

WAGERING BILL 1998

EXPLANATORY NOTES

Short Title

Wagering Bill 1998

Objectives of the Legislation

To introduce legislation to establish a regulatory framework for the conduct of wagering in Queensland. The Bill will ensure the highest possible standards of integrity, probity and consumer protection in Queensland for wagering activities conducted by persons licensed to conduct wagering.

Reasons for the Legislation

The TAB operates off course totalisator wagering under the *Racing and Betting Act 1980*. It has the control and general supervision throughout Queensland of investments on its totalisators and has the power to make rules over the operation of its totalisators and to dispose of unclaimed dividends.

The TAB is a commercial entity which currently regulates its own activities. The Bill will transfer this regulatory responsibility to the Queensland Office of Gaming Regulation (QOGR), which is responsible for the regulation of all other forms of legalised gaming in Queensland.

The Bill also amends the *Breakwater Island Casino Agreement Act 1984* to reflect a reduction in the junket tax rate.

Estimated Cost for Government Implementation

The establishment of a regulatory regime for wagering separate from the TAB involves a shift in responsibilities from the TAB itself, the Office of

Racing and the Office of State Revenue to QOGR. An additional cost of approximately \$360,000 will be annually incurred by QOGR to cover regulatory and administrative expenses.

It should be noted that the TAB, with a licence issued under this Bill, would have the potential, through a stronger commercial focus, to generate a greater degree of profitability. These profits will be returned to the people of Queensland, thus providing a net financial benefit to the State as a result of the reform process.

Assessment of Bill's Consistency with Fundamental Legislative Principles

The legislation has been prepared taking into consideration fundamental legislative principles. A deviation from these principles is the provision that decisions of the Governor in Council or the Minister, as set out in Schedule 1 of the legislation, are final and conclusive and are not subject to judicial review or court order. These decisions relate to the wagering licences, on-course wagering permit and persons with an interest or potential interest in the licences/permits. In addition, the Minister may refuse to grant a licence/permit even if satisfied with the suitability of the applicant to hold a licence. These powers are absolutely necessary in the public interest to ensure the integrity of the conduct of wagering and are consistent with Queensland gaming practices in force for in excess of a decade.

Persons involved in the conduct of wagering must be continually subject to close scrutiny in order to protect the integrity of gambling in the public interest. Persons wishing to be involved in the operation of wagering, must be willing to be subject to such scrutiny. Therefore, it is essential that certain provisions such as the power conferred on inspectors to enter premises of a wagering authority operator or an agent, without a warrant, be included. Inspectors do not have the power to enter other places without warrant. To gain consent to enter other places, the inspector must tell the occupier the purpose of the entry and that the occupier is not obliged to give consent.

The powers conferred on inspectors are not excessive in view of the object of the Bill and the strong public interest reasons supporting its introduction. In addition, these powers are similar to those contained in the *Keno Act*, *Lotteries Act*, *Casino Control Act* and the *Gaming Machine Act*

and are based on proven methods of protecting the public interest.

Consultation

Government agencies consulted by QOGR include:

- Office of Racing
- Office of State Revenue
- Business Environment Unit
- National Competition Policy Implementation Unit
- Office of Rural Communities
- Racing Industry Task Force

Consultation with the TAB and the Queensland racing industry has occurred during the development of the legislation.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 sets out the Short Title of the Act.

Clause 2 provides for the Act to commence on proclamation.

PART 2—INTERPRETATION

Clause 3 refers to the Dictionary for the Act in schedule 2.

Clause 4 defines “exclusivity period” for a Race Wagering Licence and a Sports Wagering Licence.

Clause 5 defines “oncourse wagering permit”

Clause 6 defines “race wagering licence”

Clause 7 defines “sports wagering licence”

Clause 8 defines “totalisator”

Clause 9 provides that a reference to an oncourse wagering permit holder that is an unincorporated body is a reference to each person on the management committee of the body.

Clause 10 clarifies references in the Act to amounts invested.

PART 3—LAWFULNESS OF WAGERING

Clause 11 outlines lawful activities under this Act.

Clause 12 provides that the Act has effect despite the existence of any other legislation and does not effect the operations of bookmakers.

PART 4—WAGERING AUTHORITIES

Clause 13 outlines the matters which the Minister may consider when deciding whether an applicant for a wagering authority or the authority holder (*ie* a wagering licence or an oncourse wagering permit) is a suitable person to hold an authority.

Clause 14 outlines the criteria which may be considered by the Minister when deciding whether a business or executive associate of an applicant for a wagering authority or an authority holder, is a suitable person.

Clause 15 provides that the Minister is not limited in deciding the suitability of authority holders, applicants for and associates of wagering authority holders.

Clause 16 provides that only the TAB or a TAB subsidiary can apply for a race wagering licence during the exclusivity period.

Clause 17 provides that only the TAB or a TAB subsidiary can apply for a sports wagering licence during the exclusivity period.

Clause 18 provides that only a race club can apply for an oncourse wagering permit.

Clause 19 provides that an application for a wagering authority must be made in an approved form and must be accompanied by a prescribed application fee.

Clause 20 provides that the Minister may require the applicant for a wagering authority to provide further information about the application.

Clause 21 provides that the Minister must consider an application for a wagering authority and either grant or refuse the application.

Clause 22 provides that the Minister may only grant a race wagering licence to the TAB or a TAB subsidiary during the exclusivity period. The Minister must be satisfied of the integrity of the applicant and the integrity of the applicant's business and executive associates. However, the Minister may refuse to grant a licence even if satisfied of such matters.

Clause 23 outlines the requirements for eligibility to apply for and the grant of an oncourse wagering permit.

Clause 24 sets out the matters to which the Minister may have regard in deciding whether an applicant is a suitable person to hold a wagering authority.

Clause 25 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations of applicants for wagering authorities.

Clause 26 provides that if the Minister decides to grant a wagering authority, the Minister must promptly issue it to the applicant. If the Minister decides to refuse an application, the Minister must promptly give the applicant written notice of the decision.

Clause 27 provides that the Minister may issue a wagering authority in accordance with conditions considered necessary for the proper conduct of wagering in the public interest.

Clause 28 provides that a wagering authority must be in an approved form and sets out the matters to be included in the authority.

Clause 29 provides the term for which a wagering licence remains in force.

Clause 30 provides the term for which an oncourse wagering permit remains in force.

Clause 31 gives the Minister the power to add to, or change, the conditions of a wagering authority.

Clause 32 provides that the authority holder must return the licence for endorsement of changed conditions.

Clause 33 provides that a wagering authority can only be transferred if the Minister has approved the mortgage or encumbrance of the authority.

Clause 34 provides that the Minister's written approval is required before an authority holder can mortgage or encumber the wagering authority. Similarly, the Minister must approve in writing of the transferee. To give this approval, the Minister must be satisfied that certain specified criteria have been satisfied. A transferee may be required to submit an application to hold an authority. The Minister must approve in writing of the appointment of a receiver or manager.

Clause 35 provides that a wagering authority holder may surrender a licence by notice in writing to the Minister. For a wagering licence, the surrender takes effect either three months after the notice is given or a specified later date indicated in the notice or an earlier date approved by the Minister. For an oncourse wagering permit, the surrender takes effect on the day the notice is given or a specified later date indicated in the notice.

Clause 36 allows the Minister to approve an audit program for investigating an authority holder, or business or executive associates of an authority holder. Such an audit is under the responsibility of the chief executive.

Clause 37 provides circumstances where an investigation may be undertaken by the chief executive to determine whether the person is suitable to hold, or to continue to hold, a wagering authority. A person may be investigated only if a similar investigation has not occurred within the preceding two years.

Clause 38 provides for circumstances where the chief executive may investigate a business or executive associate of a wagering licensee.

Clause 39 provides for circumstances where the chief executive may investigate a business or executive associate of an oncourse wagering permit holder.

Clause 40 provides that a person may be required, by written notice from the chief executive, to give the chief executive information or documentation that the chief executive considers relevant to an investigation.

Clause 41 provides penalties for failure to comply, without reasonable excuse, with a requirement of the chief executive under clause 40.

Clause 42 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations of persons under this part.

Clause 43 sets out the grounds for suspending or cancelling a wagering authority.

Clause 44 provides that an authority holder must be given a written notice (a "show cause notice") of proposed action because the Minister believes a ground exists to suspend or cancel the wagering authority and the act or omission is of a serious and fundamental nature and the act or omission has occurred which compromises the integrity of the wagering or affects the public interest in an adverse or material way. The authority holder is given a period in which a response must be given as to why action should not be taken.

Clause 45 provides that the Minister must circulate the show cause notice to persons the Minister believes to have an interest in a wagering authority. Such persons are able to make representations about the notice to the Minister.

Clause 46 provides that the Minister must consider all written representations made during the show cause period.

Clause 47 provides that the Minister can end the show cause process on forming the belief that a ground for show cause no longer exists.

Clause 48 provides that the Minister may censure, by notice in writing, an authority holder for a matter relating to a ground for suspension or cancellation of the authority in circumstances where the Minister does not believe cancellation or suspension is warranted.

Clause 49 provides that the Minister may, by notice in writing, direct an authority holder to rectify a matter within a specified reasonable time period. Such a direction can only be issued if the Minister believes a ground exists to suspend or cancel the authority and the matter is capable of being rectified.

Clause 50 provides for the Minister to forward to the Governor in Council written notice of the Minister's belief that a ground to suspend or cancel a wagering authority exists.

Clause 51 outlines action that may be taken by the Governor in Council after receiving a notice under clause 50. Such action includes suspension of a wagering authority, cancellation of the authority or appointment of an administrator to conduct the operation of the authority holder. The Minister must promptly notify the authority holder of any action to be taken.

Clause 52 provides for immediate suspension of a wagering authority in a case where a ground exists to suspend or cancel the authority and the seriousness of the situation justifies immediate action in order to safeguard the public interest or the integrity of the conduct of authorised wagering.

Clause 53 provides for the term and functions of an administrator appointed by the Governor in Council to conduct operations under a wagering authority.

Clause 54 provides that, at any time, the Governor in Council may cancel the remaining period of suspension of a wagering authority or reduce the remaining period of suspension of an authority. The Minister must promptly notify the authority holder of any such change.

Clause 55 provides that the Minister must give a written notice about censure, rectification or suspension action taken by the Minister to each interested person who received a copy of the show cause notice.

Clause 56 provides for a sports wagering licensee to obtain the approval of the Minister to conduct wagering on non-sporting events and contingencies.

Clause 57 provides for the Minister to grant or refuse an approval under Clause 56.

Clause 58 allows the Minister to put conditions on an approval given under Clause 57.

Clause 59 requires the Minister to give a sports wagering licensee written notice of an approval under *Clause 57* and any condition on an approval.

Clause 60 sets the term that an approval under *Clause 57* remains in force.

Clause 61 allows the Minister to withdraw an approval given under *Clause 57*.

PART 5—WAGERING MANAGERS

Clause 62 provides the criteria the Minister may consider in deciding whether a person is a suitable person to be and to remain a wagering manager.

Clause 63 outlines the criteria the Minister may have regard to in deciding the suitability of persons to be associated with a wagering manager.

Clause 64 provides that the Minister is not limited by *Clauses 62* and *63* in determining the suitability of persons to be associated with a wagering licensee.

Clause 65 makes provision for a wagering licensee to appoint a wagering manager.

Clause 66 provides for an application for approval to appoint a wagering manager to be made, in writing, to the Minister.

Clause 67 allows the Minister to require the wagering licensee to provide further information with respect to an application for approval to appoint a wagering manager.

Clause 68 provides for the Minister to approve or refuse an application under *Clause 66*.

Clause 69 provides that the chief executive can investigate a proposed

wagering manager and associates of the proposed wagering manager.

Clause 70 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations of a proposed wagering manager or the business and executive associates of a proposed wagering manager.

Clause 71 defines a wagering management agreement.

Clause 72 provides that a wagering licensee can only enter into a wagering management agreement with the consent of the Minister.

Clause 73 provides that a wagering management agreement can only be amended with the written approval of the Minister.

Clause 74 provides that a wagering licensee may apply to the Minister for approval to amend a wagering management agreement.

Clause 75 allows the Minister to approve audit programs for wagering managers and their associates.

Clause 76 provides for the chief executive to investigate a wagering manager to determine the suitability of the manager.

Clause 77 provides for the chief executive to investigate an associate of a wagering manager to determine the suitability of the associate.

Clause 78 allows the chief executive to require a wagering manager or an associate to provide information or documentation relevant to an investigation.

Clause 79 provides that it is an offence to fail to provide information requested by the chief executive under Clause 78.

Clause 80 requires the commissioner of the police service to provide a written report on a person's criminal history to the chief executive if the chief executive requests this information in accordance with an investigation occurring under Clause 76 or 77.

Clause 81 outlines the grounds for directing the termination of a wagering management agreement.

Clause 82 provides that a wagering manager must be given a written notice (a "show cause notice") of proposed action because the Minister believes a ground exists to direct the termination of the wagering

management agreement and the act or omission is of a serious and fundamental nature and the act or omission has occurred which compromises the integrity of the wagering or affects the public interest in an adverse or material way. The manager is given a period in which a response must be given as to why action should not be taken.

Clause 83 allows a wagering manager and a wagering licensee to make representations about the show cause notice.

Clause 84 allows the Minister to take no further action with respect to the show cause notice.

Clause 85 provides that the Minister may censure, by notice in writing, a wagering manager for a matter relating to a ground for directing the termination of the agreement in circumstances where the Minister does not believe termination is warranted.

Clause 86 provides that the Minister may, by notice in writing, direct a wagering manager to rectify a matter within a specified reasonable time period. Such a direction can only be issued if the Minister believes a ground exists to direct the termination of the agreement and the matter is capable of being rectified.

Clause 87 requires the Minister to forward to the wagering licensee a written notice directing the licensee to terminate the wagering management agreement, if the Minister believes that, after considering representations for a show cause, a ground still exists to direct the termination of an agreement and it is of a serious and fundamental nature and the integrity of wagering or the public interest may be adversely affected. This section also applies if the wagering manager fails to comply with a direction to rectify a matter.

Clause 88 outlines action that the wagering licensee must take on receipt of notice to terminate a wagering management agreement.

Clause 89 provides for the chief executive to be notified of the termination of a wagering management agreement where such termination was not at the direction of the Minister.

Clause 90 provides that the Minister may suspend a wagering manager's operations immediately if the Minister believes a ground exists to direct the termination of the wagering management agreement and the circumstances are so extraordinary as to warrant an immediate suspension.

Clause 91 provides that the Minister must give a written notice about censure, rectification or suspension action taken by the Minister to the wagering licensee.

PART 6—STATUS OF CERTAIN DECISIONS

Clause 92 defines decisions made for the purposes of this Part.

Clause 93 provides that those decisions of the Governor in Council and the Minister mentioned in Schedule 1 are applicable to this Part. The clause further provides that the application of the provision is not limited to those decisions.

Clause 94 provides that a decision made by the Governor in Council or Minister to which this part applies are not justiciable.

PART 7—KEY EMPLOYEES AND OPERATORS FOR AUTHORITY OPERATORS

Clause 95 defines a “key employee” of an authority operator.

Clause 96 provides that a key employee of an authority operator must not carry out the functions relating to the conduct of wagering unless they are a licensed employee.

Clause 97 provides that an authority operator must not employ a person as a key employee unless the person is a licensed employee.

Clause 98 identifies persons, other than wagering employees, who - because of their ability to influence the licensee’s operations - are to be considered as key operators of an authority operator.

Clause 99 provides that the chief executive may require a key operator to apply to be licensed as a key operator or stop being a key operator of the

wagering licensee.

Clause 100 provides that the chief executive may require the person to stop being a key operator if the person's application to be licensed as a key operator is refused.

Clause 101 provides that the chief executive may require an authority operator to terminate their association with the key operator if the person fails to comply with a requirement under this Part or the person's application to be licensed as a key operator.

Clause 102 sets out the requirements for an application for a key person licence.

Clause 103 allows the chief executive to require the applicant for a key person licence to provide further information.

Clause 104 provides that the chief executive must consider an application for a key person licence only if the applicant agrees to have their photograph and fingerprints taken.

Clause 105 provides that the chief executive may grant an application for a key person licence only if certain requirements have been fulfilled.

Clause 106 authorises the chief executive to investigate the suitability of an applicant for a key person licence.

Clause 107 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations of applicants for key person licences.

Clause 108 requires the chief executive to promptly issue the licence if the application is granted, or promptly advise the applicant if the application is refused.

Clause 109 allows the chief executive to impose conditions on a key person licence.

Clause 110 requires that the key person licence must be in the approved form.

Clause 111 provides the term of a key person licence.

Clause 112 provides that a key person licence lapses at the end of one year if the person does not take up employment or if the person ceases to be

involved with an authority operator, their licence ceases after 3 months. A key person licence also lapses if the key person holding the licence ceases to be a key operator.

Clause 113 outlines the criteria the chief executive may have regard to in deciding a person's suitability to be a key person licensee.

Clause 114 provides for changing the conditions of a key person licence.

Clause 115 allows for the amendment or replacement of a key person licence to include changes of conditions imposed by the chief executive.

Clause 116 provides that a lost, stolen, destroyed or damaged key person licence may be replaced upon application to the chief executive.

Clause 117 provides that a key person licence may be surrendered and that the chief executive is to give notice to the authority operator of the surrender, if the person was employed by the operator at that time.

Clause 118 allows the chief executive to approve an audit program for investigating key person licensees.

Clause 119 allows the chief executive to investigate a key person licensee either if the chief executive reasonably suspects that the licensee is not or is no longer a suitable person, or under the approved audit program.

Clause 120 provides that the chief executive may require a key person licensee to provide information relevant to an investigation.

Clause 121 provides an offence for a key person licensee to fail to provide information required under Clause 120.

Clause 122 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations of key person licensees.

Clause 123 sets out the grounds for suspending or cancelling a key person licence.

Clause 124 sets out the requirements for a show cause notice given by the chief executive to a licensee key person.

Clause 125 provides for an authority operator and a licensee key person to make representations about a show cause notice.

Clause 126 provides for the chief executive to end the show cause

process if the chief executive no longer believes that ground for cancellation or suspension exists.

Clause 127 allows the chief executive to censure a key person licensee in circumstances which do not warrant suspension or cancellation.

Clause 128 allows the chief executive to direct a key person licensee to rectify a matter which was a ground for suspension or cancellation and is capable of being rectified.

Clause 129 provides for the suspension or cancellation of a key person licence.

Clause 130 allows the chief executive to immediately suspend a key person licence in certain circumstances.

Clause 131 allows the chief executive to cancel the remaining period of suspension or reduce the remaining period of suspension of a key person licence at any time the suspension is in force.

Clause 132 requires an authority operator to notify the chief executive of the commencement of employment of a licensed employee within 7 days.

Clause 133 provides that the chief executive may require an authority operator to provide a list of licensed and unlicensed employees.

Clause 134 requires an authority operator to notify the chief executive of the cessation of employment of licensed employees within 7 days.

Clause 135 provides that the chief executive may require an authority operator to end the employment of an employee where the employee no longer holds a key person licence. An authority operator does not incur a liability for complying with a requirement of the chief executive under this provision.

Clause 136 requires the authority operator to notify the chief executive if a person who holds a key person licence as a key operator ceases to be a key operator.

Clause 137 provides that the chief executive may require an authority operator to end the association with a key operator where the key operator no longer holds a key person licence. If the authority operator ends the association, the authority operator will not breach any Act or law, or incur any liability.

Clause 138 makes it an offence for an applicant for a key person licence to make false or misleading statements in any application made under Part 7.

Clause 139 requires the chief executive to have the fingerprints of a key person licensee destroyed if their licence lapses or is cancelled.

PART 8—WAGERING AGENTS

Clause 140 defines an "agency agreement" and sets out conditions for entering into agency agreements, including conditions under which an agent acts as and remains an agent of the licence operator.

Clause 141 deals with the conditions on which a licence operator may appoint an agent

Clause 142 requires a licence operator to notify the chief executive of an agent's name and place of operation within 7 days of entering the agency agreement.

Clause 143 provides that agency agreements can only be amended with the approval of the chief executive. The chief executive may withhold approval of a proposed amendment only if it is necessary to do so in the public interest.

Clause 144 requires a licence operator to give the chief executive periodic returns about the operator's agents.

Clause 145 requires a licence operator to notify the chief executive of a change or proposed change of an agent's place of operation within 7 days of becoming aware of the change or proposed change.

Clause 146 provides that, in deciding the suitability of a person to be a wagering agent, the chief executive may consider the person's character or business reputation, the person's current financial position and financial background, and the person's general suitability to act as a wagering agent.

Clause 147 provides that, in deciding that a business or executive associate of a wagering agent is a suitable person to be associated with a

wagering agent, the chief executive may consider the associate's character or business reputation and the associate's current financial position and financial background.

Clause 148 allows the chief executive to investigate the suitability of a wagering agent to help decide whether the agent is a suitable person to be a wagering agent. Such an investigation may only be undertaken if the chief executive reasonably suspects the agent is not a suitable person to be a wagering agent.

Clause 149 allows the chief executive to investigate the suitability of a business or executive associate to be associated with a wagering agent's operations. Such an investigation may only be undertaken if the chief executive reasonably suspects the associate is not a suitable person to be associated with a wagering agent's operations.

Clause 150 enables the chief executive to require the giving of information or the production of documents relevant to an investigation.

Clause 151 provides that failure to comply with clause 150 constitutes an offence unless certain elements exist.

Clause 152 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations of a wagering agent or a business or executive associate of a wagering agent.

Clause 153 sets out the grounds for directing the termination of an agency agreement.

Clause 154 provides for the chief executive to give the agent a show cause notice where the chief executive believes that grounds for directing termination of the agency agreement exist and the grounds are of a serious and fundamental nature.

Clause 155 provides that the wagering agent and licence operator to whom a show cause notice has been given may make representations about the show cause notice within the show cause period. All accepted representations must be considered by the chief executive.

Clause 156 provides the action to be taken by the chief executive if the chief executive considers that no further action is required after considering accepted representations for the show cause notice.

Clause 157 provides for the chief executive to censure an agent.

Clause 158 provides for the chief executive to direct rectification of certain matters by an agent that the chief executive considers capable of rectification.

Clause 159 provides for the chief executive to direct the termination of an agency agreement.

Clause 160 requires the licence operator to comply with a direction to terminate an agency agreement and confers immunity from liability in relation to action taken under the direction.

Clause 161 deals with the termination of an agency agreement otherwise than because of a direction to terminate. In this case, the licence operator must give the chief executive written notice of the termination within 7 days after the agreement is terminated.

Clause 162 provides for the immediate suspension of an agent's operations where the suspension is necessary in the public interest or there is an immediate threat to the integrity of the conduct of wagering.

PART 9—FINANCIAL

Clause 163 provides that an authority operator may deduct commission out of the total amount invested in each totalisator an amount not greater than that prescribed in the regulation.

Clause 164 provides that an authority operator, after deducting dividends in accordance with clause 163 must pay all dividends in totalisators conducted by the authority operator.

Clause 165 requires that an authority holder must pay wagering tax to the chief executive each month for the wagering authority.

Clause 166 requires that the amount of the wagering tax be a percentage prescribed under a regulation of the authority holder's monthly gross revenue.

Clause 167 requires that an authority holder must provide the chief

executive with returns, in the approved form, as prescribed by a regulation for the calculation of wagering tax.

Clause 168 requires that an authority holder must give consideration in the form of a wagering authority fee for the wagering authority and that such fees are calculated and paid to the chief executive in accordance with the conditions of the wagering authority.

Clause 169 requires the chief executive to pay an amount of wagering tax or the wagering authority fee into a fund that is established for community benefit purposes and prescribed under a regulation. The remaining amount of wagering tax and wagering authority fee must be paid into the consolidated fund.

Clause 170 provides for a penalty to be imposed at the rate prescribed by regulation upon any wagering tax or wagering authority fee not remitted by the due date, and for additional penalties to be imposed for each succeeding month for which the amount remains outstanding.

Clause 171 provides for the recovery of unpaid wagering taxes, wagering authority fees and penalties as debts due to the State.

Clause 172 makes it an offence to attempt to evade the payment of wagering taxes or wagering authority fees.

PART 10—COMPLIANCE REQUIREMENTS

Clause 173 requires an authority operator to have an approved control system that relates to its agents, and to conduct wagering under the system, and prohibits changes to the system unless directed or approved by the chief executive.

Clause 174 provides for the making of a control system submission and deals with the kind of information to be included in the submission for approval of the chief executive.

Clause 175 provides for a submission seeking approval of changes to an approved control system.

Clause 176 deals with the approval of a control system, or of a proposed change to an approved control system.

Clause 177 provides that the chief executive may direct an authority operator to change the authority operator's approved control system.

Clause 178 provides that the chief executive may approve a place at which wagering records may be kept, and exempt certain records from being kept at that place.

Clause 179 requires an authority operator to keep records at the operator's public office or an approved place for records, unless the record is an exempt wagering record.

Clause 180 requires wagering records to be kept for 5 years.

Clause 181 provides for the keeping of accounting records by an authority operator.

Clause 182 provides for the preparation of financial statements and accounts by an authority operator.

Clause 183 requires the submission to the chief executive of reports about the operator's wagering operations to the chief executive.

Clause 184 requires an authority operator to keep financial institution accounts approved by the chief executive for banking transactions for the operator's wagering operations.

Clause 185 prevents the use of an approved financial institution account for a purpose other than the purpose for which it was approved.

Clause 186 provides that the chief executive may declare a permit holder to be an exempt authority operator for the purposes of conducting an audit of operations.

Clause 187 requires an annual audit of financial records by a registered company auditor. This requirement does not apply to exempt authority operators as declared in clause 186.

Clause 188 requires the auditor to complete the audit within 3 months after the end of the relevant financial year and to give the chief executive a copy of the audit report.

Clause 189 allows the chief executive to require an authority operator to

provide further information about a matter relating to the operator's operations mentioned in the audit report.

PART 11—CONDUCT OF APPROVED WAGERING

Clause 190 defines the term "ancillary wagering agreement". An ancillary wagering agreement is defined as an agreement, lease or arrangement which gives a person a direct or indirect interest in amounts received by the operator from the conduct of wagering or the revenue, profit or earnings derived by the operator from the conduct of wagering. The definition excludes an agency agreement or a wagering management agreement or a totalisator supply agreement.

Clause 191 defines the term "related agreement" as an ancillary wagering agreement, an agreement, contract, lease or arrangement between an authority operator and another person which relates to the operations of the authority operator under the wagering authority. The definition excludes a wagering management agreement.

Clause 192 provides that an authority holder must not enter an ancillary wagering agreement without the written approval of the Minister.

Clause 193 provides that an authority operator may apply for approval to enter into an ancillary wagering agreement and outlines how to make such an application. The Minister must consider such an application and approve or refuse the application.

Clause 194 provides that the Minister may, by written notice request information about a related agreement.

Clause 195 allows the Minister to issue a show cause notice to an authority operator with respect to a related agreement in circumstances where the integrity of wagering may be jeopardised or in the public interest.

Clause 196 allows the authority operator or any other interested person to make representations about a show cause notice issued under clause 195.

Clause 197 allows the Minister to direct the termination of a related

agreement in certain circumstances following consideration of accepted representations made during the show cause period.

Clause 198 provides for the making of rules by the Minister. Rules are considered subordinate legislation.

Clause 199 provides that the rules are binding on an authority operator and any person betting or intending to bet with an authority operator on wagering conducted under a wagering authority.

Clause 200 requires that a general operator must arrange for a copy of the rules to be made available for public inspection at each office of the operator during office hours.

Clause 201 requires an authority operator to ensure that the rules are complied with in the conduct of approved wagering.

Clause 202 provides that the licence operator must take reasonable steps to ensure any act by a wagering agent for the conduct of approved wagering is done under the rules.

Clause 203 provides that a wagering agent, in relation to the conduct of approved wagering, must ensure that the act is done under the rules.

Clause 204 defines the term “totalisator supply agreement” as an agreement, contract, lease or arrangement under which a person agrees to install, supply or operate regulated wagering equipment for or to a permit holder or a wagering agent that is a race club (a designated operator).

Clause 205 provides requirements for places of operation of wagering by an authority operator and appointed agents.

Clause 206 allows a general operator, in carrying on the operator’s operations, to accept wagers by phone or other form of communication.

Clause 207 prohibits a general operator from using or modifying regulated or approved wagering equipment unless the equipment or modification has been approved by the chief executive.

Clause 208 provides that an authority operator may seek the approval of the chief executive for wagering equipment proposed for use in the conduct of approved wagering involving the operator or approval to modify such equipment.

Clause 209 prohibits a general operator from offering a loan or extending

credit to a person to enable the person or another person to take part in wagering.

Clause 210 requires persons advertising the conduct of wagering to ensure that the advertising is not indecent or offensive, is based on fact, and is not false, misleading or deceptive in a material particular.

Clause 211 enables the chief executive to give directions to the advertiser to stop the advertisement or to change it.

Clause 212 requires an authority operator and the chief executive to inquire into written complaints, and allows the chief executive to refer complaints to the authority operator in the first instance.

Clause 213 provides that claims for winning bets in approved wagering must be made within 5 years of the event or the happening of the contingency to which the bet relates.

Clause 214 requires a general operator to resolve a claim for payment of a winning bet in an approved wagering event or notify the claimant if the operator is not able to resolve the claim. If the claim is not resolved the claimant may ask the chief executive to resolve the claim or review the general operator's decision.

Clause 215 requires that if a general operator believes that the peace and happiness of a person's family are endangered due to the excessive wagering of a person, that person must be excluded from wagering for 1 month after the belief is formed.

Clause 216 requires a general operator to report dishonest acts and contraventions of the Act to the chief executive, and provides for the protection of persons providing such information.

Clause 217 prohibits cheating in relation to approved wagering.

Clause 218 prohibits the forging or uttering of official wagering documents.

Clause 219 prohibits the impersonation of a wagering agent, a key person licensee or wagering official.

Clause 220 prohibits bribery of wagering officials.

Clause 221 provides for the declaration of restricted officials or restricted licensees by the chief executive.

Clause 222 provides that the chief executive may direct a restricted official or licensee not to participate in approved wagering or approved wagering except for specific stated purposes. Also the chief executive may direct a restricted official not to have a financial relationship with a general operator if the chief executive considers such a direction appropriate.

Clause 223 provides a penalty if a restricted official or licensee participates in wagering in contravention of a direction given by the chief executive under clause 222.

Clause 224 provides that a restricted official who has received a direction, must not at that time or within 1 year after ceasing to be a restricted official, be an employee of a general operator, or knowingly have a direct or indirect business or financial association or interest with a general operator without the approval of the chief executive.

Clause 225 deals with associations between restricted officials and prospective authority operators. The restricted official must notify the chief executive of the association and the chief executive may direct termination of the association.

Clause 226 provides that a general operator must not have a business or financial association with a restricted official who has been so directed, if the general operator knows, or ought reasonably to know, of the direction.

Clause 227 provides for an offence to accept a bet from, or give a ticket or acknowledgement to a minor, however it is a defence that the person had no reason to believe the person was a minor.

Clause 228 prohibits a general operator from employing a minor to sell or give tickets or acknowledgement for a bet to a person.

PART 12—INVESTIGATION AND ENFORCEMENT

Clause 229 provides that the chief executive may appoint inspectors.

Clause 230 outlines the qualifications which a person must possess prior to being appointed as an inspector.

Clause 231 provides that the Minister may approve an audit program for investigating inspectors. The audit program may be used by the chief executive in deciding whether a person is suitable to be appointed as an inspector.

Clause 232 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations of a potential inspector.

Clause 233 defines the powers of inspectors.

Clause 234 provides that an inspector is appointed on conditions which are outlined in the instrument of appointment. The clause also outlines circumstances where an inspector ceases to hold office.

Clause 235 provides that the chief executive must issue an inspector with an identity card and outlines the information that must be included on the identity card.

Clause 236 requires a person who ceases to be an inspector to return the person's identity card to the chief executive.

Clause 237 sets out requirements for the production and display of an inspector's identity card when exercising powers under the Act.

Clause 238 allows an inspector to enter certain places without consent or warrant.

Clause 239 provides that an inspector may only enter places not listed in clause 238 with the consent of the occupier or a warrant.

Clause 240 provides a procedure for obtaining the consent of the occupier for an inspector to enter a place.

Clause 241 provides evidentiary presumptions in relation to whether the occupier's consent for an inspector to enter a place has been obtained.

Clause 242 provides for an application to a magistrate for a warrant. The application must be sworn and must state the grounds on which the warrant is sought.

Clause 243 sets out requirements for a magistrate to issue a warrant and for the contents of any such warrant.

Clause 244 provides for the application for and issue of a special warrant in urgent and other special circumstances.

Clause 245 provides evidentiary presumptions in relation to proving that a special warrant was issued.

Clause 246 sets out general powers of inspectors where entry to a place is authorised.

Clause 247 provides a penalty for the failure by a person to assist an inspector when required to do so under clause 246.

Clause 248 provides a penalty for the failure by a person to give information required by an inspector under clause 246.

Clause 249 allows an inspector to seize a thing that the inspector reasonably believes is evidence of an offence under this Act, where entry may be made without consent or warrant.

Clause 250 provides requirements for an inspector to seize a thing at a place where entry was with the consent of the occupier or with a warrant.

Clause 251 provides for the securing of things seized by an inspector.

Clause 252 provides a penalty for tampering with a thing seized by an inspector.

Clause 253 allows an inspector to require a person in control of a thing to take action in order to enable a thing to be seized, and provides an offence for failure to comply with the requirement.

Clause 254 provides for the issue of a receipt for anything seized by an inspector.

Clause 255 provides for the forfeiture to the State, in certain cases, of objects that have been seized by an inspector. An appeal against forfeiture lies to the Queensland Gaming Commission.

Clause 256 requires an inspector to return seized things which have not been forfeited within 6 months of seizure, at the end of any proceeding for an offence or appeal from the proceeding, or when the thing is no longer required as evidence.

Clause 257 provides for an owner to obtain access to a seized thing which has not been forfeited or returned.

Clause 258 empowers an inspector to give a direction stopping the use of a particular device or thing if the inspector reasonably believes that the continued use of the thing may jeopardise integrity in the conduct of approved wagering or adversely affect the public interest in some other way.

Clause 259 deals with how a stop direction is to be given. The notice in which the direction is given must state the grounds for the direction.

Clause 260 provides an offence for failure to comply with the direction of an inspector.

Clause 261 provides that an inspector may require a person to state their name and address in certain circumstances, and provides limitations on such a requirement.

Clause 262 provides an offence for the failure by a person to provide an inspector with the person's name and address.

Clause 263 allows an inspector to require the production of a document for the purposes of copying the document, and the certification of a copy of the document.

Clause 264 provides an offence for failure to produce a document to an inspector when required.

Clause 265 provides an offence for failure to certify a document required by an inspector.

Clause 266 allows an inspector to require a person to attend before the inspector at a reasonable time and place to answer questions about a document required to be produced. An inspector may also require certain persons to attend before the inspector to answer questions or give information about the authority operator's or wagering agent's operations.

Clause 267 provides an offence for failure to attend before an inspector, failure to answer a question or provide information, or making false and misleading statements.

Clause 268 provides that an inspector may require information from the manager of a place of business of a financial institution with respect to accounts of a general operator.

Clause 269 provides that the manager of a place of business of a financial institution is not liable for breach of trust by complying with the requirements of an inspector.

Clause 270 provides an offence for failure to comply with a financial records requirement of an inspector.

Clause 271 empowers the Minister to direct a general operator to stop or change an unsatisfactory management practice if the Minister is satisfied that it may compromise proper standards of integrity in the conduct of authorised wagering or affect the public interest adversely in some other way.

Clause 272 allows a court to order forfeiture of things which have been used to commit an offence or are the subject of an offence where a person has been convicted of an offence under the Act.

Clause 273 provides that a thing which has been forfeited to the State becomes the property of the State and may be destroyed by the chief executive.

Clause 274 requires an inspector to notify an owner whose property has been damaged by the inspector in the exercise of the inspector's powers.

Clause 275 allows a person to claim compensation from the State if the person suffers loss or damage as a result of the exercise of certain powers by inspectors under the Act.

Clause 276 protects certain officials from liability in relation to acts, or omissions, made honestly and without negligence under the Act.

Clause 277 provides an offence for giving a false or misleading statement to an inspector.

Clause 278 provides an offence for providing a document containing false, misleading or incomplete information to an inspector.

Clause 279 provides an offence for obstructing an inspector in the exercise of a power.

Clause 280 specifies the application of Division 1 of this part.

Clause 281 contains evidentiary provisions in relation to appointments and authorities.

Clause 282 is an evidentiary provision in relation to signatures of the chief executive and inspectors.

Clause 283 contains evidentiary provisions in relation to matters certified by the chief executive.

Clause 284 sets out the offences in the Act which are indictable offences and which are summary offences.

Clause 285 provides for the hearing of indictable offences by summary proceedings or on indictment.

Clause 286 specifies indictable offence proceedings which must be heard before a magistrate.

Clause 287 limits the time for starting summary proceedings for an offence under the Act.

Clause 288 defines the responsibility of a person for acts or omissions by the person or the person's representative.

Clause 289 requires executive officers of corporations to ensure that the corporation complies with the Act and extends liability for offences committed by corporations to executive officers of the corporation in certain circumstances.

Clause 290 provides that it is an offence to attempt to commit an offence against the Act.

PART 14—APPEALS AND REVIEW

Clause 291 provides that an authority operator may appeal to the Queensland Gaming Commission against certain decisions of the chief executive.

Clause 292 provides that a licence operator may appeal to the

Queensland Gaming Commission against a decision of the chief executive which directs an operator to terminate an agency agreement entered into by an operator.

Clause 293 allows an applicant for a key person licence to appeal to the Queensland Gaming Commission against a decision to refuse the application.

Clause 294 provides that a key person licensee may appeal to the Queensland Gaming Commission against certain decisions of the chief executive.

Clause 295 provides that a wagering agent may appeal to the Queensland Gaming Commission against certain decisions of the chief executive.

Clause 296 provides the owner of a thing seized by an inspector with a right of appeal to the Queensland Gaming Commission against the decision of the inspector.

Clause 297 sets out the procedure for starting an appeal.

Clause 298 provides that the Queensland Gaming Commission may grant a stay of the decision appealed against to secure the effectiveness of the appeal. Such a stay may be given on conditions the Commission considers appropriate, operate for a time period fixed by the Commission and may be revoked by the Commission.

Clause 299 provides that, in deciding an appeal, the Queensland Gaming Commission has certain powers. An appeal is by way of rehearing.

Clause 300 gives the Queensland Gaming Commission certain powers that it will require to obtain the evidence necessary to decide the appeal mentioned in the notice.

Clause 301 allows the Queensland Gaming Commission, in deciding an appeal, to confirm a decision, set aside a decision and substitute another decision and set aside a decision and return it to the decision maker with directions.

Clause 302 allows an appeal to a District Court from a decision of the Queensland Gaming Commission on a question of law.

Clause 303 provides that a race club may ask the Minister to review a decision regarding the race club's appointment, or refusal to be appointed, as an agent of licence operator. In reviewing such a decision, the Minister must have regard to the commercial viability of the licence operator and the applicant and consider the public interest.

Clause 304 provides that a race club may ask the Minister to review a decision of a licence operator in relation to the termination of an agency agreement with the race club. The Minister may grant a stay of the decision in order to undertake the review. The provision enables the Minister to direct a licence operator to reinstate the agency agreement, if it considers that the licence operator, in terminating the agency agreement, breached the agreement or acted unreasonably.

Clause 305 provides that the stay mentioned in clause 304 may be given on conditions the Minister considers appropriate, for a time specified by the Minister and may be revoked or amended by the Minister. However, the period of stay must not extend beyond the time specified by the Minister.

Clause 306 provides that, in reviewing a decision, the Minister must give both the licence operator and the race club reasonable opportunity to be heard and make representations about the decisions and consider such representations.

Clause 307 allows the Minister to delegate the Minister's powers under this division to the Queensland Competition Authority.

PART 15—MISCELLANEOUS

Clause 308 imposes a duty of confidentiality on persons who are, or have been, engaged in functions related to the administration or enforcement of the Act but allows disclosure with the approval of the chief executive to certain persons or entities.

Clause 309 provides for delegation of powers under the Act by the Minister and the chief executive.

Clause 310 authorises the chief executive to approve forms for use under the Act.

Clause 311 authorises the making of regulations by the Governor in Council for the purposes of the Act.

PART 16—AMENDMENT OF BREAKWATER ISLAND CASINO AGREEMENT ACT 1984

Clause 312 provides that this part amends the *Breakwater Island Casino Agreement Act 1984*.

Clause 313 amends section 2 of the *Breakwater Island Casino Agreement Act* in relation to the ratification of the formal agreement.

Clause 314 amends section 3 of the *Breakwater Island Casino Agreement Act* to provide that the variation of the formal agreement corresponds to the further agreement set out in schedule 2 of the *Breakwater Island Casino Agreement Act*.

Clause 315 amends the schedule of the *Breakwater Island Casino Agreement Act*.

Clause 316 inserts a new schedule 2 into the *Breakwater Island Casino Agreement Act*.

PART 17—TRANSITIONAL PROVISIONS

Clause 317 provides that this division applies if a wagering licence is issued on the commencement day.

Clause 318 lists definitions to be used for this division.

Clause 319 provides that if the initial operator makes a control system submission on the commencement day, the TAB's control system is deemed to be an approved control system until the submission is determined.

Clause 320 provides that if, immediately before the commencement day, wagering equipment is the TAB's equipment or was used in the conduct of

betting by means of totalisator under the existing Act, then on the commencement, the equipment is deemed to be approved wagering equipment.

Clause 321 provides that an employee of the initial operator who is identified as holding a key position who submits an application for a key person licence on the commencement of this Act, is deemed to be a licensed employee until the application is determined.

Clause 322 provides that an investment made under the existing Act before the commencement day, and any dividends or refunds payable in relation to an investment before the commencement day continue to be subject to the existing Act as if the provisions of the existing Act have not been repealed. The provision ensures that any money identified as unclaimed dividends under the existing Act continue to be treated as such under that Act.

Clause 323 provides that an investment made under the existing Act before the commencement day and if an amount first becomes payable on or after the commencement day, the investment is deemed to be an investment made for approved wagering and, accordingly, subject to the provisions of this Act.

Clause 324 provides that a TAB agency agreement made before and in force at the commencement day is deemed to be an agency agreement made under this Act. The initial operator is required to inform the chief executive of the details of all such agents within seven days of the commencement of the Act.

Clause 325 provides that a race club holding a totalisator licence under the existing Act and a net pool of the race club is amalgamated under section 196 of the existing Act, the race club is deemed to be a wagering agent of the initial operator and the agency relationship between them is deemed to be an agency agreement. The race club may terminate the agency agreement by notice in writing to the initial operator. The initial operator is required to inform the chief executive of the details of all such agents within seven days of the commencement of the Act. This expires either 1 year after the commencement day or if the race club enters into an agency agreement with the initial operator or if the race club is issued an on-course wagering permit.

Clause 326 provides that a race club holding a totalisator licence under

the existing Act and a net pool of the race club is not amalgamated under section 196 of the existing Act, the race club is deemed to be a permit holder. This expires either 1 year after the commencement day or if the race club enters into an agency agreement with the initial operator.

Clause 327 provides that the systems of internal controls and administrative and accounting procedures used immediately before the commencement day by a race club which is a permit holder under clause 326 are deemed to be an approved control system either until the end of 1 year starting on the commencement day or if the club enters into an agency agreement with the initial operator.

Clause 328 provides that rules in force under section 193 of the existing Act are deemed to be in force under this Act. This provision remains in force for a period of 1 year from the commencement day or until rules are made under this Act to replace them.

Clause 329 provides for regulations to be made that are of a transitional nature.

SCHEDULES

Schedule 1 sets out the decisions of the Governor in Council and the Minister which are not subject to appeal.

Schedule 2 contains the Dictionary which defines the terms used in the Act.

