



Queensland

# **Racing and Other Legislation Amendment Bill 2010**





Queensland

# Racing and Other Legislation Amendment Bill 2010

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# 2010

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## A Bill

for

***An Act to amend the *Racing Act 2002*, the *Racing Regulation 2003*, the *Gaming Machine Act 1991*, the *Wagering Act 1998* and the *Wagering Regulation 1999* for particular purposes***

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Racing and Other Legislation  
Amendment Act 2010*. 4  
5

**Clause 2 Commencement** 6

This Act commences on 1 July 2010. 7

**Part 2 Amendment of Racing Act 2002** 8

**Clause 3 Act amended** 9

This part amends the *Racing Act 2002*. 10

**Clause 4 Amendment of s 7 (Main purposes of ch 2 and how they  
generally are achieved)** 11  
12

(1) Section 7(1)(b), ‘each control body’— 13

*omit, insert—* 14

‘the control body’. 15

(2) Section 7(1)(c) and (2)(f)— 16

*omit.* 17

(3) Section 7(2)(a), ‘control bodies’— 18

*omit, insert—* 19

‘a control body’. 20



---

<b>Clause 5</b>	<b>Amendment of s 10 (An eligible corporation may apply for approval as a control body)</b>	1 2
	(1) Section 10(4)—	3
	<i>omit.</i>	4
	(2) Section 10(5)—	5
	<i>renumber</i> as section 10(4).	6
<b>Clause 6</b>	<b>Replacement of s 28 (Approval has effect for 6 years unless it is cancelled or suspended)</b>	7 8
	Section 28—	9
	<i>omit, insert—</i>	10
<b>‘28</b>	<b>Approval continues in force unless cancelled or suspended</b>	11 12
	‘(1) A control body’s approval continues in force until the approval is cancelled.	13 14
	‘(2) However, if a control body’s approval is suspended, the approval does not have effect for the period of the suspension.’.	15 16 17
<b>Clause 7</b>	<b>Amendment of s 33 (Function of control body)</b>	18
	(1) Section 33(2)(a), ‘stated in this Act’—	19
	<i>omit, insert—</i>	20
	‘necessary’.	21
	(2) Section 33(2)(b), ‘exercising the powers stated in this Act or’—	22 23
	<i>omit.</i>	24
<b>Clause 8</b>	<b>Amendment of s 34 (Powers of control body for its code of racing)</b>	25 26
	(1) Section 34(1)(a), ‘, under its policies,’—	27
	<i>omit.</i>	28

[s 8]

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- (2) Section 34(1)(b), ‘against the relevant policies of the control body’— 1  
omit. 2
- (3) Section 34(1)(f)— 3  
omit, insert— 4  
‘(f) distribute an amount— 5  
(i) as prize money for races; or 6  
(ii) to a licensed club, on conditions the control body 7  
considers appropriate, for a purpose relating to the 8  
operations of the club; or 9  
(iii) for undertaking research and analysis for the 10  
code.’. 11
- (4) Section 34(1)(g), ‘and allocate’— 12  
omit, insert— 13  
‘and, on conditions the control body considers appropriate, 14  
allocate’. 15
- (5) Section 34(1)(i), ‘issuing’— 16  
omit, insert— 17  
‘issue’. 18
- (6) Section 34(1)— 19  
insert— 20  
‘(j) establish committees or other entities responsible for 21  
providing advice to, and carrying out administrative 22  
functions for, the control body in relation to non-TABQ 23  
races.’. 24
- (7) Section 34— 25  
insert— 26
- ‘(5) In this section— 27  
*non-TABQ races* means races on which the TABQ does not, 28  
or is unlikely to, offer wagering.’. 29

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<b>Clause 9</b>	<b>Insertion of new s 34A</b>	1
	After section 34—	2
	<i>insert—</i>	3
<b>‘34A</b>	<b>Control body approved for more than one code of racing</b>	4
		5
	‘(1) This section applies to a control body that has approval as the control body for more than 1 code of racing.	6
		7
	‘(2) In making a decision under this Act, the control body must make a decision that is in the best interests of all the codes of racing for which the control body holds an approval while having regard to the interests of each individual code.’	8
		9
		10
		11
<b>Clause 10</b>	<b>Amendment of s 45 (Minister may give a direction to control body about its policies or rules)</b>	12
		13
	(1) Section 45(1)(e), ‘, as authorised by its policies,’—	14
	<i>omit.</i>	15
	(2) Section 45(2)(c), ‘, as authorised by the control body’s policies’—	16
		17
	<i>omit.</i>	18
<b>Clause 11</b>	<b>Insertion of new s 60B</b>	19
	Chapter 2, part 4, division 4—	20
	<i>insert—</i>	21
<b>‘60B</b>	<b>Payment of share of net UNiTAB product fee as prize money</b>	22
		23
	‘(1) A control body must pay 5.32% of its net UNiTAB product fee for a year as prize money for non-TABQ thoroughbred races conducted by non-TABQ thoroughbred clubs in the year.	24
		25
		26
		27
	‘(2) If, at the end of a year, a control body has not paid 5.32% of its net UNiTAB product fee for the year as prize money as required under subsection (1), the control body must use the	28
		29
		30

[s 12]

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remaining amount of the 5.32% for supporting non-TABQ thoroughbred racing. 1  
2

*Example of use of remaining amount of the 5.32% for supporting non-TABQ thoroughbred racing—* 3  
4

carrying out maintenance at a non-TABQ thoroughbred club'. 5

**Clause 12 Omission of ch 2, pt 5 (Provisions relating to entities involved in thoroughbred racing)** 6  
7

Chapter 2, part 5— 8

*omit.* 9

**Clause 13 Amendment of s 78 (Purposes of ch 3)** 10

Section 78(2)(b), 'about things dealt with in a policy'— 11

*omit.* 12

**Clause 14 Amendment of s 81 (Matters for which a control body must have a policy)** 13  
14

Section 81(h), 'its policies provide that it is authorised to have'— 15  
16

*omit, insert—* 17

'the control body has'. 18

**Clause 15 Amendment of s 91 (Obligation to have rules of racing for code of racing)** 19  
20

Section 91(4)— 21

*omit, insert—* 22

'(4) A control body's rules of racing must be consistent with this Act and, for a rule about a matter for which the control body has a policy, the control body's policy.' 23  
24  
25

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<b>Clause 16</b>	<b>Omission of ss 92 and 93</b>	1
	Sections 92 and 93—	2
	<i>omit.</i>	3
<b>Clause 17</b>	<b>Amendment of s 100 (Form of decisions of appeal committee)</b>	4
	Section 100—	5
	<i>insert—</i>	6
	‘(2) As soon as practicable after receiving the information notice, the control body must publish details of the decision on its website.’.	7
		8
		9
		10
<b>Clause 18</b>	<b>Amendment of s 111 (Definitions for div 4)</b>	11
	Section 111—	12
	<i>insert—</i>	13
	‘ <i>deal with</i> , an asset, includes grant a right in relation to the asset, mortgage, lend, lease or register a charge over the asset, but does not include dispose of the asset.’.	14
		15
		16
<b>Clause 19</b>	<b>Amendment of s 113 (Prohibition of disposal of assets etc. of non-proprietary entity)</b>	17
	Section 113—	18
	<i>insert—</i>	19
	‘(5) A relevant control body may grant an approval mentioned in subsection (4)(b) on conditions the control body considers appropriate including a condition requiring a stated portion of the proceeds of the disposal of the asset to be paid to the control body for use by the control body for the benefit of its code of racing.’.	20
		21
		22
		23
		24
		25
		26
<b>Clause 20</b>	<b>Insertion of s 113AA</b>	27
	Chapter 3, part 5, division 4—	28

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[s 21]

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*insert—*

**‘113AA Dealing with assets of non-proprietary entity**

‘A non-proprietary entity must not deal with an asset of the entity other than under—

- (a) a policy of the relevant control body; or
- (b) a written approval of the relevant control body, obtained before the dealing and relating to that asset.’

**Clause 21 Amendment of s 351 (Matters must be considered appropriate on grounds that are reasonable in the circumstances)**

(1) Section 351(1)(c)—

*omit.*

(2) Section 351(1)(d)—

*renumber* as section 351(1)(c).

**Clause 22 Amendment of s 352A (Integrity of analysis of thing)**

Section 352A(2) and (3)—

*omit, insert—*

- ‘(2) In making the decision, it is enough for the decision maker to be satisfied that the method of taking and dealing with the thing for analysis was in compliance with the requirements of section 143(3) to the extent that the integrity of the analysis was not adversely affected (*substantial compliance*).
- ‘(3) Evidence of an accredited analyst or accredited veterinary surgeon, for an accredited facility, that the method of taking and dealing with the thing for analysis was in substantial compliance with the requirements of section 143(3) is evidence of that fact and, in the absence of evidence to the contrary, conclusive evidence of that fact.’

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<b>Clause 23</b>	<b>Insertion of new ch 10, pt 6</b>	1
	Chapter 10—	2
	<i>insert</i> —	3
<b>‘Part 6</b>	<b>Transitional provisions for the Racing and Other Legislation Amendment Act 2010</b>	4 5 6
<b>‘427</b>	<b>Definitions for pt 6</b>	7
	‘In this part—	8
	<i>commencement</i> means 1 July 2010.	9
	<i>former control body</i> means each of the following—	10
	(a) Queensland Racing Limited ACN 116 735 374;	11
	(b) Greyhounds Queensland Limited ACN 128 067 247;	12
	(c) Queensland Harness Racing Limited ACN 128 036 000.	13
	<i>new control body</i> means Racing Queensland Limited ACN 142 786 874.	14 15
<b>‘428</b>	<b>Cancellation of old approvals and issue of new approval</b>	16 17
	‘(1) The approvals held by the former control bodies are cancelled at midnight on 30 June 2010.	18 19
	‘(2) On 1 July 2010, the Minister must give an approval to the new control body to be the control body for the following codes of racing—	20 21 22
	(a) thoroughbred racing;	23
	(b) harness racing;	24
	(c) greyhound racing.	25
	‘(3) An approval given under subsection (2)—	26
	(a) is taken to have been given under section 26; and	27

[s 23]

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- (b) has effect from the beginning of the day it is given; and 1
  - (c) is subject to the conditions imposed by the Minister by 2  
notice given to the new control body. 3
- ‘429 Assets and liabilities etc. 4**
- ‘(1) On the commencement— 5
    - (a) anything that was an asset or liability of a former control 6  
body immediately before the commencement becomes 7  
an asset or liability of the new control body; and 8
    - (b) an agreement or arrangement in force immediately 9  
before the commencement between a former control 10  
body and another entity is taken to be an agreement or 11  
arrangement between the new control body and the 12  
other entity; and 13
    - (c) any property that was, immediately before the 14  
commencement, held by a former control body on trust 15  
or subject to conditions continues to be held by the new 16  
control body on the same trusts or subject to the same 17  
conditions. 18
  - ‘(2) The registrar of titles or other person responsible for keeping a 19  
register for dealings in property must, if asked by the new 20  
control body, record the vesting of property under this section 21  
in the new control body. 22
- ‘430 Provision taken to be included in constitutions of 23  
former control bodies 24**
- ‘Each former control body’s constitution is taken to include, 25  
and to have always included, a provision allowing a director 26  
of the former control body to give the former control body’s 27  
agreement to the enactment of provisions having the effect of 28  
provisions set out in this part, in particular, provisions— 29
- (a) cancelling the former control body’s approval and 30  
giving, to the new control body, an approval as the 31  
control body for all codes of racing; and 32



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(b)	divesting the former control body of its assets and liabilities and vesting the assets and liabilities in the new control body; and	1 2 3
(c)	stating that no compensation is payable to the former control body or its members or directors for any action taken under this part.	4 5 6
<b>‘431</b>	<b>Displacement provisions for Corporations legislation</b>	7
	‘Sections 429 and 430 are declared to be Corporations legislation displacement provisions for the Corporations Act, section 5G.	8 9 10
<b>‘432</b>	<b>Employees of former control bodies</b>	11
‘(1)	This section applies to a person who, immediately before the commencement, was an employee of a former control body.	12 13
‘(2)	On the commencement—	14
(a)	the person becomes an employee of the new control body on the same terms and conditions of employment as applied to the person immediately before the commencement; and	15 16 17 18
(b)	the person remains entitled to all rights of employment existing or accruing immediately before the commencement.	19 20 21
‘(3)	Subsection (4) applies if the person was, immediately before the commencement, entitled to a remuneration package of not more than \$100000 a year.	22 23 24
‘(4)	For 2 years from the commencement, the terms and conditions of the person’s employment must be at least equivalent to the terms and conditions applying to the person immediately before the commencement.	25 26 27 28
‘(5)	In this section—	29
	<i>remuneration package</i> , for a person, means the cost to the person’s employer of employing the person, including the cost	30 31

[s 23]

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of making contributions to a superannuation scheme for the person and providing for the person's leave entitlements.	1 2
<b>'433 Proceedings</b>	3
'(1) A proceeding that could have been started by or against a former control body before the commencement may be started by or against the new control body.	4 5 6
'(2) From the commencement, an existing proceeding may be continued and finished by or against the new control body.	7 8
'(3) In this section—	9
<i>existing proceeding</i> means a proceeding that—	10
(a) was taken by or against one of the following before the commencement—	11 12
(i) a former control body;	13
(ii) a person who was a member of a former control body, in the person's capacity as a member; and	14 15
(b) has not been finished before the commencement.	16
<b>'434 Things done by former control bodies</b>	17
'(1) Anything done by a former control body under this Act—	18
(a) continues to have effect; and	19
(b) from the commencement, is taken to have been done by the new control body.	20 21
'(2) Without limiting subsection (1), on the commencement—	22
(a) a policy of a former control body in effect immediately before the commencement continues as if it were a policy of the new control body; and	23 24 25
(b) rules of racing made by a former control body and in force immediately before the commencement continue as if they were rules of racing made by the new control body; and	26 27 28 29

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(c)	a licence issued or taken to be issued by a former control body before the commencement and in force immediately before the commencement continues as if it had been issued by the new control body; and	1 2 3 4
(d)	a racing calendar prepared by a former control body for a period ending after the commencement continues as if it had been prepared by the new control body.	5 6 7
<b>‘435</b>	<b>Rights and obligations of former control bodies under this Act</b>	8 9
	‘Without limiting any other provision in this part, a right or obligation of a former control body under this Act immediately before the commencement becomes a right or obligation of the new control body.	10 11 12 13
<b>‘436</b>	<b>Application of audit regime to new control body</b>	14
	‘From the commencement, a program approved by the Minister under section 46(3) for 2010 applies to the new control body to the extent it is stated to apply to a former control body.	15 16 17 18
<b>‘437</b>	<b>Net UNiTAB product fee paid before commencement</b>	19
‘(1)	This section applies to an amount of the former control body’s net UNiTAB product fee paid, before the commencement, by the former control body under section 68M, in the year in which the commencement falls.	20 21 22 23
‘(2)	On the commencement, the amount is taken to have been paid by the new control body under section 60B.	24 25
‘(3)	In this section—	26
	<i>former control body</i> means the former control body for thoroughbred racing.	27 28

[s 23]

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<b>‘438 Appeals</b>	1
‘(1) This section applies to an appeal committee established by a former control body (the <i>relevant former control body</i> ) and in existence immediately before the commencement.	2 3 4
‘(2) On the commencement, the appeal committee—	5
(a) continues in existence only for the purpose of dealing with an appeal under consideration immediately before the commencement; and	6 7 8
(b) must deal with the appeal under the relevant former control body’s rules of racing in existence before the commencement.	9 10 11
‘(3) Subsection (4) applies in relation to an appeal—	12
(a) against a reviewable decision, within the meaning of section 95, made before the commencement; and	13 14
(b) started after the commencement.	15
‘(4) The appeal may be dealt with by an appeal committee established by the new control body.	16 17
‘(5) For subsection (4), the steward’s decision appealed against is taken to be a decision made by the steward for the new control body.	18 19 20
‘(6) This section does not limit section 434(1).	21
<b>‘439 Continuation of action started against licensed club under ch 3, pt 4</b>	22 23
‘(1) This section applies if, before the commencement, a former control body—	24 25
(a) gave a licensed club a show cause notice under chapter 3, part 4; and	26 27
(b) has not decided whether to take action under the part in relation to the club.	28 29
‘(2) From the commencement, chapter 3, part 4 continues to apply in relation to the show cause notice as if the notice had been	30 31

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given by the new control body.	1
‘(3) This section does not limit section 434(1).	2
<b>‘440 Pt 6 does not affect existing legal relationships</b>	3
‘Nothing done under this part in relation to a former control body—	4 5
(a) places the new control body in breach of a contract, trust or confidence or otherwise makes the new control body guilty of a civil wrong; or	6 7 8
(b) makes the new control body in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, transfer or assumption of a right or liability; or	9 10 11 12
(c) is taken to fulfil a condition or otherwise constitute an event—	13 14
(i) allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation; or	15 16 17 18
(ii) requiring money to be paid, or anything else to be done, before its stated maturity; or	19 20
(d) releases a surety or other obligee, wholly or partly, from an obligation.	21 22
<b>‘441 Dissolution of Queensland Country Racing Committee and country racing associations</b>	23 24
‘(1) On the commencement—	25
(a) the following entities are dissolved—	26
(i) the Queensland Country Racing Committee;	27
(ii) all country racing associations; and	28
(b) the members of the entities go out of office.	29

[s 24]

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‘(2) No compensation is payable to a member because of subsection (1). 1  
2

**‘442 No compensation payable 3**

‘No compensation is payable to any person, including a former control body, or a member or director of a former control body, for— 4  
5  
6

(a) the cancellation of an approval or the vesting or divesting of assets or liabilities or rights or obligations; 7  
8  
or 9

(b) anything else done under this part. 10

**‘443 References to former control bodies 11**

‘In an Act or document, a reference to a former control body may, if the context permits, be taken as a reference to the new control body. 12  
13  
14

**‘444 Amendment of regulation by *Racing and Other Legislation Amendment Act 2010* 15  
16**

‘The amendment of the *Racing Regulation 2003* by the *Racing and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’. 17  
18  
19  
20

**Clause 24 Amendment of sch 3 (Dictionary) 21**

(1) Schedule 3, definitions *chairperson, committee, committee member, country racing association, Intercode Agreement, member club, net UNiTAB product fee, non-TABQ clubs, non-TABQ races* and *thoroughbred entity*— 22  
23  
24  
25

*omit.* 26

(2) Schedule 3— 27

*insert*— 28

- 
- 'former control body* see section 427. 1
- net UNiTAB product fee*, in relation to a control body, means 2  
the amount of the product fee paid to the control body less the 3  
following amounts— 4
- (a) the amount paid by the control body to Queensland Race 5  
Product Co Ltd (ACN 081 743 722) for administrative 6  
costs; 7
- (b) the amount paid by the control body to an accredited 8  
facility under an agreement entered into under section 9  
40 by the control body with the accredited facility. 10
- new control body* see section 427. 11
- non-TABQ thoroughbred club* means a club for which the 12  
TABQ does not, or is unlikely to, offer wagering on the 13  
majority of the club's races of thoroughbred horses. 14
- non-TABQ thoroughbred race* means a race of thoroughbred 15  
horses on which the TABQ does not, or is unlikely to, offer 16  
wagering.' 17
- (3) Schedule 3, definition *commencement*— 18  
*insert*— 19  
'(c) for chapter 10, part 6—see section 427.' 20
- (4) Schedule 3, definition *disqualifying conviction*, paragraph (a), 21  
after 'for an offence'— 22  
*insert*— 23  
'under'. 24
- (5) Schedule 3, definition *disqualifying conviction*, paragraph 25  
(a)(i), 'under'— 26  
*omit*. 27
- (6) Schedule 3, definition *information notice*, after 'control 28  
body'— 29  
*insert*— 30  
' , an appeal committee'. 31
-

[s 25]

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<b>Part 3</b>	<b>Amendment of Racing Regulation 2003</b>	1 2
<b>Clause 25</b>	<b>Regulation amended</b>	3
	This part amends the <i>Racing Regulation 2003</i> .	4
<b>Clause 26</b>	<b>Omission of pts 3 and 6</b>	5
	Parts 3 and 6—	6
	<i>omit.</i>	7
<b>Clause 27</b>	<b>Omission of sch 1 (Clubs nominating members of country racing associations)</b>	8 9
	Schedule 1—	10
	<i>omit.</i>	11
<b>Part 4</b>	<b>Amendment of Gaming Machine Act 1991</b>	12 13
<b>Clause 28</b>	<b>Act amended</b>	14
	This part amends the <i>Gaming Machine Act 1991</i> .	15
<b>Clause 29</b>	<b>Amendment of s 322 (Disposition of fees etc.)</b>	16
	(1) Section 322(5)—	17
	<i>insert—</i>	18
	‘(ea) a scheme for providing capital works for the racing industry;’.	19 20
	(2) Section 322—	21



---

*insert—*

- '(5A) Amounts paid out under subsection (5)(ea) must not be more than the amounts paid into the community investment fund under the *Wagering Act 1998*, section 169(1)(b).'

## **Part 5**                      **Amendment of Wagering Act 1998**

### **Clause 30**      **Act amended**

This part amends the *Wagering Act 1998*.

### **Clause 31**      **Amendment of s 169 (Application of wagering tax)**

(1) Section 169(1)—

*omit, insert—*

'(1) Each month, the Minister must pay into the community investment fund—

(a) a percentage, prescribed under a regulation, of all amounts received by the chief executive as wagering tax for the previous month; and

(b) for the period from 1 July 2010 until 30 June 2014, a further percentage, prescribed under a regulation, of all amounts received by the chief executive as wagering tax for the previous month.

*Note—*

See the *Gaming Machine Act 1991*, section 322(5A).'

(2) Section 169(3)—

*omit, insert—*

'(3) In this section—

[s 32]

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*community investment fund* means the fund established under the *Gaming Machine Act 1991*, section 314(1).’ 1  
2

**Clause 32**      **Insertion of new pt 17, div 4** 3

Part 17— 4

*insert*— 5

**‘Division 4**                      **Transitional provision for Racing and Other Legislation Amendment Act 2010** 6  
7  
8

**‘339**      **Amendment of regulation by *Racing and Other Legislation Amendment Act 2010*** 9  
10

‘The amendment of the *Wagering Regulation 1999* by the *Racing and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’. 11  
12  
13  
14

**Part 6**                                      **Amendment of Wagering Regulation 1999** 15  
16

**Clause 33**      **Regulation amended** 17

This part amends the *Wagering Regulation 1999*. 18

**Clause 34**      **Replacement of s 9 (Percentage of wagering tax for community investment fund—Act, s 169(3))** 19  
20

Section 9— 21

*omit, insert*— 22

<b>‘9</b>	<b>Percentage of wagering tax for community investment fund—Act, s 169</b>	1
		2
	‘(1) For section 169(1)(a) of the Act, the percentage is 8.5%.	3
	‘(2) For section 169(1)(b) of the Act, the percentage is 45.75%.’.	4