

RACING AND BETTING AMENDMENT BILL 2000

EXPLANATORY NOTES

Short Title

Racing and Betting Amendment Bill 2000

Policy Objectives of the Legislation

The objectives of the *Racing and Betting Amendment Bill 2000* are to:

- allow the Queensland Racing Industry (QRI) to take increased responsibility for the control of bookmakers and provide greater flexibility in bookmaker's operations by removing restrictions on bookmaker's operations from the *Racing and Betting Act 1980* ("the Act");
- protect the public interest by ensuring the probity and integrity of bookmaker's operations; and
- remove duplication, inconsistencies and outdated provisions relating to bookmaking from the Act.

Reasons for the Policy Objectives of the Legislation

As a result of the privatisation of the Totalisator Administration Board of Queensland, the National Competition Policy review of the *Racing and Betting Act 1980*, the results of a survey of bookmakers conducted in November 1999 and from submissions received over a number of years from bookmakers and others, it was identified that the role of the government in regulating bookmakers should be limited to matters of integrity and probity. All other matters concerning the regulation of bookmaker's operations should be the responsibility of the Control Bodies for the respective codes of racing that are already empowered under the Act to license bookmakers.

The way in which the policy objectives will be achieved by the Bill

The policy objectives will be achieved by the Bill through the implementation of a number of key reforms to the regulatory framework governing bookmakers and their operations. In particular, the Bill provides the QRI with increased responsibility to manage and regulate the operations of its racing bookmakers.

The Bill provides that the gaming executive in the Queensland Office of Gaming Regulation (QOGR) will be responsible for carrying out probity and financial checking on an applicant who intends to apply to a Control Body for a racing bookmaker's licence. Such checking will determine whether the applicant is suitable, from a probity/financial perspective, to hold a racing bookmaker's licence. An applicant who the gaming executive considers meets established probity/financial criteria will be issued with an eligibility certificate. The holder of an eligibility certificate will then be entitled to apply to one or all of the Control Bodies for a racing bookmaker's licence for the respective code of racing.

The requirement to obtain an eligibility certificate is confined to new bookmakers. All current bookmakers are deemed to hold an eligibility certificate.

The Bill sets up an appeal process for applicants who are refused an eligibility certificate or whose eligibility certificate is cancelled.

To ensure that the public interest is protected, the gaming executive is given the power to approve an audit program whereby all bookmakers (including current bookmakers) may be audited not more than once every three years.

The Bill retains provisions governing unlawful betting and the requirement for bookmakers to take out a policy of insurance or a bond to protect bettors against losses suffered for winning bets or refunds payable by bookmakers.

The responsibility for such matters as advertising by bookmakers, remote clerks, betting tickets, minimum telephone bets, betting sheets and betting services that may be offered by a bookmaker are to be the responsibility of the Control Bodies.

Estimated administrative cost to government

There will not be any administrative cost to government resulting from implementation of the Bill.

A cost recovery fee will be prescribed by regulation to allow the QOGR to recoup the cost of conducting probity and financial checking on applicants for eligibility certificates.

Consistency with Fundamental Legislative Principles

The legislation has been prepared taking into consideration fundamental legislative principles. However, there are some provisions in the Bill that may infringe fundamental legislative principles.

In order to ensure the integrity of bookmaking, applicants for eligibility certificates and their associates are to be subject to close scrutiny which may be considered to be an infringement of the rights and liberties of the individuals, particularly in relation to privacy issues.

The development of the eligibility certificate system for racing bookmakers is based on the system that has been adopted in gaming and wagering legislation. Investigations into the backgrounds of applicants and their associates and the requirement for such persons to provide fingerprints will be conducted by the same office that conducts such investigations under the *Wagering Act 1998* and the *Interactive Gambling (Player Protection) Act 1998*.

The taking of fingerprints is an important aspect of conducting probity checks. Whilst it may be considered to be an infringement of a person's privacy, the recording of fingerprints is important for the purposes of identification, use of aliases and the past criminal history of applicants. In order to ensure the probity and integrity of bookmaking and to deter criminal involvement in the industry, it is considered that the requirement to provide fingerprints is essential. The Bill provides for the destruction of fingerprints if an eligibility certificate is cancelled or surrendered.

It could also be argued that the rights of current bookmakers may be infringed as they are now subject to investigation by the gaming executive whereas previously they were not. There are, however, strong public interest arguments for the role of the gaming executive in ensuring the probity and integrity of bookmakers and their associates. The gaming executive's powers of investigation in relation to current bookmakers are limited to

circumstances where the gaming executive reasonably suspects that the person is not suitable to hold an eligibility certificate or pursuant to an audit program approved by the gaming executive under which a person may be investigated not more than once every three years.

There may also be concern that the range of “interested persons” to whom a copy of a show cause notice may be given should be limited in order not to infringe the privacy of the certificate holder. However, this section has been inserted to ensure that natural justice is afforded to all persons who have an interest in an eligibility certificate. In the case of corporations with a complex corporate structure, the gaming executive requires the flexibility to determine who would be an interested person. It is only interested persons who have received a copy of the show cause notice who have the right to have their representations considered by the gaming executive.

Safeguards are contained in the legislation to protect certificate holders. Section 158 specifies the grounds for cancellation of an eligibility certificate. Section 158A provides that the gaming executive must believe that a ground for cancellation exists, and the act, omission or other thing forming the ground for cancellation is of a serious and fundamental nature and the public interest must be affected in an adverse and material way. In addition, section 158B(2) provides that when considering whether it is appropriate to give a copy of the show cause notice to an interested person, the gaming executive may have regard to the nature of the interested person’s interest and whether the certificate holder may be improperly prejudiced.

The purpose of this section is not to divulge information about certificate holders, but to ensure that those persons who have a genuine interest in an eligibility certificate cannot claim to have been prejudiced and denied natural justice by not being notified of show cause proceedings against a certificate holder.

One of the policy objectives of the Bill is to allow the QRI to take increased responsibility for the control of bookmakers and to provide greater flexibility in bookmaker’s operations by removing restrictions from the Act. The Control Bodies are empowered by the Act to make or amend the local Rules of Racing, Rules of Trotting and Rules of Greyhound Racing in accordance with the Australian Rules for each code. The rules contain detailed provisions which regulate the codes of racing, including the operation of bookmakers.

It may be argued that the Bill infringes fundamental legislative principles as it does not always specify criteria to be considered by the Control Bodies in exercising their powers under the rules. However, in the circumstances, it would be inappropriate for the government to interfere with the rules for the respective codes which are based on nationally recognised rules. It should be noted that section 140(6) is to be maintained which provides that the licensing of bookmakers and their clerks by the Control Bodies is to be in accordance with terms and conditions as prescribed.

Presently, section 115K of the Act provides for appeals to the Racing Appeals Authority against various decisions, including licensing decisions of a control body. Whilst section 115K does not extend to decisions of Control Bodies relating to other matters, it is proposed that this issue will be considered during a further review of the Act which is presently being undertaken.

Consultation

Government

The Departments of Premier and Cabinet, Queensland Treasury, Police, State Development, Employment, Training and Industrial Relations and Justice and Attorney General have been consulted.

The Office of Queensland Parliamentary Counsel has prepared the Bill.

Industry

The Queensland Bookmakers' Association, the Queensland Principal Club, the Queensland Harness Racing Board the Greyhound Racing Authority and the TABQ Limited have been consulted.

GST and Related Matters Bill 2000

To meet the State's commitment to adjust gambling taxes under the Intergovernmental Agreement on Commonwealth-State Financial Relations, the *GST and Related Matters Bill 2000* will abolish bookmaker's turnover tax from 1 July 2000.

The *GST and Related Matters Bill 2000* will omit sections 163 to 173 of the *Racing and Betting Act 1980*. All consequential amendments flowing from the abolition of the bookmaker's turnover tax, such as the removal of the powers of the commissioner of stamp duties from the Act are contained in the *Racing and Betting Amendment Bill 2000*.

NOTES ON PROVISIONS

Short Title

Clause 1 states that the short title is the *Racing and Betting Amendment Act 2000*.

Commencement

Clause 2 states that the Act other than part 3, commences on 1 July 2000.

Act Amended in pt 2

Clause 3 provides that this part amends the *Racing and Betting Act 1980*.

Amendment of s 5 (Definitions)

Clause 4(1) omits definitions for “athletic ground” and “athletic meeting” which are now obsolete, as section 147 which allows the commissioner to grant a permit for bookmaking at an athletic meeting is to be omitted.

Clause 4(1) also omits the definitions for “bookmaker”, “bookmaker’s agent” and “bookmaker’s clerk” as these definitions are now obsolete.

Clause 4(1) also omits the definition for “commissioner”. Under the Act, the commissioner of stamp duties had extensive powers, all of which were related to the commissioner’s responsibilities in relation to bookmaker’s turnover tax. As bookmaker’s turnover tax is to be abolished, the commissioner no longer requires the powers specified in the Act.

Clause 4(2) signposts definitions for Part 4 of the Act.

Clause 4(2) inserts definitions for “racing bookmaker”, “racing bookmaker’s agent” and “racing bookmaker’s clerk”.

Bookmakers can only be licensed in Queensland by the racing Control Bodies and can only conduct bookmaking while at a racing venue, while a race meeting is lawfully being held or deemed to be held and at the time betting with bookmakers is lawful. In other jurisdictions there are other types of bookmakers, for example, sports bookmakers. This is not the case

in Queensland. Bookmakers are an important element of the QRI and fulfil an important role at race meetings throughout the State. As bookmakers exist because of their nexus with the QRI it is considered appropriate for bookmakers to be referred to as “racing bookmakers”.

Clause 4(3) inserts "racing" before "bookmaker" in the definition of “credit bet”.

Clause 4(4) amends the definition of “person” by omitting the reference to “athletic club”.

Clause 4(5) amends the definition of “refund” by inserting "racing" before "bookmaker".

Replacement of pt 2 hdg and ss 6 - 8

Clause 5 omits the part 2 heading and section 6 which gave the commissioner responsibility for the collection of taxes and fees under the Act. With the abolition of bookmaker's turnover tax, the commissioner's powers under the Act are no longer required.

Section 7A which allowed the delegation of the commissioner's powers under the Act has been omitted, as this section is now redundant.

Section 8 is omitted. This section deemed the commissioner and other officers to be officers for the purposes of the Act. The abolition of bookmaker's turnover tax makes all references to the commissioner in the Act obsolete.

New section 6 is inserted which provides that the Act binds all persons.

Clause 5 also omits section 7 and inserts a new section 7. This section previously breached fundamental legislative principles by allowing the Minister to delegate powers to any person. The section has been redrafted to allow the Minister to only delegate to appropriately qualified persons.

Amendment of s 10 (Secrecy)

Clause 6(1) omits subsections 10(2) and (3) of the Act. These subsections relate to the requirement for the commissioner and other officers appointed under the Act to take an oath of secrecy. These subsections are no longer required as the commissioner no longer has a role under the Act. In relation to other officers appointed under the Act, whilst an

oath of secrecy is not required to be taken, a duty is still imposed on officers to preserve the secrecy of matters coming to the person's knowledge in the person's official capacity or during the person's employment or engagement while exercising the powers or performing the functions and duties imposed upon the person for the purposes of the Act.

Subsection 10(4) is omitted. The requirement for the commissioner to disclose information to the commissioner of taxation is now obsolete.

Subsection 10(5) is omitted. This subsection provided that the commissioner or an officer authorised by the commissioner could not be compelled to produce a document or give evidence to a court in relation to information acquired through the performance of duties under the Act. It is now obsolete.

Clause 6(2) renumbers section 10(1A) and (1B) as 10(2) and 10(3).

Clause 6(3) amends renumbered section 10(3) by replacing "subsection (1A)(b)" with "subsection (2)(b)" in line with the renumbering of the sections.

Amendment of s 11B (Powers of Queensland Principal Club)

Clause 7(1) amends section 11B(2)(c) by inserting "racing" before "bookmaker" and "bookmaker's clerk".

Clause 7(2) amends section 11B(2)(1) by omitting "registration of" and inserting "registering or licensing". This amendment is to clarify that the Queensland Principal Club has the power to impose fees for both registering and licensing a club, horse or person.

Amendment of s 11G Disqualification from nomination or appointment

Clause 8 amends section 11G(1)(e) by inserting "racing" before "bookmaker".

Amendment of s 18 (Dissolution of race club)

Clause 9(1) amends subsection 18(2) by omitting the reference to the commissioner, as the commissioner no longer requires powers under the Act.

Clause 9(2) amends subsection 18(2A) by omitting the requirement to obtain the approval of the commissioner as this requirement is now obsolete.

Clause 9(3) omits subsection 18(3A), which allowed the commissioner to grant an extension of time for completing the dissolution of a race club in extenuating circumstances, as the commissioner no longer has a role under the Act.

Clause 9(3) omits subsection 18(7), which required the Queensland Principal Club to notify the commissioner of a cessation of registration of a race club, as the commissioner no longer requires this information.

Clause 9(4) amends subsections 18(5) by omitting (6AA) and inserting “(7)” in line with renumbering of the subsections.

Clause 9(5) amends subsection 18(6) by omitting “(3A)” as this subsection is omitted by clause 9(3).

Clause 9(6) renumbers subsections 18(6AA) and (6A) as 18(7) and (8).

Amendment of s 24 (Time race meeting taken to commence)

Clause 10 amends section 24 by inserting “racing” before “bookmaker”.

Amendment of s 27 (Betting to continue at postponed or abandoned meeting)

Clause 11 amends section 27 by inserting “racing” before ‘bookmaker’.

Amendment of s 28 (Phantom meeting may be held in certain circumstances)

Clause 12 amends section 28(3) by inserting “racing” before ‘bookmakers’.

Amendment of s 52 (Functions, powers and duties of Harness Racing Board)

Clause 13(1) amends section 52(3)(d) by replacing “bookmaker, bookmaker’s clerk” with “racing bookmaker, racing bookmaker’s clerk”.

Clause 13(2) amends section 52(3)(m) by omitting “registration of” and inserting “registering or licensing”. This amendment is to clarify that the Harness Racing Board has the power to impose fees for registering or licensing a club, horse or person.

Amendment of s 58 (Dissolution of trotting club)

Clause 14(1) amends subsection 58(2) by omitting the reference to the commissioner, as the commissioner no longer requires powers under the Act.

Clause 14(2) amends subsection 58(2A) by omitting the requirement to obtain the approval of the commissioner, as this is now obsolete.

Clause 14(3) omits subsection 58(4), which allowed the commissioner to grant an extension of time for completing the dissolution of a trotting club in extenuating circumstances as the commissioner no longer has a role under the Act.

Clause 14(3) also omits subsection 58(7), which required the Harness Racing Board to notify the commissioner of a cessation of registration of a trotting club, as the commissioner no longer requires this information.

Clauses 14(4), 14(5) and 14(6) renumbers subsections and makes other consequential amendments to section 58.

Amendment of s 64 (Time trotting meeting taken to commence)

Clause 15 amends section 64 by inserting “racing” before “bookmaker”.

Amendment of s 67 (Betting to continue at postponed or abandoned meeting)

Clause 16 amends section 67 by inserting “racing” before “bookmaker”.

Amendment of s 68 (Phantom meeting may be held in certain circumstances)

Clause 17 amends section 68(3) by inserting “racing” before “bookmaker”.

Amendment of s 93 (Functions, powers and duties of Greyhound Authority)

Clause 18(1) amends section 93(3)(d) by inserting “racing” before “bookmaker”.

Clause 18(2) amends section 93(3)(m) by omitting “registration of” and inserting “registering or licensing”. This amendment is to clarify that the Greyhound Authority has the power to impose fees for registering and licensing a club, greyhound or person.

Amendment of s 99 (Dissolution of greyhound club)

Clause 19(1) amends subsection 99(2) by omitting the reference to the commissioner, as the commissioner no longer requires powers under the Act.

Clause 19(2) amends subsection 99(2A) by omitting the requirement to obtain the approval of the commissioner, as this is now obsolete.

Clause 19(3) omits subsection 99(4), which allowed the commissioner to grant an extension of time for completing the dissolution of a greyhound club in extenuating circumstances, as the commissioner no longer has a role under the Act.

Clause 19(3) also omits subsection 99(7), which required the Greyhound Authority to notify the commissioner of a cessation of registration of a greyhound club, as the commissioner no longer requires this information.

Clauses 19(4), 19(5) and 19(6) renumbers subsections and makes other consequential amendments to section 99.

Amendment of s 105 (Time greyhound meeting taken to commence)

Clause 20 amends section 105 by inserting “racing” before “bookmakers”.

Amendment of s 108 (Betting to continue at postponed or abandoned meeting)

Clause 21 amends section 108(1) by inserting “racing” before “bookmakers”.

Amendment of s 109 (Phantom meeting may be held in certain circumstances)

Clause 22 amends section 109(3) by inserting “racing” before “bookmaker”.

Amendment of s 115A (Definitions)

Clause 23 inserts into the definition of “licence” in section 115A, the word “racing” before “bookmaker” and “bookmaker’s clerk”.

Amendment of s 128 (Restrictions as to meetings on Anzac Day)

Clause 24 amends section 128(2) by inserting “racing” before “bookmaker”.

Amendment of s 131 (Audit of books and accounts of club)

Clause 25 amends s 131. With the abolition of bookmaker's turnover tax, the commissioner does not require powers under the Act. In line with the policy objective to allow the Control Bodies to take greater responsibility for the operations of bookmakers, references to the commissioner in section 131 have been replaced with references to “the control body responsible for registering the club”.

Whereas previously, it was an offence for a club to refuse or fail to comply with a requisition of the commissioner, under new subsection (8), the control body may take action against a club for refusing or failing to fully satisfy a control body’s requisition.

In addition, where necessary, the section has been redrafted to reflect current drafting practice.

Omission of s 133 (Commissioner may make enquiries, investigations and the like for statistical or research purposes)

Clause 26 omits section 133, as the commissioner no longer requires the power to collect statistics.

Amendment of s 134 (Application of receipts and the like of club)

Clause 27 omits “or commissioner” in section 134(4)(b)(ii)(B).

Amendment of s 136 (Disclosure of criminal history)

Clause 28 amends section 136(4) to provide that a licence under the section does not include a racing bookmaker's licence. As the gaming executive is to conduct criminal history checks on applicants for eligibility certificates, there is no need for the Control Bodies to also conduct such checks.

Replacement of pt 4 hdg, div 1 hdg and s 139

Clause 29 omits the heading and replaces it with “PART 4—“RACING BOOKMAKERS” Division 1 –Preliminary”

Old section 139 has been omitted and redrafted as new section 160.

New section 139 is inserted which contains definitions for this part.

- “business associate” of a certificate holder or an applicant for an eligibility certificate is defined to include those persons that the gaming executive reasonably believes will, be associated with the ownership or management of a racing bookmaker’s operations. The purpose of this definition is to allow the gaming executive to investigate the suitability of persons who may exert influence over the operations of the racing bookmaker. Employees of a bookmaker and bookmaker’s clerks are not included. The definition is based on a similar definition contained in the *Wagering Act 1998*.
- “certificate holder” is defined as the holder of an eligibility certificate that has not lapsed.
- “criminal history” is defined using the same definition as is contained in other gaming and wagering legislation. The effect of this definition is to provide the gaming executive with access to an applicant’s convictions and charges despite sections 5 and 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986*. In view of the strong public interest grounds for ensuring that both racing bookmakers and their business and executive associates do not

have a criminal background, this definition is considered essential to allow the gaming executive to properly conduct probity checks on applicants for eligibility certificates and to investigate racing bookmakers.

- “eligibility certificate” is defined as a certificate issued by the gaming executive which entitles the holder, until the date specified, to apply to one or all of the Control Bodies for a racing bookmaker’s licence.
- “executive associate” is defined in similar terms to “business associate” but relates to cases where the certificate holder or applicant for an eligibility certificate is not an individual but is a corporation, trustee or partnership. Again, the definition is intended to allow the gaming executive to investigate those persons who may exert an influence over the operations of the racing bookmaker but would not include employees or bookmaker’s clerks.
- “executive officer” is defined.
- “gaming Act” is defined for the purposes of section 158(1)(b).
- “Gaming Commission” is defined as the Queensland Gaming Commission under the *Gaming Machine Act 1991*.
- “gaming executive” is defined as the chief executive of the department in which the *Wagering Act 1998* is administered.
- “registrar” is defined.

Division 1A – Licensing of bookmakers and related matters is inserted.

Amendment of s 140 (Licensing of bookmakers and bookmakers’ clerks)

Clause 30 inserts a new heading for section 140. Also, section 140 is amended by inserting “racing” before “bookmaker” and before “bookmakers” wherever necessary.

Amendment of s 141 (Restrictions on betting by bookmakers)

Clause 31(1) amends the heading for section 141.

Clause 31(2) amends section 141(1), (4) and (5) by inserting “racing” before bookmaker.

Clause 31(3) amends section 141(1)(c) by replacing “approved under section 147A” with “declared under section 161”. As a result of these amendments, section 161 deals with bookmaking on sporting contingencies instead of section 147A.

Clause 31(4) omits section 141(2) and (3) as these subsections are now obsolete.

Clause 31(5) omits section 141(5)(d) which specified that the minimum amount for a telephone bet was \$250 or the possible amount of the winnings from the bet had to be \$2000. The removal of the minimum telephone bet from the Act does not preclude the Control Bodies from setting a minimum telephone bet in their respective Rules, as is presently the case in the Rules of Racing and Rules of Trotting. This restriction was identified as a restriction on competition in terms of the National Competition Policy.

Replacement of ss 142 to 158

Clause 32 omits sections 142 to 158.

Section 142 is omitted. Restrictions on advertising by bookmakers are removed from the Act, having been identified as restrictions on competition in terms of the National Competition Policy.

Section 143, which provided for bookmakers to indemnify bettors against default and to take out and maintain a policy of insurance or bond has been omitted. This section has been redrafted as sections 158P and 158Q.

Section 144, which provided for the commissioner to enter into an indemnity arrangement with bookmakers, is omitted. The section is now obsolete, as the commissioner no longer enters into such arrangements.

Section 145, which allows bookmakers to nominate agents in certain circumstances, has been redrafted as new section 162.

Section 146, which provided for bookmakers to nominate remote clerks in certain circumstances is omitted. The removal of this section will provide greater flexibility to the Control Bodies and bookmakers to determine whether rules in relation to remote clerks are necessary.

Section 147 is omitted, as this section has become obsolete, as bookmaking no longer occurs at athletic meetings. However, a bookmaker could take bets on an athletic meeting if it was declared by a control body to be a sporting contingency under new section 161.

Section 147A, which deals with bookmaking on sporting contingencies, is omitted and redrafted as new section 161.

Sections 148, 149, 150, 151, 152, 153 and 154, which deal with betting tickets and betting sheets, are omitted. With the abolition of bookmaker's turnover tax, the State has no need for such records to be kept. The Control Bodies that license bookmakers may make rules in relation to such matters if considered necessary.

Section 155, which provides for offences by bookmakers and section 158, which provides penalties for unlawful bookmaking contrary to this part of the Act, are omitted. As sections dealing with such matters are omitted from the Act there is no need for offences or penalties.

Sections 156 and 157 are omitted. These sections allowed the commissioner to direct the suspension of a bookmaker's licence or a bookmakers clerk's licence and are now obsolete.

Division 3—Racing bookmakers to be holders of eligibility certificates.

The requirement to obtain an eligibility certificate is based on the policy objective to ensure probity and integrity of bookmaking operations. It is considered that the government has an important role to protect the public interest by conducting probity and financial checks on applicants for racing bookmaker's licences, thereby ensuring that only those persons who meet stringent probity, integrity and financial requirements are permitted to operate as racing bookmakers.

Eligibility certificates are to be issued by the gaming executive in the QOGR who has expertise in conducting probity and financial checks for all other forms of gaming and wagering licences in Queensland. The provisions in this Part are based on similar provisions in the *Wagering Act 1998* and the *Interactive Gambling (Player Protection) Act 1998*.

This is the first step in a two step process. After obtaining an eligibility certificate, a person must then apply to a control body for a racing bookmaker's licence. It will be a matter for a control body to determine in accordance with the Rules for the relevant code of racing whether to grant a racing bookmaker's licence.

New section 142 provides that an applicant for a racing bookmaker's licence must hold an eligibility certificate.

New section 143 specifies the matters that the gaming executive must have regard to when deciding whether an applicant is a suitable person to hold an eligibility certificate.

New section 144 provides the matters that the gaming executive must have regard to when deciding whether a business or executive associate of an applicant for an eligibility certificate is a suitable person to be associated with the applicant.

New section 145 states that sections 143 and 144 do not limit the matters the gaming executive may have regard to.

New section 146 provides that an application for an eligibility certificate may only be made by an individual or a corporation. As the singular includes the plural, a partnership consisting of individuals and/or corporations would not be precluded.

New section 147 provides that an application for an eligibility certificate is to be made to the gaming executive and be accompanied by an application fee, which will be prescribed by regulation. It is also a condition precedent that applicants who are individuals, and business associates and executive associates of applicants that are a corporation, are agreeable to having their fingerprints taken by or for the gaming executive. See clause 34 for the destruction of fingerprints.

New section 148 provides that the gaming executive may, by giving written notice, require an applicant to provide further information. The information that the gaming executive may require is limited to information that is necessary and reasonable to help the gaming executive decide the application.

New section 149 provides that the gaming executive may cause the fingerprints of an applicant who is an individual, or business and executive associates of an applicant which is a corporation to be taken. It also provides that the gaming executive must either grant or refuse the application and specifies when the gaming executive is not required to decide an application.

New section 150 specifies the matters that the gaming executive must be satisfied of prior to granting an application for an eligibility certificate.

New section 151 allows the gaming executive to investigate an applicant to decide whether the applicant is a suitable person to be a certificate holder, and to investigate a business associate or executive associate of an applicant to decide whether the associate is a suitable person to be associated with the applicant. In order to ensure the integrity of bookmaking and thereby protect the public interest, the gaming executive requires this power to investigate applicants.

New section 152 requires the commissioner of the police service to provide a criminal history report to the gaming executive. This requirement is necessary to allow the gaming executive to properly conduct investigations into the suitability of applicants and their associates.

New section 153 specifies the gaming executive's obligations when a decision is made to grant or refuse an application. Written notice of the gaming executive's decision to refuse an application must be given to an applicant. In order to comply with the requirements of natural justice, the notice must include reasons for the decision, a statement that the applicant may appeal to the gaming commission within 28 days and how the applicant may start the appeal.

New section 154 provides that the gaming executive may give written notice to a business or executive associate requiring the associate to provide information or a document. This power is considered necessary to enable the gaming executive to properly investigate a business or executive associate of an applicant.

New section 155 provides that if a certificate holder does not apply to a control body for a racing bookmaker's licence within the time stated in the certificate, the certificate lapses. The date in the certificate must be at least two months after the date the certificate is granted to the certificate holder. The two month period was determined to be reasonable, having regard to the need to provide a reasonable period of time in which to apply for a racing bookmaker's licence, after obtaining an eligibility certificate, and the need to ensure that the eligibility certificate is based on current information.

Once a person is granted an eligibility certificate and applies to a control body for a racing bookmaker's licence, the eligibility certificate remains in force unless it is cancelled by the gaming executive or surrendered. For example, if a holder of an eligibility certificate applies to one control body for a racing bookmaker's licence within the period stated in the licence,

regardless of whether the licence is granted, the eligibility certificate remains current and entitles the certificate holder to apply to either the same or another control body at a later date. Similarly, if a racing bookmaker chooses not to renew his or her racing bookmaker's licence with a control body for a number of years, the eligibility certificate still remains in force. The records of the gaming executive can be updated in accordance with the powers provided under Division 5.

New Division 5-Investigations of certificate holders and their business and executive associates is inserted.

New section 156 provides that division 5 applies to certificate holders who are racing bookmakers. Pursuant to section 276(1)(b) bookmakers licensed before 1 July, 2000 are taken to be certificate holders and therefore are subject to Division 5.

New section 157 allows the gaming executive to approve an audit program for investigating certificate holders and business and executive associates of certificate holders. The gaming executive is responsible for ensuring that investigations are conducted under the approved audit program and in accordance with the program.

Under new section 157A, the gaming executive's powers of investigation are limited. The gaming executive may only investigate a certificate holder if the gaming executive reasonably suspects the certificate holder is not, or is no longer suitable to hold an eligibility certificate or the investigation is made under an audit program approved by the gaming executive.

New section 157B allows the gaming executive to investigate a business or executive associate of a certificate holder to determine whether the associate is a suitable person to be associated with the certificate holder's operations. Again, the gaming executive's power to investigate an associate is limited to the circumstances specified in section 157B(2).

New section 157C provides that the gaming executive may, by written notice, require a certificate holder, or business or executive associate of a certificate holder to give information or a document for the purposes of an investigation. To comply with the requirements of natural justice, the gaming executive must warn the person that it is an offence to fail to comply without reasonable excuse.

New section 157D provides that failure to comply with a requirement under section 157C, without reasonable excuse is an offence. It is a reasonable excuse not to comply, if the requirement would tend to incriminate the person. Also, it is not an offence if the information or document sought by the gaming executive is not in fact relevant to the investigation.

New section 157E provides that the commissioner of the police service must, upon request provide a criminal history report to the gaming executive and specifies the information it must contain.

New section 157F allows the gaming executive to ask the Control Bodies that licensed a racing bookmaker, for information or a document as part of an investigation under this division.

Division 6 is inserted which deals with the cancellation of eligibility certificates.

Section 158 states the grounds for cancellation of an eligibility certificate.

Section 158A outlines when the gaming executive must issue a show cause notice and the content of the notice. This section also allows the certificate holder to make written representations about the show cause notice to the gaming executive in the show cause period.

Section 158B provides that the gaming executive must give a copy of the show cause notice to each of the Control Bodies and to each person that the gaming executive considers has an interest in the eligibility certificate. Interested persons may make representations to the gaming executive in the show cause period.

Section 158C provides that the gaming executive must consider all written representations by the certificate holder or interested persons made in the show cause period.

Section 158D provides that if after considering the representations, the gaming executive no longer believes that a ground exists to cancel the eligibility certificate, the gaming executive must not take any action about the show cause notice and must give notice of this to the certificate holder and each interested person.

Section 158E allows the gaming executive to censure the certificate holder in certain circumstances.

Section 158F allows the gaming executive to cancel the eligibility certificate in specified circumstances.

Section 158G provides that if an eligibility certificate is cancelled and the certificate holder is the holder of a racing bookmaker's licence, the racing bookmaker's licence is also cancelled.

Section 158H provides that if the gaming executive censures a certificate holder or cancels a certificate, the gaming executive must give written notice of the decision to each interested person who was given a copy of the show cause notice.

Division 7 (sections 158I to 158O) is inserted which provides for appeals from decisions of the gaming executive to refuse an application for an eligibility certificate or to cancel an eligibility certificate. This division is based on similar provisions in the *Wagering Act 1998* and the *Interactive Gambling (Player Protection) Act 1998*.

Division 8—Provisions about racing bookmakers is inserted.

Section 143 which was previously omitted by clause 32 has been redrafted as new sections 158P and 158Q to reflect current drafting practice. Section 158P protects persons betting with racing bookmakers by providing that racing bookmakers must maintain a policy of insurance or a bond to indemnify bettors against default.

New section 158Q protects persons who place bets with bookmakers, by providing that a control body must not register or licence a racing bookmaker unless the person has a policy of insurance or a bond under section 158P.

Amendment of s 159 (Prohibition of betting by bookmaker with infants)

Clause 33 amends section 159 by inserting "racing" before "bookmaker".

Replacement of ss 160 and 161

Clause 34 omits section 160, which provided for the committee of a club to direct the removal of a person from a club as the section is now obsolete and breaches fundamental legislative principles.

Section 161, which empowered clubs to prohibit the attendance of certain persons at racing venues, is omitted as it is obsolete and breaches fundamental legislative principles.

New Division 9—Clubs to control racing venues and provisions about sporting contingencies is inserted

New section 160 is inserted. Section 139, which was omitted by clause 29 for renumbering purposes, has been redrafted as section 160 to reflect current drafting practice. This section relates to the control of bookmakers by clubs and Control Bodies.

New section 161 is inserted. This section provides that a control body may declare a sporting contingency to be a declared sporting contingency, which will entitle racing bookmakers to take bets on the sporting contingency. Previously, the Minister approved bookmaking on sporting contingencies under section 147A. The restrictions currently on bookmakers to only conduct bookmaking operations on sporting contingencies, while present at a racing venue while a lawful meeting is being held at the venue are maintained.

Division 10—Miscellaneous is inserted.

New section 162 is inserted. Section 145, which was omitted by clause 32 for renumbering purposes, has been redrafted as section 162 to reflect current drafting practice. This section allows the control body that licenses a racing bookmaker to authorise a person who is not the holder of an eligibility certificate to temporarily act as the bookmaker's agent in specified circumstances.

New section 162A is inserted which provides that if a control body licenses a racing bookmaker or exercises disciplinary action in relation to a racing bookmaker's licence, it must advise the gaming executive in writing within 14 days.

As the gaming executive has an ongoing responsibility under Division 5, the gaming executive needs to keep a record of the persons who have been licensed as racing bookmakers.

The information in relation to disciplinary action is required by the gaming executive to determine whether grounds exist to cancel the bookmaker's eligibility certificate.

New section 162B allows the gaming executive to give information about a racing bookmaker, which the gaming executive considers appropriate, to a control body that registers or licences that person in any capacity.

New section 162C is inserted which allows the holder of an eligibility certificate to surrender the certificate.

New section 162D provides for the destruction of fingerprints if the gaming executive refuses an application for an eligibility certificate or if an eligibility certificate is cancelled or surrendered. The gaming executive must also destroy the fingerprints of a business or executive associate if that person ceases to be a business or executive associate.

New section 162E allows the gaming executive to delegate powers to an appropriately qualified public service employee.

New section 162F provides that the gaming executive may approve forms for this Part.

Amendment of s 213 (Application of this part and saving)

Clause 35(1) amends section 213(1)(c) by inserting "racing" before "bookmaker".

Clause 35(2) amends section 213(1)(c) by omitting "greyhound course or athletic ground" and inserting "or greyhound course".

Clause 35(3) omits the reference to the Art Unions and Public Amusements Act 1992 which has been repealed and inserts "the Charitable and Non-Profit Gaming Act 1999".

Replacement of s 214 (Unlawful bookmaking)

Clause 36 redrafts section 214 in accordance with current drafting practice and to reflect other amendments to the Act.

Clause 36 inserts new section 214A. This section provides that a racing bookmaker must not carry on bookmaking unless at the time that the racing bookmaker carries on bookmaking, the bookmaker is at a licensed racing venue and a lawful meeting is held or deemed to be held and betting with bookmakers is lawful.

Amendment of s 215 (Common betting house)

Clause 37 omits the reference to athletic ground, as bookmaking can no longer take place at an athletic ground.

Amendment of s 229 (Offences relating to officers and records)

Clause 38 amends section 229(1)(d) by omitting the reference to the commissioner.

Amendment of s 241 (Liability of bookmaker for offence by agent or employee)

Clause 39 amends section 241 by inserting "racing" before "bookmaker".

Amendment of s 249 (Circumstances in which bookmaker may sue or be sued)

Clause 40(1) amends the heading by inserting "racing" before "bookmaker".

Clause 40(2) amends section 249 by omitting the reference to athletic ground.

Amendment of s 256 (Evidentiary provisions)

Clause 41 omits sections 256(b)(ii), 256(g) and 256(h) as these sections relate to the commissioner of stamp duties who no longer has a role under the Act.

Section 256(j)(ii) is amended by inserting "racing" before "bookmaker".

Section 256(k)(ii)(A) is amended by omitting the reference to athletic ground, which is now obsolete.

Amendment of s 257 (Regulations)

Clause 42(1) amends section 257(2)(n) by omitting the reference to the commissioner, which is now, obsolete.

Clause 42(2) amends section 257(2)(q), (u) and (v) by inserting "racing" before "bookmaker".

Replacement of pt 8, div 6

Clause 43 inserts '*Division 6 – Transitional provisions for the Racing and Betting Amendment Act 2000 and other relevant amendments.*

Clause 43 inserts new sections 273 to 279 which are transitional provisions.

Act amended in pt 3

Clause 44 provides that this part amends the *Police Powers and Responsibilities Act 2000*.

Clause 45 amends Schedule 3 of the *Police Powers and Responsibilities Act 2000* by omitting amendments 1 to 5.

Act amended in pt 4

Clause 46 provides that this part amends the *Wagering Act 1998*.

Amendment of s 12 (Relationship with other laws)

Clause 47 amends section 12(2) of the *Wagering Act 1998* by inserting “racing” before “bookmaker’s licence”.