) or 303(1).⁵⁹

(2) A relevant person is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to a relevant person, the liability attaches instead to the State.

(4) In this section—

“**civil liability**” includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

⁵⁹ Section 282 (Other powers relating to vehicles that may be entered), 286 (Power to require reasonable help or information), 292 (Powers to support seizure), 301 (Power to require information about contravention) or 303 (Power to require production of documents)

349 Things to be done as soon as practicable

If no time is provided or allowed for doing something under this Act, the thing is to be done as soon as practicable, and as often as the relevant occasion happens.

350 Satisfaction, belief or suspicion must be on grounds that are reasonable in the circumstances

(1) This section applies if, under this Act—

- (a) a person is required to be satisfied or not satisfied of, or have a belief or suspicion about, a particular matter before the person may do or refrain from doing an act, or make a decision; or
- (b) if the person is satisfied or not satisfied of, or has a belief or suspicion about, a particular matter, a person is required to do or refrain from doing an act, or make a decision.

(2) The person must be satisfied or not satisfied or have the belief or suspicion on grounds that are reasonable in the circumstances.

Example of operation of subsection (2)—

Section 276(3) provides an authorised officer need not comply with particular requirements if the authorised officer believes immediate entry to a place is required to ensure the effective execution of a warrant is not frustrated. The authorised officer must believe the immediate entry is required on grounds that are reasonable in the circumstances.

351 Matters must be considered appropriate on grounds that are reasonable in the circumstances

(1) This section applies if, under this Act, any of the following entities is required to consider that a particular matter is appropriate before the entity may do or refrain from doing an act or make a decision—

- (a) a court;
- (b) the gaming commission;
- (c) the integrity board;
- (d) a thoroughbred entity;
- (e) the tribunal.

(2) The entity must not do or refrain from doing the act, or make the decision, unless it considers the particular matter is appropriate on grounds that are reasonable in the circumstances.

352 Records about drugs and veterinary surgeons

(1) The chief executive (health) may give to the chief executive information relating to the following in the possession of the chief executive (health) under the *Health Act 1937*—

- (a) controlled drugs, restricted drugs or poisons, obtained by a veterinary surgeon;
- (b) records a veterinary surgeon is required to keep under that Act about controlled drugs or poisons.⁶⁰

(2) In this section—

“**chief executive (health)**” means the chief executive of the department in which the *Health Act 1937* is administered.

“**controlled drug**” see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.

“**obtain**” means acquire, buy, receive or otherwise obtain.

“**poison**” see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.

“**restricted drug**” see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.

353 Fees etc. that are owing to the State are debts

All fees and other amounts due and payable by a person under this Act to the State may be recovered by action as a debt.

354 Delegations

(1) The Minister may delegate the Minister’s powers under this Act, including the Minister’s powers mentioned in schedule 1, to the chief executive or an appropriately qualified officer of the department.

60 See the *Health (Drugs and Poisons) Regulation 1996*, sections 111(1) and 285(1) about records to be kept for controlled drugs and poisons respectively.

(2) The chief executive may delegate the following to an appropriately qualified person—

- (a) the chief executive's powers under this Act, including the chief executive's powers mentioned in schedule 1;
- (b) a power delegated to the chief executive under subsection (1).

Division 4—Regulations

355 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may prescribe an application or a matter for the definition “prescribed application or matter” in the *Queensland Building Tribunal Act 2000*, section 26C.⁶¹

(3) A regulation may—

- (a) prescribe the way a thing may be taken or dealt with for analysis; and
- (b) prescribe a law of another State as a law about racing or betting; and
- (c) prescribe requirements that must be met for a facility to be accredited under chapter 4, part 2; and
- (d) prescribe the fees required under this Act, including the fees mentioned in sections 11, 29, 129, 168, 178, 207 and 243.⁶²

61 *Queensland Building Tribunal Act 2000*, section 26C (Presiding case manager's power to deal with particular applications to central tribunals)

62 Sections 11 (Approval application to be accompanied by specific matters), 29 (Yearly fee payable by each control body), 129 (Accreditation application), 168 (Starting an appeal against decisions as allowed under s 167), 178 (Witness fees and expenses), 207 (Requirements about applications) and 243 (Starting an appeal against a decision of the gaming executive)

CHAPTER 10—REPEAL, TRANSITIONAL PROVISIONS AND OTHER PROVISIONS

PART 1—REPEAL

356 Repeal of Racing and Betting Act

The Racing and Betting Act 1980 (1980 Act No. 43) is repealed.

PART 2—TRANSITIONAL PROVISIONS FOR RACING ACT 2002

Division 1—Definition for part 2

357 Definition for pt 2

In this part—

“**commencement**” means the commencement of the provision in which the term is used.

Division 2—Provisions relating to chapter 2

Subdivision 1—Matters about relocated provisions and control bodies under the repealed Act

358 Effect of relocation

The relocated provisions continue to have effect as provisions of this Act.

359 Codes of racing for which continuing control bodies responsible

(1) The Thoroughbred Racing Board continues as the control body for thoroughbred racing.

(2) The Harness Racing Board continues as the control body for harness racing.

(3) The Greyhound Authority continues as the control body for greyhound racing.

(4) This section does not limit section 358.

360 Things done under relocated provisions continue to have effect

A thing continues to have effect as if the thing had been done under this Act if the thing—

- (a) expressly or impliedly was authorised or required to be done under a relocated provision; and
- (b) was in force immediately before the relocation.

361 Relocation does not affect legal personality etc.

(1) The relocation of the relocated provisions does not—

- (a) affect a continuing control body's legal personality or identity; or
- (b) affect a right, entitlement or liability of a continuing control body or anyone else; or
- (c) make legal proceedings by or against a continuing control body defective.

(2) Without limiting subsection (1), the relocation of the relocated provisions does not affect any right, entitlement, liability or benefit a continuing body would have had or enjoyed.

(3) In addition, but without limiting subsection (1), if a legal proceeding might have been continued or started by or against a continuing control body immediately before the commencement, it may be continued or started by or against it as a control body under this Act.

362 Relocation does not affect existing legal relationships

Without limiting section 361(1), the relocation of the relocated provisions—

- (a) does not place a continuing control body in breach of contract or otherwise make it guilty of a civil wrong; and
- (b) does not make a continuing control body in breach of any instrument, including, for example, an instrument prohibiting, restricting or regulating the assignment or transfer of any right or liability; and
- (c) is not taken to fulfil a condition—
 - (i) allowing a person to terminate an instrument or liability or modify the operation or effect of an instrument or liability; or
 - (ii) requiring an amount to be paid before its stated maturity; and
- (d) does not release a surety or other obligee, in whole or in part, from an obligation.

363 Function of continuing control body

(1) The function of each continuing control body is to manage its code of racing.

(2) To remove doubt, it is declared that managing a continuing control body's code of racing includes all of the matters conferred on the control body as a function immediately before the commencement.

Examples of matters conferred on a continuing control body before the commencement—

Matters stated in the repealed Act, sections 11A(1), 52(2) and 93(2).

364 Powers of continuing control body

(1) The powers of each continuing control body are the powers of a control body under this Act.

(2) However, if a continuing control body had power to do a thing under the repealed Act as in force immediately before the commencement and the continuing control body does not have power as a control body to do the thing under this Act, the continuing control body has power to do the thing as if the repealed Act had not been repealed.

(3) Without limiting subsection (2)—

- (a) the Thoroughbred Racing Board has power to do a thing mentioned in the repealed Act, sections 11B and 11BA,⁶³ as in force immediately before the commencement; and
- (b) the Harness Racing Board has power to do a thing mentioned in the repealed Act, sections 52(2A) to (10) and 52A,⁶⁴ as in force immediately before the commencement; and
- (c) the Greyhound Authority has power to do a thing mentioned in the repealed Act, sections 93(2A) to (10) and 93A,⁶⁵ as in force immediately before the commencement; and
- (d) each continuing body has power to do a thing mentioned in the repealed Act, section 254A,⁶⁶ as in force immediately before the commencement.

(4) If, under a power under the repealed Act as in force immediately before the commencement, a continuing control body started to deal with a matter and had not finalised it before the commencement, the matter may continue to be dealt with and finalised under this Act.

365 Minister to give each continuing control body an approval

The Minister may give each continuing control body an approval for the control body's code of racing for this Act, stating conditions the Minister believes are appropriate in the circumstances.

63 Repealed Act, sections 11B (Powers of Thoroughbred Racing Board) and 11BA (Thoroughbred Racing Board may take action against clubs that do not comply with a direction under s 11B(2)(r)) as in force immediately before the commencement

64 Repealed Act, sections 52 (Functions, powers and duties of Harness Racing Board) and 52A (Harness Racing Board may take action against trotting clubs that do not comply with a direction under s 52(3)(t)) as in force immediately before the commencement

65 Repealed Act, sections 93 (Functions, powers and duties of Greyhound Authority) and 93A (Greyhound Authority may take action against greyhound clubs that do not comply with a direction under s 93(3)(t)) as in force immediately before the commencement

66 Repealed Act, section 254A (Superannuation schemes) as in force immediately before the commencement

366 Membership of continuing control body and chairpersons

(1) Subject to subsection (3), a person who, immediately before the commencement, was a member of a continuing control body continues to be a member of the continuing control body on the same conditions applying to the member before the commencement.

(2) Subject to subsection (3), a person who, immediately before the commencement, was the chairperson or deputy chairperson of a continuing control body continues to be the chairperson or deputy chairperson of the continuing control body on the same conditions applying to the person before the commencement.

(3) Despite schedule 1, part 2, section 11I(1)⁶⁷—

- (a) a member of the Thoroughbred Racing Board holds office until schedule 1 expires; and
- (b) the chairperson and deputy chairperson of Thoroughbred Racing Board continue to be the chairperson and deputy chairperson of the Thoroughbred Racing Board until schedule 1 expires.

(4) A person's membership or office mentioned in this section may be vacated under this Act.

367 Delegations by continuing control bodies

(1) A continuing control body may delegate the body's powers under this Act, including the body's powers mentioned in schedule 1, to—

- (a) a member of the control body; or
- (b) an appropriately qualified officer or employee of the control body.

(2) A delegation by a continuing control body to any person, made under the repealed Act, its rules of racing or by resolution, before the commencement and in force immediately before the commencement, continues to have effect as if the delegation had been made under subsection (1).

⁶⁷ Schedule 1 (Relocated provisions), part 2 (Provisions about the Queensland Thoroughbred Racing Board), section 11I (Tenure of office)

368 Application of this Act to continuing control body

(1) If a provision of this Act is not capable of applying to a continuing control body, the provision does not apply.

Example for subsection (1)—

A provision may refer to the constitution of a control body, but a continuing control body does not have a constitution. To this extent, it is not practicable for the provision to apply to the continuing control body.

(2) However, for the application of this Act to a continuing control body a reference to an executive officer of a control body includes a member of a continuing control body.

Example for subsection (2)—

Sections 97(3)(a), 117(2)(d) and 154(a).

369 Racing calendar

(1) This section applies if, before the commencement, a continuing control body had a racing calendar for the period that included the day of the commencement.

(2) The continuing control body is taken to have complied with section 38⁶⁸ during the period to which the racing calendar relates, starting on the commencement.

(3) In this section—

“racing calendar” includes a document published by the continuing control body called a racing calendar, whether or not the control body was, under the repealed Act, required to have a racing calendar.

370 Expiry of sch 1 (Relocated provisions)

Schedule 1 expires 3 years after the commencement.

68 Section 38 (Obligation to have racing calendar for code of racing)

Subdivision 2—Transitional provisions for provisions about control bodies under chapter 2

371 When corporation may apply for approval as control body for thoroughbred, harness or greyhound racing

(1) The purpose of this section is to allow an eligible corporation to apply to be approved as the control body for thoroughbred, harness or greyhound racing within a reasonable time before the expiry of schedule 1.

(2) An eligible corporation may make an approval application under section 10(1)⁶⁹ for any of the following codes of racing after 1 year after the commencement—

- (a) thoroughbred racing;
- (b) harness racing;
- (c) greyhound racing.

Subdivision 3—Racing associations

372 Membership of racing association and chairpersons

(1) A person who, immediately before the commencement, was a member of a racing association continues to be a member of the racing association on the same conditions applying to the member before the commencement.

(2) A person who, immediately before the commencement, was the chairperson of a racing association continues to be the chairperson of the racing association on the same conditions applying to the person before the commencement.

(3) If, under a power under the repealed Act as in force immediately before the commencement, a racing association started to deal with a matter and had not finalised it before the commencement, the matter may continue to be dealt with and finalised under this Act.

⁶⁹ Section 10 (An eligible corporation may apply for approval as a control body)

Subdivision 4—Queensland Regional Racing Council

373 Continuation of council and its members and chairperson

(1) A person who, immediately before the commencement, was a member of the Queensland Regional Racing Council continues to be a member of the council on the same conditions applying to the person as a member immediately before the commencement.

(2) A person who, immediately before the commencement, was the chairperson of the Queensland Regional Racing Council continues to be the chairperson of the council on the same conditions applying to the person before the commencement.

(3) A recommendation or report of the Queensland Regional Racing Council under the repealed Act, section 34C is taken to be a recommendation or report of the council under section 67⁷⁰ of this Act.

(4) If, under a power under the repealed Act as in force immediately before the commencement, the Queensland Regional Racing Council started to deal with a matter and had not finalised it before the commencement, the matter may continue to be dealt with and finalised under this Act.

Division 3—Provisions relating to chapter 3

374 Licences and other forms of authority continue to have effect

(1) This section applies to a licence and any other form of authority, however described, issued to a person by a continuing control body before the commencement, that was in force immediately before the commencement.

(2) The licence or other form of authority continues to have effect under this Act subject to—

- (a) the conditions stated in the licence or other authority; and
- (b) this Act; and
- (c) the continuing control body's policies and rules of racing.

⁷⁰ Section 67 (Functions of council)

(3) To the extent of any inconsistency among provisions applying to a licence or other form of authority, this Act prevails.

375 Actions by control body continue to have effect

(1) This section applies to an action taken, however described, by a continuing control body in relation to a person before the commencement that was in force immediately before the commencement, other than an action resulting in a licence or other form of authority to which section 374 applies.

Examples of actions taken by a control body before commencement—

1. A person is named on a forfeit list, disqualified from being a licence holder or is warned off from entering a racing venue, under a continuing control body's rules of racing.
2. A person's licence is suspended.

(2) The action continues to have effect under this Act subject to—

- (a) any conditions stated in a document by which the action was taken against the person, or notice given to the person about the action; and
- (b) this Act; and
- (c) the continuing control body's policies and rules of racing.

(3) To the extent of any inconsistency among provisions applying to the action, this Act prevails.

376 Consultation to be undertaken as part of development of policy

(1) This section applies to a continuing control body for the purpose of making policies until, as required under section 81(a),⁷¹ the control body makes a policy about the way the control body will develop its policies.

(2) Before a continuing control body makes a policy, it must publish a notice of the preparation of a draft policy in a newspaper likely to be read by people particularly affected by the draft policy.

(3) The notice must state all of the following—

- (a) the matters the policy will deal with;

71 Section 81 (Matters for which a control body must have a policy)

- (b) where copies of the draft policy may be obtained or inspected, including, for example, its availability on the control body's website;
- (c) that a person may comment on the draft policy to the control body;
- (d) the period during which comments may be made.

(4) In addition, the draft policy must comply with section 83⁷² to the extent practicable.

(5) The period during which comments may be made must be at least 28 days after the day of the publication of the notice.

(6) A copy of the draft policy must be available free, or on payment of a reasonable price, at the place, or each of the places, stated in the notice.

377 Rules of continuing control bodies are rules of racing under this Act

(1) The rules of racing under the repealed Act as in force immediately before the commencement continue as if they were rules of racing of the Thoroughbred Racing Board.

(2) The rules of trotting under the repealed Act as in force immediately before the commencement continue as if they were rules of racing of the Harness Racing Board.

(3) The rules of greyhound racing under the repealed Act as in force immediately before the commencement continue as if they were rules of racing of the Greyhound Authority.

(4) Subsections (1) to (3) have effect only to the extent that the rules of racing, trotting or greyhound racing are not inconsistent with this Act.

(5) Also, a regulation may declare rules of racing, trotting or greyhound racing, that are rules of racing under subsections (1) to (3), to be invalid.

378 Amendment etc. of rules continued in force under s 377

(1) This section applies to a control body's rules of racing continued under section 377.

72 Section 83 (Form of each policy)

(2) Despite section 92,⁷³ a control body may—

- (a) amend or omit a provision of the rules; or
- (b) repeal the rules.

379 Registered clubs taken to be licensed

(1) This section applies to a greyhound club, race club and trotting club that, under the repealed Act as in force immediately before the commencement, is registered under that Act as a greyhound club, race club or trotting club by a continuing control body.

(2) Each club is taken to be licensed by the continuing control body to conduct racing under this Act.

(3) In an Act or document, a reference to a greyhound club, race club or trotting club under the *Racing and Betting Act 1980* may, if the context permits, be taken to be a licensed club licensed by the Greyhound Authority, Thoroughbred Racing Board or Harness Racing Board.

380 Directions for s 101

In section 101⁷⁴—

“**control body direction**” includes a direction given under the repealed Act, section 11B(2)(r), 52(3)(t) or 93(3)(t), as in force immediately before the commencement, including a direction mentioned in section 11B(3), 52A(2) and 93A(2) of that Act.

Division 4—Provisions relating to chapter 4

381 Definitions for div 4

In this division—

73 Section 92 (Matters for which rules of racing may provide)

74 Section 101 (Grounds for suspension or cancellation)

“advisory board” means the Racing Codes Advisory Board constituted under the repealed Act, section 10A as in force immediately before the commencement.⁷⁵

“racing science centre” means the unit of the department known, immediately before the commencement, as the racing science centre.

382 Integrity board is continuation of advisory board

The integrity board is a continuation of the advisory board.

383 Members and chairperson of advisory board continue as board members and board chairperson

(1) A member of the advisory board immediately before the commencement continues as a board member for the balance of the term of the member’s appointment as a member of the advisory body under the repealed Act.

(2) The member of the advisory board who was the chairperson of the advisory board immediately before the commencement is the board chairperson while the person continues as a board member under subsection (1).

(3) A person’s membership or office mentioned in this section may be vacated under this Act.

384 Racing science centre taken to be accredited facility

(1) The chief executive is taken to have accredited the racing science centre as an accredited facility under section 131⁷⁶ of this Act.

(2) The chief executive must, immediately after the commencement, issue an accreditation certificate in relation to the racing science centre stating the information mentioned in section 132(3).⁷⁷

(3) The accreditation expires 6 months after the commencement.

75 Repealed Act, section 10A (Racing Codes Advisory Board) as in force immediately before the commencement

76 Section 131 (Chief executive may accredit facilities)

77 Section 132 (Accreditation certificate)

Division 5—Provisions relating to chapter 5

385 Definitions for div 5

In this division—

“**authority**” means the Racing Appeals Authority established under the repealed Act, section 115B.⁷⁸

“**continuing member**” means a person continuing as a tribunal member under section 387(1).

386 Tribunal is continuation of Racing Appeals Authority

- (1) The Racing Appeals Tribunal is a continuation of the authority.
- (2) The other provisions of this part do not limit subsection (1).

387 Members of authority continue in office as tribunal members etc.

(1) A member of the authority immediately before the commencement continues as a tribunal member for the balance of the term of the person’s appointment as a member of the authority under the repealed Act.

(2) The continuing member who was chairperson or deputy chairperson of the authority immediately before the commencement is the tribunal chairperson or deputy tribunal chairperson while the person continues as a tribunal member under subsection (1).

- (3) A continuing member’s office may be vacated under this Act.

388 Appeals under repealed Act

(1) An appeal started under the repealed Act, part 3, division 3A,⁷⁹ but not decided before the commencement may be dealt with, or continue to be dealt with, under this Act by the tribunal.

(2) A decision that could have been appealed under the repealed Act, part 3, division 3A, after the commencement except for the repeal of that Act may be appealed under chapter 5 of this Act.

⁷⁸ Repealed Act, section 115B (Racing Appeals Authority)

⁷⁹ Repealed Act, part 3 (Regulation of racing codes), division 3A (Racing Appeals Authority)

(3) Subsection (4) applies to a decision of a racing association appeals committee.

(4) A decision of the tribunal relating to an appeal against a decision mentioned in subsection (3) must be given effect by the Thoroughbred Racing Board.

(5) For an appeal under this section, chapter 5⁸⁰ applies with any necessary changes.

389 Decisions of authority

(1) This section applies to the extent a decision of the authority is relevant for this Act.

(2) The decision applies as a decision of the tribunal given under this Act.

Division 6—Provisions relating to chapter 6

390 Racing bookmaker and racing bookmaker's clerk

(1) A person who is a racing bookmaker or racing bookmaker's clerk under the repealed Act as in force immediately before the commencement continues as a racing bookmaker or racing bookmaker's clerk under this Act for the period of the person's licence as a racing bookmaker or racing bookmaker's clerk.

(2) The person's licence is taken to have been granted by the control body that granted it under the repealed Act and to be for the code of racing for which it was granted under that Act.

(3) Subsection (1) does not apply if the person's licence is cancelled.

(4) Also, subsection (1) does not stop the person's licence being suspended.

391 Eligibility certificate

(1) An eligibility certificate given under the repealed Act, section 153,⁸¹ that has not lapsed under section 155⁸² of that Act before the commencement, continues as an eligibility certificate under this Act.

(2) An application for an eligibility certificate made under the repealed Act, part 4, division 4, and not decided by the gaming executive before the commencement must be dealt with, or continue to be dealt with, as an application for an eligibility certificate made under chapter 6, part 3, of this Act.

392 Audit program and investigation

(1) An audit program approved by the gaming executive under the repealed Act, section 156, and in force immediately before the commencement, continues as an audit program approved by the gaming executive under section 223⁸³ of this Act.

(2) An investigation of a certificate holder, or of a business associate or executive associate of a certificate holder, being conducted under the repealed Act, part 4, division 5,⁸⁴ happening immediately before the commencement may be continued under chapter 6, part 3, division 3 of this Act.

393 Cancellation of eligibility certificate

If, under the repealed Act, part 4, division 6,⁸⁵ the gaming executive started to deal with a matter and had not finalised it before the commencement, the matter may continue to be dealt with and finalised under chapter 6, part 3, division 4 of this Act.

81 Repealed Act, section 153 (Decision of application)

82 Repealed Act, section 155 (Date by which certificate holder must apply for racing bookmaker's licence)

83 Section 223 (Audit program)

84 Repealed Act, part 4 (Racing bookmakers), division 5 (Investigations of certificate holders and their business and executive associates)

85 Repealed Act, part 4, division 6 (Cancellation of eligibility certificate)

394 Appeal relating to eligibility certificate

(1) An appeal started under the repealed Act, part 4, division 7, but not decided before the commencement may be dealt with, or continue to be dealt with, under chapter 6, part 3, division 6 of this Act.

(2) A decision that could have been appealed under the repealed Act, part 4, division 7, after the commencement except for the repeal of that Act may be appealed under chapter 6, part 3, division 6 of this Act

(3) For an appeal under this section, chapter 6, part 3, division 6 applies with any necessary changes

395 Approved bookmaking system under repealed Act taken to be approved under s 141 by continuing control body

(1) This section applies if an approval of a telephone bookmaking system under the repealed Act, section 141,⁸⁶ is in force immediately before the commencement.

(2) Each continuing control body is taken to have approved the telephone bookmaking system under section 249 of this Act.⁸⁷

(3) The approval under subsection (2) continues until the continuing control body approves another system under section 249 of this Act.

*Division 7—Miscellaneous provisions***396 References to repealed Act**

In an Act or document, a reference to the *Racing and Betting Act 1980* may, if the context permits, be taken to be a reference to this Act.

397 Transitional regulation-making power

(1) A regulation (a “**transitional regulation**”) may make provision of a saving or transitional nature for which—

86 Repealed Act, section 141 (Restrictions on betting by racing bookmakers)

87 Section 249 (When a racing bookmaker may make a bet with a person who is not present at a licensed venue)

(a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the repealed Act to the operation of this Act; and

(b) this Act does not make provision or sufficient provision.

(2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.

(3) A transitional regulation must declare it is a transitional regulation.

(4) This section and any transitional regulation expire 1 year after the commencement.

CHAPTER 11—AMENDMENT OF OTHER ACTS

398 Amendment of Acts in sch 2

(1) Schedule 2, part 1 amends the Acts mentioned in it.

(2) Schedule 2, part 2 amends the *Racing and Betting Act 1980* and relocates provisions of that Act to schedule 1.

SCHEDULE 1

RELOCATED PROVISIONS

sections 62(5), 354, 366, 367, 369 and 398

PART 1—DEFINITIONS FOR THIS SCHEDULE

1 Definitions for sch 1

In this schedule—

PART 2—PROVISIONS ABOUT THE QUEENSLAND THOROUGHBRED RACING BOARD

PART 3—PROVISIONS ABOUT THE QUEENSLAND HARNESS RACING BOARD

PART 4—PROVISIONS ABOUT THE GREYHOUND RACING AUTHORITY

PART 5—PROVISIONS APPLYING TO ALL CONTINUING CONTROL BODIES

SCHEDULE 2

AMENDMENT OF ACTS

section 398

PART 1—AMENDMENT OF ACTS OTHER THAN RACING AND BETTING ACT 1980

ANIMAL CARE AND PROTECTION ACT 2001

1 Section 7(1)(c)—

omit, insert—

‘(c) the *Racing Act 2002*.’.

LIQUOR ACT 1992

1 Section 134(1)(a)(i), after ‘Act’—

insert—

‘, or the *Racing Act 2002*, section 321 or 323⁸⁸’.

2 Section 136(1)(b)(iii)—

renumber as section 136(1)(b)(iv).

88 *Racing Act 2002*, section 321 (Unlawful bookmaking other than by racing bookmakers etc.) or 323 (Prohibition on opening, keeping, using or promoting an illegal betting place)

SCHEDULE 2 (continued)

3 Section 136(1)(b)—

insert—

‘(iii) an offence against the *Racing Act 2002*, section 321 or 323;
or’.

4 After section 151—

insert—

‘151A Betting on licensed premises

‘(1) A licensee or permittee must not allow the premises to which the licence or permit relates to be used for betting.

Maximum penalty—

- (a) for a first offence—100 penalty units or 6 months imprisonment;
and
- (b) for a second offence—200 penalty units or 1 year’s imprisonment; and
- (c) for a third or subsequent offence—400 penalty units or 2 years imprisonment.

‘(2) It is a defence to a charge of an offence against subsection (1) if the person proves that—

- (a) the person has issued proper instructions and used all reasonable means to secure observance of the subsection; and
- (b) the offence in question was committed without the person’s knowledge; and
- (c) the person could not, by the exercise of reasonable diligence, have prevented the commission of the offence.

‘(3) Subsection (1) does not apply to licensed premises if—

- (a) the licensed premises are located inside a licensed venue under the *Racing Act 2002* and the betting takes place during times that betting may be conducted under that Act; or
- (b) the betting is conducted under any of the following Acts—
 - (i) the *Casino Control Act 1982*;

SCHEDULE 2 (continued)

- (ii) the *Charitable and Non-Profit Gaming Act 1999*;
- (iii) the *Gaming Machine Act 1991*;
- (iv) the *Interactive Gambling (Player Protection) Act 1998*;
- (v) the *Keno Act 1996*;
- (vi) the *Lotteries Act 1997*;
- (vii) the *Wagering Act 1998*.’.

4A Amendment of s 152 (Prohibition on other use of premises)

Section 152(1)(a)(ii), from ‘on behalf’—

omit, insert—

‘for which the licensee is a wagering agent under the *Wagering Act 1998*;
or’.

5 Part 9, division 1, heading—

omit.

6 Before section 233—

insert—

‘232B Commissioner to give information to chief executive

‘(1) This section applies to a conviction of a person in relation to premises to which a licence or permit relates for an offence against—

- (a) section 151A(1); or
- (b) the *Racing Act 2002*, section 321 or 323.⁸⁹

‘(2) The commissioner must give the chief executive written notice of the particulars of the conviction.’.

⁸⁹ *Racing Act 2002*, sections 321 (Unlawful bookmaking other than by racing bookmakers etc.) and 323 (Prohibition on opening, keeping, using or promoting an illegal betting place)

SCHEDULE 2 (continued)

POLICE POWERS AND RESPONSIBILITIES ACT 2000

1 Section 28(f)(i), ‘*Racing and Betting Act 1980*’—

omit, insert—

‘*Racing Act 2002*’.

QUEENSLAND BUILDING TRIBUNAL ACT 2000

**1 Schedule 2, definition “central tribunal”, paragraph (d),
‘Authority’—**

omit, insert—

‘Tribunal’.

**2 Schedule 2, definition “central tribunal Act”, paragraph (c),
‘*Racing and Betting Act 1980*’—**

omit, insert—

‘*Racing Act 2002*’.

3 Schedule 2, definition “Racing Appeals Authority”—

omit, insert—

‘**“Racing Appeals Tribunal”** means the Racing Appeals Tribunal established under the *Racing Act 2002*, section 150.’

SCHEDULE 2 (continued)

RACING AND BETTING AMENDMENT ACT (No. 2) 2001

1 Section 35, ‘After section 279D’—

omit, insert—

‘After section 279DD’.

TRADING (ALLOWABLE HOURS) ACT 1990

1 Section 33(2)(b)—

omit, insert—

‘(b) at a licensed venue where a race meeting is held under the
Racing Act 2002; or’.

**VAGRANTS, GAMING AND OTHER OFFENCES ACT
1931**

**1 Section 2, definition “gaming Acts”, ‘*Racing and Betting Act
1980*’—**

omit, insert—

‘*Racing Act 2002*’.

SCHEDULE 2 (continued)

WAGERING ACT 1998

1 After section 11—

insert—

‘11A Offences about totalisators

‘A person must not—

- (a) operate, or take part in operating, a totalisator other than under this Act; or
- (b) bet on a totalisator other than under this Act; or
- (c) ask to be another person’s agent for betting on a totalisator; or
- (d) act as agent of another person (the **“second person”**) for betting on a totalisator if that person and the second person agree, expressly or impliedly, that the person acting as agent will receive consideration from the second person.

Maximum penalty—100 penalty units or 6 months imprisonment.’.

2 Section 12, ‘*Racing and Betting Act 1980*’—

omit, insert—

‘Racing Act 2002’.

SCHEDULE 2 (continued)

**PART 2—AMENDMENT AND RELOCATION OF
PROVISIONS OF RACING AND BETTING ACT 1980**

Division 1—Amendments

- 1 Section 5, definition “committee”, ‘when used in relation to any club or athletic club’—**

omit, insert—

‘of a club’.

- 2 Section 5, definitions “officer” and “selection panel”, ‘this Act’—**

omit, insert—

‘this schedule’.

- 3 Section 11, heading—**

omit, insert—

- ‘11 Continuation of Queensland Thoroughbred Racing Board’.**

- 4 Section 11(1)—**

omit, insert—

‘(1) The Queensland Thoroughbred Racing Board established under the repealed Act as in force immediately before the commencement of the *Racing Act 2002*, section 398, is continued in existence under that name.’.

- 5 Section 11A(2) and (3)—**

omit.

SCHEDULE 2 (continued)

- 6 Section 11A(4)(a), from ‘Regional’ to ‘34C(1)(b) and (c),’—**
omit, insert—
‘Queensland Regional Racing Council as mentioned in section 67(1)(b) and (c)⁹⁰ of this Act.’.
- 7 Section 11A(4)(b), ‘34C(1)(d) and (2)’—**
omit, insert—
‘67(1)(d) and (2) of this Act’.
- 8 Section 11A(5), ‘Regional Racing Council’—**
omit, insert—
‘council’.
- 9 Section 11AA(4), definition “special responsibility period”, from ‘the period’—**
omit, insert—
‘the period ending on 4 October 2003.’.
- 10 Section 11G(1)(a)—**
omit, insert—
‘(a) a person who is affected by bankruptcy action;’.
- 11 Section 11G(1)(f)(i)—**
omit, insert—
‘(i) a licensed club;’.

90 Section 67 (Functions of council)

SCHEDULE 2 (continued)

12 Section 11J(2)(a), ‘becomes’—

omit, insert—

‘become’.

13 Section 12E(2), ‘registered race’ to ‘board’—

omit, insert—

‘licensed clubs or persons who are licence holders in relation to the board’.

14 Section 12G(4), from ‘allowing’ to ‘teleconferencing.’—

omit, insert—

‘that reasonably allows members to hear and take part in discussions as they happen.

Example of use of teleconferencing—

Teleconferencing.’.

15 Section 12H, from ‘keep’—

omit, insert—

‘keep—

(a) minutes of its meetings; and

(b) a record of resolutions made under section 12G(6).’.

16 Section 12I(2), ‘race club’—

omit, insert—

‘licensed club’.

17 Section 14(1), ‘race clubs registered’—

omit, insert—

‘a club licensed’.

SCHEDULE 2 (continued)

18 Section 14(1), ‘each race club shall’—

omit, insert—

‘the club must’.

19 Section 14(2A), ‘race club’—

omit, insert—

‘club’.

20 Section 14(2A), ‘and, in the absence of’ to ‘conclusive evidence’—

omit.

21 Section 14(3), from ‘owing to it’ to ‘indebted to it’—

omit, insert—

‘owing (“**the debt**”) by a licensed club, the debt is a ground for the Thoroughbred Racing Board to suspend the club’s licence’.

22 Section 35(1)—

omit, insert—

‘(1) The Queensland Harness Racing Board established under the repealed Act is continued in existence under that name.’.

23 Section 36—

insert—

‘(3) In making a nomination for subsection (1), the Minister must nominate persons who have experience in 1 or more of the following—

- (a) harness racing;
- (b) business and financial management;
- (c) law;

SCHEDULE 2 (continued)

- (d) leadership;
- (e) marketing.’.

24 Section 41, ‘this Act’—

omit, insert—

‘this schedule’.

25 Section 42(e), ‘(whether on indictment or after being dealt with summarily)’—

omit.

26 Section 42(e)—

renumber as section 42(g).

27 Section 42(c) and (d)—

omit, insert—

- ‘(c) is a licence holder of the board, or an executive officer of a licence holder of the board;
- (d) is affected by bankruptcy action;
- (e) is a member of a committee of, or employee of, any of the following—
 - (i) a club licensed by the board;
 - (ii) a control body;
 - (iii) an association formed to promote the interests of 1 or more participants in the harness racing industry;
- (f) is disqualified from managing corporations, under the Corporations Act, part 2D.6;⁹¹.

91 Corporations Act, part 2D.6 (Disqualification from managing corporations)

SCHEDULE 2 (continued)

28 Section 44(1), ‘this Act’—

omit, insert—

‘this schedule’.

29 Section 47(3), ‘club or group of’—

omit, insert—

‘licensed club or group of licensed’.

30 Section 47(14) and 48(2), ‘this Act’—

omit, insert—

‘this schedule’.

31 Section 50, ‘functions and duties’—

omit, insert—

‘function’.

32 Section 53(3), ‘this part’—

omit, insert—

‘part 3 of the repealed Act’.

33 Section 54(1), ‘trotting clubs’—

omit, insert—

‘each club licensed by it’.

34 Section 54(1), ‘each trotting club shall’—

omit, insert—

‘each club must’.

SCHEDULE 2 (continued)

35 Section 54(2A), ‘trotting club’—

omit, insert—

‘club’.

36 Section 54(2A), ‘and, in the absence of’ to ‘conclusive evidence’—

omit.

37 Section 54(3), from ‘owing to it’ to ‘the club’—

omit, insert—

‘owing (“**the debt**”) by a licensed club, the debt is a ground for the Harness Racing Board to suspend the club’s licence’.

38 Section 76(1)—

omit, insert—

‘(1) The Greyhound Racing Authority previously established under the repealed Act is continued in existence under that name.’

39 Section 77—

insert—

‘(3) In making a nomination for subsection (1), the Minister must nominate persons who have experience in 1 or more of the following—

- (a) greyhound racing;
- (b) business and financial management;
- (c) law;
- (d) leadership;
- (e) marketing.’.

SCHEDULE 2 (continued)

40 Section 82(1), ‘this Act’—

omit, insert—

‘this schedule’.

41 Section 83(e), ‘(whether on indictment or after being dealt with summarily)’—

omit.

42 Section 83(e)—

renumber as section 83(g).

43 Section 83(c) and (d)—

omit, insert—

(c) is a licence holder of the Greyhound Authority or an executive officer of a licence holder of the Greyhound Authority;

(d) is affected by bankruptcy action;

(e) is a member of a committee of, or employee of, any of the following—

(i) a club licensed by the Greyhound Authority;

(ii) a control body;

(iii) an association formed to promote the interests of 1 or more participants in the greyhound racing industry;

(f) is disqualified from managing corporations under the Corporations Act, part 2D.6;⁹².

44 Section 85(1), ‘this Act’—

omit, insert—

‘this schedule’.

92 Corporations Act, part 2D.6 (Disqualification from managing corporations)

SCHEDULE 2 (continued)

45 Section 88(3), ‘club or group of’—

omit, insert—

‘licensed club or group of licensed’.

46 Sections 88(14) and 89(2), ‘this Act’—

omit, insert—

‘this schedule’.

47 Section 91, ‘functions’—

omit, insert—

‘function’.

48 Section 95(1), ‘greyhound clubs’—

omit, insert—

‘each club licensed by it’.

49 Section 95(1), ‘each greyhound club’—

omit, insert—

‘each club’.

50 Section 95(2A), ‘greyhound club’—

omit, insert—

‘club’.

51 Section 95(2A), ‘and, in the absence of’ to ‘conclusive evidence’—

omit.

SCHEDULE 2 (continued)

52 Section 95(3), from ‘owing to it’ to ‘the club’—

omit, insert—

‘owing (“**the debt**”) by a licensed club, the debt is a ground for the Greyhound Authority to suspend the club’s licence’.

53 Section 132, heading, ‘Control’—

omit, insert—

‘Continuing control’.

54 Section 132(1), ‘Each control body’—

omit, insert—

‘Each continuing control body’.

55 Section 132(1), ‘under its control’—

omit, insert—

‘licensed by it’.

56 Section 132, ‘section 131(5)’—

omit, insert—

‘section 110(3)⁹³ of this Act’.

Division 2—Relocation

57 Section 5, definitions, “committee”, “officer” and “selection panel”—

relocate to schedule 1, part 1, section 1.

93 Section 110 (Licensed club to give audited accounts to control body)

SCHEDULE 2 (continued)

- 58 Sections 11, 11A, 11AA, 11C to 11FB and 11G to 15A—**
relocate to schedule 1, part 2.
- 59 Sections 35 to 50 and 53 to 54A—**
relocate to schedule 1, part 3.
- 60 Sections 76 to 91 and 94 to 95A—**
relocate to schedule 1, part 4.
- 61 Section 132—**
relocate to schedule 1, part 5.

SCHEDULE 3**DICTIONARY**

section 5

“accepted representations”—

- (a) for chapter 2, see section 54(2); or
- (b) for chapter 3, see section 103(2); or
- (b) for chapter 4, part 3, see section 137(2); or
- (d) for chapter 6, see section 233.

“accreditation application” see 129(1).**“accreditation certificate”** see section 132(2).**“accreditation holder”** means the person named in an accreditation certificate as the holder of the accreditation for the facility named in the certificate.**“accredited analyst”** means—

- (a) for an accredited facility—a person named in the accredited facility’s accreditation certificate as an accredited analyst for the accredited facility; or
- (b) for a secondary facility for an accredited facility—a person named in the accredited facility’s accreditation certificate as an accredited analyst for the secondary facility.

“accredited facility” means a facility named in an accreditation certificate as an accredited facility.**“accredited veterinary surgeon”**, for an accredited facility, means a veterinary surgeon named in the accredited facility’s accreditation certificate as an accredited veterinary surgeon.**“Act document”**, for chapter 8, part 1, division 1, see section 310.**“advertising notice”** see section 13(2)(a).**“affected by bankruptcy action”**, in relation to an individual, means the individual—

SCHEDULE 3 (continued)

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.

“agreement”, for chapter 4, part 4, see section 142.

“allotted”, by a control body, means allotted by the control body by publication in the control body’s racing calendar.

“analyse” includes test.

“appeal committee” means an appeal committee established by a control body under its rules of racing to hear appeals against decisions of stewards made for the control body.

“application code”, in relation to an approval application, means a code of racing, or a proposed code of racing, stated in the approval application.

“application for a licence” means an application under a control body’s policies for a licence that may be issued by the control body.

“appropriately qualified”, in relation to the exercise of a power, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

The level at which a person is employed by an entity.

“approval” means—

- (a) in relation to an approval applicant, the Minister’s approval of the approval applicant; or
- (b) in relation to a control body other than a continuing control body, the Minister’s approval of the control body; or
- (c) in relation to a continuing control body, means the approval given to the control body under section 365.

“approval applicant” means the applicant named in an approval application as the applicant.

“approval application” means an application, made under section 10(1), for approval of a corporation as a control body for an application code.

SCHEDULE 3 (continued)

“approval effect day”, in relation to a control body, means the day stated in the Minister’s approval as the day on which the approval takes effect.

“approved form” means a form approved under section 343.

“assessment report” means a report under section 18(2) or 19(3) about an approval application or approval applications.

“at”, a place, includes in and on the place.

“authorised officer” see section 261(2).

“background document”, for chapter 8, part 1, division 1, see section 310.

“bet” includes the action, behaviour, conduct or performance of a person who, whether on 1 or more than 1 occasion, does any of the following acts for himself or herself or for another person, or who cooperates with another person for the doing of any of the acts—

- (a) makes or receives a bet or wager;
- (b) pays, receives, negotiates or settles a bet or wager;
- (c) offers, agrees or otherwise negotiates—
 - (i) to bet or wager; or
 - (ii) to pay, receive or settle a bet or wager.

“betting meeting” means a meeting held by a licensed club at a licensed venue under the control of a control body, but at which no race is held.

“board chairperson” means the chairperson of the integrity board.

“board meeting” means a meeting of the integrity board.

“board member” means a member of the integrity board.

“bookmaking” means the business of receiving or negotiating bets and includes the settlement of bets.

“business address”, of a control body, means the business address of the control body as stated in its approval.

“business associate”—

- (a) means—

SCHEDULE 3 (continued)

- (i) for an approval application, means a person whom the chief executive believes will, if the approval applicant is approved as a control body, be associated with the ownership or management of the operations of the control body; or
 - (ii) for a corporation approved as a control body, means a person whom the chief executive believes is associated with the ownership or management of the operations of the corporation as a control body; or
 - (iii) of an applicant for an eligibility certificate, means a person whom the gaming executive believes will, if the applicant is licensed as a racing bookmaker, be associated with the ownership or management of the business conducted by the racing bookmaker; or
 - (iv) of a certificate holder who is not licensed as a racing bookmaker, means a person whom the gaming executive believes will, if the holder is licensed as a racing bookmaker, be associated with the ownership or management of the business conducted by the racing bookmaker; or
 - (v) of a certificate holder who is licensed as a racing bookmaker, means a person whom the gaming executive believes is associated with the ownership or management of the business conducted by the racing bookmaker; and
- (b) includes, for any corporation, an executive officer of the corporation.

“certificate holder” means the holder of an eligibility certificate that continues to have effect.

“certified copy”, in relation to a racing bookmaker’s licence of a corporation, means a copy of the licence certified as a true copy by the control body that granted the licence.

“closure date” see section 14(2).

“club” means either of the following that has, as part of its objects, the object of promoting animal racing of a particular breed or type of animal—

- (a) a corporation registered under the Corporations Act;

SCHEDULE 3 (continued)

- (b) an incorporated association under the *Associations Incorporation Act 1981*.

“code of racing” means any of the following—

- (a) thoroughbred racing;
- (b) harness racing;
- (c) greyhound racing;
- (d) another type of animal racing stated in a Minister’s approval as the code of racing for which the approval is given.

“code of racing”, in relation to a control body, means the code of racing stated in the approval of the control body as the code of racing for which the approval is given.

“code substance” means a substance, other than a drug, that—

- (a) is relevant to a control body’s code of racing; and
- (b) is mentioned in an agreement between the control body and an accredited facility.

“compliance officer” means a person appointed as a compliance officer under section 261(1)(a).

“conduct”, for chapter 8, part 1, division 2, see section 314.

“confidential information”, for chapter 8, part 1, division 1, see section 310.

“container” includes a bag.

“continuing control body” means any of the following—

- (a) the Thoroughbred Racing Board;
- (b) the Harness Racing Board;
- (c) the Greyhound Authority.

“control body” means—

- (a) a corporation given a Minister’s approval to be the control body for a code of racing; or
- (b) a continuing control body.

SCHEDULE 3 (continued)

“control body associate” means—

- (a) for a control body other than a continuing control body—a business associate or executive associate of the control body; or
- (b) for a continuing control body—a member of the continuing control body.

“control body direction” see section 34(2).

“control body form” means a form approved by a control body for its code of racing.

“control body officer”, for chapter 8, part 1, division 1, see section 310.

“conviction”, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

“copy”, for chapter 8, part 1, division 1, see section 310.

“council” means the Queensland Regional Racing Council as mentioned in section 66.

“council member” means a person who is a member of the council.

“court”, for chapter 8, part 1, division 1, see section 310.

“criminal history”, of a person, means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite section 6 of that Act, includes a conviction of the person to which the section applies; and
- (b) despite section 5 of that Act, includes a charge made against the person for an offence.

“deal”, in relation to a thing for analysis, see section 142.

“deputy tribunal chairperson” means the deputy chairperson of the tribunal.

“disciplinary action”, relating to an accreditation, approval or licence, means 1 or more of the following—

- (a) cancelling the accreditation, approval or licence;
- (b) suspending the accreditation, approval or licence for a stated period;

SCHEDULE 3 (continued)

- (c) varying the accreditation, approval or licence in either of the following ways, except if the variation is made as the result of an application of the accreditation holder, control body or licence holder—
 - (i) changing a condition stated in the accreditation, approval or licence to which it is subject;
 - (ii) stating a new condition to which the accreditation, approval or licence is to be subject;
- (d) for a licence—
 - (i) imposing a monetary penalty; or
 - (ii) closing, for a stated period, premises or part of premises stated in the licence as premises at which an activity may be conducted under the licence.

“dispose”, for chapter 3, part 5, division 4, see section 111.

“disqualifying conviction” means either of the following—

- (a) a conviction, whether or not a spent conviction, for an offence—
 - (i) under this Act; or
 - (ii) the repealed Act; or
 - (iii) a law of another State, that is prescribed under a regulation as a law about racing or betting;
- (b) a conviction for an indictable offence under another Act or law, other than an irrelevant spent conviction.

“drug” means—

- (a) a substance mentioned in the Standard for the Uniform Scheduling of Drugs and Poisons as in force from time to time, published by the Commonwealth;⁹⁴ or
- (b) another substance, likely to affect the performance of a licensed animal, prescribed under a regulation.

⁹⁴ A copy of the standard may be purchased at the Government Info Shop, Adelaide Street, Brisbane.

SCHEDULE 3 (continued)

“drug control”, relating to animals or licensed animals, means the control of drugs and code substances in relation to animals or licensed animals.

“electoral commissioner” means the person who is the electoral commissioner under the *Electoral Act 1992*.

“eligibility certificate” means an eligibility certificate granted to a person by the gaming executive stating that, until a date stated in the certificate, the person is eligible to apply to a control body for a racing bookmaker’s licence.

“eligible corporation” see section 8.

“eligible individual” see section 9.

“employ”, for chapter 6, includes—

- (a) engage; and
- (b) employ or engage whether or not for payment.

“exclusion action”, relating to a person, means an action taken by a control body against the person, by which the control body does any of the following under its rules of racing—

- (a) names the person on a list that—
 - (i) is kept under the control body’s rules of racing and identifies persons whose entitlements under the rules are forfeited; and
 - (ii) is, from time to time, published in the control body’s racing calendar;
- (b) disqualifies the person from becoming the holder of a licence issued by the control body;
- (c) warns off the person from entering, or remaining at, a licensed venue, or other place at which trials are or are to be conducted, when the licensed venue or place is under the control of the control body.

“executive associate”—

- (a) for an approval application, means an executive officer of a corporation, partner, trustee, or another person stated by the chief executive, whom the chief executive believes will, if the approval

SCHEDULE 3 (continued)

applicant is approved as a control body, be associated with the ownership or management of the operations of the control body;
or

- (b) for a corporation approved as a control body, means an executive officer of a corporation, partner, trustee, or another person stated by the chief executive, whom the chief executive believes is associated with the ownership or management of the operations of the corporation as a control body; or
- (c) of an applicant for an eligibility certificate, means an executive officer of a corporation, partner, trustee, or another person stated by the gaming executive, whom the gaming executive believes will, if the applicant is licensed as a racing bookmaker, be associated with the ownership or management of the business conducted by the racing bookmaker; or
- (d) of a certificate holder who is not licensed as a racing bookmaker, means an executive officer of a corporation, partner, trustee, or another person stated by the gaming executive, whom the gaming executive believes will, if the holder is licensed as a racing bookmaker, be associated with the ownership or management of the business conducted by the racing bookmaker; or
- (e) of a certificate holder who is licensed as a racing bookmaker, means an executive officer of a corporation, partner, trustee, or another person stated by the gaming executive, whom the gaming executive believes is associated with the ownership or management of the business conducted by the racing bookmaker.

“executive officer”, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“facsimile warrant” see section 275(4).

“forge”, for chapter 8, part 1, division 1, see section 310.

“gaming commission” means the Queensland Gaming Commission under the *Gaming Machine Act 1991*.

“gaming executive” means the chief executive of the department in which the *Wagering Act 1998* is administered.

SCHEDULE 3 (continued)

“gaming executive form” means a form approved by the gaming executive under section 260.

“Greyhound Authority” means the Greyhound Racing Authority established under the repealed Act and continued as the control body for greyhound racing under section 359.

“Harness Racing Board” means the Queensland Harness Racing Board established under the repealed Act and continued as the control body for harness racing under section 359.

“holding company”, in relation to body corporate, see Corporations Act, section 9.

“illegal betting place” see section 322.

“indictable offence” includes an indictable offence dealt with summarily.

“information notice”, for a decision of the Minister, chief executive, gaming executive, a control body or the Racing Appeals Tribunal, means a notice stating the following—

- (a) the decision;
- (b) the date of the decision;
- (c) the date the decision takes effect;
- (d) the reasons for the decision;
- (e) if, under this Act, the decision can be appealed against—how the person starts an appeal and the time within which the appeal must start.

“integrity board” means the Racing Animal Welfare and Integrity Board established under section 114.

“integrity officer” means a person appointed as an integrity officer under section 261(1)(b).

“interfere with”, in relation to a licensed animal, for chapter 8, part 1, division 3, see section 316.

“irrelevant spent conviction” means a spent conviction relating to an offence that did not involve dishonesty, fraud, stealing, unlawful betting or unlawful bookmaking.

“keep”, in relation to a place, includes the action, behaviour, conduct or performance of a person who, at any material time, acts or behaves or

SCHEDULE 3 (continued)

appears to act or behave as the person having the care, control or management of that place at that time.

“licence” means a licence issued by a control body to the licence holder for 1 of the following—

- (a) an animal suitable for racing in the control body’s code of racing;
- (b) a club suitable to be associated with the control body’s code of racing;
- (c) a person suitable to be a participant in the control body’s code of racing, including, for example, as an owner of an animal, racing bookmaker, racing bookmaker’s clerk, rider, stable supervisor, stablehand or trainer;
- (d) a venue suitable for race meetings for the control body’s code of racing.

“licence holder” means—

- (a) for an animal or place—the person stated in the licence as the holder of the licence; or
- (b) otherwise—the person who is licensed.

Example of a licence holder for paragraph (a)—

An animal called ‘Rocket’ may be licensed by a control body. Joan Rockettes may be the owner of the licensed animal. The licence will state that Joan Rockettes is the licence holder of the licence for the licensed animal ‘Rocket’.

“licensed”—

- (a) in relation to a control body—means licensed by the control body; or
- (b) otherwise—means licensed by a control body.

“licensed animal” means—

- (a) an animal that is licensed by a control body for its code of racing; or
- (b) an animal that a person presents at a licensed venue, another place where a trial for licensed animals is or is to be held or any other place, as if the animal were a licensed animal.

“licensed club” means a club licensed by a control body to hold race meetings for the control body’s code of racing.

SCHEDULE 3 (continued)

“licensed executive officer”, of a corporation that is a racing bookmaker, means an executive officer of the corporation identified in the corporation’s racing bookmaker’s licence as an executive officer who may carry on bookmaking for the corporation under the licence.

“licensed venue” means a place licensed by a control body as a place at which a race meeting may be held by a licensed club for the control body’s code of racing.

“liquor” has the meaning given in the *Liquor Act 1992*, section 4B.

“manage”, in relation to a code of racing or proposed code of racing, includes—

- (a) regulating activities associated with the code of racing or proposed code of racing; and
- (b) prohibiting some activities, or aspects of an activity, associated with the code of racing or proposed code of racing.

“member club”, of a racing association, means a club that is entitled, under a regulation, by itself or jointly with other clubs, to nominate a person to be a member of the racing association.

“Ministerial direction” means a direction given by the Minister to a control body under section 45.

“Minister’s approval” means an approval as a control body given by the Minister to an approval applicant under section 26.

“money” includes—

- (a) bank notes, coins, bank drafts, marketable securities, cheques and other orders, warrants, authorities or requests for the payment of money; and
- (b) an acknowledgment, note or other thing purporting or intended to entitle the bearer or another person to money or money’s worth.

“national police certificate” means a document known as a national police certificate and available from the commissioner of the police service.

“nominated person”, for chapter 4, part 4, see section 142.

“non-proprietary club” means a club with a constitution that does both of the following—

SCHEDULE 3 (continued)

- (a) provides for the application of all of the club's profits and other income to the promotion of the club's objects;
- (b) prohibits the payment of dividends to the members of the club.

“non-proprietary entity”, for chapter 3, part 5, division 4, see section 111.

“non-TABQ clubs” see section 65.

“non-TABQ races” see section 65.

“notice” means a written notice.

“notice of results” see section 147(2).

“objector” see section 15(1).

“occupier” of a place—

- (a) means any of the following—
 - (i) the owner or person apparently in charge of the place;
 - (ii) the person who has the care, management or supervision of the place or who is conducting a business at the place; and
- (b) includes, for chapter 8, a person employed by, or acting for, a person mentioned in paragraph (a).

“official”, of a control body, means a person who holds a position in the control body that is stated, under the control body's rules of racing, as a position for which the holder is an official of the control body.

Examples—

A control body's rules of racing may state a holder of the position of handicapper, starter or steward is an official of the control body.

“owner”, for a thing seized under this Act by an authorised officer, includes a person who would be entitled to possession of the thing had it not been seized.

“participant” means a person involved with a code of racing, other than—

- (a) a club; or
- (b) a person who participates merely by doing either or both of the following—
 - (i) attending a race meeting;

SCHEDULE 3 (continued)

(ii) placing a bet with a racing bookmaker at a race meeting.

“place” includes the following—

- (a) land;
- (b) premises;
- (c) a vehicle.

“place of seizure” see section 290(a).

“policy” means a policy made by a control body for its code of racing, under chapter 3, part 2.

“possess” a thing—

- (a) for chapter 8, part 1, division 3—see section 316; or
- (b) otherwise—includes—
 - (i) have custody of the thing; and
 - (ii) have control of it at any place, whether or not someone else has custody of it; and
 - (iii) have an ability to obtain its custody at will; and
 - (iv) have a claim to its custody if the claimant has committed it to the custody of someone, even though the thing is temporarily not in the control of the person having the claim.

“premises” includes—

- (a) a building or structure, or part of a building or structure, of any type; and
- (b) a group of buildings or structures, or part of a group of buildings or structures, of any type.

“presiding case manager” means the presiding case manager under the *Queensland Building Tribunal Act 2000*.

“prohibited thing”, for chapter 8, part 1, division 3, see section 316.

“proposed action”—

- (a) for chapter 2, see section 53(2)(a); or
- (b) for chapter 3, see section 102(2)(a); or

SCHEDULE 3 (continued)

(c) for chapter 4, part 3, see section 136(2)(a); or

(d) for chapter 6, see section 231(2)(a).

“proposed code of racing” means a type of animal racing, other than a code of racing, stated in an approval application as a proposed code of racing.

“proposed facility” means a facility the subject of an accreditation application.

“public place” means—

(a) a place, or part of a place, that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or

(b) a place, or part of a place, the occupier of which allows, whether or not on payment of money, members of the public to enter.

“qualified person” see section 285.

“Queensland Regional Racing Council” means the Queensland Regional Racing Council as mentioned in section 66.

“race” means a contest, contingency or event held under the control of a control body in which 2 or more licensed animals compete against each other for the purpose of providing a contest, contingency or event on which bets may be made.

“race meeting” means—

(a) a meeting for conducting racing of licensed animals; or

(b) a betting meeting.

“Racing Appeals Tribunal” means the Racing Appeals Tribunal established under section 150.

“racing association” means a racing association established under the repealed Act and continued in existence under section 61.

“racing bookmaker” means the holder of a racing bookmaker’s licence.

“racing bookmaker’s licence” means a licence from a control body as a racing bookmaker for the code of racing that the control body is approved to manage.

SCHEDULE 3 (continued)

“racing bookmaker’s clerk” means the licence holder of a racing bookmaker’s clerk licence.

“racing bookmaker’s clerk licence” means a licence from a control body to be employed by a racing bookmaker as a clerk in the conduct of the racing bookmaker’s business at a licensed venue.

“racing calendar” see section 38(1).

“racing contingency”, for chapter 8, part 1, division 2, see section 314.

“registrar”, of the gaming commission, means the officer or person designated under a regulation under the *Wagering Act 1998* as the registrar of the commission.

“regulation condition” see section 30(1).

“relevant control body”, for chapter 3, part 5, division 4, see section 111.

“relocated provision” means a provision in schedule 1 that was relocated to the schedule.

“repealed Act” means the *Racing and Betting Act 1980*.

“rider”, of an animal, includes—

- (a) the driver of the animal; and
- (b) the jockey for the animal.

“rules of racing” means the rules of racing, as in force from time to time, of a control body for its code of racing, as required under section 91(1).

“sample”, relating to an animal, means biological or other material taken from or produced by the animal, and includes blood, faecal material, hair, saliva, sweat, tissue, urine and vomit.

“secondary facility”, for an accredited facility, means a facility named in the accredited facility’s accreditation certificate as a secondary facility for the accredited facility.

“secretary”, to the tribunal, means the director, central tribunals registry under the *Queensland Building Tribunal Act 2000*.

“show cause notice”—

- (a) for chapter 2, see section 53(1); or
- (b) for chapter 3, see section 102(1); or

SCHEDULE 3 (continued)

- (c) for chapter 4, part 3, see section 136(1); or
- (d) for chapter 6, see section 231(2).

“show cause period”—

- (a) for chapter 2, see section 53(2)(g); or
- (b) for chapter 3, see section 102(2)(e); or
- (c) for chapter 4, part 3, see section 136(2)(f); or
- (d) for chapter 6, see section 231(2)(d).

“spent conviction” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed under section 11 of that Act.

“sporting contingency” includes the following whether happening in Queensland or elsewhere—

- (a) a contest, contingency or event relating to animals, other than a race; or
- (b) a contest, contingency or event relating to an athletic meeting, exercise, fight, game, pastime or sport.

“staff”, relating to a control body, means a person employed by the control body in any capacity.

“steward” —

- (a) in relation to a control body—means a person appointed as a steward or deputy steward by the control body; or
- (b) otherwise—means a person appointed as a steward or deputy steward by a control body.

“substance”, for chapter 4, part 4, see section 142.

“substantial holding” see Corporations Act, section 9.

“TABQ” means TAB Queensland Limited ACN 085 691 738.

“take”, in relation to a sample or thing, includes separating the sample or thing and placing it in more than 1 container.

SCHEDULE 3 (continued)

“thing”—

- (a) for chapter 4, parts 2 and 4—includes a sample; or
- (b) for chapter 7, part 2, division 4—see section 287.

“thoroughbred control body” means—

- (a) until schedule 1, part 2 expires or is omitted—the Thoroughbred Racing Board; or
- (b) after schedule 1, part 2 expires or is omitted—the corporation approved as the control body for the thoroughbred racing code of racing.

“thoroughbred entity” see section 69.

“Thoroughbred Racing Board” means the Queensland Thoroughbred Racing Board established under the repealed Act and continued as the control body for thoroughbred racing under section 359.

“trial” means a contest, contingency or event held under the control of a control body for testing or training licensed animals, but is not a contest, contingency or event on which bets may be made.

“tribunal” means the Racing Appeals Tribunal.

“tribunal chairperson” means the chairperson of the tribunal.

“tribunal member” means a member of the tribunal.

“use”, a prohibited thing on a licensed animal, for chapter 8, part 1, division 3, see section 316.

“vehicle” means anything used for carrying any animal, person or thing by land, water or air.

“venue” includes a track.

“veterinary surgeon” see the *Veterinary Surgeons Act 1936*, the schedule.⁹⁵

“warrant form” see section 275(5)(b).

⁹⁵ *Veterinary Surgeons Act 1936*, schedule—

“veterinary surgeon” means a person registered as a veterinary surgeon under this Act and whose name remains upon the register of veterinary surgeons.

SCHEDULE 3 (continued)

“welfare”, in relation to animals or licensed animals, means protecting the health, safety and wellbeing of animals or licensed animals, including, for example—

- (a) drug control relating to animals or licensed animals; and
- (b) the prevention and management of diseases that may affect animals or licensed animals.