

# **RACING AND BETTING AMENDMENT BILL (No. 2) 2001**

## **EXPLANATORY NOTES**

### **Short Title**

*Racing and Betting Amendment Bill (No 2) 2001*

### **Policy Objectives of the Legislation**

The primary policy objectives of the Bill are to:

- Implement Stage One of a two stage process to reform the governance structure of the Control Body for the thoroughbred racing code in Queensland; and
- Amend outdated provisions of the *Racing and Betting Act 1980* (the Act) that have the potential to have unintended consequences on race clubs and the Control Bodies established under the Act.

### **Reasons why the Legislation is necessary**

The legislation is necessary to implement Stage One of the outcome of the Ministerial Review of the Governance Structure of the Thoroughbred Racing Code in Queensland (the Review). The Review identified that the Control Body for thoroughbred racing should be a company limited by guarantee, however, this would take a considerable time to implement as agreement would need to be reached on the membership of the company and on its constitution. Due to an increasing number of issues that are currently impacting on the ability of the Queensland Principal Club (QPC), the thoroughbred racing Control Body, to operate effectively, there is an urgent need to stabilise the industry. This is to be achieved by establishing a new Board for the thoroughbred racing Control Body that will be more appropriately qualified to consult with industry stakeholders and the government to establish a company as the Control Body for thoroughbred racing in Queensland.

In order to provide certainty, the Bill validates a failure to act by a Control Body under outdated provisions.

In addition, the legislation addresses the needs of regional and country racing.

The legislation ensures that the Control Bodies established under the Act have the necessary powers to carry out their functions as Control Bodies.

The legislation is also necessary to amend outdated provisions of the Act that have potentially unintended consequences for clubs and Control Bodies.

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

The Bill will achieve the following policy objectives:

- Change the name of the QPC to the Queensland Thoroughbred Racing Board (QTRB);
- Remove all obvious conflicts of interest of members of the QTRB by stating that persons are ineligible for appointment to the QTRB by reason of their membership of or employment by certain organisations;
- Require members of QTRB to disclose to other QTRB members any personal or financial interest in a matter to be considered by the QTRB and outlines a procedure to be followed when disclosing such an interest;
- Clarify the powers of Control Bodies and provide Control Bodies with a range of remedies to enforce directions issued to registered clubs and for breaches of the Act by clubs; and
- Establish the Queensland Regional Racing Council.

### **Estimated administrative cost to government**

The Bill has no cost implications for government.

### **Consistency with Fundamental Legislative Principles**

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

In order to ensure the integrity of thoroughbred racing, the chief executive may request a person who may be suitable for appointment as a member of the QTRB to provide their fingerprints and complete a form detailing the person's business reputation, character, criminal history and current financial position and financial background. In addition, the chief executive may obtain the criminal history of that person which is not subject to the *Criminal History (Rehabilitation of Offenders) Act 1986*.

Whilst the close scrutiny of successful applicants may be considered to be an infringement of the rights and liberties of those individuals, particularly in relation to privacy issues, the legislation does provide safeguards by making it an offence to disclose information contained in either a person's criminal history or personal and financial background form except in specified cases. The legislation also requires the destruction of fingerprints, forms completed by applicants and documents created as a consequence of receiving those documents as soon as practicable. These requirements are similar to those contained in other wagering and gaming legislation with the aim of ensuring that only persons of the highest integrity are appointed to the QTRB.

In relation to the increased powers for Control Bodies to enforce the directions that they issue to clubs, safeguards are contained in the legislation to protect race clubs. Division 4 of Part 3 specifies the grounds and procedure for taking disciplinary action against a club.

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 the drafting of a new Racing Act. However, a club does have the right to appeal against a decision of a Control Body to suspend or cancel a club's registration.

The new section 115W provides that in extraordinary circumstances a Control Body may suspend a club's registration immediately. This section may infringe FLP's as it could be said that the club is not afforded natural justice. However, it is envisaged that this power would only be exercised in cases where the health and safety of the public or participants at a race club or racing venue are at risk. Further, it will be effected by written notice given by a show cause notice and will only operate until the show cause notice is finally dealt with. Clubs also have the power to appeal to the Racing Appeals Authority against a decision of a Control Body to immediately suspend the registration of a club. Pursuant to section 115M of the Act, the Racing Appeals Authority may issue a stay order in respect

of the decision to immediately suspend the registration of a club, should circumstances warrant such an order.

The retrospective effect of two provisions of the Bill, namely sections 279B and 279C may infringe FLPs. Section 279B provides that a Control Body has not failed to perform its functions as a Control Body merely because it has not revoked the registration of a club pursuant to section 17(3), 57(3) and 98(3). The purpose of this amendment is to provide certainty to the industry in relation to the operation of section 134 which concerns the disposal of assets and authorised expenditure of club funds. It is also recognised that the power of a Control Body to deregister a club should only be exercised in exceptional circumstances and therefore should not be a mandatory obligation. If a Control Body has failed to deregister a club in the past for a breach of section 134, it is considered that the Control Body should not be penalised for this decision or failure to act.

No adverse effect of this amendment upon any person has been identified. On the contrary, the deregistration of a club for any breach of section 134 would have serious and far reaching consequences for many innocent persons whose livelihood depends upon racing. A decision to deregister a club should therefore only be made by a Control Body after careful consideration of all of the facts and circumstances concerning the particular matter in question.

Section 279C provides that if prior to the date of assent a club has contravened either a direction given by a Control Body or section 134, any action taken by a Control Body against the club must be taken under the amended provisions of the Act and not under the provisions of the Act which were in force at the time the contravention occurred.

No adverse effect of this amendment on any person has been identified. The purpose of the amendment is to provide Control Bodies with a range of disciplinary options that may be considered having regard to the circumstances of each case. For example, rather than limiting the Control Body's options to the mandatory obligation to deregister a club for a breach of section 134, (which is the only current option available to a Control Body), the amendments permit a Control Body to take into account the nature of the breach and any extenuating circumstances that may be relevant before deciding on a remedy that is appropriate in the circumstances.

**Consultation***Government*

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

The Office of Queensland Parliamentary Counsel has prepared the Bill.

**Industry**

Widespread industry consultation was undertaken during the course of the Review. A Discussion Paper was provided to all race clubs, Racing Associations and interested individuals. In addition, the Review was advertised in newspapers statewide and the Discussion Paper containing the Terms of Reference for the Review were placed on the Department's web site. A total of 78 submissions were received. The Minister for Racing personally met with interested persons and various stakeholders throughout Queensland during the course of the Review.

**NOTES ON PROVISIONS****PART 1—PRELIMINARY****Short Title**

Clause 1 states that the short title is the *Racing and Betting Amendment Act (No 2) 2001*.

**Commencement**

Clause 2 states that except as provided by subsection (2), this Act commences on assent. Part 3 and the Schedule commence on a date to be fixed by proclamation.

**Act Amended**

Clause 3 provides that the Act amended is the *Racing and Betting Act 1980*.

**PART 2—AMENDMENTS COMMENCING ON ASSENT****Amendment of s 11B (Powers of Queensland Principal Club)**

Clause 4 omits section 11B(4)(c). This section is replaced by part 3, division 4, entitled “Disciplinary action relating to clubs” which provides that a Control Body may suspend or cancel a club’s registration, censure the club or issue a direction to the club to rectify.

**Insertion of new s 11BA**

Clause 5 inserts a new section 11BA that gives the QPC the power to enforce directions that it issues to registered race clubs. This section provides the QPC with a range of remedies which may be used if a club fails to comply with a direction, including dissolving the club’s committee and arranging for the election of a new committee, commencing a prosecution against the club under section 236, suspending or cancelling the club’s registration, censuring the club and issuing a direction to the club to rectify the matter.

**Amendment of s 17 (Registration of race clubs)**

Clause 6 omits section 17(3). This section has been replaced by part 3 division 4 that provides the QPC with a range of remedies to take action against a club for a breach of section 134. Previously, the QPC had no option but to deregister a club for a breach of section 134.

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

Clause 7 omits section 52(3B)(c). This section is replaced by part 3, division 4, entitled “Disciplinary action relating to clubs” which provides that the Queensland Harness Racing Board (HRB) may suspend or cancel a club’s registration, censure the club or issue a direction to a club to rectify.

**Insertion of new s 52A**

Clause 8 inserts a new section 52A that gives the HRB the power to enforce directions that it issues to registered trotting clubs. This section provides the HRB with a range of remedies which may be used if a club fails to comply with a direction including dissolving the club's committee and arranging for the election of a new committee, commencing a prosecution against the club under section 236, suspending or cancelling the club's registration, censuring the club and issuing a direction to the club to rectify the matter.

**Amendment of s 57 (Registration of trotting clubs)**

Clause 9 omits section 57(3). This section has been replaced by part 3, division 4 that provides the HRB with a range of remedies to take action against a club for a breach of section 134. Previously, the HRB had no option but to deregister a club for a breach of section 134.

**Amendment of s 84 (Vacation of Office)**

Clause 10 amends section 84 by omitting subsections (2A) and (3). These subsections were to have been omitted when the Act was amended by the *Racing and Betting Amendment Act (No 1) 2001*, however, this amendment was inadvertently not made.

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

Clause 11 omits section 93(3B)(c). This section is replaced by part 3, division 4 entitled "Disciplinary action relating to clubs" which provides that the Greyhound Racing Authority (GRA) may suspend or cancel a club's registration, censure the club or issue a direction to a club to rectify.

**Insertion of new s 93A**

Clause 12 inserts a new section 93A that gives the GRA the power to enforce directions that it issues to registered greyhound clubs. This section provides the GRA with a range of remedies which may be used if a club fails to comply with a direction including dissolving the club's committee and arranging for the election of a new committee, commencing a prosecution against the club under section 236, suspending or cancelling

the club's registration, censuring the club and issuing a direction to the club to rectify the matter.

### **Amendment of s 98 (Registration of greyhound clubs)**

Clause 13 omits section 98(3) which is replaced by part 3, division 4 which provides the GRA with a range of remedies to take action against a club for a breach of section 134. Previously, the GRA had no option but to deregister a club for a breach of section 134.

### **Amendment of s 115A (Definitions)**

Clause 14 amends section 115A to clarify that an appeal lies to the Racing Appeals Authority from a Control Body's decision to suspend or cancel a club's registration.

### **Amendment of s 115AN (Prohibition on the admission of the public to enquiries)**

Clause 15 correctly renumbers section 115AN as 115R.

### **Insertion of new pt 3, div 4**

#### *Division 4—Disciplinary action relating to clubs*

Clause 16 inserts into the Act a new part 3 division 4.

Section 115S is inserted that defines terms for the division, for example, "show cause period", which must be a period ending at least 30 days after the show cause notice is given. Other definitions include "accepted representations", "direction provision" and "show cause notice".

Section 115T is inserted which states that non compliance with a direction given by a Control Body to a club or a contravention of section 134 are grounds for suspension or cancellation of the registration of a club.

Section 115U provides that a Control Body must give a club a show cause notice and specifies the matters that it must contain. The show cause period must be at least 30 days.



Section 115V is inserted that provides that the club may make written representations about the show cause notice that must be considered by the Control Body.

Section 115W provides that in extraordinary circumstances a Control Body may suspend a club's registration immediately. It is envisaged that this power would only be exercised in circumstances where, for example, the health and safety of the public or participants at the race club or racing venue are at risk.

Section 115X states that in certain circumstances a Control Body may censure a club. This provision allows a Control Body to censure a club in circumstances where the breach by the club is not considered by the Control Body to be of a sufficiently serious nature to suspend or cancel the registration of a club.

Section 115Y states that in certain circumstances a Control Body may give a club a direction to rectify a matter. This provision allows a Control Body, in circumstances where the Control Body considers it to be appropriate, to give a club another opportunity to rectify a matter rather than taking more onerous action.

Section 115Z states the requirements for the Control Body if it decides to suspend or cancel a club's registration.

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

Clause 17C renumbers section 131(5) and inserts section 131(5)(c) which requires the annual financial statements submitted by each club to its Control Body, to contain details of all payments and expenditure made by the club pursuant to section 134(4). Such payments and expenditure include providing reasonable entertainment for members of the club in common with other persons and defraying the costs of club committee members to attend conferences and promote the interests of the club and also payments to other persons for professional services rendered to the club.

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

Clause 18(1) omits "receipts" which is outdated and replaces it with "revenues".

Clause 18(2) and (3) replace outdated language.

Clause 18(4) omits section 134(2)(d) that is replaced by section 134(2A).

Clause 18(5) inserts section 134(2A) and (2B) that provide a club must obtain the written approval of its Control Body prior to using its revenues or profits for a charitable, benevolent, patriotic or special purpose. Previously, the Act required the Minister to give such approval.

Clauses 18(6) and (7) make consequential amendments to section 134(3).

Clause 18(8) omits section 134(5) and inserts a new subsection (5) that provides that a club may not dispose of an asset that is not an interest in real property without the prior approval in writing of the Control Body or in accordance with guidelines for the disposal of assets issued under section 134A by the Control Body that registered the club.

A racing, trotting or greyhound club must use its revenues and profits for the purposes of encouraging racing, trotting and greyhound racing, respectively or pursuant to section 134(2A).

Clause 18(9) replaces outdated language.

Clause 18(10) omits section 134(9) as it is redundant.

Clause 18(11) renumbers section 134(8) as 134(9).

Clause 18(12) inserts a new subsection (8) that provides that the Minister may approve the disposal of an interest in land, only if the club has first obtained its Control Body's approval and the approval of the majority of its members.

### **Insertion of new s 134A**

Clause 19 inserts section 134A. There has been some confusion in the industry as to the matters or types of matters that club funds may be spent on. This section allows the Control Bodies to provide clubs with certainty on this issue by issuing guidelines about the types of spending that are allowed, ie, what expenditure is, and is not, for the purpose of encouraging racing, trotting or greyhound racing as required by section 134(2).

In addition, Control Bodies can provide certainty to clubs in relation to the disposal or relinquishment of assets or types of assets for which the Control Body's approval is required under section 134 by issuing guidelines in relation to the disposal or relinquishment of assets.

A Control Body may issue directions to a club in relation to the club's compliance with the guidelines.

### **Insertion of new pt 8, div 7**

*Division 7—Transitional and related provisions for provisions of the Racing and Betting Amendment Act (No2) 2001 commencing on assent*

Clause 20 inserts a new part 8, division 7.

### **Section 297A Definitions for pt 7**

Section 279A is inserted which defines “commencement” for the division to mean the commencement of this section.

Section 279B is inserted that is retrospective in effect and provides that a Control Body has not failed in its functions under the Act merely because it has not revoked the registration of a club under sections 17(3), 57(3) and 98(3). Further, no action may be taken against a Control Body for not revoking the registration of a club.

This section has been inserted to provide certainty in the industry as to the operation of section 134 in regard to the disposal of assets and expenditure of club funds. It is also recognised that the power of a Control Body to deregister a club should only be exercised in exceptional circumstances and should not be mandatory. If a Control Body has failed to deregister a club in the past for a breach of section 134, it is considered that the Control Body should be not penalised for this decision or failure to act.

Section 279C is inserted that provides that if a Control Body is to take action against a club in respect of a contravention of the Act or a contravention of a direction issued by a Control Body, which contravention occurred prior to the date of assent, it must do so under the amended provisions of the Act and not under the provisions in force when the breach occurred. This means that regardless of when a breach of the Act occurred, a Control Body must take action, or continue any current action against a club or other person under the new provisions of the Act. This amendment highlights the inappropriateness of the provisions of the Act in force prior to this amendment that made it mandatory for a Control Body to deregister a club for a breach of section 134, regardless of the circumstances of the breach.

Section 279D is inserted that provides that clubs must be incorporated within one year of commencement. Clubs will have a choice of being incorporated under the *Associations Incorporation Act 1981* or under the *Corporations Act 2001*. Currently almost every major club in Queensland is incorporated. It is considered that incorporation of clubs will assist clubs in meeting the highest standards of good corporate governance including greater transparency and accountability and will limit the personal liability of individual members of the club.

### **PART 3—AMENDMENTS COMMENCING ON A DAY FIXED BY PROCLAMATION**

#### **Amendment of s 5 (Definitions)**

Clause 21(1) amends section 5 by omitting the definitions of “criminal history” and “Queensland Principal Club”.

Clause 21(2) inserts a new definition of “criminal history” is the same as that contained in gaming and wagering legislation and for racing bookmakers under the Act. The effect of this definition is to provide the chief executive with access to the 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 in not having persons appointed to the Queensland Thoroughbred Racing Board (QTRB) with a criminal background, this definition is considered essential to allow the chief executive to ensure that only those persons with the highest standards of probity and integrity are recommended for appointment to the QTRB.

Clause 21(2) also inserts new definitions for “Regional Racing Council”, “TABQ” and “Thoroughbred Racing Board”.

Clause 21(3) amends the definitions of “control body”, “registered” and “rules of racing” by omitting the references to the “Queensland Principal Club” and inserting “Thoroughbred Racing Board.”

Clause 21(4) makes a consequential amendment to the definition of “rules of racing”.

#### **Replacement of s 11 (Establishment of Queensland Principal Club)**

Clause 22(1) amends the heading of section 11.

Clause 22(2) omits section 11(1) and provides that the Queensland Principal Club (QPC) is continued in existence under the name of the Queensland Thoroughbred Racing Board. As the QTRB is the same entity there is no need to transfer staff, assets or liabilities of the QPC to the QTRB.

Clause 22(3) makes consequential amendments to section 11(2) and (3) to replace the “QPC” with the “QTRB”.

### **Amendment of s 11A (Functions of Queensland Principal Club)**

Clause 23(1), (2) and (3) make consequential amendments to section 11A.

Clause 23(4) inserts section 11A(4) which provides that as part of its functions the QTRB must consider recommendations made by the Queensland Regional Racing Council (the Council) and other reports provided by the Council at the request of the QTRB.

Section 11A(5) is also inserted to provide that the QTRB must give written notice to the Council of its adoption of any recommendations made by the Council.

### **Insertion of new s 11AA**

The Ministerial Review of the Governance Structure of the Thoroughbred Racing Code concluded that the Control Body for thoroughbred racing in Queensland should be a company limited by guarantee. Clause 24 inserts section 11AA that provides that the QTRB has a special responsibility, in addition to its other functions and powers, to investigate and report to the Minister within 18 months on the establishment of a company limited by guarantee as the Control Body for thoroughbred racing in Queensland.

### **Replacement of s 11F (Composition of Queensland Principal Club)**

Clause 25 inserts a new section 11F that provides that the QTRB is to consist of 5 persons who will be appointed by the Governor in Council by gazette notice. The reduction of the Board from eleven (11) to five (5) members is expected to streamline the decision-making process of the Board.

Section 11FA is inserted which provides that the chief executive may request a person who may be suitable for appointment to the QTRB to provide their fingerprints and complete a form detailing the person's business reputation, character, criminal history and current financial position and financial background. This requirement is similar to that contained in other wagering and gaming legislation with the aim of ensuring that persons with criminal backgrounds are not appointed to the QTRB and that only persons of the highest integrity are appointed.

Section 11FB is inserted which provides that after obtaining a person's fingerprints, the chief executive may request the commissioner of the police service to provide a copy of the person's criminal history.

Section 11FC provides protection for persons about whom criminal histories and documents obtained under section 11FA are obtained by specifying the purposes for which the information may be used.

Section 11FD provides additional protection for those persons by requiring the chief executive to destroy the fingerprints, criminal histories and other documents obtained under section 11FA when they are no longer necessary.

### **Amendment of s 11G (Disqualification from nomination or appointment)**

Clauses 26(1) and (2) make consequential amendments to section 11G.

Clauses 26(3) and (4) insert a number of additional grounds for disqualification from appointment to the QTRB. The current QPC is hampered in its decision-making by perceived conflicts of interest held by its members. Therefore, the aim of this amendment is to ensure that members of the QTRB do not have conflicts of interest by disqualifying persons who, because of their membership or employment may have an obvious conflict of interest. In addition, to ensure the integrity of persons appointed to the QTRB, a person who has been convicted of an offence under this Act is also disqualified. Persons who are disqualified by their membership or employment from being a member, may apply to be a member and, if successful, must resign before their appointment to the QTRB.

Clauses 26(4), (5) and (6) make consequential amendments by omitting references to the "nomination" of persons, as persons are no longer nominated under section 11F.

**Replacement of s 11H – 11J**

Clause 27 omits the current sections 11H and 11I. A new 11I is inserted that provides that a member of the QTRB holds office for two (2) years and must not be appointed for more than 2 consecutive terms as a member.

Section 11J is replaced with a new section 11J which provides when the office of a member becomes vacant and specifies grounds for removal of a member of the QTRB by the Governor in Council.

**Amendment of s 11K (Casual Vacancy)**

Clause 28 amends section 11K to remove references to “nomination” as members are not nominated to the QTRB.

**Replacement of ss11L to 11O**

Clause 29 omits section 11L and inserts section 12 that provides that members will be paid remuneration determined by the Governor in Council.

Currently, the members of the QPC are not remunerated. However, there was support from submission makers to the Review for members of the Control Body to be remunerated. In addition, in line with expectations that accepted commercial operating arrangements would be adopted, it is considered that in order to attract skilled and experienced applicants, the members of the QRTB must be appropriately remunerated. In addition to controlling the operation and strategic direction of the thoroughbred code and managing a substantial budget, the QTRB also has the added responsibility of investigating and making recommendations to the Minister on the detail of establishing a company structure to be the Control Body for thoroughbred racing in Queensland.

Section 11M is omitted and section 12A is inserted which provides for the Governor in Council to appoint the chair and deputy chair to the QTRB.

Section 11N is omitted and section 12B is inserted which states the function of the deputy chair.

Section 12C is inserted that provides that subject to section 12D to 12I, the QTRB is responsible for the conduct of its own business.

Section 12D is inserted which provides the Board is to meet as often as necessary to perform its functions, at times and places as the chair decides.

Three members have the right to request the chair in writing to call a meeting.

Section 12E is inserted that provides that the QTRB must hold an annual meeting no later than 2 months after its annual report has been tabled in Parliament. The members of committees of registered race clubs, and persons registered or licensed by the QTRB may attend the meeting. The Board must give at least 2 weeks notice of the annual meeting by newspaper advertisement and in other ways that it considers appropriate.

Section 12F provides that the chair is to preside over meetings, or in the absence of the chair the deputy chair must preside.

Section 12G outlines the procedure to be adopted in conducting meetings.

Section 12H requires the Board to keep minutes.

Section 12I requires a member of the QTRB to disclose a personal interest, or direct or indirect financial interest to the QTRB and outlines the procedure to be followed by the member and other members of the QTRB.

### **Replacement of s 20C (Functions of racing associations)**

Clause 30 omits section 20C and inserts a new section that specifies the functions of racing associations. The new functions of the racing associations are to provide advice to the QTRB about race meetings conducted by race clubs in the racing association, prepare submissions to the Council about funding required to conduct races on which TAB Queensland Limited (TABQ) does not offer wagering, nominate a member to the Council if the chair of the racing association is ineligible and to appoint a committee to hear first level appeals.

To reduce the likelihood of conflicts of interest on the appeals committee, a licensee of the QTRB cannot be appointed to the committee.

### **Insertion of new ss 21 to 21C**

Clause 31 inserts section 21 after section 20E which provides that subject to sections 21A and 21C a regional association must conduct its business and meetings in the way it considers appropriate.



Section 21A is inserted which states that each racing association must elect a chair.

Section 21B is inserted that specifies the meetings that must be held by the racing associations. In particular, each racing association must meet within one month before each scheduled meeting of the Council. This will allow the racing associations time to prepare submissions for consideration by the Council.

Section 21C is inserted that outlines the procedure to be adopted in conducting meetings.

### **Insertion of new pt 3, div 1A**

#### *Division 1A—Queensland Regional Racing Council*

Clause 32 inserts new section 34A, which defines terms for the division, including “board”, “chairperson”, “council”, “council member”, “meeting”, “non-TABQ races”, “non-TABQ clubs” and “racing calendar”.

Section 34B establishes the Council.

Section 34C specifies the functions of the Council which includes considering submissions by racing associations and making recommendations to the QTRB about the distribution strategy for prize money and other funding required for conducting non-TABQ races and the Racing Calendars for non-TABQ races in each Region. The Council is to monitor and report on the performance of non-TABQ races and non-TABQ race clubs. The Council must also provide a report to the QTRB about the council’s performance of its functions once each year and reports on other matters as requested by the QTRB.

The Council is to have an important role in encouraging dialogue between the various racing associations and monitoring performance of each region’s racing activities.

Section 34D provides that person is ineligible to become a member of the Council, if the person holds office as a member of a racing association because of a nomination by a TABQ club or, is a committee member of a TABQ club.

The Council is to consist of 5 members. The Chair of each racing association, if eligible, will become a member of the Council. If a Chair is ineligible, then the racing association must nominate another person, who

is eligible and a member of the racing association, to be a member of the Council.

“TABQ club” is defined as a club for which the TABQ offered wagering on the majority of the club’s races in the financial year immediately preceding the financial year in which the person became the racing association’s chairperson or was nominated to be a council member.

Section 34F states that subject to this division, the Council must conduct its business including its meetings in the way it considers appropriate and must elect a chair.

Sections 34G, 34H, 34I, 34J, 34K and 34L state the requirements for conducting meetings.

### ***Section 139 (definitions for pt 4)***

Clause 33 omits the definition of criminal history in section 139 as this definition has been placed in section 5.

### **Insertion of new pt 8, div 8**

*‘Division 8—Transitional provisions for provisions of Racing and Betting Amendment Act (No2) 2001 commencing on a day to be fixed by proclamation*

Clause 34 inserts sections 297E which contains definitions for the Division.

Section 297F states that the purpose of the Division is to remove any doubt about the consequences of changing the name of the QPC to the QTRB and provide that members of the QPC go out of office on the commencement. As the members of the QPC are not remunerated they will not be financially disadvantaged.

Section 297G and 297H clarify that the QPC and the QTRB are the same legal entity and hence any documents or proceedings issued by or against the QPC are taken to have been issued by or against the QTRB.

Section 297I clarifies that the change of name does not affect certain things done before the commencement.

Section 297J states that that members of the QPC go out of office on the commencement.

## **SCHEDULE**

### **CONSEQUENTIAL AND MINOR AMENDMENTS**

The Schedule contains clauses that make minor consequential amendments to various sections of the Act. The majority of amendments result from the change of the name of the QPC to the QTRB.

Other amendments to terminology used in the Act include replacing the term "Tribunal" with "Authority" and "legal practitioner" with "lawyer".