

Queensland



WAGERING ACT 1998

**Reprinted as in force on 9 September 1999
(includes amendments up to Act No. 38 of 1999)**

Reprint No. 1A

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Information about this reprint

This Act is reprinted as at 9 September 1999. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprint.**

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WAGERING ACT 1998

[as amended by all amendments that commenced on or before 9 September 1999]

An Act about wagering and for other purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Wagering Act 1998*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

PART 2—INTERPRETATION

Division 1—Definitions

Definitions—the dictionary

3. The dictionary in schedule 2 defines particular words used in this Act.

Division 2—Basic concepts

Meaning of “exclusivity period”

- 4.(1) The “**exclusivity period**”, for a race wagering licence, is the period

starting on the commencement of this section and ending—

- (a) 15 years after the commencement; or
- (b) if, within the period of 15 years, a race wagering licence held by the TAB or a TAB subsidiary is cancelled, surrendered or ceases to have effect for another reason (other than suspension)—on the day the licence is cancelled, surrendered or otherwise ceases to have effect.

(2) The “**exclusivity period**”, for a sports wagering licence, is the period starting on the commencement of this section and ending—

- (a) 15 years after the commencement; or
- (b) if, within the period of 15 years, a sports wagering licence held by the TAB or a TAB subsidiary is cancelled, surrendered or ceases to have effect for another reason (other than suspension)—on the day the licence is cancelled, surrendered or otherwise ceases to have effect.

Meaning of “oncourse wagering permit”

5.(1) An “**oncourse wagering permit**” is a permit authorising the permit holder to conduct oncourse wagering by means of a totalisator by accepting investments placed by persons at a race meeting conducted by the permit holder at a racing venue.

(2) Subsection (1) applies only to investments that—

- (a) are placed by persons at the racing venue stated in the permit; and
- (b) relate to races held at the race meeting conducted by the permit holder.

Meaning of “race wagering licence”

6. A “**race wagering licence**” is a licence authorising the race wagering licensee to conduct wagering on an event or contingency that—

- (a) is, or relates to, a horse, trotting or greyhound race; and
- (b) is scheduled to be held at a race meeting at a racing venue.

Meaning of “sports wagering licence”

7. A “**sports wagering licence**” is a licence authorising the sports wagering licensee to conduct wagering on—

- (a) a sporting event or contingency (whether in Australia or elsewhere); or
- (b) another event or contingency that is an approved event or contingency for the licensee.

Meaning of “totalisator”

8.(1) A “**totalisator**” is a system used—

- (a) to enable persons to invest money on events or contingencies with a view to successfully predicting specified outcomes of the events or contingencies; and
- (b) to enable the totalisator pool to be divided and distributed among the persons who successfully predict the outcomes.

(2) A “**totalisator**” also includes an instrument, machine or device under which the system mentioned in subsection (1) is operated.

(3) In subsection (1)(b), a reference to the totalisator pool is a reference to the amount left from the investments after—

- (a) making allowances for refunds of investments; and
- (b) deducting any amount payable by way of commission for the conduct of the totalisator.

*Division 3—Other interpretative matters***References to applicants for oncourse wagering permits and permit holders**

9.(1) This section applies if the applicant for an oncourse wagering permit or a permit holder is an unincorporated body of persons.

(2) In this Act, a reference to the applicant or permit holder is a reference to each person who is a member of the management committee of the body.

References to investments

10. In this Act, a reference to an amount invested (whether in a totalisator or otherwise) is a reference to the amount invested, less any amount repayable to the investor by way of a refund (whether because of the cancellation or calling off of a bet or for any other reason).

PART 3—LAWFULNESS OF WAGERING**Lawful activities**

11. The following activities are lawful—

- (a) the conduct, under this Act, of a totalisator by a wagering licensee under a wagering licence;
- (b) the conduct, under this Act and the relevant wagering management agreement, of a totalisator by a wagering manager under a wagering licence;
- (c) the conduct, under this Act, of a totalisator by a permit holder under an oncourse wagering permit;
- (d) the conduct, under this Act, of wagering (on a fixed odds basis) by a wagering licensee under a wagering licence;
- (e) the conduct, under this Act and the relevant wagering management agreement, of wagering (on a fixed odds basis) by a wagering manager under a wagering licence;
- (f) the carrying on of a wagering agent's operations under this Act and the relevant agency agreement;
- (g) the use of approved wagering equipment by a wagering licensee, manager or agent or permit holder;
- (h) betting, under this Act, by a person (whether by means of a totalisator or on a fixed odds basis) for wagering conducted by a wagering licensee under a wagering licence;
- (i) betting, under this Act and the relevant wagering management agreement, by a person (whether by means of a totalisator or on a

fixed odds basis) for wagering conducted by a wagering manager under a wagering licence;

- (j) betting, under this Act, by a person (by means of a totalisator) for wagering conducted by a permit holder under an oncourse wagering permit;
- (k) the doing of anything else required or authorised to be done under this Act.

Relationship with other laws

12.(1) Section 11 has effect despite any other law dealing with wagering, including, in particular, the *Racing and Betting Act 1980*.

(2) Nothing in this Act applies to a person carrying on bookmaking under the *Racing and Betting Act 1980* under a bookmaker's licence.

PART 4—WAGERING AUTHORITIES

Division 1—Suitability of persons

Suitability of involved persons

13.(1) This section applies to the Minister in deciding whether—

- (a) an applicant for a wagering licence (the **“involved person”**) is a suitable person to hold a wagering licence; or
- (b) a wagering licensee (also the **“involved person”**) is a suitable person to hold a wagering licence; or
- (c) an applicant for an oncourse wagering permit (also the **“involved person”**) is a suitable person to hold an oncourse wagering permit; or
- (d) a permit holder (also the **“involved person”**) is a suitable person to hold an oncourse wagering permit.

(2) The Minister may have regard to the following matters—

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- (a) the involved person's character or business reputation;
- (b) the involved person's current financial position and financial background;
- (c) if the involved person is not an individual—whether the person has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (d) whether the involved person has, or is able to obtain, financial resources the Minister considers to be adequate to ensure the financial viability of operations conducted under a wagering authority of the kind applied for, or held, by the involved person;
- (e) whether the involved person has the appropriate business ability, knowledge or experience to successfully conduct operations under a wagering authority of the kind applied for, or held, by the involved person;
- (f) whether the involved person has, or is able to obtain, the services of persons with appropriate business ability, knowledge or experience to enable the involved person to successfully conduct operations under a wagering authority of the kind applied for, or held, by the involved person;
- (g) if the involved person has a business association with another entity—
 - (i) the entity's character or business reputation; and
 - (ii) the entity's current financial position and financial background;
- (h) anything else prescribed under a regulation.

Suitability of associates

14.(1) This section applies to the Minister in deciding whether—

- (a) a business or executive associate of an applicant for a wagering licence is a suitable person to be associated with a wagering licensee's operations; or
- (b) a business or executive associate of a wagering licensee is a suitable person to be associated with a wagering licensee's

operations; or

- (c) a business or executive associate of an applicant for an oncourse wagering permit is a suitable person to be associated with a permit holder's operations; or
- (d) a business or executive associate of a permit holder is a suitable person to be associated with a permit holder's operations.

(2) The Minister may have regard to the following matters—

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

Other matters about suitability

15. Sections 13 and 14 do not limit the matters the Minister may have regard to in deciding matters to which the sections relate.

Division 2—Applications for, and issue of, wagering authorities

Application for race wagering licence

16.(1) An application for a race wagering licence may only be made by a corporation.

(2) During the exclusivity period for a race wagering licence, an application for a race wagering licence may be made only by the TAB or a TAB subsidiary.

Application for sports wagering licence

17.(1) An application for a sports wagering licence may only be made by

a corporation.

(2) During the exclusivity period for a sports wagering licence, an application for a sports wagering licence may be made only by the TAB or a TAB subsidiary.

Application for oncourse wagering permit

18. An application for an oncourse wagering permit may only be made by a race club.

Requirements about applications

19. An application for a wagering authority must—

- (a) be made to the Minister; and
- (b) be in the approved form; and
- (c) be accompanied by any application fee prescribed under a regulation.

Further information or documents to support application

20.(1) The Minister may, by written notice given to an applicant for a wagering authority, require the applicant to give the Minister further information or a document about the application within the reasonable time stated in the notice.

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

Consideration of application

21.(1) The Minister must consider an application for a wagering authority and either grant or refuse to grant the application.

(2) However, the Minister is not required to decide an application if—

- (a) the Minister has given the applicant a notice under section 20 requiring the applicant to give the Minister further information or a document about the application; and

- (b) the applicant has failed, without reasonable excuse, to comply with the requirement within the time stated in the notice.

Conditions for granting application for wagering licence

22.(1) During the exclusivity period for a race wagering licence, the Minister may grant an application for a race wagering licence only if the applicant is the TAB or a TAB subsidiary.

(2) During the exclusivity period for a sports wagering licence, the Minister may grant an application for a sports wagering licence only if the applicant is the TAB or a TAB subsidiary.

(3) If, in relation to an application for a race wagering licence, the Minister considers that, to ensure the effective conduct of authorised wagering under the licence, it would be necessary for the applicant to enter into arrangements with a racing entity, the Minister may grant the application only if the Minister is satisfied the applicant has entered into, or is in a position to enter into, appropriate arrangements with a racing entity.

(4) After the end of the exclusivity period for a race wagering licence, the Minister may grant an application for a race wagering licence only if the Minister is satisfied, having regard to relevant market conditions at the time, that appropriate commercial arrangements have been made between the interested parties that the Minister considers are no less favourable to the race companies than the arrangements last in force between the race companies and the initial licensee.

(5) Also, the Minister may grant an application for a wagering licence only if the Minister is satisfied—

- (a) the applicant is a suitable person to hold a wagering licence; and
(b) each business and executive associate of the applicant is a suitable person to be associated with a wagering licensee's operations.

(6) However, the Minister may refuse to grant an application even if the Minister is satisfied of the matters mentioned in subsection (5).

(7) In this section—

“commercial arrangements” includes commercial arrangements about the conduct of approved wagering.

“initial licensee” means the race wagering licensee under a race wagering licence issued on the day this section commences.

“interested parties” means the initial licensee, the applicant for the race wagering licence and the race companies.

“race companies” means Queensland Race Co Ltd (ACN 081 743 777) and Queensland Race Product Co Ltd (ACN 081 743 722).

Conditions for granting application for oncourse wagering permit

23.(1) The Minister may grant an application for an oncourse wagering permit only if—

- (a) the Minister is satisfied—
 - (i) the applicant has negotiated in good faith with the licence operator for entering into an agency agreement with the operator; and
 - (ii) despite the negotiations, the applicant has not been able to enter into an agency agreement on reasonable terms with the licence operator relating to race meetings for which the permit is sought; or
- (b) the Minister is satisfied the licence operator has refused or failed to enter into an agency agreement with the race club.

(2) Also, the Minister may grant an application for an oncourse wagering permit only if the Minister is satisfied—

- (a) the applicant is a suitable person to hold an oncourse wagering permit; and
- (b) each business and executive associate of the applicant is a suitable person to be associated with a permit holder’s operations.

(3) However, the Minister may refuse to grant an application even if the Minister is satisfied of the matters mentioned in subsection (2).

Investigation of suitability of persons

24.(1) The chief executive may investigate an applicant for a wagering authority to help the Minister decide whether the applicant is a suitable

person to hold a wagering authority of the kind applied for.

(2) The chief executive may investigate a business or executive associate of an applicant for a wagering authority to help the Minister decide—

- (a) for an application for a wagering licence—whether the associate is a suitable person to be associated with a wagering licensee’s operations; or
- (b) for an application for an oncourse wagering permit—whether the associate is a suitable person to be associated with a permit holder’s operations.

Criminal history reports for investigations

25.(1) If the chief executive in investigating a person under section 24 asks the commissioner of the police service for a written report on the person’s criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

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

Decision on application

26.(1) If the Minister decides to grant an application for a wagering authority, the Minister must promptly issue the authority to the applicant.

(2) An oncourse wagering permit may be issued—

- (a) for a stated term (not longer than 5 years); or
- (b) for a stated race meeting or race meetings.

(3) If the Minister decides to refuse to grant an application for a wagering authority, the Minister must promptly give the applicant written notice of the decision.

Conditions of authority

27. The Minister may issue a wagering authority—

- (a) on conditions the Minister considers necessary or desirable for the proper conduct of authorised wagering under the wagering authority; and
- (b) on other conditions the Minister considers necessary or desirable in the public interest.

Form of authority

28.(1) A wagering authority must be in the approved form.

(2) The approved form must provide for the inclusion of the following particulars—

- (a) the name of the authority holder;
- (b) the date of issue of the authority;
- (c) the term of the authority or, for an oncourse wagering permit, the race meeting or race meetings for which the permit is issued;
- (d) for an oncourse wagering permit—the racing venue for which the permit is issued;
- (e) the conditions of the authority;
- (f) any other particulars prescribed under a regulation.

Term of licence

29.(1) A wagering licence remains in force for the term stated in the licence.

(2) Subsection (1) applies subject to this Act.

Term of permit

30.(1) An oncourse wagering permit remains in force—

- (a) if issued for a stated term—for the stated term; or
- (b) if issued for a stated race meeting or race meetings—for the term

necessary and reasonable to enable the permit holder to undertake and finish the permit holder's operations under the permit for the stated meeting or meetings.

(2) Subsection (1) applies subject to this Act.

Division 3—Dealings affecting wagering authorities

Changing conditions of authority

31.(1) The Minister may decide to change the conditions of a wagering authority if the Minister considers it is necessary or desirable to make the change—

- (a) for the proper conduct of authorised wagering under the wagering authority; or
- (b) otherwise in the public interest.

(2) If the Minister decides to change the conditions, the Minister must promptly give the authority holder a written notice (a “**condition notice**”) stating the decision and the reasons for the decision.

(3) A change of the conditions—

- (a) takes effect—
 - (i) on the day the condition notice for the change is given to the authority holder; or
 - (ii) if a later day of effect is stated in the notice—on the later day; and
- (b) does not depend on the wagering authority being amended to record the change, or a replacement authority recording the change being issued.

(4) The power of the Minister to change the conditions of a wagering authority includes the power to add conditions to an unconditional authority.

Recording change of conditions

32.(1) The authority holder must return the wagering authority to the Minister within 7 days of receiving the condition notice notifying a change

of conditions, unless the holder has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) On receiving the wagering authority, the Minister must—
- (a) amend the authority in an appropriate way and return the amended authority to the authority holder; or
 - (b) if the Minister does not consider it practicable to amend the authority—issue a replacement authority, incorporating the changed conditions, to the authority holder.

Authority generally not transferable

33.(1) A wagering authority cannot be transferred.

(2) However, if a wagering authority is mortgaged or otherwise encumbered with the Minister's approval, subsection (1) does not prevent the transfer of the authority, subject to section 34, by way of enforcement of the security.

Mortgage and transfer of authority

34.(1) An authority holder may mortgage or otherwise encumber the wagering authority only with the written approval of the Minister.

(2) If a person has, under or because of a mortgage or other encumbrance, a right to sell and transfer a wagering authority, the authority may be sold and transferred only to a person approved by the Minister in writing.

(3) Before the Minister approves a person for the transfer of a wagering licence, the Minister must be satisfied—

- (a) the proposed transferee is a suitable person to hold a wagering licence; and
- (b) each business and executive associate of the proposed transferee is a suitable person to be associated with a wagering licensee's operations.

(4) Before the Minister approves a person for the transfer of an oncourse wagering permit, the Minister must be satisfied—

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- (a) the proposed transferee is a suitable person to hold an oncourse wagering permit; and
- (b) each business and executive associate of the proposed transferee is a suitable person to be associated with a permit holder's operations.

(5) The Minister may require the proposed transferee of the wagering authority to submit an application for the authority and may deal with the application, and investigate the suitability of the proposed transferee and proposed transferee's business and executive associates, in the same way as if the application were an application for a new wagering authority of the kind proposed to be transferred.

(6) If a person has, under or because of a mortgage or other encumbrance, a power to appoint a receiver or manager of the operations conducted under a wagering authority, the power may be exercised only if the Minister first approves the proposed receiver or manager in writing.

Surrender of authority

35.(1) An authority holder may surrender the wagering authority by written notice given to the Minister.

- (2) The surrender of a wagering licence takes effect—
 - (a) if paragraph (b) does not apply—
 - (i) 3 months after the notice is given; or
 - (ii) if a later day of effect is stated in the notice—on the later day; or
 - (b) if the Minister, by written notice given to the wagering licensee, approves a day of effect that is earlier than 3 months after the notice is given—on the day of effect approved by the Minister.
- (3) The surrender of an oncourse wagering permit takes effect—
 - (a) on the day the notice is given to the Minister; or
 - (b) if a later day of effect is stated in the notice—on the later day.

Division 4—Investigation of authority holders and associates**Audit programs**

36.(1) The Minister may approve audit programs for investigating the following—

- (a) wagering licensees;
- (b) business or executive associates of wagering licensees;
- (c) permit holders;
- (d) business or executive associates of permit holders.

(2) The chief executive is responsible for ensuring an investigation of a person under an approved audit program is conducted in accordance with the program.

Investigation of suitability of authority holders

37.(1) The chief executive may investigate an authority holder to help the Minister decide whether the holder is a suitable person to hold a wagering authority of the kind held by the holder.

(2) However, the chief executive may investigate an authority holder only if—

- (a) the Minister reasonably suspects the holder is not a suitable person to hold a wagering authority of the kind held by the holder;
or
- (b) the investigation is made under the relevant audit program approved by the Minister.

(3) Also, an authority holder may be investigated under an audit program only if there has not been an investigation of the holder under the program within the preceding 2 years.

Investigation of suitability of associates of wagering licensees

38.(1) The chief executive may investigate a business or executive associate of a wagering licensee to help the Minister decide whether the associate is a suitable person to be associated with a wagering licensee's

operations.

(2) However, the chief executive may investigate a business or executive associate of a wagering licensee only if—

- (a) the Minister reasonably suspects the associate is not a suitable person to be associated with a wagering licensee's operations; or
- (b) the investigation is made under an audit program for business and executive associates of wagering licensees approved by the Minister; or
- (c) for a person who became a business or executive associate of the wagering licensee after the issue of the wagering licence— the associate has not been investigated previously under an audit program mentioned in paragraph (b).

(3) Also, a business or executive associate of a wagering licensee may be investigated under an audit program only if there has not been an investigation of the associate under the program within the preceding 2 years.

Investigation of suitability of associates of permit holders

39.(1) The chief executive may investigate a business or executive associate of a permit holder to help the Minister decide whether the associate is a suitable person to be associated with a permit holder's operations.

(2) However, the chief executive may investigate a business or executive associate of a permit holder only if—

- (a) the Minister reasonably suspects the associate is not a suitable person to be associated with a permit holder's operations; or
- (b) the investigation is made under an audit program for business and executive associates of permit holders approved by the Minister; or
- (c) for a person who became a business or executive associate of the permit holder after the issue of the oncourse wagering permit— the associate has not been investigated previously under an audit program mentioned in paragraph (b).

(3) Also, a business or executive associate of a permit holder may be

investigated under an audit program only if there has not been an investigation of the associate under the program within the preceding 2 years.

Requirement to give information or document for investigation

40.(1) In investigating an authority holder, or business or executive associate of an authority holder, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

(2) When making the requirement, the chief executive must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to give information or document for investigation

41.(1) A person of whom a requirement is made under section 40 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) It is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

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

Criminal history report for investigation

42.(1) If the chief executive in investigating a person under section 37, 38 or 39 asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

(a) relevant information in the commissioner's possession; and

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

Division 5—Suspension and cancellation of wagering authorities

Grounds for suspension or cancellation

43.(1) A ground for suspending or cancelling a wagering authority exists if the authority holder—

- (a) is not a suitable person to hold a wagering authority of the kind held by the holder; or
- (b) is convicted of an offence against this Act or a gaming Act; or
- (c) is convicted of an indictable offence; or
- (d) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act); or
- (e) contravenes a condition of the authority; or
- (f) fails to discharge the holder's financial commitments for the holder's operations; or
- (g) is affected by bankruptcy action, or by control action under the Corporations Law.

(2) Also, a ground for suspending or cancelling a wagering authority exists if—

- (a) the authority was issued because of a materially false or misleading representation or declaration; or
- (b) for a wagering licence—a business or executive associate of the wagering licensee is not a suitable person to be associated with a wagering licensee's operations; or
- (c) for an oncourse wagering permit—a business or executive associate of the permit holder is not a suitable person to be associated with a permit holder's operations.

(3) For subsection (1)(g), an authority holder is affected by bankruptcy action if the holder—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

(4) For subsection (1)(g), an authority holder is affected by control action under the Corporations Law if the holder—

- (a) has executed a deed of company arrangement under the Law; or
- (b) is the subject of a winding-up (whether voluntarily or under a court order) under the Law; or
- (c) is the subject of an appointment of an administrator, liquidator, receiver or receiver and manager under the Law.

Show cause notice

44.(1) This section applies if the Minister believes—

- (a) a ground exists to suspend or cancel a wagering authority; and
- (b) the act, omission or other thing forming the ground is of a serious and fundamental nature; and
- (c) either—
 - (i) the integrity of the conduct of authorised wagering under the wagering authority may be jeopardised in a material way; or
 - (ii) the public interest may be affected in an adverse and material way.

(2) The Minister must give the authority holder a written notice (a “**show cause notice**”)—

- (a) stating the action (the “**proposed action**”) the Minister proposes taking under this division; and
- (b) stating the grounds for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the grounds; and

- (d) if the proposed action is suspension of the wagering authority—stating the proposed suspension period; and
- (e) inviting the authority holder to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the authority holder.

(4) The authority holder may make representations about the show cause notice to the Minister in the show cause period.

Involvement of interested persons in show cause process

45.(1) The Minister must promptly give a copy of the show cause notice to each person (an “**interested person**”) the Minister considers has an interest in the wagering authority if the Minister considers—

- (a) the person’s interest may be affected adversely by the suspension or cancellation of the authority; and
- (b) it is otherwise appropriate in the circumstances to give a copy of the notice to the person.

(2) In considering whether it is appropriate to give a copy of the show cause notice to an interested person, the issues to which the Minister may have regard include the following—

- (a) the nature of the interested person’s interest;
- (b) whether the authority holder’s interest may be improperly prejudiced.

(3) An interested person to whom a copy of the show cause notice is given may make representations about the notice to the Minister in the show cause period.

Consideration of representations

46. The Minister must consider all written representations (the “**accepted representations**”) made in the show cause period by—

- (a) the authority holder; or

- (b) an interested person to whom a copy of the show cause notice was given.

Ending show cause process without further action

47.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister no longer believes a ground exists to suspend or cancel the wagering authority.

(2) The Minister must not take any further action about the show cause notice.

(3) Notice that no further action about the show cause notice is to be taken must be given by the Minister to—

- (a) the authority holder; and
- (b) each interested person to whom a copy of the show cause notice was given.

Censuring authority holder

48.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes a ground exists to suspend or cancel the wagering authority but—

- (a) does not believe suspension or cancellation of the authority is warranted; and
- (b) does not consider it is appropriate to take action under section 49.

(2) This section also applies if the Minister has not given a show cause notice to the authority holder but—

- (a) believes a ground exists to suspend or cancel the wagering authority; and
- (b) does not believe the giving of a show cause notice is warranted.

(3) The Minister may, by written notice given to the authority holder, censure the holder for a matter relating to the ground for suspension or cancellation.

Direction to rectify

49.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes a ground exists to suspend or cancel the wagering authority but considers—

- (a) a matter relating to the ground for suspension or cancellation is reasonably capable of being rectified; and
- (b) that it is appropriate to give the authority holder an opportunity to rectify the matter.

(2) This section also applies if the Minister has not given a show cause notice to the authority holder and—

- (a) the Minister believes a ground exists to suspend or cancel the wagering authority; and
- (b) the Minister considers—
 - (i) a matter relating to the ground for suspension or cancellation is reasonably capable of being rectified; and
 - (ii) that it is appropriate to give the authority holder an opportunity to rectify the matter without giving a show cause notice; and
- (c) the authority holder has been given—
 - (i) written notice that the Minister proposes to give a direction under this section; and
 - (ii) a reasonable opportunity to make representations about the proposed direction.

(3) However, this section applies because of subsection (1) only if the Minister does not have the belief mentioned in section 50(1).

(4) The Minister may, by written notice given to the authority holder, direct the holder to rectify the matter within the period stated in the notice.

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

Notice by Minister to Governor in Council

50.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes—

- (a) a ground exists to suspend or cancel the wagering authority; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
 - (i) the integrity of the conduct of authorised wagering under the wagering authority may be jeopardised in a material way; or
 - (ii) the public interest may be affected in an adverse and material way.

(2) This section also applies if—

- (a) there are no accepted representations for the show cause notice; or
- (b) a direction to rectify a matter is given to the authority holder under section 49 and the holder fails to comply with the direction within the period stated in the relevant notice.

(3) The Minister must give to the Governor in Council written notice of the Minister's belief under subsection (1), or of the matter mentioned in subsection (2), together with—

- (a) a copy of the show cause notice; and
- (b) copies of any accepted representations for the show cause notice.

Suspension, cancellation and appointment of administrator

51.(1) After receiving the notice from the Minister under section 50, the Governor in Council may—

- (a) if the proposed action stated in the show cause notice was to suspend the wagering authority for a stated period—suspend the authority for not longer than the stated period; or
- (b) if the proposed action stated in the show cause notice was to cancel the wagering authority—
 - (i) suspend the authority for a period; or

- (ii) cancel the authority; or
- (iii) appoint an administrator to conduct the operations of the authority holder under the authority.

(2) The Minister must promptly give written notice of the decision of the Governor in Council to—

- (a) the authority holder; and
- (b) each interested person to whom a copy of the show cause notice was given.

(3) The decision takes effect—

- (a) on the day the notice is given to the authority holder; or
- (b) if a later day of effect is stated in the notice—on the later day.

(4) If the wagering authority is cancelled, the person who held the authority must, within 14 days after receiving notice of the decision, return the authority to the chief executive.

Maximum penalty for subsection (4)—200 penalty units or 1 year’s imprisonment.

Immediate suspension of authority by Minister

52.(1) The Minister may suspend a wagering authority immediately if the Minister believes—

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

(2) The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the authority holder with a show cause notice; and
- (b) operates immediately the suspension notice is given; and

- (c) continues to operate until the show cause notice is finally dealt with.

Terms of appointment, and role, of administrator

53.(1) This section applies to an administrator appointed by the Governor in Council to conduct operations under a wagering authority.

(2) For any matter not provided for under this Act, the administrator holds office on terms decided by the Governor in Council.

(3) The administrator—

- (a) has full control of, and responsibility for, the operations of the authority holder conducted under the wagering authority (including operations relating to anything that had been started but not finished at the time of the administrator's appointment); and
- (b) subject to any directions by the Minister, must conduct the operations as required by this Act as if the administrator were the authority holder.

(4) The costs of and incidental to the conduct and administration of an authority holder's operations by an administrator under this section (the "**costs of administration**") are payable by the authority holder.

(5) Any profits derived from the conduct of the authority holder's operations by the administrator are, after payment of the costs of administration, to be paid to the authority holder.

Cancellation or reduction of period of suspension

54.(1) At any time a suspension of a wagering authority by the Governor in Council is in force, the Governor in Council may, for the remaining period of suspension—

- (a) cancel the period; or
- (b) reduce the period by a stated period.

(2) The Minister must promptly give written notice of the decision of the Governor in Council to—

- (a) the authority holder; and

- (b) each interested person to whom a copy of the show cause notice was given.

Notice to interested persons of decisions

55.(1) This section applies if the Minister—

- (a) censures the authority holder under section 48; or
- (b) directs the authority holder to rectify a matter under section 49; or
- (c) suspends the wagering authority under section 52.

(2) The Minister must promptly give written notice of the decision to each interested person to whom a copy of the show cause notice was given.

Division 6—Approved events and contingencies

Application for approval of events or contingencies

56.(1) A sports wagering licensee may apply to the Minister for approval to conduct wagering on—

- (a) an event or contingency; or
- (b) a class of events or contingencies.

(2) The application must—

- (a) be in writing; and
- (b) describe the event or contingency or class of events or contingencies for which approval is sought.

Decision on application

57.(1) The Minister must consider an application under section 56 and either give, or refuse to give, the approval sought by the application.

(2) An approval must not relate to—

- (a) an event or contingency for which a race wagering licence has been, or may be, issued; or
- (b) a sporting event or contingency.

(3) An approval may relate to an event or contingency in or outside Australia.

(4) The Minister must not give an approval for an event or contingency the Minister considers to be offensive or contrary to the public interest.

Conditions of approval

58.(1) The Minister may give an approval for this division—

- (a) on conditions the Minister considers necessary or desirable for the proper conduct of the wagering under the sports wagering licence; or
- (b) on other conditions the Minister considers necessary or desirable in the public interest.

(2) A condition under subsection (1) is taken to be a condition of the sports wagering licence.

Notice of decision

59.(1) If the Minister gives an approval for this division, the Minister must give the sports wagering licensee a written notice stating—

- (a) the decision; and
- (b) any conditions of the approval.

(2) The notice also may state the period for which the approval remains in force.

(3) If the Minister refuses to give an approval, the Minister must give the sports wagering licensee a written notice stating the decision and the reasons for the decision.

Period of approval

60. An approval remains in force—

- (a) if a period is stated in the notice mentioned in section 59—for the period stated; or

- (b) if no period is stated in the notice—until the approval is withdrawn.

Withdrawal of approval

61.(1) The Minister may, for any reason the Minister considers appropriate, withdraw an approval given under section 57.

(2) However, an approval may be withdrawn only if the Minister—

- (a) has given the sports wagering licensee a reasonable opportunity to be heard or to make representations on the proposed withdrawal; and
- (b) has considered any representations made by the licensee in the process carried out by the Minister under paragraph (a).

(3) The withdrawal must be made by written notice, stating the reasons for the decision, given to the sports wagering licensee.

(4) The decision takes effect—

- (a) on the day the notice is given to the sports wagering licensee; or
- (b) if a later day of effect is stated in the notice—on the later day.

PART 5—WAGERING MANAGERS

Division 1—Suitability of persons

Suitability of involved persons

62.(1) This section applies to the Minister in deciding whether—

- (a) a proposed wagering manager (the “**involved person**”) is a suitable person to be a wagering manager; or
- (b) a wagering manager (also the “**involved person**”) is a suitable person to be a wagering manager.

(2) The Minister may have regard to the following matters—

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- (a) the involved person's business reputation;
- (b) the involved person's current financial position and financial background;
- (c) whether the person has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (d) whether the involved person has, or is able to obtain, financial resources the Minister considers to be adequate to ensure the financial viability of a wagering manager's operations;
- (e) whether the involved person has the appropriate business ability, knowledge or experience to successfully conduct operations as a wagering manager;
- (f) whether the involved person has, or is able to obtain, the services of persons with appropriate business ability, knowledge or experience to enable the involved person to successfully conduct operations as a wagering manager;
- (g) if the involved person has a business association with another entity—
 - (i) the entity's character or business reputation; and
 - (ii) the entity's current financial position and financial background;
- (h) anything else prescribed under a regulation.

Suitability of associates

63.(1) This section applies to the Minister in deciding whether—

- (a) a business or executive associate of a proposed wagering manager is a suitable person to be associated with a wagering manager's operations; or
- (b) a business or executive associate of a wagering manager is a suitable person to be associated with a wagering manager's operations.

(2) The Minister may have regard to the following matters—

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

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

Other matters about suitability

64. Sections 62 and 63 do not limit the matters the Minister may have regard to in deciding matters to which the sections relate.

Division 2—Appointment of wagering managers

Appointment

65.(1) A wagering licensee may appoint a person to manage some or all the operations relating to authorised wagering conducted under the wagering licence.

(2) However, a wagering licensee may appoint a person as wagering manager—

- (a) only with the approval of the Minister; and
- (b) only if the person is a corporation.

Application for approval

66. An application for approval to appoint a person as wagering manager must be made to the Minister in writing by the wagering licensee.

Further information or documents to support application

67.(1) The Minister may, by written notice given to an applicant for an approval, require the applicant to give the Minister further information or a

document about the application within the reasonable time stated in the notice.

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

Consideration of application

68.(1) The Minister must consider an application for an approval and either give, or refuse to give, the approval.

(2) However, the Minister is not required to decide an application if—

- (a) the Minister has given the applicant a notice under section 67 requiring the applicant to give the Minister further information or a document about the application; and
- (b) the applicant has failed, without reasonable excuse, to comply with the requirement within the time stated in the notice.

(3) The Minister may approve the appointment of a person as a wagering manager only if the Minister is satisfied—

- (a) the person is a suitable person to be a wagering manager; and
- (b) each business and executive associate of the person is a suitable person to be associated with a wagering manager's operations.

(4) The Minister must promptly give the applicant written notice of the Minister's decision.

Investigation of suitability of persons

69.(1) The chief executive may investigate a proposed wagering manager to help the Minister decide whether the person is a suitable person to be a wagering manager.

(2) The chief executive may investigate a business or executive associate of a proposed wagering manager to help the Minister decide whether the associate is a suitable person to be associated with a wagering manager's operations.

Criminal history reports for investigations

70.(1) If the chief executive in investigating a person under section 69 asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

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

Division 3—Wagering management agreements**Meaning of “wagering management agreement”**

71. A “wagering management agreement” is an agreement between a wagering licensee and another person—

- (a) appointing the other person as a wagering manager for some or all the operations relating to authorised wagering conducted under the wagering licence; and
- (b) dealing with the wagering manager's authority; and
- (c) stating the conditions under which the wagering manager acts as, and remains, a wagering manager for the wagering licensee; and
- (d) stating other matters agreed between the wagering manager and wagering licensee.

Entering into wagering management agreement

72. A wagering licensee must not enter into a wagering management agreement without the written approval of the Minister.

Maximum penalty—40 penalty units.

Amendment of wagering management agreement

73. A wagering management agreement may be amended only with the written approval of the Minister.

Approvals for wagering management agreements

74.(1) A wagering licensee may apply to the Minister for approval to enter into, or amend, a wagering management agreement.

(2) An application must—

- (a) be in writing; and
- (b) be accompanied by a copy of the proposed agreement or amendment.

(3) The Minister must consider an application for approval and either give, or refuse to give, the approval.

(4) However, the Minister may refuse to give an approval only if the Minister reasonably believes it is necessary to refuse the approval—

- (a) in the public interest; or
- (b) to protect proper standards of integrity in the conduct of approved wagering.

(5) The Minister must promptly give the wagering licensee written notice of the Minister's decision.

Division 4—Investigation of wagering managers and associates**Audit programs**

75.(1) The Minister may approve audit programs for investigating—

- (a) wagering managers; and
- (b) business or executive associates of wagering managers.

(2) The chief executive is responsible for ensuring an investigation of a person under a relevant approved audit program is conducted in accordance with the program.

Investigation of suitability of wagering managers

76.(1) The chief executive may investigate a wagering manager to help the Minister decide whether the manager is a suitable person to be a wagering manager.

(2) However, the chief executive may investigate a wagering manager only if—

- (a) the Minister reasonably suspects the manager is not a suitable person to be a wagering manager; or
- (b) the investigation is made under an audit program for wagering managers approved by the Minister.

(3) Also, a wagering manager may be investigated under an audit program only if there has not been an investigation of the manager under the program within the preceding 2 years.

Investigation of suitability of associates of wagering managers

77.(1) The chief executive may investigate a business or executive associate of a wagering manager to help the Minister decide whether the associate is a suitable person to be associated with a wagering manager's operations.

(2) However, the chief executive may investigate a business or executive associate of a wagering manager only if—

- (a) the Minister reasonably suspects the associate is not a suitable person to be associated with a wagering manager's operations; or
- (b) the investigation is made under an audit program for business and executive associates of wagering managers approved by the Minister; or
- (c) for a person who became a business or executive associate of the wagering manager after the manager's appointment—the associate has not been investigated previously under an audit program mentioned in paragraph (b).

(3) Also, a business or executive associate of a wagering manager may be investigated under an audit program only if there has not been an

investigation of the associate under the program within the preceding 2 years.

Requirement to give information or document for investigation

78.(1) In investigating a wagering manager, or business or executive associate of a wagering manager, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

(2) When making the requirement, the chief executive must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to give information or document for investigation

79.(1) A person of whom a requirement is made under section 78 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) It is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

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

Criminal history report for investigation

80.(1) If the chief executive in investigating a person under section 76 or 77 asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

- (a) relevant information in the commissioner's possession; and
- (b) relevant information the commissioner can reasonably obtain by

asking officials administering police services in other Australian jurisdictions; and

- (c) other relevant information to which the commissioner has access.

Division 5—Terminating wagering management agreements

Grounds for directing termination

81.(1) A ground for directing the termination of a wagering management agreement exists if the wagering manager—

- (a) is not a suitable person to be a wagering manager; or
- (b) is convicted of an offence against this Act or a gaming Act; or
- (c) is convicted of an indictable offence; or
- (d) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act); or
- (e) fails to discharge the manager's financial commitments for the manager's operations; or
- (f) is affected by control action under the Corporations Law.

(2) Also, a ground for directing the termination of a wagering management agreement exists if—

- (a) the approval of the Minister for the wagering manager's appointment, or the entering into of the agreement, was given because of a materially false or misleading representation or declaration; or
- (b) a business or executive associate of the wagering manager is not a suitable person to be associated with a wagering manager's operations.

(3) For subsection (1)(f), a wagering manager is affected by control action under the Corporations Law if the manager—

- (a) has executed a deed of company arrangement under the Law; or
- (b) is the subject of a winding-up (whether voluntarily or under a court order) under the Law; or

- (c) is the subject of an appointment of an administrator, liquidator, receiver or receiver and manager under the Law.

Show cause notice

82.(1) This section applies if the Minister believes—

- (a) a ground exists for directing the termination of a wagering management agreement; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
 - (i) the integrity of the conduct of authorised wagering under the relevant wagering licence may be jeopardised in a material way; or
 - (ii) the public interest may be affected in an adverse and material way.

(2) The Minister must give the wagering manager a written notice (a “**show cause notice**”)—

- (a) stating the Minister proposes to take action (the “**proposed action**”) to direct the wagering licensee to terminate the wagering management agreement; and
- (b) stating the grounds for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the grounds; and
- (d) inviting the wagering manager to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the wagering manager.

(4) The Minister must promptly give a copy of the show cause notice to the wagering licensee.

Representations about show cause notice

83.(1) The wagering manager, and wagering licensee to whom a copy of the show cause notice is given, may make representations about the show cause notice to the Minister in the show cause period.

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

Ending show cause process without further action

84.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister no longer believes a ground exists to direct the termination of the wagering management agreement.

(2) The Minister must not take any further action about the show cause notice.

(3) Notice that no further action about the show cause notice is to be taken must be given by the Minister to the wagering manager and licensee.

Censuring wagering manager

85.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes a ground exists to direct the termination of the wagering management agreement but—

- (a) does not believe termination of the agreement is warranted; and
- (b) does not consider it is appropriate to take action under section 86.

(2) This section also applies if the Minister has not given a show cause notice to the wagering manager but—

- (a) believes a ground exists to direct the termination of the wagering management agreement; and
- (b) does not believe the giving of a show cause notice is warranted.

(3) The Minister may, by written notice given to the wagering manager, censure the manager for a matter relating to the ground for directing the termination of the agreement.

Direction to rectify

86.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes a ground exists to direct the termination of the wagering management agreement but considers—

- (a) a matter relating to the ground is reasonably capable of being rectified; and
- (b) that it is appropriate to give the wagering manager an opportunity to rectify the matter.

(2) This section also applies if the Minister has not given a show cause notice to the wagering manager and—

- (a) the Minister believes a ground exists to direct the termination of the wagering management agreement; and
- (b) the Minister considers—
 - (i) a matter relating to the ground is reasonably capable of being rectified; and
 - (ii) that it is appropriate to give the wagering manager an opportunity to rectify the matter without giving a show cause notice; and
- (c) the wagering manager and wagering licensee have been given—
 - (i) written notice that the Minister proposes to give a direction under this section; and
 - (ii) a reasonable opportunity to make representations about the proposed direction.

(3) However, this section applies because of subsection (1) only if the Minister does not have the belief mentioned in section 87.

(4) The Minister may, by written notice given to the wagering manager, direct the manager to rectify the matter within the period stated in the notice.

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

Direction to terminate agreement

87.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes—

- (a) a ground exists to direct the termination of the wagering management agreement; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
 - (i) the integrity of the conduct of authorised wagering under the relevant wagering licence may be jeopardised in a material way; or
 - (ii) the public interest may be affected in an adverse and material way.

(2) This section also applies if—

- (a) there are no accepted representations for the show cause notice; or
- (b) a direction to rectify a matter is given to the wagering manager under section 86 and the manager fails to comply with the direction within the period stated in the relevant notice.

(3) The Minister may, by written notice given to the wagering licensee, direct the licensee to terminate the wagering management agreement within the time stated in the notice.

(4) If the Minister gives a direction under this section, the Minister must promptly give a copy of the relevant notice to the wagering manager.

Termination of agreement on direction

88.(1) If the Minister directs a wagering licensee to terminate a wagering management agreement, the licensee must—

- (a) terminate the agreement within the time stated in the relevant notice; and
- (b) notify the chief executive of the termination in the approved form within 7 days after terminating the agreement.

(2) If the wagering licensee does not terminate the wagering management

agreement as required by subsection (1), the agreement is terminated by this Act.

(3) The State does not incur any liability if a wagering management agreement is terminated by a wagering licensee under subsection (1) or by this Act.

(4) A wagering licensee does not incur any liability because the licensee terminates a wagering management agreement under subsection (1).

Termination of agreement without direction

89.(1) This section applies if a wagering management agreement is terminated otherwise than because of a direction to terminate the agreement given to the wagering licensee by the Minister.

(2) The wagering licensee must notify the chief executive in writing of the termination within 7 days after the agreement is terminated.

Maximum penalty for subsection (2)—40 penalty units.

Suspending wagering manager's operations

90.(1) The Minister may suspend the wagering manager's operations immediately if the Minister believes—

- (a) a ground exists to direct the termination of the wagering management agreement; and
- (b) the circumstances are so extraordinary that it is imperative to suspend the operations to ensure—
 - (i) the integrity of the conduct of authorised wagering under the relevant wagering licence is not jeopardised in a material way; or
 - (ii) the public interest is not affected in an adverse and material way.

(2) The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the wagering manager with a show cause notice; and
- (b) operates immediately the suspension notice is given; and

- (c) continues to operate until the show cause notice is finally dealt with.

(3) A wagering manager must not carry on operations while the manager's operations are suspended.

Maximum penalty for subsection (3)—200 penalty units or 2 years imprisonment.

Notice to wagering licensee of decisions

91.(1) This section applies if the Minister—

- (a) censures the wagering manager under section 85; or
- (b) directs the wagering manager to rectify a matter under section 86; or
- (c) suspends the wagering manager's operations under section 90.

(2) The Minister must promptly give written notice of the decision to the wagering licensee.

PART 6—STATUS OF CERTAIN DECISIONS

Definition for part

92. In this part—

“**decision**” includes—

- (a) conduct engaged in to make a decision; and
- (b) conduct related to making a decision; and
- (c) failure to make a decision.

Application of part

93.(1) This part applies to a decision of the Governor in Council or Minister made, or appearing to be made, under this Act about or affecting—

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- (a) a wagering authority, wagering manager or wagering management agreement; or
- (b) a person with an interest or potential interest in—
 - (i) a wagering authority; or
 - (ii) the appointment of a wagering manager; or
 - (iii) a wagering management agreement.

(2) The decisions to which this part applies include, but are not limited to—

- (a) a decision of the Governor in Council mentioned in schedule 1, part 1; and
- (b) a decision of the Minister mentioned in schedule 1, part 2.

Certain decisions not to be justiciable

94. A decision to which this part applies—

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

PART 7—KEY EMPLOYEES AND OPERATORS FOR AUTHORITY OPERATORS

Division 1—Licensing requirements for key employees

Meaning of “key employee”

95.(1) A wagering employee is a “**key employee**” of an authority operator if the employee—

- (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to any operations conducted under the relevant wagering authority; or
- (b) is in a position to affect or significantly influence any operations conducted under the relevant wagering authority; or
- (c) occupies or acts in a position designated in the authority operator’s approved control system as a key position.

(2) Subsection (1)(a) applies to a position only if the position is designated by the chief executive as a key position.

(3) Subsection (1)(a) applies to functions only if the functions are designated by the chief executive as key functions.

(4) Subsection (1)(b) applies to an employee only if the employee is designated by the chief executive as being in a key position.

(5) A designation of the chief executive for subsection (2), (3) or (4) must be made by written notice given to the authority operator.

Requirement to be licensed employee

96. A person must not occupy or act in the position of a key employee, or carry out the functions of a key employee, in relation to the conduct of operations under a wagering authority unless the person is a licensed employee.

Maximum penalty—40 penalty units.

Prohibition of employment as key employees of persons who are not licensed employees

97. An authority operator must not employ a person as a key employee, or to carry out the functions of a key employee, unless the person is a licensed employee.

Maximum penalty—40 penalty units.

Division 2—Requirements about key operators**Meaning of “key operator”**

98. A “key operator” is a person (other than a wagering employee) who—

- (a) is in a position to control or exercise significant influence over the conduct of an authority operator’s operations; or
- (b) is associated with an authority operator in a way that enables the person to control or exercise significant influence over the conduct of the authority operator’s operations; or
- (c) occupies a position or has an association with an authority operator of a kind that makes the person a key operator under criteria prescribed under a regulation.

Requirement that key operator apply for licence or end role

99.(1) If the chief executive reasonably believes a person is a key operator, the chief executive may, by written notice given to the person, require the person either to apply to be licensed as a key operator under a key person licence, or to stop being a key operator, within 7 days of receiving the notice.

(2) The person must comply with the requirement (the “key operator’s requirement”) within 7 days of receiving the notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 1 year’s imprisonment.

(3) The chief executive must give a copy of the notice to the relevant authority operator.

Requirement that key operator end role

100.(1) This section applies if—

- (a) a key operator's requirement is made of a person; and
- (b) the person complies with the requirement by applying to be licensed as a key operator but the chief executive refuses to grant the application.

(2) The chief executive may, by written notice given to the person, require the person to stop being a key operator of the authority operator within the time stated in the notice.

(3) The person must comply with the requirement within the time stated in the notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 1 year's imprisonment.

(4) A person does not incur any liability because of action taken to comply with a requirement under this section.

Requirement to end key operator's role

101.(1) This section applies if a key operator's requirement is made of a person and either—

- (a) the person fails to comply with the requirement; or
- (b) the person complies with the requirement by applying to be licensed as a key operator but the chief executive refuses to grant the application.

(2) The chief executive may, by written notice given to the authority operator for whom the person is a key operator, require the authority operator to take any necessary action to ensure the person stops being a key operator within the time stated in the notice.

(3) The authority operator must comply with the requirement.

(4) This section applies to an authority operator despite any other Act or law.

(5) An authority operator does not incur any liability because of action taken to comply with a requirement under this section.

Division 3—Applications for, and issue of, key person licences

Application for licence

102.(1) An application for a key person licence must be made to the chief executive in the approved form.

(2) The application must be accompanied by—

- (a) if the applicant applies to be licensed as an employee—a written notice from an authority operator to the chief executive stating that the operator intends to employ the applicant as a key employee subject to the applicant being issued with a key person licence; and
- (b) any documents prescribed under a regulation; and
- (c) the application fee prescribed under a regulation.

Further information or documents to support application

103.(1) The chief executive may, by written notice given to an applicant for a key person licence, require the applicant to give the chief executive further information or a document about the application within the reasonable time stated in the notice.

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

Consideration of application

104.(1) The chief executive must consider an application for a key person licence and either grant or refuse to grant the application.

(2) Despite subsection (1), the chief executive is required to consider an application only if the applicant agrees to having the applicant's photograph and fingerprints taken.

(3) Also, despite subsection (1), the chief executive is not required to

decide an application if—

- (a) the chief executive has given the applicant a notice under section 103 requiring the applicant to give the chief executive further information or a document about the application; and
- (b) the applicant has failed, without reasonable excuse, to comply with the requirement within the time stated in the notice.

Conditions for granting application

105. The chief executive may grant an application for a key person licence only if—

- (a) the applicant's photograph and fingerprints have been taken; and
- (b) the chief executive is satisfied the applicant is a suitable person to hold a key person licence.¹

Investigation of suitability of applicant

106. The chief executive may investigate an applicant for a key person licence to help the chief executive decide whether the applicant is a suitable person to hold a key person licence.

Criminal history report for investigation

107.(1) If the chief executive in investigating an applicant for a key person licence asks the commissioner of the police service for a written report on the applicant's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

- (a) relevant information in the commissioner's possession; and
- (b) relevant information the commissioner can reasonably obtain by inquiry from officials administering police services in other

¹ Criteria for deciding a person's suitability to hold a key person licence are dealt with in section 113.

Australian jurisdictions; and

- (c) other relevant information to which the commissioner has access.

Decision on application

108.(1) If the chief executive decides to grant an application for a key person licence, the chief executive must promptly—

- (a) issue a key person licence to the applicant; and
- (b) give written notice of the issue of the licence to the relevant authority operator.

(2) If the chief executive decides to refuse to grant an application for a key person licence, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) give a copy of the notice to the relevant authority operator.

Conditions of licence

109.(1) The chief executive may issue a key person licence—

- (a) on conditions the chief executive considers necessary or desirable for the proper conduct of approved wagering; and
- (b) on other conditions the chief executive considers necessary or desirable in the public interest.

(2) If the chief executive decides to issue a key person licence on conditions, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) give a copy of the notice to the relevant authority operator.

Form of licence

110.(1) A key person licence must be in the approved form.

(2) The approved form must provide for the inclusion of the following—

- (a) the name of the key person licensee;

- (b) a recent photograph of the licensee;
- (c) the date of issue of the licence;
- (d) whether the licensee is a licensed employee or licensed as a key operator;
- (e) the conditions of the licence;
- (f) any other particulars prescribed under a regulation.

Term of licence

111. A key person licence remains in force unless it lapses or is cancelled or surrendered.

Lapsing of licence

112.(1) A key person licence lapses if the key person licensee is a licensed employee and—

- (a) at the end of 1 year after the licence was issued, the licensee has not been employed (whether as a key employee or in another capacity) by an authority operator; or
- (b) the licensee ceases to be employed by an authority operator and is not re-employed by the same or another authority operator within the following 3 months.

(2) A key person licence lapses if the key person licensee is licensed as a key operator and ceases to be a key operator.

Division 4—Suitability of persons

Suitability of applicants and key person licensees

113.(1) This section applies to the chief executive in deciding whether an applicant for a key person licence (the “**involved person**”) or a key person licensee (also the “**involved person**”) is a suitable person to hold a key person licence.

(2) The chief executive may have regard to the following matters—

- (a) the involved person's character;
- (b) the involved person's current financial position and financial background;
- (c) the involved person's general suitability to carry out functions as a key employee or to be a key operator for an authority operator.

Division 5—Dealings affecting key person licences

Changing conditions of licence

114.(1) The chief executive may decide to change the conditions of a key person licence if the chief executive considers it is necessary or desirable to make the change for the proper conduct of approved wagering or otherwise in the public interest.

(2) If the chief executive decides to change the conditions, the chief executive must promptly—

- (a) give the key person licensee an information notice about the decision; and
- (b) if the chief executive believes the key person licensee is currently an employee or key operator of an authority operator—give a copy of the information notice to the authority operator.

(3) A change of the conditions—

- (a) takes effect—
 - (i) on the day the information notice for the change is given to the key person licensee; or
 - (ii) if a later day of effect is stated in the notice—on the later day; and
- (b) does not depend on the key person licence being amended to record the change, or a replacement licence recording the change being issued.

(4) The power of the chief executive to change the conditions of a key person licence includes the power to add conditions to an unconditional licence.

Recording change of conditions

115.(1) The key person licensee must return the key person licence to the chief executive within 7 days of receiving the information notice notifying a change of conditions, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) On receiving the key person licence, the chief executive must—
- (a) amend the licence in an appropriate way and return the amended licence to the key person licensee; or
 - (b) if the chief executive does not consider it practicable to amend the licence—issue a replacement key person licence, incorporating the changed conditions, to the key person licensee.

Replacement of licence

116.(1) A key person licensee may apply to the chief executive for the replacement of the key person licence if the licence has been lost, stolen, destroyed or damaged.

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

(3) The chief executive must grant an application if the chief executive is satisfied the licence has been lost, stolen or destroyed, or damaged in a way to require its replacement.

(4) If the chief executive decides to grant an application, the chief executive must, on payment of the fee prescribed under a regulation, issue another key person licence to the applicant to replace the lost, stolen, destroyed or damaged licence.

(5) If the chief executive decides to refuse to grant an application, the chief executive must promptly—

- (a) give the key person licensee an information notice about the decision; and
- (b) if the chief executive believes the key person licensee is currently an employee or key operator of an authority operator—give a copy of the information notice to the authority operator.

Surrender of licence

117.(1) A key person licensee may surrender the key person licence by written notice given to the chief executive.

(2) The surrender takes effect—

- (a) on the day the notice is given to the chief executive; or
- (b) if a later day of effect is stated in the notice—on the later day.

(3) If the chief executive believes the key person licensee was, at the time of the surrender, an employee or key operator of an authority operator, the chief executive must promptly give written notice of the surrender to the authority operator.

Division 6—Investigation of key person licensees**Audit program**

118.(1) The chief executive may approve an audit program for investigating key person licensees.

(2) The chief executive is responsible for ensuring an investigation of a key person licensee under an approved audit program is conducted in accordance with the program.

Investigation of suitability of key person licensees

119.(1) The chief executive may investigate a key person licensee to help the chief executive decide whether the licensee is a suitable person to hold a key person licence.²

(2) However, the chief executive may investigate a key person licensee only if—

- (a) the chief executive reasonably suspects the licensee is not a suitable person to hold a key person licence; or
- (b) the investigation is made under an audit program for key person

² Criteria for deciding a person's suitability to hold a key person licence are dealt with in section 113.

licensees approved by the chief executive.

(3) Also, a key person licensee may be investigated under an audit program only if there has not been an investigation of the licensee under the program within the preceding 2 years.

Requirement to give information or document for investigation

120.(1) In investigating a key person licensee, the chief executive may, by written notice given to the licensee, require the licensee to give the chief executive information or a document the chief executive considers relevant to the investigation.

(2) When making the requirement, the chief executive must warn the key person licensee it is an offence to fail to comply with the requirement, unless the licensee has a reasonable excuse.

Failure to give information or document for investigation

121.(1) A key person licensee of whom a requirement is made under section 120 must comply with the requirement, unless the licensee has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) It is a reasonable excuse for the key person licensee not to comply with the requirement if complying with the requirement might tend to incriminate the licensee.

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

Criminal history report for investigation

122.(1) If the chief executive in investigating a key person licensee under section 119 asks the commissioner of the police service for a written report on the licensee's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

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

Division 7—Suspension and cancellation of key person licences

Grounds for suspension or cancellation

123.(1) A ground for suspending or cancelling a key person licence exists if the key person licensee—

- (a) is not a suitable person to hold a key person licence;³ or
- (b) is convicted of an offence against this Act or a gaming Act; or
- (c) is convicted of an indictable offence; or
- (d) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act); or
- (e) contravenes a condition of the licence.

(2) Also, a ground for suspending or cancelling a key person licence exists if the licence was issued because of a materially false or misleading representation or declaration.

Show cause notice

124.(1) If the chief executive believes a ground exists to suspend or cancel a key person licence, the chief executive must—

- (a) give the key person licensee a written notice (a “**show cause notice**”); or
- (b) take action under section 128 if the chief executive considers—
 - (i) a matter relating to the ground for suspension or cancellation

³ Criteria for deciding a person's suitability to hold a key person licence are dealt with in section 113.

is reasonably capable of being rectified; and

- (ii) that it is appropriate to give the key person licensee an opportunity to rectify the matter without giving a show cause notice.

(2) The show cause notice must—

- (a) state the action (the **“proposed action”**) the chief executive proposes taking under this division; and
- (b) state the grounds for the proposed action; and
- (c) outline the facts and circumstances forming the basis for the grounds; and
- (d) if the proposed action is suspension of the licence—state the proposed suspension period; and
- (e) invite the key person licensee to show within a stated period (the **“show cause period”**) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the key person licensee.

(4) If the chief executive believes the key person licensee is currently an employee or key operator of an authority operator, the chief executive must promptly give a copy of the show cause notice to the authority operator.

Representations about show cause notice

125.(1) The key person licensee, and an authority operator to whom a copy of the show cause notice is given, may make representations about the show cause notice to the chief executive in the show cause period.

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

Ending show cause process without further action

126.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the key person licence.

(2) The chief executive must not take any further action about the show cause notice.

(3) Notice that no further action about the show cause notice is to be taken must be given by the chief executive to—

- (a) the key person licensee; and
- (b) an authority operator to whom a copy of the show cause notice was given.

Censuring key person licensee

127.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive still believes a ground exists to suspend or cancel the key person licence but—

- (a) does not believe suspension or cancellation of the licence is warranted; and
- (b) does not consider it is appropriate to take action under section 128.

(2) The chief executive may, by written notice given to the key person licensee, censure the licensee for a matter relating to the ground for suspension or cancellation.

(3) The notice must state the reason for the decision to censure the key person licensee.

(4) If the chief executive believes the key person licensee is currently an employee or key operator of an authority operator, the chief executive must promptly give a copy of the notice to the authority operator.

Direction to rectify

128.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive still believes a ground exists to suspend or cancel the key person licence but considers—

- (a) a matter relating to the ground for suspension or cancellation is reasonably capable of being rectified; and
- (b) that it is appropriate to give the key person licensee an opportunity

to rectify the matter.

(2) This section also applies if the chief executive has not given a show cause notice to the key person licensee and—

- (a) the chief executive believes a ground exists to suspend or cancel the key person licence; and
- (b) the chief executive considers—
 - (i) a matter relating to the ground for suspension or cancellation is reasonably capable of being rectified; and
 - (ii) that it is appropriate to give the key person licensee an opportunity to rectify the matter without giving a show cause notice; and
- (c) the key person licensee has been given—
 - (i) written notice that the chief executive proposes to give a direction under this section; and
 - (ii) a reasonable opportunity to make representations about the proposed direction.

(3) However, this section applies because of subsection (1) only if the chief executive does not believe suspension or cancellation of the key person licence is warranted.

(4) The chief executive may, by written notice given to the key person licensee, direct the licensee to rectify the matter within the period stated in the notice.

(5) The notice must state the reason for the decision to give the direction.

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

(7) If the chief executive believes the key person licensee is currently an employee or key operator of an authority operator, the chief executive must promptly give a copy of the notice to the authority operator.

Suspension and cancellation of licence after show cause process

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

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- (a) still believes a ground exists to suspend or cancel the key person licence; and
- (b) believes suspension or cancellation of the licence is warranted.

(2) This section also applies if—

- (a) there are no accepted representations for the show cause notice; or
- (b) a direction to rectify a matter is given to the key person licensee under section 128 and the licensee fails to comply with the direction within the period stated in the relevant notice.

(3) The chief executive may—

- (a) if the proposed action stated in the show cause notice was to suspend the key person licence for a stated period—suspend the licence for not longer than the stated period; or
- (b) if the proposed action stated in the show cause notice was to cancel the key person licence—either cancel the licence or suspend it for a period.

(4) The chief executive must promptly—

- (a) give an information notice about the decision to the key person licensee; and
- (b) if the chief executive believes the key person licensee is currently an employee or key operator of an authority operator—give a copy of the information notice to the authority operator.

(5) The decision takes effect—

- (a) on the day the information notice is given to the key person licensee; or
- (b) if a later day of effect is stated in the information notice—on the later day.

(6) If the key person licence is cancelled, the person who held the licence must, within 14 days after receiving the information notice for the decision, return the licence to the chief executive.

Maximum penalty for subsection (6)—200 penalty units or 1 year's imprisonment.

Suspension of licence before show cause process

130.(1) The chief executive may suspend a key person licence immediately if the chief executive believes—

- (a) a ground exists to suspend or cancel the licence; and
- (b) it is necessary to suspend the licence immediately—
 - (i) in the public interest; or
 - (ii) to ensure the integrity of the conduct of approved wagering is not jeopardised.

(2) The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the key person licensee with a show cause notice; and
- (b) operates immediately the suspension notice is given; and
- (c) continues to operate until the show cause notice is finally dealt with.

(3) The suspension notice must state the reason for the decision to suspend the key person licence immediately.

(4) If the chief executive believes the key person licensee is currently an employee or key operator of an authority operator, the chief executive must promptly give a copy of the suspension notice to the authority operator.

Cancellation or reduction of period of suspension

131.(1) At any time a suspension of a key person licence is in force under section 129, the chief executive may, for any reason the chief executive considers appropriate—

- (a) cancel the remaining period of suspension; or
- (b) reduce the remaining period of suspension by a stated period.

(2) The chief executive must promptly give written notice of the decision to—

- (a) the key person licensee; and
- (b) if the chief executive believes the key person licensee was an

employee or key operator of an authority operator when the key person licence was suspended—the authority operator.

Division 8—Requirements about employment

Notice of start of licensed employee's employment

132. Within 7 days after a licensed employee starts employment with an authority operator, the authority operator must notify the chief executive of the start of the employment by notice in the approved form.

Maximum penalty—40 penalty units.

Returns about employees

133.(1) The chief executive may, by written notice given to an authority operator, require the operator to give a return under this section.

(2) The notice must state the time (not less than 14 days after the notice is given) for giving the return.

(3) A notice must not be given under this section within 1 month after the giving of a previous notice.

(4) If an authority operator is given a notice under subsection (1), the operator must give a return as required by this section—

- (a)** listing the licensed and unlicensed employees currently employed by the operator; and
- (b)** stating the duties performed by each employee.

Maximum penalty—40 penalty units.

(5) The return must—

- (a)** be in the approved form; and
- (b)** be given to the chief executive within the time stated in the notice.

Notice of end of licensed employee's employment

134.(1) This section applies if—

- (a) an authority operator ends the employment of a licensed employee; or
- (b) a licensed employee ends the employee's employment with an authority operator; or
- (c) a licensed employee otherwise ceases to be employed by an authority operator.

(2) Within 7 days after the licensed employee's employment with the authority operator ends, the authority operator must notify the chief executive of the end of the employment by notice in the approved form.

Maximum penalty for subsection (2)—40 penalty units.

Requirement to end licensed employee's employment

135.(1) This section applies if—

- (a) a key person licence held by a licensed employee of an authority operator is cancelled or suspended; or
- (b) a licensed employee of an authority operator ceases to hold a key person licence for some other reason.

(2) The chief executive may, by written notice given to the authority operator, require the operator to end the employee's employment as a key employee within the time stated in the notice.

(3) The authority operator must comply with the requirement.

(4) This section applies to an authority operator despite any other Act or law or any industrial award or agreement.

(5) An authority operator does not incur any liability because of action taken to comply with a requirement under this section.

Division 9—Requirements about association with key operators

Notice of end of key operator's role

136.(1) This section applies if a person who holds a key person licence as a key operator stops being a key operator for an authority operator.

(2) Within 7 days after the person stops being a key operator for the authority operator, the authority operator must notify the chief executive of that fact by notice in the approved form.

Maximum penalty—40 penalty units.

Requirement to end key operator's role

137.(1) This section applies if—

- (a) a key person licence held by a key operator for an authority operator is cancelled or suspended; or
- (b) a key operator for an authority operator ceases to hold a key person licence for some other reason.

(2) The chief executive may, by written notice given to the authority operator, require the authority operator to take any action that is necessary and reasonable to ensure the person ceases to be a key operator for the authority operator within the time stated in the notice.

(3) The authority operator must comply with the requirement.

(4) This section applies to an authority operator despite any other Act or law.

(5) An authority operator does not incur any liability because of action taken to comply with a requirement under this section.

Division 10—Other matters

False statements by applicants

138. A person must not, for an application made under this part, state anything the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

Destruction of fingerprints

139.(1) This section applies if—

- (a) the chief executive refuses to grant an application for a key person

licence; or

(b) a key person licence lapses, or is surrendered or cancelled.

(2) The chief executive must have any fingerprints of the applicant or former key person licensee taken for the application for the key person licence destroyed as soon as practicable.

PART 8—WAGERING AGENTS

Division 1—Agency agreements

Meaning of “agency agreement”

140. An “agency agreement” is an agreement between a licence operator and another person—

- (a) appointing the other person as an agent (a “wagering agent”) of the licence operator for the conduct of wagering under the relevant wagering licence; and
- (b) dealing with the wagering agent’s authority; and
- (c) stating the conditions under which the wagering agent acts as, and remains, an agent of the licence operator; and
- (d) stating other matters agreed between the wagering agent and licence operator.

Conditions for entering into agency agreement

141.(1) A licence operator may enter into an agency agreement only with—

- (a) a race club; or
- (b) a person prescribed under a regulation as a person eligible to be a wagering agent.

(2) A licence operator may enter into an agency agreement only if the

agreement—

- (a) is in a form approved by the chief executive; and
- (b) states the wagering agent's place of operation; and
- (c) includes any other provisions required by the chief executive.

(3) The chief executive may require the inclusion of a provision in an agency agreement only if the chief executive reasonably believes the inclusion of the provision is necessary and reasonable to ensure—

- (a) the integrity of the conduct of authorised wagering under the relevant wagering licence is not jeopardised in a material way; or
- (b) the public interest is not affected in an adverse and material way.

Notice of agency agreement

142. Within 7 days after entering into an agency agreement, the licence operator must inform the chief executive of the wagering agent's name and place of operation.

Amendment of agency agreement

143.(1) An agency agreement may be amended only with the written approval of the chief executive.

(2) The chief executive may withhold approval of a proposed amendment only if the chief executive considers it is necessary to do so in the public interest or to protect proper standards of integrity in the conduct of authorised wagering under the relevant wagering licence.

Returns about agents

144.(1) A licence operator must give a return as required by this section listing the operator's current wagering agents.

Maximum penalty—40 penalty units.

(2) The return must—

- (a) be in the approved form; and
- (b) be given to the chief executive at least once every 6 months.

Notice of change of agent's place of operation

145.(1) This section applies if a wagering agent changes, or proposes to change, the agent's place of operation and the licence operator becomes aware of the change or proposed change.

(2) Within 7 days after the licence operator becomes aware of the change or proposed change, the operator must inform the chief executive of the wagering agent's new, or proposed new, place of operation.

Division 2—Suitability of persons**Suitability of agents**

146. In deciding whether a wagering agent is a suitable person to be a wagering agent, the chief executive may have regard to the following matters—

- (a) the agent's character or business reputation;
- (b) the agent's current financial position and financial background;
- (c) the agent's general suitability to act as an agent for a wagering licensee.

Suitability of associates

147. In deciding whether a business or executive associate of a wagering agent is a suitable person to be associated with a wagering agent's operations, the chief executive may have regard to the following matters—

- (a) the associate's character or business reputation;
- (b) the associate's current financial position and financial background.

Division 3—Investigation of wagering agents and associates**Investigation of suitability of agents**

148.(1) The chief executive may investigate a wagering agent to help the chief executive decide whether the agent is a suitable person to be a

wagering agent.

(2) However, the chief executive may investigate a wagering agent only if the chief executive reasonably suspects the agent is not a suitable person to be a wagering agent.

Investigation of suitability of associates

149.(1) The chief executive may investigate a business or executive associate of a wagering agent to help the chief executive decide whether the associate is a suitable person to be associated with a wagering agent's operations.

(2) However, the chief executive may investigate a business or executive associate of a wagering agent only if the chief executive reasonably suspects the associate is not a suitable person to be associated with a wagering agent's operations.

Requirement to give information or document for investigation

150.(1) In investigating a wagering agent, or business or executive associate of a wagering agent, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

(2) When making the requirement, the chief executive must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to give information or document for investigation

151.(1) A person of whom a requirement is made under section 150 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) It is a reasonable excuse for the person not to comply with the

requirement if complying with the requirement might tend to incriminate the person.

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

Criminal history report for investigation

152.(1) If the chief executive in investigating a person under section 148 or 149 asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

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

Division 4—Terminating agency agreements

Grounds for directing termination

153.(1) A ground for directing the termination of an agency agreement exists if the wagering agent—

- (a) is not a suitable person to be a wagering agent; or
- (b) is not eligible to be a wagering agent for a licence operator; or
- (c) is convicted of an offence against this Act or a gaming Act; or
- (d) is convicted of an indictable offence; or
- (e) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act).

(2) Also, a ground for directing the termination of an agency agreement

exists if a business or executive associate of the wagering agent is not a suitable person to be associated with a wagering agent's operations.

Show cause notice

154.(1) This section applies if the chief executive believes—

- (a) a ground exists for directing the termination of an agency agreement; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
 - (i) the integrity of the conduct of authorised wagering under the relevant wagering licence may be jeopardised; or
 - (ii) the public interest may be affected adversely.

(2) The chief executive must give the wagering agent a written notice (a “**show cause notice**”)—

- (a) stating the chief executive proposes to take action (the “**proposed action**”) to direct the licence operator to terminate the agency agreement; and
- (b) stating the grounds for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the grounds; and
- (d) inviting the wagering agent to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the wagering agent.

(4) The chief executive must promptly give a copy of the show cause notice to the licence operator.

Representations about show cause notice

155.(1) The wagering agent, and licence operator to whom a copy of the

show cause notice is given, may make representations about the show cause notice to the chief executive in the show cause period.

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

Ending show cause process without further action

156.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to direct the termination of the agency agreement.

(2) The chief executive must not take any further action about the show cause notice.

(3) Notice that no further action about the show cause notice is to be taken must be given by the chief executive to the wagering agent and licence operator.

Censuring agent

157.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive still believes a ground exists to direct the termination of the agency agreement but—

- (a) does not believe termination of the agreement is warranted; and
- (b) does not consider it is appropriate to take action under section 158.

(2) This section also applies if the chief executive has not given a show cause notice to the wagering agent but—

- (a) believes a ground exists to direct the termination of the agency agreement; and
- (b) does not believe the giving of a show cause notice is warranted.

(3) The chief executive may, by written notice given to the wagering agent, censure the agent for a matter relating to the ground for directing the termination of the agreement.

(4) The notice must state the reason for the decision to censure the wagering agent.

(5) The chief executive must promptly give a copy of the notice to the licence operator.

Direction to rectify

158.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive still believes a ground exists to direct the termination of the agency agreement but considers—

- (a) a matter relating to the ground is reasonably capable of being rectified; and
- (b) that it is appropriate to give the wagering agent an opportunity to rectify the matter.

(2) This section also applies if the chief executive has not given a show cause notice to the wagering agent and—

- (a) the chief executive believes a ground exists to direct the termination of the agency agreement; and
- (b) the chief executive considers—
 - (i) a matter relating to the ground is reasonably capable of being rectified; and
 - (ii) that it is appropriate to give the wagering agent an opportunity to rectify the matter without giving a show cause notice; and
- (c) the wagering agent and licence operator have been given—
 - (i) written notice that the chief executive proposes to give a direction under this section; and
 - (ii) a reasonable opportunity to make representations about the proposed direction.

(3) However, this section applies because of subsection (1) only if the chief executive does not have the belief mentioned in section 159(1).

(4) The chief executive may, by written notice given to the wagering agent, direct the agent to rectify the matter within the period stated in the notice.

(5) The notice must state the reason for the decision to give the direction.

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

(7) The chief executive must promptly give a copy of the notice to the licence operator.

(8) The wagering agent must comply with a direction given under this section.

Direction to terminate agreement

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

- (a) a ground exists to direct the termination of the agency agreement; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
 - (i) the integrity of the conduct of authorised wagering under the relevant wagering licence may be jeopardised; or
 - (ii) the public interest may be affected adversely.

(2) This section also applies if—

- (a) after considering the accepted representations for the show cause notice, the chief executive directs the wagering agent to rectify a matter and the agent fails to comply with the direction within the period stated in the relevant notice; or
- (b) there are no accepted representations for the show cause notice.

(3) The chief executive may, by written notice given to the licence operator, direct the operator to terminate the agreement within the time stated in the notice.

(4) If the chief executive gives a direction under this section, the chief executive must promptly give an information notice for the decision to—

- (a) the licence operator; and
- (b) the wagering agent affected by the decision.

Termination of agreement on direction

160.(1) If the chief executive directs a licence operator to terminate an agency agreement, the operator must—

- (a) terminate the agreement within the time stated in the relevant notice; and
- (b) notify the chief executive of the termination in the approved form within 7 days after terminating the agreement.

(2) If the licence operator does not terminate the agency agreement as required by subsection (1), the agreement is terminated by this Act.

(3) The State does not incur any liability if an agency agreement is terminated by a licence operator under subsection (1) or by this Act.

(4) A licence operator does not incur any liability because the operator terminates an agency agreement under subsection (1).

Termination of agreement without direction

161.(1) This section applies if an agency agreement is terminated otherwise than because of a direction to terminate the agreement given to the licence operator by the chief executive.

(2) The licence operator must notify the chief executive in writing of the termination within 7 days after the agreement is terminated.

Maximum penalty for subsection (2)—40 penalty units.

Suspending agent's operations

162.(1) The chief executive may suspend the wagering agent's operations if the chief executive believes—

- (a) a ground exists to direct the termination of the agency agreement; and
- (b) it is necessary to suspend the operations—

- (i) in the public interest; or
- (ii) to ensure the integrity of the conduct of authorised wagering under the relevant wagering licence is not jeopardised.

(2) The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the wagering agent with a show cause notice; and
- (b) operates immediately the suspension notice is given; and
- (c) continues to operate until the show cause notice is finally dealt with.

(3) The suspension notice must state the reason for the decision to suspend the wagering agent’s operations.

(4) The chief executive must promptly give a copy of the suspension notice to the licence operator.

(5) A wagering agent must not carry on operations while the agent’s operations are suspended.

Maximum penalty for subsection (5)—200 penalty units or 2 years imprisonment.

PART 9—FINANCIAL

Division 1—Commissions and dividends

Commission

163.(1) An authority operator may deduct, or cause to be deducted, as commission, out of the total amount invested in each totalisator conducted by the authority operator on 1 or more events or contingencies, an amount that is not more than the amount calculated under a regulation.

(1A) Without limiting the *Statutory Instruments Act 1992*, section 25, a regulation under subsection (1) may apply differently for different events or

contingencies.⁴

(2) An authority operator must not, under subsection (1), deduct, or cause to be deducted, for a financial year, out of the total amount invested in the year in totalisators conducted by the authority operator on events or contingencies, an amount that is more than the amount calculated under a regulation.

Dividends

164.(1) An authority operator, after deducting the operator's commissions under section 163, must pay by way of dividends all amounts invested in totalisators conducted by the authority operator on events or contingencies.

(2) In calculating a dividend—

- (a) a fraction of 10c less than 5c is to be disregarded; and
- (b) a fraction of 10c equal to or greater than 5c is to be taken to be 5c.

(3) An amount that, apart from subsection (2), would be required to be included in a dividend (an “**unpaid fraction**”) may be retained by the authority operator.

Division 2—Taxes and fees

Liability to wagering tax

165. An authority holder must pay a tax (a “**wagering tax**”) to the chief executive for each month for the wagering authority.

Calculation and payment of wagering tax

166.(1) For wagering conducted by means of a totalisator, the amount of wagering tax to be paid for a month by the authority holder is the sum of the following—

⁴ *Statutory Instruments Act 1992*, section 25 (Statutory instrument may make different provision for different categories)

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- (a) the percentage prescribed under a regulation of the commissions deducted under section 163(1) for the month by the designated person;
- (b) the percentage prescribed under a regulation of the amounts retained under section 213(2) in the month by the designated person.

(2) For wagering conducted on a fixed odds basis, the amount of wagering tax to be paid for a month by the authority holder is the percentage prescribed under a regulation of the designated person's gross revenue for the month.

(3) The wagering tax is to be paid in accordance with a regulation.

Returns for calculation of wagering tax

167.(1) An authority holder must give the chief executive returns as required under a regulation giving the details required under the regulation for the calculation of wagering tax.

(2) A return must be in the approved form.

Liability to wagering authority fee

168.(1) An authority holder must give consideration (the “**wagering authority fee**”) for the wagering authority.

(2) The wagering authority fee is to be calculated and paid or satisfied under the conditions of the wagering authority.

Wagering authority administration fee

168A.(1) The conditions of a wagering authority may provide for the payment of a fee (a “**wagering authority administration fee**”) by the authority holder to cover in whole or part the cost to the State of administering this Act in relation to the authority.

(2) The wagering authority administration fee is to be calculated and paid or satisfied under the conditions of the wagering authority.

Application of wagering tax, authority fee and authority administration fee

169.(1) The chief executive must, for an amount of wagering tax or wagering authority fee received under this part—

- (a) pay a proportion of the amount prescribed under a regulation into a fund established for community benefit under a gaming Act and stated in the regulation; and
- (b) pay any balance of the amount into the consolidated fund.

(2) The chief executive must pay the amount of wagering authority administration fee received under this part into the consolidated fund.

Penalty for late payment

170.(1) An authority holder must pay to the chief executive a penalty on an amount or value of wagering tax, wagering authority fee or wagering authority administration fee outstanding (the “**unpaid amount**”) as at the end of the period allowed for payment.

(2) The penalty is the percentage prescribed under a regulation of the unpaid amount.

(3) An additional penalty is payable by the authority holder to the chief executive for any part of the unpaid amount, and any previous penalty, remaining unpaid—

- (a) 1 month after the end of the period allowed for payment of the unpaid amount; and
- (b) at the end of each succeeding month starting—
 - (i) on the day of the month corresponding to the day mentioned in paragraph (a); or
 - (ii) if there is no corresponding day—on the first day of the following month.

(4) The additional penalty is the percentage prescribed under a regulation of each unpaid or other amount for which the penalty is payable.

(5) A penalty, or a part of a penalty, is not payable if the chief executive, for a reason the chief executive considers appropriate, decides the penalty, or the part of the penalty, need not be paid.

Recovery of amounts

171. An amount of wagering tax, wagering authority fee, wagering authority administration fee or penalty payable under this part is a debt payable to the State and may be recovered by action in a court of competent jurisdiction.

Revenue offences

172.(1) An authority holder must not—

- (a) evade the payment of an amount payable by the authority holder as wagering tax, wagering authority fee or wagering authority administration fee; or
- (b) give the chief executive a return under section 167 containing information the authority holder knows to be false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) Subsection (1)(b) does not apply to an authority holder if the holder, when giving the return—

- (a) informs the chief executive in writing, to the best of the authority holder's ability, how the return is false, misleading or incomplete; and
- (b) if the authority holder has, or can reasonably obtain, the correct information—gives the correct information.

(3) It is enough for a complaint for an offence against subsection (1) involving the giving of a return to state that the return was false, misleading or incomplete to the defendant's knowledge.

PART 10—COMPLIANCE REQUIREMENTS

Division 1—Control systems

Approved control system required for authorised wagering

173.(1) An authority operator may conduct authorised wagering under the wagering authority only if—

- (a) the operator has an approved control system for the wagering; and
- (b) the wagering is conducted under the system.

(2) An approved control system of a licence operator must relate to the wagering agents, or each class of wagering agents, appointed by the licence operator.

(3) An authority operator may change the operator’s approved control system only—

- (a) if directed by, or with the approval of, the chief executive; and
- (b) in the way directed or approved by the chief executive.

Control system submission

174.(1) An authority operator may make a submission (a “**control system submission**”) to the chief executive for approval of the operator’s proposed control system.

(2) A control system submission must be in writing and be made—

- (a) at least 90 days before the authority operator proposes to start conducting authorised wagering under the wagering authority; or
- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—by the time allowed by the chief executive.

(3) A control system submission must describe and explain the authority operator’s proposed control system.

(4) In particular, a control system submission must include information about—

- (a) the following things to be used for the conduct of wagering—
 - (i) accounting systems and procedures and chart of accounts;
 - (ii) administrative systems and procedures;
 - (iii) computer software;
 - (iv) standard forms and terms; and
- (b) the general procedures to be followed for the conduct of wagering; and
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of wagering; and
- (d) the procedures for recording bets and paying winning bets; and
- (e) the procedures for using and maintaining security facilities.

(5) A control system submission may include information additional to the information mentioned in subsection (4).

Control system (change) submission

175.(1) An authority operator may make a submission (a “**control system (change) submission**”) to the chief executive for approval to change the holder’s approved control system.

(2) A control system (change) submission must be in writing and be made—

- (a) at least 90 days before the authority operator proposes to start conducting authorised wagering under the approved control system, as proposed to be changed; or
- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—by the time allowed by the chief executive.

(3) A control system (change) submission must contain particulars of the proposed changes of the authority operator’s approved control system.

Dealing with submissions

176.(1) This section applies to a control system submission or control system (change) submission made to the chief executive by an authority operator.

(2) The chief executive must consider the submission and either approve, or refuse to approve, the authority operator's proposed control system or the proposed change of the authority operator's approved control system.

(3) In considering the submission, the chief executive may, by written notice given to the authority operator, require the operator to give the chief executive further information about the submission that is necessary and reasonable to help the chief executive make a decision about the submission.

(4) In considering whether to give an approval, the chief executive must have regard to the following issues—

- (a) whether the submission satisfies the requirements under this division for the submission;
- (b) whether the authority operator's proposed control system, or approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the conduct of wagering.

(5) The chief executive may refuse to give an approval if the authority operator fails to comply with a requirement under subsection (3) without a reasonable excuse.

(6) The chief executive must promptly give the authority operator a written notice of the chief executive's decision to give, or to refuse to give, an approval.

(7) If the chief executive refuses to give an approval, the notice of the decision—

- (a) must state the reasons for the decision; and
- (b) if the chief executive believes the submission can easily be changed to enable the chief executive to give an approval—must also—
 - (i) explain how the submission may be changed; and

- (ii) invite the authority operator to resubmit the submission after making the appropriate changes.

Direction to change approved control system

177.(1) The chief executive may, by written notice given to an authority operator, direct the operator to change the operator's approved control system within the time, and in the way, stated in the notice.

(2) The authority operator must comply with the direction.

(3) If the authority operator does not comply with the direction, at the end of the time stated in the notice the operator's approved control system is taken to have been changed in the way stated in the notice.

Division 2—Wagering records

Notices about keeping wagering records

178.(1) The chief executive may, by written notice given to an authority operator—

- (a) approve a place (the **“approved place”**) nominated by the operator as the place where the operator is required to keep the operator's wagering records; or
- (b) specify a wagering record of the operator (an **“exempt wagering record”**) that is not required to be kept at the approved place; or
- (c) specify a wagering record of the operator that may be kept temporarily at a place other than the approved place, and the period for which, or the circumstances in which, the record may be kept at the other place; or
- (d) approve the keeping of information contained in a wagering record in a way different from the way the information was kept when the record was being used by the operator; or
- (e) approve the destruction of a wagering record the chief executive considers need not be kept.

(2) The chief executive may specify a wagering record for

subsection (1)(b) only if the chief executive considers there is sufficient reason for the record to be kept at a place other than the approved place.

(3) A wagering record mentioned in subsection (1)(c) is also an “**exempt wagering record**”—

- (a) for the period stated in the notice; or
- (b) while the circumstances stated in the notice exist.

(4) The exercise of the chief executive’s power under subsection (1)(d) or (e) is subject to any other law about the retention or destruction of the wagering record.

Wagering records to be kept at certain place

179.(1) An authority operator must keep the operator’s wagering records at—

- (a) the operator’s principal place of business in the State or, if the operator is a corporation and has its registered office in the State, its registered office; or
- (b) an approved place for the records.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to an exempt wagering record.

Wagering records to be kept for required period

180.(1) An authority operator must keep a wagering record for 5 years after the end of the transaction to which the record relates.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to a wagering record if—

- (a) the information previously contained in the record is kept in another way under an approval of the chief executive; or
- (b) the record has been destroyed under an approval of the chief executive.

(3) Subsection (1) has effect subject to any other law about the retention or destruction of the wagering record.

Division 3—Financial accounts, statements and reports**Keeping of accounts**

181. An authority operator must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the operations of the operator conducted under the wagering authority; and
- (b) keep the accounting records in a way that allows—
 - (i) true and fair financial statements and accounts to be prepared from time to time; and
 - (ii) the financial statements and accounts to be conveniently and properly audited.

Maximum penalty—40 penalty units.

Preparation of financial statements and accounts

182.(1) An authority operator must prepare financial statements and accounts as required by this section giving a true and fair view of the financial operations of the operator conducted under the wagering authority.

Maximum penalty—40 penalty units.

(2) The financial statements and accounts must include the following—

- (a) trading accounts, if applicable, for each financial year;
- (b) profit and loss accounts for each financial year;
- (c) a balance sheet as at the end of each financial year.

Submission of reports

183.(1) An authority operator must give reports to the chief executive as required by this section about the operations of the operator conducted under the wagering authority.

Maximum penalty—40 penalty units.

(2) The reports must be given at the times stated in a written notice given

to the authority operator by the chief executive.

(3) A report must be in the approved form.

(4) The chief executive may, by written notice given to an authority operator, require the operator to give the chief executive further information about a report within the time stated in the notice to help the chief executive acquire a proper appreciation of the operator's operations.

(5) An authority operator must comply with a requirement under subsection (4) within the time stated in the notice, unless the operator has a reasonable excuse.

Maximum penalty—40 penalty units.

(6) An authority operator must not give the chief executive a report containing information, or further information about a report, the operator knows to be false, misleading or incomplete in a material particular.

Maximum penalty—100 penalty units.

(7) Subsection (6) does not apply to an authority operator if the operator, when giving the report or further information—

- (a) informs the chief executive in writing, to the best of the operator's ability, how the return or information is false, misleading or incomplete; and
- (b) if the operator has, or can reasonably obtain, the correct information—gives the correct information.

(8) It is enough for a complaint for an offence against subsection (6) to state that the report or information was false, misleading or incomplete to the defendant's knowledge.

Division 4—Financial institution accounts

Keeping of accounts

184. An authority operator must keep a financial institution account, or financial institution accounts, approved by the chief executive for use for all banking or similar transactions for the operations of the operator conducted

under the wagering authority.

Maximum penalty—40 penalty units.

Use of accounts

185. An authority operator must not use a financial institution account approved by the chief executive other than for a purpose for which it is approved.

Maximum penalty—40 penalty units.

Division 5—Audit

Exempt authority operators

186.(1) The chief executive may declare a permit holder to be an exempt authority operator for this division.

(2) The chief executive may make a declaration only if the chief executive considers—

- (a) the permit holder's operations conducted under the oncourse wagering permit are not significant; and
- (b) in particular, the extent of wagering conducted does not warrant an audit of any of the permit holder's documents relating to the operations.

(3) A declaration must be made by written notice given to the permit holder.

Audit of operations

187.(1) As soon as practicable after the end of a financial year, an affected authority operator must, at the operator's own expense, cause the operator's books, accounts and financial statements for the operator's operations conducted under the wagering authority for the financial year to be audited by—

- (a) a registered company auditor; or

- (b) if the affected authority operator is a permit holder—an approved accountant.

Maximum penalty—40 penalty units.

(2) In this section—

“affected authority operator” means an authority operator who has not been declared by the chief executive under section 186 to be an exempt authority operator for this division.

Completion of audit

188.(1) The auditor must—

- (a) complete the audit within 3 months after the end of the financial year; and
- (b) immediately after completion of the audit, give a copy of the audit report to the chief executive and authority operator.

Maximum penalty—40 penalty units.

(2) Subsection (1)(a) does not apply to the auditor if, in the circumstances, it would be unreasonable to require the auditor to comply with the paragraph and the auditor completes the audit as soon as practicable.

Further information following audit

189.(1) On receiving a copy of the audit report, the chief executive may, by written notice given to the authority operator, require the operator to give the chief executive further information about a matter relating to the operations of the operator mentioned in the audit report.

(2) An authority operator must comply with a requirement under subsection (1) within the time stated in the notice, unless the operator has a reasonable excuse.

Maximum penalty for subsection (2)—40 penalty units.

PART 11—CONDUCT OF APPROVED WAGERING

Division 1—Agreements

Meaning of “ancillary wagering agreement”

190.(1) An “**ancillary wagering agreement**” is an agreement, contract, lease or arrangement (whether written or unwritten) under which a person agrees to provide to an authority operator a thing or service in return for a direct or indirect interest in, or percentage or share of—

- (a) amounts received by the operator in the conduct of approved wagering; or
- (b) the revenue, profit or earnings derived by the operator in the conduct of approved wagering.

(2) However, an “**ancillary wagering agreement**” does not include—

- (a) an agency agreement; or
- (b) a wagering management agreement; or
- (c) a totalisator supply agreement.

Meaning of “related agreement”

191.(1) A “**related agreement**” is—

- (a) an ancillary wagering agreement; or
- (b) another agreement, contract, lease or arrangement (whether written or unwritten) entered into between an authority operator and another person relating to the operator’s operations.

(2) However, a “**related agreement**” does not include a wagering management agreement.

Entering into ancillary wagering agreements

192. An authority operator must not enter into, or be a party to, an

ancillary wagering agreement without the written approval of the Minister.

Maximum penalty—40 penalty units.

Approval for ancillary wagering agreement

193.(1) An authority operator may apply to the Minister for approval to enter into an ancillary wagering agreement.

(2) An application must—

(a) be in writing; and

(b) if it is proposed the agreement will be in writing—be accompanied by a copy of the proposed agreement.

(3) The Minister must consider an application for approval and either give, or refuse to give, the approval.

(4) However, the Minister may give an approval only if the Minister considers it would be appropriate or desirable in all the circumstances for the authority operator to enter into the agreement.

(5) The Minister must promptly give the authority operator written notice of the Minister's decision.

Review of related agreements

194.(1) The Minister may, by written notice given to an authority operator, require the operator to give to the Minister, within the time stated in the notice—

(a) the information stated in the notice about a related agreement to which the authority operator is a party; and

(b) if the agreement is in writing—a copy of the agreement.

(2) Without limiting subsection (1), the information the Minister may require to be given about the agreement includes the following—

(a) the names of the parties;

(b) a description of any property, goods or other things, or any services, supplied or to be supplied;

(c) the value or nature of the consideration;

(d) the term of the agreement.

(3) The authority operator must comply with the requirement within the time stated in the notice, unless the operator has a reasonable excuse.

Show cause notice for related agreement

195.(1) This section applies if, after considering the information given to the Minister about the related agreement and, if appropriate, the contents of the agreement, the Minister believes the continuance of the agreement—

- (a) may jeopardise the integrity of the conduct of approved wagering; or
- (b) may affect the public interest adversely.

(2) This section also applies if—

- (a) the authority operator does not comply with the requirement mentioned in section 194; and
- (b) the Minister has the belief mentioned in subsection (1).

(3) The Minister must give the authority operator a written notice (a “**show cause notice**”)—

- (a) stating the Minister proposes to take action to direct the termination of the agreement (the “**proposed action**”); and
- (b) stating the grounds for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the grounds; and
- (d) inviting the operator to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(4) The show cause period must be a period ending at least 21 days after the show cause notice is given to the authority operator.

(5) The Minister must promptly give a copy of the show cause notice to each other person (an “**interested person**”) who is a party to the agreement.

Representations about show cause notice

196.(1) The authority operator and each interested person may make representations about the show cause notice to the Minister in the show cause period.

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

Direction to terminate related agreement

197.(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes the continuance of the agreement—

- (a) may jeopardise the integrity of the conduct of approved wagering;
or
- (b) may affect the public interest adversely.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The Minister may, by written notice given to each of the parties to the related agreement, direct the termination of the agreement.

(4) The notice must state—

- (a) the reason for the decision to direct the termination of the related agreement; and
- (b) the time within which the agreement is required to be terminated.

(5) If the agreement is not terminated within the time stated in the notice, it is terminated at the end of the time by this Act.

(6) The termination of the agreement under the direction or by this Act does not affect any rights or liabilities acquired or incurred by a party to the agreement before the termination.

(7) The State does not incur any liability if the agreement is terminated under the direction or by this Act.

(8) A party to the agreement does not incur any liability for breach of the agreement because the agreement is terminated under the direction.

Division 2—Operations of authority operators and wagering agents***Subdivision 1—Rules*****Making rules**

198.(1) The Minister may make rules about approved wagering.

(2) Rules are subordinate legislation.

(3) An authority operator may make submissions to the Minister about a rule or proposed rule.

Application of rules

199. The rules are binding on an authority operator and a person betting or intending to bet with an authority operator for authorised wagering conducted under the wagering authority.

Availability of rules for public inspection

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

General responsibilities of authority operators

201. An authority operator, in doing an act for the conduct of approved wagering must ensure the act is done under the rules.

Maximum penalty—40 penalty units.

Responsibility of licence operator for acts of agents

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

Maximum penalty—40 penalty units.

Responsibility of wagering agent for agent's acts

203. A wagering agent, in doing an act for the conduct of approved wagering, must ensure the act is done under the rules.

Maximum penalty—40 penalty units.

*Subdivision 2—Other matters***Meaning of “totalisator supply agreement”**

204. A “**totalisator supply agreement**” is an agreement, contract, lease or arrangement (whether written or unwritten) under which a person (the “**totalisator supplier**”) agrees to install, supply or operate regulated wagering equipment for or to—

- (a) a permit holder (the “**designated operator**”); or
- (b) a wagering agent that is a race club (also “**the designated operator**”).

Places of operation

205.(1) An authority operator must not carry on the operator's operations at a place other than a place that—

- (a) the operator has, by notice given to the chief executive, nominated as being the operator's proposed place of operation; and
- (b) has been approved by the chief executive.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A wagering agent must not carry on the agent's operations at a place other than a place that—

- (a) is of a kind prescribed under a regulation as appropriate for a wagering agent; and
- (b) is stated in the agency agreement as the agent's place of operation.

Maximum penalty for subsection (2)—200 penalty units or 2 years imprisonment.

Acceptance of wagers

206. A licence operator, in carrying on the operator's operations, may accept wagers by phone or another form of communication.

Use of regulated wagering equipment

207.(1) A general operator must not use regulated wagering equipment for the conduct of approved wagering unless the equipment is approved wagering equipment.

Maximum penalty—40 penalty units.

(2) A general operator must not modify approved wagering equipment unless the modification is approved by the chief executive in writing.

Maximum penalty—40 penalty units.

(3) A totalisator supplier must not, under a totalisator supply agreement, install, supply or operate regulated wagering equipment for or to a designated operator unless the equipment is approved wagering equipment.

Maximum penalty—40 penalty units.

(4) A designated operator may use approved wagering equipment installed, supplied or operated for or to the operator by a person who is not a licence operator.

Approval of regulated wagering equipment

208.(1) An authority operator may apply to the chief executive—

- (a) for an approval for regulated wagering equipment proposed to be used in the conduct of approved wagering; or
- (b) for approval to modify approved wagering equipment used in the conduct of approved wagering.

(2) An application must—

- (a) be in the approved form; and
- (b) be accompanied by the application fee prescribed under a regulation.

(3) The chief executive must—

- (a) consider the application; and
- (b) if the chief executive believes it is necessary for the chief executive to evaluate the equipment, or the equipment as proposed to be modified, to decide the application—carry out the evaluation as soon as practicable; and
- (c) after completing the consideration of the application and carrying out any necessary evaluation—approve, or refuse to approve, the equipment or modification.

(4) Despite subsection (3)(b) and (c), the chief executive is not required to carry out the evaluation, or decide the application, unless the fee prescribed under a regulation for the evaluation has been paid.

(5) The chief executive must promptly give the authority operator a written notice—

- (a) setting out the chief executive's decision; and
- (b) if the decision is to refuse to give an approval—stating the reasons for the decision.

Extending credit

209. A general operator must not make a loan or extend credit in any form to a person to enable the person or another person to take part in approved wagering.

Maximum penalty—200 penalty units or 2 years imprisonment.

Advertising wagering

210. A person who advertises approved wagering must take reasonable steps to ensure the advertisement—

- (a) is not indecent or offensive; and
- (b) is based on fact; and
- (c) is not false, deceptive or misleading in a material particular.

Directions about advertising

211.(1) If the chief executive reasonably believes an advertisement about approved wagering does not comply with section 210, the chief executive may direct the person appearing to be responsible for authorising the advertisement to take the appropriate steps—

- (a) to stop the advertisement being shown; or
- (b) to change the advertisement.

(2) The direction must—

- (a) be in writing; and
- (b) state the grounds for the direction; and
- (c) for a direction to change the advertisement—state how the advertisement is to be changed.

(3) A person to whom a direction is given must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

Inquiries about complaints

212.(1) Subsection (2) applies if a complaint is made to the chief executive by a person about the conduct of approved wagering (including the conduct of a wagering agent's operations).

(2) The chief executive must promptly—

- (a) if the chief executive believes the complaint has not previously been referred to the relevant authority operator and that it is appropriate for the complaint to be referred to the operator—refer the complaint to the authority operator; or
- (b) if paragraph (a) does not apply—inquire into the complaint.

(3) The chief executive must promptly advise the complainant of—

- (a) if the chief executive acts under subsection (2)(a)—the decision to refer the complaint to the authority operator; or
- (b) if the chief executive acts under subsection (2)(b)—the result of the inquiry.

(4) Subsection (5) applies if—

- (a) a complaint is made to an authority operator by a person about—
 - (i) the conduct of authorised wagering by the authority operator under the wagering authority; or
 - (ii) the operations of a wagering agent of the authority operator; or
- (b) a complaint is referred to an authority operator under subsection (2).

(5) The authority operator must, within 21 days after the complaint is received by, or referred to, the operator—

- (a) inquire into the complaint; and
- (b) give written notice of the result of the inquiry—
 - (i) to the complainant; and
 - (ii) if the complaint was referred to the operator by the chief executive—to the chief executive.

(6) A complaint must—

- (a) be in writing; and
- (b) state the complainant's name and address; and
- (c) give appropriate details of the complaint.

Claims for payment of winning bets**213.(1)** A claim for payment of a winning bet made in relation to approved wagering—

- (a) must be made within 1 year after the holding of the event or the happening of the contingency to which the bet relates; and
- (b) must be accompanied by the ticket for the winning bet, unless the claim is made within the period allowed under the rules for making claims without production of a ticket.

(2) An amount for a winning bet not claimed within the period of 1 year mentioned in subsection (1) may be retained by the authority operator who

conducted the wagering.

(3) This section has effect despite the *Public Trustee Act 1978*, part 8.5

Claims for payment

214.(1) If a claim for payment of a winning bet is made to a general operator, the operator must—

- (a) pay the relevant winnings to the claimant; or
- (b) if the operator disputes the claim—immediately try to resolve the claim.

(2) If a wagering agent, for a claim for payment made to the agent, disputes the claim and is not able to resolve the claim, the agent must refer the claim to the licence operator.

(3) If an authority operator, for a claim for payment made or referred to the operator, disputes the claim and is not able to resolve the claim, the operator must, by written notice (a “**claim result notice**”) given to the claimant, promptly inform the claimant—

- (a) of the operator’s decision on the claim; and
- (b) that the person may, within 10 days of receiving the notice, ask the chief executive to review the decision.

(4) If the claim is not resolved, the claimant may ask the chief executive—

- (a) if the claimant received a claim result notice—to review the authority operator’s decision; or
- (b) if the claimant did not receive a claim result notice—to resolve the claim.

(5) A request to the chief executive under subsection (4)—

- (a) must be in the approved form; and
- (b) if the claimant received a claim result notice—must be made within 10 days after receiving the notice.

⁵ *Public Trustee Act 1978*, part 8 (Unclaimed property)

(6) If a request is made to the chief executive, the chief executive must deal with the request in the way prescribed under a regulation.

Banning excessive gamblers

215.(1) This section applies if a general operator reasonably believes the peace and happiness of a person's family are endangered because of excessive wagering by the person.

(2) For 1 month after the general operator first forms the belief, the operator must not allow the person, or another person the operator reasonably suspects is acting for the person, to take part in approved wagering at a place at which the operator is entitled to carry on the operator's operations.

Reporting improper behaviour

216.(1) This section applies if a general operator becomes aware, or reasonably suspects, that—

- (a) a person, by a dishonest act, has obtained a benefit for the person or another person in relation to approved wagering involving the operator; or
- (b) there has been a contravention of this Act, in relation to approved wagering involving the operator, by a wagering agent, an employee of a wagering agent or another person.

(2) Within 3 days of becoming aware of, or suspecting, the dishonest act or contravention, the general operator must give the chief executive a written notice advising the chief executive of all facts known to the operator about the matter.

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) A person must not mistreat another person because—

- (a) the other person has given, or may give, a notice under this section; or
- (b) the person believes the other person has given, or may give, a notice under this section.

Maximum penalty—200 penalty units or 2 years imprisonment.

(4) In this section—

“**dishonest act**” means fraud, misrepresentation or theft.

“**mistreat**” a person means—

- (a) end the person’s employment or prejudice the career of the person in another way; or
- (b) prejudice the safety of the person; or
- (c) intimidate or harass the person.

Division 3—Wagering offences

Cheating

217.(1) A person must not, in relation to approved wagering, dishonestly obtain a benefit by—

- (a) an act, practice or scheme; or
- (b) the use of a thing.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) For subsection (1), a person obtains a benefit if the person obtains for the person or another person, or induces a person to deliver, give or credit to the person or another person, any money, benefit, advantage, valuable consideration or security.

Forgery and deception

218.(1) A person must not—

- (a) forge an official wagering document; or
- (b) knowingly utter a forged official wagering document.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not connive at the commission of an offence against subsection (1).

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) A person forges a document if the person makes a false document, knowing it to be false, with the intention that—

- (a) it may be used or acted on to the prejudice or benefit of a person; or
- (b) a person may, in the belief that it is genuine, be induced to do, or refrain from doing, something.

(4) Without limiting subsection (3), a genuine document may become a false document because of—

- (a) an alteration of the document in a material respect; or
- (b) an addition to the body of the document in a material respect; or
- (c) an addition of a false date, signature, attestation, seal or other material matter.

(5) A person utters a document if the person—

- (a) uses or deals with the document; or
- (b) attempts to use or deal with the document; or
- (c) induces a person to use, deal with or act on the document; or
- (d) attempts to induce a person to use, deal with or act on the document.

Impersonating certain persons

219.(1) A person must not pretend to be a wagering agent, key person licensee or wagering official.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not connive at the commission of an offence against subsection (1).

Maximum penalty for subsection (2)—200 penalty units or 2 years imprisonment.

Bribery

220.(1) A wagering official must not ask for, receive or obtain, or agree to receive or obtain, any money, property or benefit of any kind for the

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official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not give, confer or obtain, or promise or offer to give, confer or obtain, any money, property or benefit of any kind to, on or for a wagering official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) A wagering official or other person does an act mentioned in subsection (1) or (2) for an improper purpose if the official or other person does the act—

- (a) for the official to forego or neglect the official's functions under this Act, or to influence the official in the performance of the official's functions under this Act; or
- (b) because of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by the official in the performance of the official's functions under this Act; or
- (c) for the official to use, or take advantage of, the official's office improperly to gain a benefit or advantage for, or facilitate the commission of an offence by—
 - (i) if the act is done by the official—another person; or
 - (ii) if the act is done by another person—that person or another person.

Restricted officials and licensees

221.(1) The chief executive may—

- (a) declare a wagering official to be a restricted official; or
- (b) declare a key person licensee to be a restricted licensee.

(2) However, a declaration may be made only if the chief executive considers it appropriate to make the declaration in the public interest.

(3) A declaration must be made by written notice given to the wagering official or key person licensee.

Directions to restricted officials and licensees

222.(1) The chief executive may direct a restricted official or licensee not to participate in—

- (a) approved wagering; or
- (b) approved wagering except in stated circumstances or for stated purposes.

(2) Also, the chief executive may direct a restricted official not to have a financial relationship with a general operator.

(3) However, a direction may be given only if the chief executive considers it appropriate to give the direction in the public interest.

(4) A direction must be given by written notice given to the restricted official or licensee.

Requirement to comply with direction about wagering

223. A restricted official or licensee must not participate in wagering in contravention of a direction given by the chief executive under section 222.

Maximum penalty—40 penalty units.

Relationship of restricted officials with general operators

224.(1) This section applies if a restricted official has been given a direction by the chief executive not to have a financial relationship with a general operator.

(2) The restricted official must not—

- (a) accept or solicit employment from a general operator; or
- (b) be an employee in any capacity of a general operator; or
- (c) knowingly have, directly or indirectly—
 - (i) a business or financial association with a general operator; or
 - (ii) a business or financial interest together with a general operator.

Maximum penalty—40 penalty units.

(3) For 1 year after ceasing to be a restricted official, the person must not, without the chief executive's approval—

- (a) accept or solicit employment from a general operator; or
- (b) be an employee in any capacity of a general operator; or
- (c) knowingly have, directly or indirectly—
 - (i) a business or financial association with a general operator; or
 - (ii) a business or financial interest together with a general operator.

Maximum penalty for subsection (3)—40 penalty units.

Relationship of restricted officials with prospective authority operators

225.(1) This section applies if a restricted official knowingly has, directly or indirectly—

- (a) a business or financial association with another person who is a prospective authority operator; or
- (b) a business or financial interest together with another person who is a prospective authority operator.

(2) However, this section applies only if the restricted official has been given a direction by the chief executive not to have a financial relationship with a general operator.

(3) Immediately after the restricted official becomes aware that the other person is a prospective authority operator, the official must give written notice of the official's association or interest to the chief executive.

Maximum penalty—40 penalty units.

(4) The chief executive may, by written notice given to the restricted official, direct the official to end the association, or give up the interest, within the time stated in the notice.

(5) However, the chief executive may give the direction only if the chief executive considers it appropriate to take the action in the public interest.

(6) A restricted official to whom a direction is given must comply with the direction within the time stated in the notice.

Maximum penalty—40 penalty units.

(7) In this section—

“prospective authority operator” means—

- (a) a person who has applied for a wagering authority but whose application has not yet been decided; or
- (b) a proposed wagering manager.

Relationship of general operators with restricted officials

226.(1) This section applies to a general operator if a restricted official has been given a direction by the chief executive not to have a financial relationship with a general operator.

(2) However, this section applies only if the general operator knows, or ought reasonably to know, that the restricted official has been given the direction.

(3) The general operator must not—

- (a) employ the restricted official in any capacity; or
- (b) knowingly have, directly or indirectly—
 - (i) a business or financial association with the restricted official; or
 - (ii) a business or financial interest together with the restricted official.

Maximum penalty—40 penalty units.

(4) For 1 year after the person ceases to be a restricted official, the general operator must not, without the chief executive’s approval—

- (a) employ the person in any capacity; or
- (b) knowingly have, directly or indirectly—
 - (i) a business or financial association with the person; or
 - (ii) a business or financial interest together with the person.

Maximum penalty for subsection (4)—40 penalty units.

Participation by minors prohibited

227.(1) A person involved in the conduct of approved wagering must not, in relation to the conduct of the wagering—

- (a) accept a bet from, or give a ticket or other acknowledgment for a bet to, a minor; or
- (b) allow a minor to establish an account for conducting betting by telephone; or
- (c) otherwise allow a minor to take part in wagering.

Maximum penalty—40 penalty units.

(2) It is a defence to a charge against subsection (1) to prove that the defendant had no reason to believe, and did not believe, that the person whose age is material to the offence was a minor.

Employment of minors prohibited

228. A general operator must not, in relation to the conduct of approved wagering—

- (a) employ a minor to sell or give a ticket or other acknowledgment for a bet to a person; or
- (b) employ a minor in any other capacity.

Maximum penalty—40 penalty units.

PART 12—INVESTIGATION AND ENFORCEMENT*Division 1—Inspectors***Appointment**

229. The chief executive may appoint as inspectors—

- (a) public service officers or employees; or
- (b) other persons prescribed under a regulation.

Qualifications for appointment

230.(1) The chief executive may appoint a person as an inspector only if—

- (a) the chief executive considers the person has the necessary expertise or experience to be an inspector; or
- (b) the person has satisfactorily finished training approved by the chief executive.

(2) Also, the chief executive may appoint a person as an inspector only if the chief executive is satisfied the person is a suitable person to be an inspector, having regard to—

- (a) the person's character; and
- (b) the person's current financial position and financial background.

(3) The chief executive may investigate a person to help the chief executive decide whether the person is a suitable person to be an inspector.

Audit program

231.(1) The Minister may approve an audit program for investigating inspectors.

(2) The chief executive may investigate an inspector under an approved audit program to help the chief executive decide whether the inspector is a suitable person to be an inspector, having regard to—

- (a) the inspector's character; and
- (b) the inspector's current financial position and financial background.

(3) However, an inspector may be investigated under an approved audit program only if there has not been an investigation of the inspector under the program within the preceding 2 years.

(4) The chief executive is responsible for ensuring an investigation under an approved audit program is conducted under the program.

Criminal history reports for investigations

232.(1) If the chief executive in investigating a person under section 230 or 231 asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

(2) The report is to contain—

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

Powers

233.(1) An inspector has the powers given under this Act.

(2) An inspector is subject to the directions of the chief executive in exercising the powers.

(3) An inspector's powers may be limited—

- (a) under a condition of appointment; or
- (b) by written notice given by the chief executive to the inspector.

Appointment conditions

234.(1) An inspector holds office on the conditions stated in the instrument of appointment.

(2) An inspector ceases holding office—

- (a) if the appointment provides for a term of appointment—at the end of the term; and
- (b) if the conditions of appointment provide—on ceasing to hold another office (the “**main office**”) stated in the appointment conditions.

(3) An inspector may resign by signed notice of resignation given to the chief executive.

(4) However, an inspector may not resign from the office of inspector (the “**secondary office**”) if a term of the inspector’s employment to the main office requires the inspector to hold the secondary office.

Identity cards

235.(1) The chief executive must give each inspector an identity card.

(2) The identity card must—

- (a) contain a recent photograph of the inspector; and
- (b) be signed by the inspector; and
- (c) include an expiry date; and
- (d) identify the person as an inspector under this Act.

Failure to return identity card

236. A person who ceases to be an inspector must return the person’s identity card to the chief executive as soon as practicable (but within 21 days) after ceasing to be an inspector, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Production or display of identity card

237.(1) An inspector may exercise a power in relation to someone else (the “**other person**”) only if the inspector—

- (a) first produces the inspector’s identity card for the other person’s inspection; or
- (b) has the identity card displayed so it is clearly visible to the other person.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person’s inspection at the first reasonable opportunity.

Division 2—Powers of inspectors***Subdivision 1—Power to enter places*****Entry without consent or warrant**

238. An inspector may, without the occupier's consent or a warrant, enter—

- (a) a public place; or
- (b) a place where approved wagering is being, or is about to be, conducted; or
- (c) a place where a general operator carries on business at any time when the place is open for carrying on business or otherwise open for entry; or
- (d) the land around premises to ask its occupier for consent to enter the premises.

Entry with consent or warrant

239. Unless an inspector is authorised to enter a place under section 238, an inspector may enter a place only if—

- (a) its occupier consents to the entry; or
- (b) the entry is authorised by a warrant.

Subdivision 2—Consents and warrants for entry**Consent to entry**

240.(1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place.

(2) Before asking for the consent, the inspector must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent (a “**consent acknowledgment**”).

(4) The acknowledgment must state—

- (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) the occupier gives the inspector consent to enter the place and exercise powers under this part; and
- (d) the time and date the consent was given.

(5) If the occupier signs a consent acknowledgment, the inspector must promptly give a copy to the occupier.

Evidence of consent

241.(1) Subsection (2) applies if—

- (a) an issue arises in a court proceeding whether the occupier of a place consented to an inspector entering the place under this part; and
- (b) a consent acknowledgment is not produced in evidence for the entry; and
- (c) it is not proved the occupier consented to the entry.

(2) The court may presume the occupier did not consent.

Application for warrant

242.(1) An inspector may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

Issue of warrant

243.(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against this Act; and
- (b) the evidence is at the place, or may be at the place, within the next 7 days.

(2) The warrant must state—

- (a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector’s powers under this part; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant’s issue, the warrant ends.

Special warrants

244.(1) An inspector may apply for a warrant (a “**special warrant**”) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the inspector’s remote location.

(2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

(3) The inspector may apply for the warrant before the application is

sworn.

(4) After issuing the warrant, the magistrate must promptly fax a copy to the inspector if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy to the inspector—

(a) the magistrate must tell the inspector—

(i) what the terms of the warrant are; and

(ii) the date and time the warrant was issued; and

(b) the inspector must complete a form of warrant (a “**warrant form**”) and write on it—

(i) the magistrate’s name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the terms of the warrant.

(6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.

(7) The inspector must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the inspector completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

Evidence about special warrants

245.(1) Subsection (2) applies if—

(a) an issue arises in a court proceeding whether a power exercised by an inspector was not authorised by a special warrant; and

(b) the warrant is not produced in evidence.

(2) The court must presume the exercise of the power was not authorised by a special warrant, unless the contrary is proved.

Subdivision 3—General powers**General powers after entering places**

246.(1) This section applies to an inspector who enters a place.

(2) However, if an inspector enters a place to get the occupier's consent to enter premises, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.

(3) For monitoring or enforcing compliance with this Act, the inspector may—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
- (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
- (d) copy a document at the place; or
- (e) access, electronically or in some other way, a system used at the place for conducting approved wagering or for administrative purposes related to the conduct of approved wagering; or
- (f) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part; or
- (g) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (f); or
- (h) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.

(4) When making a requirement mentioned in subsection (3)(g) or (h), the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to help inspector

247.(1) A person required to give reasonable help under section 246(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) If the requirement is to be complied with by the person giving information, or producing a document (other than a document required to be kept by the person under this Act), it is a reasonable excuse for the person to fail to comply with the requirement, if complying with the requirement might tend to incriminate the person.

Failure to give information

248.(1) A person of whom a requirement is made under section 246(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) It is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.

Subdivision 4—Power to seize evidence**Seizing evidence at place that may be entered without consent or warrant**

249. An inspector who enters a place that may be entered under this part without the consent of the occupier and without a warrant, may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

Seizing evidence at place that may only be entered with consent or warrant

250.(1) This section applies if—

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- (a) an inspector is authorised to enter a place under this part only with the consent of the occupier or a warrant; and
- (b) the inspector enters the place after obtaining the necessary consent or warrant.

(2) If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place if—

- (a) the inspector reasonably believes the thing is evidence of an offence against this Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(3) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.

(4) The inspector also may seize anything else at the place if the inspector reasonably believes—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
 - (i) hidden, lost or destroyed; or
 - (ii) used to continue, or repeat, the offence.

(5) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.

Securing things after seizure

251. Having seized a thing, an inspector may—

- (a) move the thing from the place where it was seized (the “**place of seizure**”); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

1. Sealing a thing and marking it to show access to it is restricted.

2. Sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted.

Tampering with things subject to seizure

252. If an inspector restricts access to a thing subject to seizure, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector's approval.

Maximum penalty—40 penalty units.

Powers to support seizure

253.(1) To enable a thing to be seized, an inspector may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and
- (b) if necessary, to remain in control of it at the stated place for a reasonable time.

(2) The requirement—

- (a) must be made by notice in the approved form; or
- (b) if for any reason it is not practicable to give notice in the approved form—may be made orally and confirmed by notice in the approved form as soon as practicable.

(3) A person of whom a requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(4) A further requirement may be made under this section about the same thing if it is necessary and reasonable to make the further requirement.

Receipts to be given on seizure

254.(1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with

subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

(3) The receipt must describe generally each thing seized and its condition.

(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt (given the thing's nature, condition and value).

Forfeiture

255.(1) A thing that has been seized under this part is forfeited to the State if the inspector who seized the thing—

- (a) cannot find its owner, after making reasonable inquiries; or
- (b) cannot return it to its owner, after making reasonable efforts; or
- (c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.

(2) In applying subsection (1)—

- (a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
- (b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

(3) If a thing is forfeited because of a decision of the inspector under subsection (1)(c), the inspector must tell the owner of the decision by written notice.

(4) Subsection (3) does not apply if—

- (a) the inspector cannot find the owner, after making reasonable inquiries; or
- (b) it is impracticable or would be unreasonable to give the notice.

(5) The notice must state—

- (a) the reasons for the decision; and

- (b) that the owner may appeal against the decision to the Gaming Commission within 28 days; and
 - (c) how the appeal may be made; and
 - (d) that the owner may apply for a stay of the decision if the owner appeals against the decision.
- (6) Regard must be had to a thing's nature, condition and value—
- (a) in deciding—
 - (i) whether it is reasonable to make inquiries or efforts; and
 - (ii) if making inquiries or efforts—what inquiries or efforts are reasonable; or
 - (b) in deciding whether it would be unreasonable to give notice about a thing.

Return of things that have been seized

256.(1) If a thing has been seized but not forfeited, the inspector must return it to its owner—

- (a) at the end of 6 months; or
- (b) if a proceeding for an offence involving the thing is started within 6 months—at the end of the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), unless the thing has been forfeited, the inspector must promptly return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

Access to things that have been seized

257.(1) Until a thing that has been seized is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Subdivision 5—Power to give directions to stop using things**Direction to stop using thing**

258.(1) This section applies if an inspector reasonably believes—

- (a) a thing used in the conduct of approved wagering is unsatisfactory for the purpose for which it is used; and
- (b) the continued use of the thing may—
 - (i) jeopardise the integrity of the conduct of approved wagering; or
 - (ii) adversely affect the public interest.

(2) The inspector may direct the person who has, or reasonably appears to have, authority to exercise control over the thing to stop using the thing, or allowing the thing to be used, in the conduct of approved wagering.

Requirements about stop directions

259.(1) A direction given to a person under section 258 (a “**stop direction**”) may be given orally or by written notice (a “**stop notice**”).

(2) However, if the direction is given orally, it must be confirmed by written notice (also a “**stop notice**”) given to the person as soon as practicable.

(3) A stop direction may be given for a thing at a place occupied by a general operator or another person involved in the conduct of approved wagering.

(4) A stop direction does not apply to a use of the thing carried out for repairing or testing the thing.

(5) A stop notice must state—

- (a) the grounds on which the inspector believes the thing is unsatisfactory; and
- (b) the circumstances (if any) under which the stop direction may be cancelled.

Failure to comply with stop direction

260. A person to whom a stop direction is given must comply with the direction.

Maximum penalty—40 penalty units.

Subdivision 6—Power to obtain information**Power to require name and address**

261.(1) This section applies if—

- (a) an inspector finds a person committing an offence against this Act; or
- (b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector reasonably to suspect the person has just committed an offence against this Act.

(2) The inspector may require the person to state the person's name and residential address.

(3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

(4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address to be false.

(5) A requirement under subsection (2) or (4) is called a “**personal details requirement**”.

Failure to give name or address

262.(1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) A person does not commit an offence against subsection (1) if—

- (a) the person was required to state the person's name and residential

address by an inspector who suspected the person had committed an offence against this Act; and

- (b) the person is not proved to have committed the offence.

Power to require production of documents

263.(1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—

- (a) a document issued to the person under this Act; or
(b) a document required to be kept by the person under this Act; or
(c) if the person is a general operator—a document kept by the operator about the conduct of approved wagering involving the operator.

(2) The inspector may keep the document to copy it.

(3) If the inspector copies the document, or an entry in the document, the inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

(4) The inspector must return the document to the person as soon as practicable after copying it.

(5) However, if a requirement (a “**document certification requirement**”) is made of a person under subsection (3), the inspector may keep the document until the person complies with the requirement.

(6) A requirement under subsection (1) is called a “**document production requirement**”.

Failure to produce document

264.(1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) It is a reasonable excuse for a person not to comply with a document

production requirement if complying with the requirement might tend to incriminate the person.

Failure to certify copy of document

265. A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Power to require attendance of persons

266.(1) An inspector may require a person, or an executive officer of a corporation, of whom a document production requirement has been made to attend before the inspector to answer questions or give information about the document to which the requirement relates.

(2) An inspector may require any of the following persons to attend before the inspector to answer questions or give information about an authority operator's operations—

- (a) the authority operator or, if the operator is a corporation, an executive officer of the operator;
- (b) a licensed employee employed by the authority operator;
- (c) if the authority operator is a licence operator—a wagering agent appointed by the operator or, if the wagering agent is a corporation, an executive officer of the corporation;
- (d) an employee of a wagering agent mentioned in paragraph (c);
- (e) another person associated with the operations, or management of the operations, of—
 - (i) the authority operator; or
 - (ii) a wagering agent mentioned in paragraph (c).

(3) An inspector may require any of the following persons to attend before the inspector to answer questions or give information about a wagering agent's operations—

- (a) the wagering agent or, if the agent is a corporation, an executive

officer of the agent;

- (b) an employee of the wagering agent;
- (c) the licence operator by whom the agent is appointed or, if the licence operator is a corporation, an executive officer of the corporation;
- (d) another person associated with the operations, or management of the operations, of—
 - (i) the wagering agent; or
 - (ii) the licence operator mentioned in paragraph (c).

(4) A requirement made of a person under this section must—

- (a) be made by written notice given to the person; and
- (b) state a reasonable time and place for the person's attendance.

(5) When making the requirement, the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to comply with requirement about attendance

267.(1) A person of whom a requirement is made under section 266 must not, unless the person has a reasonable excuse—

- (a) fail to attend before the inspector at the time and place stated in the relevant notice; or
- (b) when attending before the inspector—
 - (i) fail to comply with a requirement to answer a question or give information; or
 - (ii) state anything the person knows to be false or misleading in a material particular.

Maximum penalty—40 penalty units.

(2) It is a reasonable excuse for a person to fail to comply with a requirement to answer a question or give information if complying with the requirement might tend to incriminate the person.

Power to require financial records

268.(1) This section applies to a person who is the manager or other principal officer at a place of business of a financial institution at which a general operator keeps an account relating to the operator's operations.

(2) An inspector may, by written notice given to the person, require the person to give to the inspector, within the time (not less than 7 days) stated in the notice—

- (a) a statement of account for the account; or
- (b) copies of cheques or other records relevant to the account; or
- (c) other particulars or documents relevant to the account stated in the notice.

(3) An inspector may make a requirement under subsection (2) (a “**financial records requirement**”) only with the written approval of the chief executive.

Effect of compliance with financial records requirement

269.(1) No liability for breach of trust or on any other basis attaches to a person who is the manager or other principal officer at a place of business of a financial institution merely because the person complies with a financial records requirement.

(2) No liability for breach of trust or on any other basis attaches to a financial institution merely because a person who is the manager or other principal officer at a place of business of the institution complies with a financial records requirement.

Failure to comply with financial records requirement

270. A person of whom a financial records requirement is made must comply with the requirement within the time stated in the relevant notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Division 3—Powers of Minister**Direction about management practice**

271.(1) This section applies if the Minister reasonably believes—

- (a) the management, supervision or control of a part of a general operator’s operations (the “**management practice**”) is unsatisfactory; and
- (b) the management practice may—
 - (i) compromise proper standards of integrity in the conduct of approved wagering; or
 - (ii) adversely affect the public interest in some other way.

(2) The Minister may direct the general operator to stop, or change, the management practice.

(3) The direction must—

- (a) be in writing; and
- (b) state the grounds on which the Minister believes the management practice is unsatisfactory; and
- (c) if the person is required to change the management practice—clearly describe how the practice is to be changed; and
- (d) state when the person is required to comply with the direction.

(4) A person to whom a direction is given must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—40 penalty units.

Division 4—General enforcement matters**Forfeiture on conviction**

272.(1) On conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—

- (a) anything used to commit the offence; or

(b) anything else the subject of the offence.

(2) The court may make the order—

(a) whether or not the thing has been seized; and

(b) if the thing has been seized—whether or not the thing has been returned to its owner.

(3) The court may make any order to enforce the forfeiture it considers appropriate.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

Dealing with forfeited things

273.(1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

(2) Without limiting subsection (1), the chief executive may destroy the thing.

Notice of damage

274.(1) This section applies if—

(a) an inspector damages something when exercising or purporting to exercise a power; or

(b) a person (the “**officiating person**”) acting under the direction of an inspector damages something.

(2) The inspector must promptly give written notice of particulars of the damage to the person who appears to the inspector to be the owner of the thing.

(3) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the control of the inspector or officiating person, the inspector may state the belief in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the inspector reasonably considers trivial.

(6) In this section—

“owner”, of a thing, includes the person in possession or control of it.

Compensation

275.(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following subdivisions of division 2⁶—

- subdivision 1 (Power to enter places)
- subdivision 3 (General powers)
- subdivision 4 (Power to seize evidence)
- subdivision 6 (Power to obtain information).

(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.

(3) Compensation may be claimed and ordered in a proceeding—

- (a) brought in a court with jurisdiction in proceedings for the recovery of the amount of compensation claimed; or
- (b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

(5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

Protecting officials from liability

276.(1) In this section—

“official” means—

⁶ Division 2 (Powers of inspectors)

- (a) the Minister; or
- (b) the chief executive; or
- (c) an inspector; or
- (d) a person acting under the direction of an inspector.

(2) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.

Division 5—General enforcement offences

False or misleading statements

277.(1) A person must not state anything to an inspector the person knows to be false or misleading in a material particular.

Maximum penalty—40 penalty units.

(2) It is enough for a complaint for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

False, misleading or incomplete documents

278.(1) A person must not give an inspector a document containing information the person knows to be false, misleading or incomplete in a material particular.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the inspector, to the best of the person's ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(3) Also, a person must not make an entry in a document required or

permitted to be made or kept under this Act knowing the entry to be false, misleading or incomplete in a material particular.

Maximum penalty—40 penalty units.

(4) It is enough for a complaint for an offence against subsection (1) or (3) to state that the document or entry was false, misleading or incomplete to the person's knowledge.

Obstructing inspectors

279.(1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

- (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and
- (b) the inspector considers the person's conduct an obstruction.

PART 13—LEGAL PROCEEDINGS

Division 1—Evidence

Application of division

280. This division applies to a proceeding under this Act.

Appointments and authority

281. It is not necessary to prove—

- (a) the chief executive's appointment; or
- (b) an inspector's appointment; or

- (c) the authority of the chief executive or an inspector to do anything under this Act.

Signatures

282. A signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it purports to be.

Evidentiary aids

283.(1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a stated document is one of the following things made, given, issued or kept under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a notice, direction or requirement;
 - (iii) a licence;
 - (iv) a record, or an extract from a record;
- (b) a stated document is another document kept under this Act;
- (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);
- (d) on a stated day, or during a stated period, a stated person was or was not the holder of a licence;
- (e) on a stated day, or during a stated period, a licence—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition;
- (f) on a stated day, a licence was suspended for a stated period or cancelled;
- (g) on a stated day, or during a stated period, a stated appointment (including a person's appointment as an inspector) or a stated approval was, or was not, in force for a stated person or thing;
- (h) on a stated day, a stated person was given a stated notice or direction under this Act;

- (i) on a stated day, a stated requirement was made of a stated person;
- (j) a stated amount is payable under this Act by a stated person and has not been paid;
- (k) anything else prescribed under a regulation.

(2) In this section—

“**licence**” means a wagering licence, oncourse wagering permit or key person licence.

Division 2—Proceedings

Indictable and summary offences

284.(1) An offence against section 217, 218 or 220⁷ is an indictable offence.

(2) Any other offence against this Act is a summary offence.

Proceedings for indictable offences

285.(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
- (b) the magistrate considers the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

⁷ Section 217 (Cheating), 218 (Forgery and deception) or 220 (Bribery)

- (b) a plea of the person charged at the start of the proceedings must be disregarded; and
- (c) evidence brought in the proceedings before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).⁸

(4) The maximum penalty that may be summarily imposed for an indictable offence is 165 penalty units.

Limitation on who may summarily hear indictable offence proceedings

286.(1) A proceeding must be before a magistrate if it is a proceeding—

- (a) for the summary conviction of a person on a charge of an indictable offence; or
- (b) for an examination of witnesses for a charge of an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Limitation on time for starting summary proceedings

287. A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* may start at any time but, if started more than 1 year after the commission of the offence, must start within 6 months after the offence comes to the complainant's knowledge.

⁸ *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

Responsibility for acts or omissions of representatives

288.(1) In this section—

“representative” means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

“state of mind” of a person includes—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

(2) Subsections (3) and (4) apply in a proceeding for an offence against this Act.

(3) If it is relevant to prove a person’s state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative’s actual or apparent authority; and
- (b) the representative had the state of mind.

(4) An act done or omitted to be done for a person by a representative of the person within the scope of the representative’s actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

Executive officers must ensure corporation complies with Act

289.(1) The executive officers of a corporation must ensure the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the corporation’s executive officers also commits an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Attempts to commit offences

290.(1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty for an attempt—half the maximum penalty for the completed offence.

(2) The Criminal Code, section 49 applies to subsection (1).

PART 14—APPEALS AND REVIEWS

Division 1—Appeals

Appeals by authority operators

291. An authority operator may appeal to the Gaming Commission against the following decisions of the chief executive—

- a decision under section 129¹⁰ suspending a key person licence

⁹ The Criminal Code, section 4 (Attempts to commit offences)

¹⁰ Section 129 (Suspension and cancellation of licence after show cause process)

held by a licensed employee or key operator of the authority operator

- a decision under section 129 cancelling a key person licence held by a licensed employee or key operator of the authority operator.

Appeals by licence operators

292. A licence operator may appeal to the Gaming Commission against a decision of the chief executive under section 159¹¹ directing the operator to terminate an agency agreement entered into by the operator.

Appeals by applicants for key person licences

293. An applicant for a key person licence may appeal to the Gaming Commission against a decision of the chief executive under section 104¹² refusing to grant the application.

Appeals by key person licensees

294. A key person licensee may appeal to the Gaming Commission against the following decisions of the chief executive—

- a decision under section 109¹³ imposing a condition on the key person licence
- a decision under section 114¹⁴ changing a condition of the key person licence
- a decision under section 116¹⁵ refusing to grant an application to replace the key person licence

¹¹ Section 159 (Direction to terminate agreement)

¹² Section 104 (Consideration of application)

¹³ Section 109 (Conditions of licence)

¹⁴ Section 114 (Changing conditions of licence)

¹⁵ Section 116 (Replacement of licence)

- a decision under section 129¹⁶ suspending the key person licence
- a decision under section 129 cancelling the key person licence.

Appeals by wagering agents

295. A wagering agent may appeal to the Gaming Commission against a decision of the chief executive under section 159¹⁷ directing the licence operator by whom the agent was appointed to terminate the agency agreement.

Appeals about forfeiture of things that have been seized

296. The owner of a thing seized by an inspector may appeal to the Gaming Commission against a decision of an inspector under section 255¹⁸ resulting in the thing being forfeited.

Starting appeal

297.(1) An appeal is started by—

- (a) filing a written notice of appeal with the registrar of the Gaming Commission; and
- (b) serving a copy of the notice on the person (the “**decision maker**”) who made the decision appealed against.

(2) The notice of appeal must be filed within 28 days after the appellant receives notice of the decision.

(3) The Gaming Commission may at any time extend the period for filing the notice of appeal.

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

¹⁶ Section 129 (Suspension and cancellation of licence after show cause process)

¹⁷ Section 159 (Direction to terminate agreement)

¹⁸ Section 255 (Forfeiture)

Stay of operation of decisions

298.(1) The Gaming Commission may grant a stay of the operation of a decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

- (a) may be given on conditions the Gaming Commission considers appropriate; and
- (b) operates for the period fixed by the commission; and
- (c) may be revoked or amended by the commission.

(3) The period of a stay under this section must not extend past the time when the Gaming Commission decides the appeal.

(4) An appeal against a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

Hearing procedures

299.(1) In deciding an appeal, the Gaming Commission—

- (a) has the same powers as the decision maker; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in public or in private.

(2) An appeal is by way of rehearing.

Power to gather evidence

300.(1) The Gaming Commission may, by written notice signed by the registrar, require a person—

- (a) to give written answers to questions, or produce a document, stated in the notice for an appeal mentioned in the notice; or
- (b) to appear before the commission at a stated time and place to answer questions, or produce a stated document, relating to an appeal mentioned in the notice.

(2) The answers mentioned in subsection (1)(b) must, if the notice so

requires, be verified by statutory declaration.

(3) A person must not, without reasonable excuse—

- (a) fail to comply with a requirement under this section; or
- (b) if appearing for examination before the Gaming Commission—
 - (i) fail to take or make an oath when required to do so by a member of the commission or the registrar; or
 - (ii) fail to answer a question relevant to the subject of the appeal to the best of the person's knowledge, information or belief; or
 - (iii) fail to produce a document the person is required to produce under subsection (1)(b).

Maximum penalty—40 penalty units.

(4) A member of the Gaming Commission may administer an oath to a person appearing before the commission for examination.

(5) It is a reasonable excuse for a person to fail to comply with a requirement to answer a question or produce a document if complying with the requirement might tend to incriminate the person.

Powers of Gaming Commission on appeal

301.(1) In deciding an appeal, the Gaming Commission may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the decision maker with the directions the commission considers appropriate.

(2) If the Gaming Commission substitutes another decision, the substituted decision is, for this Act (other than this part) taken to be the decision maker's decision.

Appeals to District Court

302. An appeal lies to the District Court from a decision of the Gaming Commission on a question of law.

*Division 2—Reviews***Refusal of licence operator to enter into agency agreement**

303.(1) This section applies if—

- (a) a race club reasonably believes it has negotiated in good faith with a licence operator for entering into an agency agreement with the operator but the club and the operator have been unable to agree the terms of the agreement; or
- (b) the operator has refused to enter into an agency agreement with the race club.

(2) The race club may ask the Minister to review—

- (a) the outcome of the negotiations mentioned in subsection (1)(a) (the “**outcome**”); or
- (b) the decision mentioned in subsection (1)(b).

(3) After reviewing the outcome or decision, the Minister may direct the licence operator to enter into an agency agreement with the race club on the terms decided by the Minister.

(4) In giving a direction, the Minister must have regard to—

- (a) the commercial viability of the licence operator and the race club; and
- (b) the public interest.

(5) If the race club is willing to enter into an agency agreement on the terms decided by the Minister, the licence operator must comply with the direction.

Maximum penalty—100 penalty units.

(6) In this section, a reference to a decision of a licence operator to refuse to enter into an agency agreement includes a failure to enter into an agency agreement.

Termination of agency agreement

304.(1) This section applies if a licence operator terminates an agency

agreement with a race club otherwise than because of a direction to terminate the agreement given to the licence operator by the chief executive.

(2) The race club may ask the Minister to review the decision.

(3) To secure the effectiveness of the review, the Minister may grant a stay of the decision.

(4) After reviewing the decision, the Minister may direct the licence operator to reinstate the agency agreement.

(5) However, the Minister may give a direction only if the Minister considers the licence operator, in terminating the agency agreement—

(a) acted otherwise than under the agreement; or

(b) despite having acted under the agreement—acted unreasonably.

(6) The licence operator must comply with the direction.

Maximum penalty—100 penalty units.

(7) In this section—

“**reinstate**” an agency agreement that has been terminated includes enter into a fresh agency agreement on terms similar to the agency agreement terminated.

Issues about staying operations of decisions

305.(1) A stay mentioned in section 304(3)—

(a) may be given on conditions the Minister considers appropriate; and

(b) operates for the period fixed by the Minister; and

(c) may be revoked or amended by the Minister.

(2) The period of a stay under this section must not extend past the time when the Minister decides the review.

(3) A review of a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

Procedures for reviews

306. For reviewing an outcome or a decision, the Minister—

- (a) must give the licence operator and the race club a reasonable opportunity to be heard or to make representations about the outcome or decision; and
- (b) must consider any representations.

Delegation for div 2

307.(1) The Minister may delegate the Minister's powers under this division to the Queensland Competition Authority.

(2) The Queensland Competition Authority has the powers and functions necessary for the delegation.

PART 15—MISCELLANEOUS**Confidentiality of information**

308.(1) A person who is, or was, an inspector, or officer or employee of the department, must not disclose information gained by the person in performing functions under this Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to the disclosure of information by a person—

- (a) for a purpose under this Act or a gaming Act; or
- (b) with a lawful excuse; or
- (c) under an approval of the chief executive under this section.

(3) The chief executive may approve the disclosure of information by a person to—

- (a) an entity prescribed under a regulation; or
- (b) an officer, employee or member of the entity; or

(c) a stated department, entity or person.

(4) Before giving an approval for subsection (3)(c), the chief executive must—

- (a) give written notice of the proposed approval to any person whom the chief executive considers likely to be affected adversely by the disclosure; and
- (b) give the person the opportunity of making a submission about the proposed approval within the time (not less than 14 days) stated in the notice.

(5) If information is disclosed to an entity or person under an approval given by the chief executive, the entity or person, and any employee or other person under the control of the entity or person, are taken to be persons to whom subsection (1) applies and to have gained the information in performing functions under this Act.

Delegations

309.(1) The Minister may delegate the Minister's powers under this Act (other than part 14, division 2) to the chief executive or an appropriately qualified officer of the department.

(2) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified inspector or an appropriately qualified officer of the department.

(3) The chief executive must notify authority operators of the current delegations in force under this section from time to time.

(4) A contravention by the chief executive of subsection (3) does not invalidate a delegation.

(5) In this section—

“appropriately qualified” includes having the qualifications, experience or standing appropriate to the exercise of the power.

Example of 'standing'—

A person's classification level in the public service.

Commercial arrangements for conducting sports wagering

310.(1) This section applies if a sports wagering licensee does not propose to conduct wagering under the licence on a particular sporting event or contingency held or happening outside Australia or New Zealand.

(2) With the approval of the Minister, the licensee may enter into a commercial arrangement with a licensed entity for the entity to conduct wagering on the event or contingency.

(3) Wagering conducted by the licensed entity under the arrangement is taken to be wagering conducted by the sports wagering licensee under the sports wagering licence.

(4) In this section—

“licensed entity” means—

- (a) a casino licensee under the *Casino Control Act 1982*; or
- (b) the holder of an operator’s licence under the *Gaming Machine Act 1991*; or
- (c) the holder of an interactive gambling licence under the *Interactive Gambling (Player Protection) Act 1998*; or
- (d) a keno licensee under the *Keno Act 1996*; or
- (e) a lottery licensee under the *Lotteries Act 1997*.

Approval of forms

311. The chief executive may approve forms for use under this Act.

Regulation-making power

312. The Governor in Council may make regulations under this Act.

PART 17—TRANSITIONAL PROVISIONS

Application of part

318. This part applies only if a wagering licence (the “**initial licence**”) is issued on the commencement day.

Definitions

319. In this part—

“**commencement day**” means the day on which the provision in which the term is used commences.

“**existing Act**” means the *Racing and Betting Act 1980* as in force from time to time before the commencement day.

“**initial licence**” see section 318.

“**initial operator**” means—

- (a) if, on the commencement day, the wagering licensee under the initial licence does not enter into a wagering management agreement with the Minister’s approval—the wagering licensee; or
- (b) if, on the commencement day, the wagering licensee under the initial licence enters into a wagering management agreement with the Minister’s approval—the wagering manager appointed under the agreement.

“**TAB agency agreement**” means a contract, agreement or arrangement made under the existing Act under which the TAB appointed a person as its agent for the exercise of its powers or performance of its functions.

“**TAB’s control system**” means the system of internal controls and administrative and accounting procedures used, immediately before the commencement day, by the TAB for the conduct of wagering by totalisators.

Control system for initial operator

320.(1) This section applies if, on the commencement day, the initial operator makes a control system submission to the chief executive.

(2) The TAB's control system is, with any necessary modifications, taken to be the initial operator's approved control system until the chief executive approves, or refuses to approve, under section 176,¹⁹ the control system to which the submission relates.

Regulated wagering equipment

321.(1) This section applies if—

- (a) immediately before the commencement day, wagering equipment—
 - (i) is the TAB's equipment; or
 - (ii) was used in the conduct of betting by means of a totalisator under the existing Act; and
- (b) on the commencement day, the equipment is regulated wagering equipment.

(2) The regulated wagering equipment is taken to be approved wagering equipment.

Key employees of initial operator

322.(1) This section applies if, on the commencement day, a key employee of the initial operator applies to the chief executive to be licensed as an employee under a key person licence.

(2) The key employee is taken to be a licensed employee until the chief executive grants or refuses to grant the application under section 104.²⁰

¹⁹ Section 176 (Dealing with submissions)

²⁰ Section 104 (Consideration of application)

Amounts payable before commencement day for investments

323.(1) This section applies if—

- (a) an investment is made under the existing Act before the commencement day; and
- (b) an amount first becomes payable in relation to the investment (whether by way of a dividend or refund) before the commencement day.

(2) Sections 201 to 203²¹ of the existing Act continue to apply in relation to the investment and the amount as if the sections had not been repealed by the *Racing Legislation Amendment Act 1998*.

(3) For applying the sections—

- (a) a reference to the totalisator board is taken to be a reference to the TAB; and
- (b) a reference to the Racing Development Fund is taken to be a reference to the consolidated fund.

Amounts payable on or after commencement day for investments

324.(1) This section applies if—

- (a) an investment is made under the existing Act before the commencement day; and
- (b) an amount first becomes payable in relation to the investment (whether by way of a dividend or refund) on or after the commencement day.

(2) For paying the amount, the investment is taken to be an investment made for approved wagering.

²¹ Sections 201 (Unpaid dividends and refunds from totalisator other than totalisator operated by totalisator board), 202 (Unpaid dividends and refunds, and unpaid moneys from sports totalisators from totalisator operated by totalisator board), and 203 (Unpaid fractions account and unpaid dividends account)

Agency agreements

325.(1) A TAB agency agreement made before, and in force at, the commencement day is taken to be an agency agreement duly made under this Act for the initial operator.

(2) Within 7 days after the commencement day, the initial operator must give the chief executive a written notice informing the chief executive of the name and place of operation of each wagering agent with whom the operator has an agency agreement to which this section applies.

Wagering agents

326.(1) This section applies if, immediately before the commencement day—

- (a) a race club holds a totalisator licence under the existing Act; and
- (b) a net pool of the race club is amalgamated under section 196 of the existing Act.

(2) Subject to part 8, division 4,²² for 1 year starting on the commencement day, the race club is taken to be a wagering agent of the initial operator and the agency relationship between the club and operator is taken to be an agency agreement.

(3) However, the race club may terminate the agency by written notice given to the initial operator.

(4) Within 7 days after the commencement day, the initial operator must give the chief executive a written notice informing the chief executive of the name and place of operation of each wagering agent under this section.

Permit holders

327.(1) This section applies if, immediately before the commencement day—

- (a) a race club holds a totalisator licence under the existing Act; and
- (b) a net pool of the race club is not amalgamated under section 196

²² Part 8 (Wagering agents) division 4 (Terminating agency agreements)

of the existing Act.

(2) Subject to part 4, division 5,²³ the race club is taken to be a permit holder for 1 year starting on the commencement day.

(3) However, if within the period of 1 year the race club enters into an agency agreement with the initial operator, the club stops being a permit holder.

Control system for permit holders

328.(1) This section applies to a race club that is taken to be a permit holder under section 327.

(2) The system of internal controls and administrative and accounting procedures used, immediately before the commencement day, by the race club for the conduct of wagering by totalisators is taken to be the club's approved control system until the earlier of the following—

- (a) the end of 1 year starting on the commencement day;
- (b) the entering into of an agency agreement between the race club and initial operator.

Continued operation of former rules and certain former regulations

329.(1) Rules in force under section 193 of the existing Act immediately before the commencement day continue to operate with any necessary changes and, for that purpose, are taken to be rules under this Act.

(2) The *Racing and Betting Regulation 1981*, sections 63 to 68 and part 7 as in force immediately before the commencement day continue to operate with any necessary changes and, for that purpose, are taken to be rules validly made under this Act.

(3) If a provision applying as a rule under subsection (1) is inconsistent with a provision applying as a rule under subsection (2), the latter provision prevails.

(4) Subsections (1) and (2) apply until the earlier of the following—

²³ Part 4 (Wagering authorities), division 5 (Suspension and cancellation of wagering authorities)

- (a) the end of 1 year starting on the commencement day;
- (b) the commencement of rules made under this Act superseding the rules mentioned in subsection (1) or the provisions mentioned in subsection (2).

(5) Provisions operating as rules under subsection (1) or (2) may be amended by rules under this Act.

(6) Subsections (1) and (2) apply despite the *Racing Legislation Amendment Act 1998*.

Transitional regulations

330.(1) A regulation may make provision of a saving or transitional nature for which—

- (a) it is necessary or convenient to assist the transition from the conduct of wagering under the existing Act to the conduct of approved wagering under this Act; and
- (b) this Act does not make provision or sufficient provision.

(2) A regulation under this section may have retrospective operation to a day not earlier than the commencement day.

(3) Subject to subsection (4), a regulation under this section expires 1 year after it is made.

(4) This section expires 1 year after the commencement day.

SCHEDULE 1

DECISIONS NOT SUBJECT TO APPEAL

section 93

PART 1—DECISIONS OF GOVERNOR IN COUNCIL

Section	Description of decision
51	Suspending a wagering authority
51	Cancelling a wagering authority
51	Appointing an administrator to conduct the operations of an authority holder
54	For a wagering authority that is suspended—cancelling or reducing any remaining period of suspension

PART 2—DECISIONS OF MINISTER

Section	Description of decision
21	Granting or refusing to grant an application for a wagering authority
27	Imposing a condition on a wagering authority
31	Changing conditions of a wagering authority

SCHEDULE 1 (continued)

48	Censuring an authority holder
49	Directing an authority holder to rectify a matter
52	Suspending a wagering authority
68	Giving, or refusing to give, an approval for the appointment of a person as a wagering manager
74	Giving, or refusing to give, an approval for the entering into of a wagering management agreement
74	Giving, or refusing to give, an approval for the amendment of a wagering management agreement
85	Censuring a wagering manager
86	Directing a wagering manager to rectify a matter
87	Directing a wagering licensee to terminate a wagering management agreement
90	Suspending a wagering manager's operations
193	Giving, or refusing to give, an approval for entering into an ancillary wagering agreement
197	Directing the termination of a related agreement
271	Directing a general operator to stop or change a management practice

SCHEDULE 2**DICTIONARY**

section 3

“accepted representations”—

- for part 4, division 5—see section 46
- for part 5, division 5—see section 83
- for part 7, division 7—see section 125
- for part 8, division 4—see section 155
- for part 11, division 1—see section 196.

“agency agreement” see section 140.**“ancillary wagering agreement”** see section 190.**“approved accountant”** means—

- (a) a member of the Institute of Chartered Accountants in Australia who holds a current Certificate of Public Practice issued by the institute; or
- (b) a member of the Australian Society of Certified Practising Accountants who holds a current Public Practice Certificate issued by the society; or
- (c) in a particular case—a member of an accounting body mentioned in paragraph (a) or (b) who—
 - (i) does not hold the current certificate mentioned in the paragraph; and
 - (ii) is approved as an accountant for the case by the chief executive.

“approved contingency”, for a sports wagering licensee, means a contingency, or a contingency included in a class of contingencies, for which an approval of the Minister under section 57 for the conduct of wagering by the licensee is in force.

SCHEDULE 2 (continued)

“approved control system” means a control system approved by the chief executive, and includes an approved control system changed under a direction or approval of the chief executive.

“approved event”, for a sports wagering licensee, means an event, or an event included in a class of events, for which an approval of the Minister under section 57 for the conduct of wagering by the licensee is in force.

“approved form” see section 311.

“approved place” see section 178.

“approved wagering” means authorised wagering conducted by an authority operator under a wagering authority.

“approved wagering equipment” means regulated wagering equipment approved under section 208.

“authorised wagering” means—

- (a) for an oncourse wagering permit or permit holder—oncourse wagering conducted by means of a totalisator; or
- (b) for a wagering licence or licence operator—wagering conducted either by means of a totalisator or on a fixed odds basis.

“authorised wagering operator” means—

- (a) an authority holder; or
- (b) a wagering agent.

“authority holder” means—

- (a) a wagering licensee; or
- (b) a permit holder.

“authority operator” means—

- (a) a licence operator; or
- (b) a permit holder.

“business associate”, of an applicant for an oncourse wagering permit or wagering licence, means a person whom the Minister reasonably

SCHEDULE 2 (continued)

believes—

- (a) is associated with the ownership or management of the applicant's operations; or
- (b) will, if a wagering authority is issued to the applicant, be associated with the ownership or management of the authority holder's operations.

“business associate”, of a permit holder, wagering licensee or wagering manager, means a person whom the Minister reasonably believes is associated with the ownership or management of the operations of the permit holder, licensee or manager.

“business associate”, of a proposed wagering manager, means a person whom the Minister reasonably believes—

- (a) is associated with the ownership or management of the operations of the proposed wagering manager; or
- (b) will, if the proposed wagering manager is appointed as a wagering manager, be associated with the ownership or management of the wagering manager's operations.

“business associate”, of a wagering agent, means a person whom the chief executive reasonably believes is associated with the ownership or management of the agent's operations.

“condition notice” see section 31.

“conduct”, for wagering, includes promote, organise and operate.

“consent acknowledgment” see section 240.

“control system” means a system of internal controls and administrative and accounting procedures for the conduct of authorised wagering by an authority holder.

“control system (change) submission” see section 175.

“control system submission” see section 174.

“conviction” includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

“criminal history”, of a person, means the person's criminal history within

SCHEDULE 2 (continued)

the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite section 6 of that Act, includes a conviction of the person to which the section applies; and
- (b) despite section 5 of that Act, includes a charge made against the person for an offence.

“designated operator” see section 204.

“designated person”, for an authority holder, means—

- (a) if the authority holder is a wagering licensee who is a party to a wagering management agreement—the wagering manager appointed under the agreement; or
- (b) if paragraph (a) does not apply—the authority holder.

“direct winning bet” does not include a refund of an investment.

“document certification requirement” see section 263.

“document production requirement” see section 263.

“employ” includes engage under a contract for services.

“employee” of a wagering licensee or wagering agent means a person employed by the licensee or agent in functions related to the conduct of wagering.

“exclusivity period” see section 4.

“executive associate”, of an applicant for an oncourse wagering permit or wagering licence, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister, whom the Minister reasonably believes—

- (a) is associated with the ownership or management of the applicant’s operations; or
- (b) will, if a wagering authority is issued to the applicant, be associated with the ownership or management of the authority holder’s operations.

“executive associate”, of a permit holder, wagering licensee or wagering

SCHEDULE 2 (continued)

manager, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister, whom the Minister reasonably believes is associated with the ownership or management of the operations of the permit holder, licensee or manager.

“executive associate”, of a proposed wagering manager, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister, whom the Minister reasonably believes—

- (a) is associated with the ownership or management of the operations of the proposed wagering manager; or
- (b) will, if the proposed wagering manager is appointed as a wagering manager, be associated with the ownership or management of the wagering manager’s operations.

“executive associate”, of a wagering agent, means an executive officer of a corporation, partner or trustee, or another person stated by the chief executive, whom the chief executive reasonably believes is associated with the ownership or management of the agent’s operations.

“executive officer”, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“exempt wagering record” see section 178.

“financial records requirement” see section 268.

“gaming Act” means any of the following Acts—

- *Casino Control Act 1982*
- *Charitable and Non-Profit Gaming Act 1999*
- *Gaming Machine Act 1991*
- *Interactive Gambling (Player Protection) Act 1998*
- *Keno Act 1996*
- *Lotteries Act 1997*.

“Gaming Commission” means the Queensland Gaming Commission under the *Gaming Machine Act 1991*.

SCHEDULE 2 (continued)

“general operator” means—

- (a) an authority operator; or
- (b) a wagering agent.

“greyhound race” see *Racing and Betting Act 1980*, section 5.²⁴

“gross revenue”, for an authority holder for a month, means—

- (a) if the authority holder has not entered into an ancillary wagering agreement for all or part of the fixed odds wagering conducted under the wagering authority—the total amount invested in the month, less the total of the amounts paid in the month for direct winning bets, for the wagering; or
- (b) if the authority holder has entered into an ancillary wagering agreement for all or part of the fixed odds wagering conducted under the wagering authority—the sum of the following amounts—
 - (i) the amount equalling the total amount invested in the month, less the total of the amounts paid in the month for direct winning bets, for the wagering not subject to the agreement;
 - (ii) the amount payable under the agreement in the month to the designated person by the other person (the **“service provider”**) who is a party to the agreement (ignoring any amount payable by the designated person to the service provider under the agreement).

“horse race” see *Racing and Betting Act 1980*, section 5.²⁵

“information notice”, for a decision of the chief executive, means a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and

²⁴ *Racing and Betting Act 1980*, section 5—
“greyhound race” means a race for greyhounds.

²⁵ *Racing and Betting Act 1980*, section 5—
“horse race” means a race for galloping horses.

SCHEDULE 2 (continued)

- (c) that the person to whom the notice is given may appeal against the decision to the Gaming Commission within 28 days.

“inspector” means a person who is an inspector under this Act.

“interested person”—

- for part 4, division 5—see section 45
- for part 11, division 1—see section 195.

“key employee” see section 95.

“key operator” see section 98.

“key operator’s requirement” see section 99.

“key person licence” means a licence issued under section 108.

“key person licensee” means a person licensed under a key person licence.

“licence operator”, for a wagering licence or operations conducted under a wagering licence, means—

- (a) if the wagering licensee has not entered into any wagering management agreement with the Minister’s approval—the wagering licensee; or
- (b) if the wagering licensee has entered into a wagering management agreement with the Minister’s approval appointing a person as wagering manager for all the operations relating to authorised wagering conducted under the wagering licence—the wagering manager appointed under the agreement; or
- (c) if the wagering licensee has entered into a wagering management agreement with the Minister’s approval appointing a person as wagering manager for some but not all the operations relating to authorised wagering conducted under the wagering licence—
 - (i) for the operations to which the agreement relates—the wagering manager appointed under the agreement; or
 - (ii) for the other operations relating to authorised wagering conducted under the wagering licence—the wagering licensee.

SCHEDULE 2 (continued)

“licensed employee” means a person licensed as an employee under a key person licence.

“management committee”, of an unincorporated body, means the committee or other body of persons, whatever called, that conducts the affairs of the body.

“official wagering document” means—

- (a) a betting ticket; or
- (b) a wagering licence; or
- (c) an oncourse wagering permit; or
- (d) a key person licence; or
- (e) an inspector’s identity card.

“oncourse wagering permit” see section 5.

“permit holder” means the holder of an oncourse wagering permit.

“personal details requirement” see section 261.

“place of seizure” see section 251.

“proposed wagering manager” means a person in relation to whom an application for approval to appoint the person as a wagering manager has been made but not decided.

“race club” means a race club within the meaning of the *Racing and Betting Act 1980*,²⁶ other than a race club that is not registered under that Act.

“race meeting” means a meeting for conducting horse, trotting or greyhound races.

“race wagering licence” see section 6.

“race wagering licensee” means a person who holds a race wagering

²⁶ *Racing and Betting Act 1980*, section 5—

“race club” means any body or association of persons corporate or unincorporate that promotes, holds or controls, or is formed to promote, hold or control, a race meeting, and includes such a body or an association that is not registered.

 SCHEDULE 2 (continued)

licence.

“racing entity” means a corporation established for the *Racing and Betting Act 1980*, section 11B(2)(wa), 52(3)(ya) or 93(3)(ya).²⁷

“racing venue” see *Racing and Betting Act 1980*, section 5.²⁸

“reasonably believes” means believes on grounds that are reasonable in all the circumstances.

“reasonably suspects” means suspects on grounds that are reasonable in all the circumstances.

“registered company auditor” means a person registered as an auditor, or taken to be registered as an auditor, under the Corporations Law, chapter 9, part 9.2.²⁹

“registrar”, of the Gaming Commission, means an officer or person designated under a regulation as the registrar of the commission.

“regulated wagering equipment” means wagering equipment declared under a regulation to be regulated wagering equipment.

“related agreement” see section 191.

“restricted licensee” means a key person licensee declared under section 221 to be a restricted licensee.

“restricted official” means a wagering official declared under section 221 to be a restricted official.

“rules” mean rules made under section 198.

“show cause notice”—

- for part 4, division 5—see section 44

²⁷ Section 11B (Powers of Queensland Principal Club), 52 (Functions, powers and duties of Harness Racing Board) or 93 (Functions, powers and duties of Greyhound Authority)

²⁸ *Racing and Betting Act 1980*, section 5—
“racing venue” means a racecourse, paceway or greyhound course, whether in Queensland or elsewhere at which a meeting may lawfully be held.

²⁹ Corporations Law, chapter 9 (Miscellaneous), part 9.2 (Registration of auditors and liquidators)

SCHEDULE 2 (continued)

- for part 5, division 5—see section 82
- for part 7, division 7—see section 124
- for part 8, division 4—see section 154
- for part 11, division 1—see section 195.

“show cause period”—

- for part 4, division 5—see section 44
- for part 5, division 5—see section 82
- for part 7, division 7—see section 124
- for part 8, division 4—see section 154
- for part 11, division 1—see section 195.

“special warrant” see section 244.

“sporting contingency” means a contingency associated with a sporting event.

“sporting event” does not include a horse, trotting or greyhound race.

“sports wagering licence” see section 7.

“sports wagering licensee” means a person who holds a sports wagering licence.

“stop direction” see section 259.

“TAB” means the Totalisator Administration Board of Queensland constituted under the *Racing and Betting Act 1980* and, if before or on the commencement of section 11³⁰ the entity becomes a government owned corporation, includes the entity as a government owned corporation.

“TAB subsidiary” means a wholly-owned subsidiary of the TAB.

“totalisator” see section 8.

“totalisator supplier” see section 204.

³⁰ Section 11 (Lawful activities)

SCHEDULE 2 (continued)

“totalisator supply agreement” see section 204.

“trotting race” see *Racing and Betting Act 1980*, section 5.³¹

“wagering” means—

- (a) betting conducted by means of a totalisator; or
- (b) betting conducted on a fixed odds basis; or
- (c) other betting prescribed under a regulation.

“wagering agent” see section 140.

“wagering authority” means—

- (a) a wagering licence; or
- (b) an oncourse wagering permit.

“wagering authority fee” see section 168.

“wagering employee” means a person employed by a wagering licensee in operations conducted under the wagering licence.

“wagering equipment” means a machine or other device (whether electronic, electrical or mechanical), computer software or another thing used, or suitable for use, in the conduct of wagering.

“wagering licence” means—

- (a) a race wagering licence; or
- (b) a sports wagering licence.

“wagering licensee” means a person who holds a wagering licence.

“wagering management agreement” see section 71.

“wagering manager” means a person appointed by a wagering licensee under section 65 to manage some or all the operations relating to authorised wagering conducted under the wagering licence.

“wagering official” means—

³¹ *Racing and Betting Act 1980*, section 5—

“trotting race” means a race for trotting horses.

SCHEDULE 2 (continued)

- (a) an inspector; or
- (b) an officer of the department.

“wagering record”, of an authority holder, means a record (including a document) about the operations conducted by the authority holder under the wagering authority.

“wagering tax” see section 165.

“wholly-owned subsidiary” see *Corporations Law*, section 9.³²

“winning bet” includes a refund of an investment.

³² *Corporations Law*, section 9—

“wholly-owned subsidiary”, in relation to a body corporate, means a body corporate none of whose members is a person other than:

- (a) the first-mentioned body;
- (b) a nominee of the first-mentioned body;
- (c) a subsidiary of the first-mentioned body, being a subsidiary none of whose members is a person other than—
 - (i) the first-mentioned body; or
 - (ii) a nominee of the first-mentioned body; or
- (d) a nominee of such a subsidiary.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 September 1999. Future amendments of the Wagering Act 1998 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 26 of 1999	15 July 1999

5 List of legislation

Wagering Act 1998 No. 15

date of assent 26 March 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 125)

as amended by—

Gaming Machine and Other Legislation Amendment Act 1999 No. 8 ss 1, 2(2) pt 7

date of assent 30 March 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 124)

Charitable and Non-Profit Gaming Act 1999 No. 26 ss 1–2, 196 sch 1

date of assent 16 June 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 121)

TAB Queensland Limited Privatisation Act 1999 No. 38 pt 7 div 5

date of assent 31 August 1999

commenced on date of assent

6 List of annotations

Appointment

s 65 amd 1999 No. 38 s 73

Meaning of “wagering management agreement”

s 71 amd 1999 No. 38 s 74

Grounds for directing termination

s 81 amd 1999 No. 38 s 75

Meaning of “key employee”

s 95 amd 1999 No. 38 s 76

Commission

s 163 amd 1999 No. 38 s 77

Calculation and payment of wagering tax

s 166 sub 1999 No. 26 s 196 sch 1

Wagering authority administration fee

s 168A ins 1999 No. 38 s 78

Application of wagering tax, authority fee and authority administration fee

prov hdg sub 1999 No. 38 s 79(1)

s 169 amd 1999 No. 38 s 79(2)

Penalty for late payment

s 170 amd 1999 No. 38 s 80

Recovery of amounts

s 171 amd 1999 No. 38 s 81

Revenue offences

s 172 amd 1999 No. 38 s 82

Show cause notice for related agreement

s 195 amd 1999 No. 38 s 83

Acceptance of wagers

s 206 amd 1999 No. 38 s 84

Claims for payment of winning bets

s 213 amd 1999 No. 8 s 136; 1999 No. 38 s 85

Appeals to District Court

s 302 amd 1999 No. 38 s 86

Procedures for reviews

s 306 amd 1999 No. 38 s 87

**PART 16—AMENDMENT OF BREAKWATER ISLAND CASINO
AGREEMENT ACT 1984**

pt 16 (ss 313–317) om R1 (see RA s 40)

Application of part

prov hdg amd 1999 No. 38 s 88

s 318 amd 1999 No. 38 s 88

Definitions

s 319 amd 1999 No. 38 s 89

Transitional regulations

s 330 exp 1 July 2000 (see ss 330(4), 319)

SCHEDULE 2—DICTIONARY

def “designated person” ins 1999 No. 26 s 196 sch 1

def “gaming Act” sub 1999 No. 26 s 196 sch 1

def “gross revenue” sub 1999 No. 26 s 196 sch 1

def “licence operator” sub 1999 No. 38 s 90(1)–(2)

def “**related body corporate**” om 1999 No. 38 s 90(1)
def “**wagering manager**” amd 1999 No. 38 s 90(3)