



# **Racing Act 2002**

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## Queensland

# Racing Act 2002

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# Racing Act 2002

**An Act to provide for the management, operation, development and promotion of the racing industry in Queensland**

## Chapter 1 Introduction

### 1 Short title

This Act may be cited as the *Racing Act 2002*.

### 2 Commencement

- (1) Subject to subsection (2), this Act commences on a day to be fixed by proclamation.
- (2) Section 398(1) and schedule 2, part 1, in relation to the amendment of the *Racing and Betting Amendment Act (No. 2) 2001*, are taken to have commenced on 4 April 2002.

### 3 Act binds all persons

- (1) This Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

### 4 Main purpose of Act

- (1) The main purpose of this Act is to provide for control bodies to manage, operate, develop and promote codes of racing in a way that ensures public confidence in the racing industry in Queensland.

- (2) The main purpose is primarily achieved through the establishment of—
- (a) the Racing Queensland Board as the control body for the thoroughbred, harness and greyhound codes of racing; and
  - (b) a process by which an eligible corporation may be approved as a control body for another code of racing; and
  - (c) a framework for how all control bodies are to undertake the management, operation, development and promotion of codes of racing, including the licensing of clubs and venues in the code; and
  - (d) a cooperative approach among entities under this Act with the commission.

## **5 Definitions**

The dictionary in schedule 1 defines particular words used in this Act.

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## **Chapter 2            Control bodies to manage                               codes of racing**

### **Part 1                Racing Queensland Board**

#### **Division 1           Establishment of board and its                               status**

##### **6                      Racing Queensland Board**

The Queensland All Codes Racing Industry Board, formerly established under this Act, is continued in existence under this Act under the name Racing Queensland Board.

##### **7                      Board to be control body for particular codes of racing**

The board is the control body for the following codes of racing (each a *board code of racing*)—

- (a) thoroughbred racing;
- (b) harness racing;
- (c) greyhound racing.

##### **8                      Application of various public sector Acts**

(1) The board is—

- (a) a statutory body under the *Financial Accountability Act 2009*; and
- (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*; and
- (c) a unit of public administration under the *Crime and Corruption Act 2001*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the board's powers under this

Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## 9 Nature of board

The board is not a body corporate and does not represent the State.

## Division 2 Board's functions and powers

### 10 Functions of board

- (1) The primary function of the board is to be the control body in relation to each of the board codes of racing and, as stated in section 81, to manage its codes of racing.
- (2) The board must perform its primary function in a way that is in the best interests of the board codes of racing collectively while having regard to the interests of each individual code.
- (3) The primary function includes, but is not limited to, each of the following matters relevant to the board codes of racing collectively and individually—
  - (a) identifying, assessing and developing responses to strategic issues, including challenges relevant to each code and all the board codes of racing;
  - (b) leading and undertaking negotiations with other entities about the strategic issues, and about agreements, that affect each code and all the board codes of racing;
  - (c) identifying priorities for major capital expenditure for each code and all the board codes of racing;
  - (d) developing and implementing plans and strategies for developing, promoting and marketing each code and all the board codes of racing;
  - (e) making recommendations to the Minister as it considers appropriate;



- (f) working collaboratively with the commission and others to ensure the integrity of the racing industry in Queensland;
- (g) considering a matter referred to the board by the Minister and reporting to the Minister about the matter.

## **11 Powers of board**

- (1) The board has—
  - (a) the powers mentioned in section 82 as the control body for each board code of racing; and
  - (b) the powers stated in subsection (2); and
  - (c) the powers to do anything else necessary or convenient for performing its primary function or otherwise to discharge an obligation imposed on the board under this Act or another Act.
- (2) The board has the powers of an individual and may, for example—
  - (a) enter into contracts and agreements; and
  - (b) acquire, hold, deal with or dispose of property; and
  - (c) engage consultants or contractors; and
  - (d) appoint agents and attorneys; and
  - (e) employ staff.
- (3) Subject to section 10(2), if a provision of this Act states that a control body—
  - (a) must exercise a power in relation to a code of racing, the board must exercise the power for each board code of racing individually; and
  - (b) may exercise a power in relation to a code of racing, the board may exercise the power for each board code of racing individually.

**12 Board to pay amount of net UBET product fee as prize money each year or otherwise use amount**

- (1) The board must pay an amount that is at least 5.32% of its net UBET product fee for each year as prize money for non-UBET thoroughbred races conducted during that year by non-UBET thoroughbred clubs.
- (2) If the board has not paid an amount that is at least 5.32% of its net UBET product fee for a year as required under subsection (1), the board must use the shortfall amount for the year in the following year to support non-UBET thoroughbred racing.

*Example of use of the shortfall amount for supporting non-UBET thoroughbred racing—*

carrying out maintenance at a non-UBET thoroughbred club

- (3) To remove any doubt, it is declared that—
  - (a) subsections (1) and (2) do not prevent the board—
    - (i) paying more than 5.32% of its net UBET product fee for a year as prize money for non-UBET thoroughbred races conducted by non-UBET thoroughbred clubs in the year; or
    - (ii) using an amount, that is more than the shortfall amount for a year, in the following year to support non-UBET thoroughbred racing; and
  - (b) an amount used as the shortfall amount for a year is not to be included when working out the amount of prize money for non-UBET thoroughbred races conducted by non-UBET thoroughbred clubs in the following year.
- (4) In this section—

*net UBET product fee*, in relation to the board, means the amount of the product fee paid to the board less the following amounts—

- (a) an amount paid by the board to Queensland Race Product Co Ltd ACN 081 743 722 for administrative costs;

- (b) an amount paid by the board to the commission for the provision of integrated scientific and professional services.

***non-UBET thoroughbred club*** means a club for which UBET does not, or is unlikely to, offer wagering on the majority of the club's races of thoroughbred horses.

***non-UBET thoroughbred race*** means a race of thoroughbred horses on which UBET does not, or is unlikely to, offer wagering.

***product fee*** means the product fee under the Queensland Product and Program Deed entered into by TattsBet Limited ACN 085 691 738 and the Queensland All Codes Racing Board, that came into effect on 1 July 2014.

*Note—*

On 1 April 2015, the name of TattsBet Limited was changed to UBET Qld Limited.

***shortfall amount***, for a year, means the amount worked out using the formula—

**F - P**

where—

***F*** means the amount that is 5.32% of the net UBET product fee for the year.

***P*** means the amount paid by the board as prize money for non-UBET thoroughbred races conducted by non-UBET thoroughbred clubs in the year.

***year*** means a financial year.

## 13 Delegation by board

The board may delegate its powers to an appropriately qualified person.

## **Division 3                      Membership**

### **14            Members**

- (1) The board consists of the following 7 members appointed by the Governor in Council—
  - (a) 4 members appointed as mentioned in section 15(1) (each of whom is a *non-industry member*);
  - (b) 3 members appointed as mentioned in section 15(3) (each of whom is a *racing-industry member*).
- (2) A member is to be appointed for a term of not more than 3 years.
- (3) A person appointed as a member may be reappointed.

### **15            Appointment to board**

- (1) The Governor in Council may appoint a person as a non-industry member only if the person—
  - (a) is, on the day of the appointment, an eligible individual and was, for 2 years before that day, an eligible individual; and
  - (b) is suitable to be appointed to the board; and
  - (c) has skills and experience in 1 or more of the following areas—
    - (i) accounting;
    - (ii) animal welfare;
    - (iii) business;
    - (iv) commercial and marketing development;
    - (v) law; and
  - (d) has not, for 2 years before the day of the appointment, owned a licensed animal.
- (2) In deciding whether to appoint a person as a non-industry member, the Governor in Council must have regard to whether

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the person's skills and experience will complement the skills and experience of the other non-industry members so that, as a group, the non-industry members have skills and experience in the areas mentioned in subsection (1)(c).

- (3) The Governor in Council may appoint a person as a racing-industry member only if the person—
  - (a) is, on the day of the appointment, an eligible individual; and
  - (b) is suitable to be appointed to the board; and
  - (c) has skills and experience in at least 1 of the board codes of racing.
- (4) For making a decision about a person's suitability to be appointed to the board, the Governor in Council must have regard to each of the following matters—
  - (a) the person's character or business reputation;
  - (b) the person's current financial position and financial background;
  - (c) the person's background.
- (5) The instrument of appointment of a person as a racing-industry member must state the board code of racing that the person is to represent.

## **16 Vacancy in member's office**

- (1) The office of a member becomes vacant if—
  - (a) the member resigns by signed notice given to the Minister; or
  - (b) the member ceases to be an eligible individual; or
  - (c) the member is absent, without reasonable cause, from 3 consecutive meetings of the board after being given notice of the meeting and, within 6 weeks after the last of those meetings, is not excused by the board for the 3 absences; or

- (d) the member is removed from office under subsection (2).
- (2) The Governor in Council may remove a member from office as a member for any reason or none.

## **17 Chairperson and deputy chairperson**

- (1) The Governor in Council must appoint 1 of the non-industry members as the chairperson of the board.
- (2) The Governor in Council must appoint 1 of the non-industry members as the deputy chairperson of the board.
- (3) A person may be appointed as the chairperson or deputy chairperson at the same time as the person is appointed as a member or at another time.

## **18 Vacancy in chairperson's or deputy chairperson's office**

- (1) The office of chairperson or deputy chairperson becomes vacant if the chairperson or deputy chairperson—
  - (a) ceases to be a member; or
  - (b) resigns office as chairperson or deputy chairperson by signed notice given to the Minister; or
  - (c) is removed from office under subsection (3).
- (2) The chairperson or deputy chairperson may resign office as chairperson or deputy chairperson without resigning office as a member.
- (3) The Governor in Council may remove a person from office as the chairperson or deputy chairperson for any reason or none.

## **19 Casual vacancy**

- (1) If the office of a member, chairperson or deputy chairperson becomes vacant before the end of the member's, chairperson's or deputy chairperson's term, the Governor in Council may appoint a person who is eligible to be appointed under

section 15 or 17 to the board or to the office of chairperson or deputy chairperson.

- (2) A person appointed under subsection (1)—
- (a) completes the rest of the term of appointment of the member, chairperson or deputy chairperson that the person is replacing; and
  - (b) is eligible for reappointment at the end of the term stated in paragraph (a).

## **20 Effect of vacancy in membership**

Despite section 14(1) or 17(1) or (2), the performance of a function, or exercise of a power, by the board is not affected merely because of a vacancy in the office of a member, the chairperson or the deputy chairperson.

## **21 Remuneration and other conditions of appointment**

- (1) A member is to be paid the remuneration decided by the Governor in Council.
- (2) A member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

## **Division 4 Board business and meetings**

### **22 Conduct of business**

Subject to this Act, the board may conduct its business, including its meetings, in the way it considers appropriate.

### **23 Time and place of meetings**

- (1) The board may hold its meetings when and where the chairperson decides.

- (2) However, the chairperson must call a meeting if asked in writing by at least 1 other member.

## **24 Quorum**

A quorum for a meeting of the board is at least 4 members.

## **25 Presiding at meetings**

- (1) The chairperson presides at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent, the deputy chairperson presides.
- (3) If both the chairperson and deputy chairperson are absent from a meeting, including because of a vacancy in an office of chairperson or deputy chairperson, the non-industry board member chosen by the members present is to preside at the meeting.

## **26 Conduct of meetings**

- (1) The board may conduct its meetings by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meetings.
- (2) A member who takes part in a meeting of the board under subsection (1) is taken to be present at the meeting.
- (3) A question at a meeting of the board is to be decided by a majority of the votes of the members present at the meeting.
- (4) If the votes are equal, the person who, under section 25, is presiding at the meeting has a casting vote.
- (5) A resolution is a valid resolution of the board, even though it is not passed at a meeting of the board, if—
  - (a) at least half the members give written agreement to the resolution; and
  - (b) notice of the resolution is given in accordance with procedures approved by the board.



**27 Annual meeting**

- (1) The board must, within 2 months after its annual report is tabled in the Legislative Assembly, hold an annual meeting.
- (2) The annual meeting must be open to the public.
- (3) The board must give 4 weeks notice of when and where it intends to hold its annual meeting on its website.

**28 Minister may call meeting**

- (1) The Minister may direct the board to convene a meeting to consider a matter specified by the Minister.
- (2) The board is to comply with the Minister's direction.

**29 Minutes and other records**

The board must keep—

- (a) minutes of its meetings; and
- (b) a record of its decisions and resolutions.

**30 Dissenting opinion to be reported**

- (1) A member attending a meeting who objects to a decision made at the meeting in relation to the provision of advice to the Minister on a matter may require the member's objection, and the member's reasons for the objection, to be—
  - (a) recorded in the minutes of the meeting; and
  - (b) reported in writing to the Minister when the advice is provided.
- (2) The board is to comply with the requirement.

## **Division 5                      Chief executive officer**

### **31            Chief executive officer of board**

- (1) The board is to have a chief executive officer.
- (2) The chief executive officer of the board is appointed by the Governor in Council.
- (3) A person is eligible for appointment to be the chief executive officer if the person—
  - (a) is recommended by the board; and
  - (b) is, on the day of the appointment, an eligible individual; and
  - (c) is suitable to be appointed as the chief executive officer; and
  - (d) has skills, expertise and experience to perform the functions of the chief executive officer; and
  - (e) is not, on the day of the appointment, and was not, for 2 years before that day, a member, commissioner, deputy commissioner or employee of the commission.
- (4) For subsection (3)(c), in making a decision about the person's suitability, the Governor in Council must have regard to each of the following—
  - (a) the person's character or business reputation;
  - (b) the person's current financial position and financial background;
  - (c) the person's background.

### **32            Term of office**

- (1) The chief executive officer holds office for a term of 3 years.
- (2) The chief executive officer may be reappointed.

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### **33 Functions of chief executive officer**

The main functions of the chief executive officer are as follows—

- (a) to ensure the all-codes board is managed in accordance with the priorities of the board;
- (b) to ensure the efficient and effective administration of the board;
- (c) to ensure the board complies with the requirements of this Act and other Acts.

### **34 Remuneration and conditions of appointment**

- (1) The chief executive officer is employed under this Act and not under the *Public Service Act 2008*.
- (2) The chief executive officer holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council, including, for example, remuneration and allowances.

### **35 Vacancy**

- (1) The office of chief executive officer becomes vacant if the chief executive officer—
  - (a) completes the term of office and is not reappointed; or
  - (b) resigns by signed notice given to the Minister; or
  - (c) ceases to be an eligible individual; or
  - (d) is removed by the Governor in Council under subsection (2).
- (2) The Governor in Council may remove the chief executive officer for any reason or none.

### **36 Acting chief executive officer**

- (1) If there is a vacancy in the office of chief executive officer or the chief executive officer is absent or for any reason is unable

to perform the functions of the office, the board may appoint a person to act as chief executive officer for a period of not more than 3 months.

- (2) However, the board can not appoint a person under subsection (1) for more than 3 months in any 1 year.

### **37 Delegation by chief executive officer**

The chief executive officer may delegate a function of the chief executive officer to an appropriately qualified person approved by the board.

## **Division 6 Information to be collected about potential member and chief executive officer**

### **38 Chief executive to gather information about candidate**

- (1) Before a person (a *candidate*) may be appointed as a member or the chief executive officer, the candidate must sign a consent form that gives the candidate's consent to the following—
- (a) the collection of personal information about the candidate by or for the chief executive;
  - (b) the collection of background information by or for the chief executive;
  - (c) a criminal history check.
- (2) The chief executive may, by notice given to the candidate, require the candidate to give the chief executive further information or a document relating to the candidate within a reasonable time stated in the notice.

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### **39 Obtaining criminal history of candidate**

- (1) The chief executive may ask the police commissioner for the following—
  - (a) a written report on the candidate's criminal history; and
  - (b) a brief description of the circumstances of a conviction mentioned in the candidate's criminal history.
- (2) After receiving the request, the police commissioner must give the report on the candidate's criminal history to the chief executive.
- (3) However, the duty imposed on the police commissioner applies only to information in the commissioner's possession or to which the commissioner has access.
- (4) In this section—

*candidate* means a candidate as mentioned in section 38 who has given a signed consent form for a criminal history check.

## **Division 7 Duties of executive officers and employees of board**

### **40 Duty to act honestly and exercise care and diligence**

- (1) An executive officer of the board must act honestly, and must exercise a reasonable degree of care and diligence, when performing the executive officer's functions and exercising the executive officer's powers.
- (2) A current or former executive officer must not make improper use of information acquired because of the executive officer's position as an executive officer—
  - (a) to gain, directly or indirectly, an advantage for the executive officer or for any other person; or
  - (b) to cause detriment to the board or a board code of racing.

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- (3) An executive officer must not make improper use of the executive officer's position as an executive officer—
  - (a) to gain, directly or indirectly, an advantage for the executive officer or for any other person; or
  - (b) to cause detriment to the board or a board code of racing.
- (4) This section—
  - (a) has effect in addition to, and not in derogation of, any law relating to the civil or criminal liability of an executive officer of the board; and
  - (b) does not prevent the starting of a civil or criminal proceeding in respect of civil or criminal liability.

#### **41 Member must disclose interest**

- (1) This section applies if—
  - (a) a member who is present at a meeting of the board (the *interested member*) has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at the meeting; and

*Note—*

See section 26(2).

- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter.
- (2) The interested member must, as soon as possible after the relevant facts have come to the interested member's knowledge, disclose the nature of the interest at the meeting.  
Maximum penalty—40 penalty units.
- (3) Particulars of any disclosure made under this section must be recorded by the board in a register of interests kept for the purpose.
- (4) Unless the board otherwise directs, the interested member must not—

- (a) be present during any deliberation of the board about the matter; or
  - (b) take part in any decision of the board about the matter.
- (5) For the giving of a direction by the board under subsection (4), the interested member must not—
- (a) be present during any deliberation of the board for the purpose of deciding whether to give the direction; or
  - (b) take part in the decision about giving the direction by the board.
- (6) A contravention of this section does not invalidate any decision of the board.
- (7) However, if the board becomes aware a member has contravened this section, the board must reconsider any decision made by the board in which the member took part in contravention of this section.
- (8) If a member is a racing-industry member, the member may have regard to and act in the interests of the board code of racing stated in the member's instrument of appointment.
- (9) However, a member may not act in a way that is contrary to the interests of the board.
- (10) A reference to an interest or a conflict of interest is a reference to a matter within its ordinary meaning under the general law, and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, schedule 1 does not apply.

## **42 Conflicts of interest**

- (1) If a person employed by the board, other than a member, has an interest that conflicts or may conflict with the discharge of the person's duties, the person—
- (a) must disclose the nature of the interest and conflict to the board as soon as practicable after the relevant facts come to the person's knowledge; and

- (b) must not take action or further action relating to a matter that is, or may be, affected by the conflict unless authorised by the board.

Maximum penalty—40 penalty units.

- (2) The board may direct a person employed by the board to resolve a conflict or possible conflict between an interest of the person and the person's duties.
- (3) If a disclosure is made by a person to the board as mentioned in subsection (1), the board must give notice to the commission within 14 days after the disclosure about—
  - (a) the disclosure; and
  - (b) any direction given by the board to the person.
- (4) For the interpretation of a reference to an interest or a conflict of interest, see section 41(10).

## **Division 8                    Immunity for members and chief executive officer**

### **43            Protection from liability**

- (1) A member or the chief executive officer does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a member or the chief executive, the liability attaches instead to the board.

## **Division 9                    Ministerial direction to board**

### **44            Ministerial direction to board about its functions or powers**

- (1) The Minister may give the board a written direction about the performance of its functions or the exercise of its powers if the



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Minister is satisfied it is in the best interests of the Queensland racing industry to give the direction.

- (2) However, the Minister may not give the board a direction about any of the following—
  - (a) the allocation of race days, and the provision of funding, to licensed clubs to hold race meetings;
  - (b) the prize money for races held for a board code of racing;
  - (c) stopping, restarting, rerunning, postponing or abandoning a race.
- (3) The board must comply with a direction given under subsection (1).
- (4) The board—
  - (a) must include in its annual report, prepared under the *Financial Accountability Act 2009*, section 63, details of any direction given by the Minister under subsection (1) during the financial year to which the report relates; and
  - (b) may include in the report a comment about the effect on the board's activities of complying with the direction.

## **Part 2**                      **Approved control bodies**

### **Division 1**                **Applying for approval as control body for a code of racing**

#### **45**      **An eligible corporation may apply for approval as a control body**

- (1) An eligible corporation may apply to the Minister for approval as the control body for a proposed code of racing.
- (2) The eligible corporation may apply for approval as the control body for the application code even if the corporation is, or has

applied to be, the control body for another proposed code of racing.

- (3) The approval applicant may—
  - (a) withdraw the approval application; or
  - (b) amend the approval application subject to the matters prescribed by regulation about the way in which an approval application may proceed after it is amended.
- (4) The application mentioned in subsection (1) must be in the approved form.

#### **46 Approval application to be accompanied by specific matters**

- (1) An approval application must be accompanied by the following—
  - (a) the application fee prescribed by regulation;
  - (b) the approval applicant's written agreement to pay an amount that is the cost of any mediation under section 52 divided equally among the number of approval applicants who are given a notice about the mediation under that section;
  - (c) a copy of the approval applicant's constitution under the Corporations Act;
  - (d) a consent form signed by each person who the approval applicant considers is a business associate or executive associate of the approval applicant that gives the associate's consent to the following—
    - (i) the collection of personal information about the associate by or for the chief executive;
    - (ii) the collection of background information by or for the chief executive;
    - (iii) a criminal history check;
  - (e) the approval applicant's written agreement to obtain a consent of the type mentioned in paragraph (d) for a

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- person whom the chief executive believes is a business associate or executive associate of the approval applicant but whose consent does not accompany the approval application;
- (f) the approval applicant's plans for managing the application code and a timetable for implementing all the plans.
- (2) The plans mentioned in subsection (1)(f) must include the approval applicant's proposals for policies and the procedures for the following—
- (a) selling a product to persons lawfully conducting wagering under the *Wagering Act 1998*;
  - (b) licensing clubs and venues involved in the application code;
  - (c) safeguarding the public interest in the application code;
  - (d) providing or participating in an appropriate education and training system for persons who are likely to—
    - (i) engage in activities requiring a licence; or
    - (ii) participate in the application code but are not required to be licensed;
  - (e) a website, and the information to be accessible through the website including policies and rules required to be published on the website under sections 104 and 114.
- (3) Also, the plans mentioned in subsection (1)(f) must include the draft strategic plan and operational plan for the application code, that comply with the prescribed requirements under section 98 for the plans, for the financial year in which it is reasonably likely that the application may be approved.
- (4) The proposals for the policies and the procedures must be well developed and, based on the assumption that the application is approved—
- (a) capable of implementation by the approval applicant within 18 months after the Minister's approval of the application; or

- (b) if the approval applicant believes the proposals for the policies and the procedures are not capable of implementation within the 18 months—the plans mentioned in subsection (1)(f) must include an estimate of when the policies and the procedures would be capable of implementation by the approval applicant.
- (5) The written agreement mentioned in subsection (1)(b), and the consent mentioned in subsection (1)(d), must be in the approved form.

#### **47 Evidence of matters to be included in an approval application**

An approval application must include evidence establishing each of the following—

- (a) the approval applicant is an eligible corporation;
- (b) each of its executive officers is an eligible individual;
- (c) each of its executive officers has skills and experience in 1 or more of the following areas—
  - (i) the application code;
  - (ii) accounting;
  - (iii) animal welfare;
  - (iv) business;
  - (v) commercial and marketing development;
  - (vi) law.

### **Division 2 Referral of approval application to chief executive for processing**

#### **48 Minister to refer an approval application for assessment and other action**

- (1) After receiving an approval application, the Minister must refer it to—

- (a) the chief executive for assessment under this Act; and
  - (b) the commission for assessment under the Racing Integrity Act.
- (2) The chief executive must—
- (a) require the approval applicant, by notice (an *advertising notice*) given to the applicant, to advertise information about the approval application; and
  - (b) assess under this Act whether the approval applicant is suitable to be approved as the control body for the application code.

#### **49 Advertising notice about an approval application**

- (1) The advertising notice must state—
- (a) the form of, and the information to be included in, the advertisement; and
  - (b) the newspapers or other publications in which the advertisement must appear; and
  - (c) the days on which the advertisement must appear in the stated newspapers or other publications.
- (2) Without limiting subsection (1)(a), the chief executive must require each advertisement to state that a person may object to the approval application, by giving a written submission to the chief executive or the commission in a way and by a date stated in the advertisement (the *closure date*).
- (3) The closure date must be at least 28 days after the advertisement first appears in a newspaper or other publication as required under subsection (1).
- (4) The approval applicant is liable for all expenses relating to the advertisement.

## **50 Objection to approval application**

- (1) A person (an *objector*) may object to an approval application by written submission given to the chief executive or the commission by the closure date stated in the advertisement.
- (2) The submission must state the objector's reasons for objecting and, if applicable, may include conditions to which the objector believes an approval relating to the approval application should be subject.
- (3) If the chief executive is given a submission as mentioned in subsection (1), the chief executive must give the commission a copy of it.

## **Division 3                      When there is more than 1 approval application relating to a particular type of animal racing**

### **51 Application of division**

This division applies if—

- (a) both of the following apply—
  - (i) an objector's reasons for objecting to an approval application states the objector is the appropriate eligible corporation to be approved as the control body for the application code;
  - (ii) the objector makes an approval application for the application code within 28 days after the closure date; or
- (b) before the closure date for an approval application, another eligible corporation, other than an objector, makes an approval application for the application code.

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**52 Chief executive must call meeting of all approval applicants**

- (1) The chief executive must, by notice given to each of the approval applicants, call a meeting of them to explore the possibility of all of the approval applicants reaching a mediated agreement about the eligible corporation that should be approved as the control body for the application code.

*Example of a mediated agreement—*

The approval applicants may agree to form an eligible corporation in which they each have equal rights to appoint that corporation's executive officers, to withdraw each of their approval applications and to support an application by the formed eligible corporation to be the control body for the application code.

- (2) The chief executive may arrange for a suitably qualified person to be the mediator at the meeting.
- (3) The chief executive, by notice to the commission, must—
  - (a) tell the commission about calling the meeting and the details of the meeting; and
  - (b) invite the commission to attend the meeting as an observer.
- (4) If a mediated agreement can not be reached at the meeting, the chief executive must include information about the mediation in the chief executive's report to the Minister under section 54.

**Division 4 Assessment actions by chief executive for approval applications**

**53 Assessment of an approval application if only 1 application**

- (1) The chief executive must assess an approval application referred to the chief executive under section 48(1).
- (2) The chief executive must prepare and give to the Minister a report relating to the approval application covering the following to the extent that is applicable—

- (a) the application;
  - (b) submissions given to the chief executive under section 50 about the application;
  - (c) reports about the criminal histories of individuals who are business associates and executive associates of the approval applicant, given to the chief executive under section 58(2);
  - (d) the chief executive's assessment, as mentioned in section 48(2)(b), about whether the approval applicant is suitable to be approved as the control body for the application code.
- (3) This section is subject to section 54.

#### **54 Assessment of an approval application if more than 1 application**

- (1) This section applies if the chief executive calls a meeting of approval applicants under section 52(1) and there is no mediated agreement supported by all of the approval applicants.
- (2) The chief executive must assess each of the approval applications.
- (3) The chief executive must prepare and give to the Minister a single report relating to all approval applications covering the following to the extent that is applicable—
  - (a) the applications;
  - (b) submissions given to the chief executive under section 50 about the applications;
  - (c) reports about the criminal histories of individuals who are business associates and executive associates of the approval applicants, given to the chief executive under section 58(2);
  - (d) the chief executive's assessment, as mentioned in section 48(2)(b), about whether each approval applicant



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is suitable to be approved as the control body for the application code;

- (e) an assessment about the merits of each approval application compared to the other approval applications;
- (f) the chief executive's recommendation about which approval applicant is best qualified and most suitable to be the control body for the code.

## **55 Assessing approval applicant or approval applicants**

- (1) This section applies to the chief executive in assessing an approval application as mentioned in section 53 or 54.
- (2) The chief executive must decide whether the approval applicant is suitable to be approved as the control body for the application code.
- (3) For subsection (2), the chief executive must have regard to, and if necessary, investigate each of the following—
  - (a) the approval application, matters accompanying or included in the approval application as mentioned in section 46, and evidence given by the approval applicant in support of the application about the matters mentioned in section 47;
  - (b) the approval applicant's business reputation, current financial position and financial background;
  - (c) the suitability of every business associate and executive associate of the approval applicant to be associated with the approval applicant as a control body;
  - (d) if the approval applicant 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.
- (4) In deciding about the suitability of a business associate or executive associate of the approval applicant, the chief

executive must have regard to, and if necessary investigate, each of the following—

- (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.

**56 Chief executive may require further information or documents to support approval application as part of investigations under s 55**

- (1) For an investigation under section 55 relating to an approval applicant, the chief executive may, by notice given to the approval applicant, require the applicant to give the chief executive further information or a document relating to any of the following within a reasonable time stated in the notice—
  - (a) the approval application;
  - (b) the approval applicant;
  - (c) a business associate or executive associate of the approval applicant;
  - (d) an entity with which the approval applicant has a business association.
- (2) For an investigation under section 55 relating to a business associate or executive associate of an approval applicant, the chief executive may, by notice given to the associate and a copy of the notice to the approval applicant, require the associate to give the chief executive information or a document relating to the following within a reasonable time stated in the notice—
  - (a) the association with the approval applicant;

- (b) an entity with which the associate has a business association.
- (3) When making the requirement, the chief executive must warn the approval applicant and associate that the approval application will not be considered further until the requirement is complied with.

## **57 Request to obtain criminal history of business associates and executive associates of approval applicant**

- (1) This section applies if—
  - (a) a business associate or executive associate of an approval applicant is an individual; and
  - (b) the associate's consent for the chief executive to obtain the associate's criminal history did not accompany the approval application.
- (2) The chief executive must, by notice to the approval applicant, ask the applicant for the written consent of the business associate or executive associate for the chief executive to obtain the associate's criminal history.
- (3) If the business associate or executive associate does not consent, or withdraws his or her consent, the application is taken to have been withdrawn.

## **58 Obtaining the criminal history of an individual**

- (1) If the chief executive has the written consent of an approval applicant's business associate or executive associate who is an individual to obtain the individual's criminal history, the chief executive may ask the police commissioner for the following—
  - (a) a written report on the individual's criminal history;
  - (b) a brief description of the circumstances of a conviction mentioned in the individual's criminal history.

- (2) After receiving the request, the commissioner must give the report on the individual's criminal history to the chief executive.
- (3) However, the duty imposed on the police commissioner applies only to information in the commissioner's possession or to which the commissioner has access.

## **Division 5                    Ministerial decision about approval applications**

### **59            Minister to consider and decide approval application**

- (1) This section applies after the Minister is given an assessment report.
- (2) Before making a decision about an approval application, the Minister must consider the following—
  - (a) the assessment report and any assessment report of the commission under the Racing Integrity Act about the approval application;
  - (b) the approval application or approval applications dealt with in the report;
  - (c) further documents given to the chief executive or the commission by the approval applicant in support of the application or an amendment of the application;
  - (d) submissions given to the chief executive or the commission under section 50(1) and, to the extent applicable, any other approval applications and any mediated agreement as mentioned in section 52(1), relating to the application code;
  - (e) conditions the Minister believes should apply if the application is approved.
- (3) The Minister must not grant the application unless the Minister is satisfied—

- (a) the approval application is accompanied by, and includes, all matters mentioned in section 46 and otherwise complies with that section; and
  - (b) the approval applicant has provided evidence satisfactory to the Minister about the matters mentioned in section 47; and
  - (c) the application code is suitable to be a code of racing and the approval applicant is suitable to be approved as the control body for the code of racing.
- (4) Without limiting subsection (3), if the Minister is considering more than 1 approval application, the Minister must decide which approval applicant is best qualified and most suitable to be the control body for the application code.

## **60 Information notice about Minister's decision**

- (1) After the Minister makes a decision about an approval application, the Minister must give the approval applicant an information notice about the decision.
- (2) If the Minister grants the application, the information notice must state the conditions imposed by the Minister to which the approval is to be subject.
- (3) If the Minister's decision is that, should the approval applicant rectify a matter within a period, the Minister would give the approval applicant an approval under section 61, the information notice must state the matter to be rectified, the way it may be rectified and a reasonable period for the matter to be rectified.

*Example for subsection (3)—*

The approval application may be approved on the condition that the approval applicant's constitution is changed in a stated way within a stated period.

**61 When Minister must give an approval to approval applicant**

- (1) This section applies if the Minister decides an approval applicant is suitable to be approved as the control body for the application code.
- (2) After all of the following have happened, the Minister must give the approval applicant an approval as the control body for the code of racing signed by the Minister—
  - (a) the Minister has given the approval applicant an information notice about the decision under section 60;
  - (b) the approval applicant has given the chief executive a notice stating—
    - (i) there have been no changes to the information in the approval application, or the other documents or information given to the Minister or chief executive, that are likely to affect the Minister's decision; and
    - (ii) if applicable—a matter to be rectified, as stated in the information notice as mentioned in section 60(3), has been rectified and the way it has been rectified;
  - (c) the approval applicant has paid the fee under section 65 in relation to the first year of the approval.
- (3) After giving an approval under subsection (2), the Minister must publish in the gazette a notice that—
  - (a) the type of animal racing stated in the notice is a code of racing; and
  - (b) the Minister has approved the approval applicant as the control body for the code of racing stated in the notice.
- (4) The notice mentioned in subsection (2)(b) must be in the approved form.

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## **62 Form of approval**

The approval of the control body must state each of the following—

- (a) the name of the control body, its Australian Company Number and its business address;
- (b) the date of the approval and the date on which the approval takes effect;
- (c) the code of racing for which the approval is given;
- (d) conditions imposed by the Minister to which the approval is subject.

## **63 Control body approved for more than one code of racing**

- (1) This section applies to a control body that has approval as the control body for more than 1 code of racing.
- (2) In making a decision under this Act, the control body must make a decision that is in the best interests of all the codes of racing for which the control body holds an approval while having regard to the interests of each individual code.

## **Division 6 Other matters relating to approvals and approval applications**

### **64 Approval continues in force unless cancelled or suspended**

- (1) A control body's approval continues in force until the approval is cancelled.
- (2) However, if a control body's approval is suspended, the approval does not have effect for the period of the suspension.

### **65 Yearly fee payable by each control body**

- (1) A control body must pay a fee to the chief executive in relation to each year for which its approval has effect.

- (2) A regulation may prescribe—
  - (a) the amount of the fee payable under this section relating to each year; and
  - (b) the date (the *due date*) by which the fee relating to each year is payable.
- (3) If a fee is not paid by the due date—
  - (a) the amount of the fee is a debt owing to the State; and
  - (b) the failure to pay is a ground for taking, as mentioned in section 74(1)(d), disciplinary action relating to the approval of the control body.

## **66 Regulation may prescribe a condition applying to an approval**

- (1) A regulation may prescribe a condition (a *regulation condition*) to which the Minister's approval is subject.
- (2) A regulation condition applies to a control body even if the control body was approved as a control body before the regulation commenced.
- (3) If there is an inconsistency between an express condition stated in an approval and a regulation condition, the regulation condition applies to the extent of the inconsistency.

## **67 Variation of approval of control body**

- (1) A control body may apply to the Minister for a variation of its approval as a control body.
- (2) The application must be in the approved form and accompanied by the application fee prescribed under a regulation.
- (3) The Minister must consider the application and either grant or refuse to grant the application.
- (4) After the Minister makes a decision about the application, the Minister must give the applicant an information notice about the decision.



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- (5) If the Minister grants the application, the information notice must—
- (a) state the conditions imposed by the Minister to which the approval is to be subject; and
  - (b) include a direction to the control body to return the approval to the Minister, within 14 days after the date of the information notice, for relevant action by the Minister.

## **Division 7                      Requirements for approved control body after approval**

### **68            Approved control body to report to chief executive on status as eligible corporation in previous financial year**

- (1) Within 14 days after each anniversary day for an approved control body, the approved control body must give the chief executive a notice about whether the approved control body has been an eligible corporation for the year before the anniversary day and is, on that anniversary day, an eligible corporation.
- (2) A notice under subsection (1) must be in the approved form.
- (3) In this section—  
*anniversary day*, for an approved control body, means each day that is the anniversary of the day on which the approved control body's approval took effect.

### **69            Obligation to implement plans as stated in approval application**

- (1) This section applies to the following that, under section 46(1)(f), accompanied a control body's approval application—
  - (a) its plans for managing its code of racing; and
  - (b) the timetable for implementing the plans.

- (2) Subject to the regulation conditions and stated conditions in the control body's approval, the control body must implement the plans as stated in the timetable.

## **70 Notice of event resulting in a control body not being an eligible corporation**

- (1) Within 14 days after an event happening relating to a control body that makes the control body no longer an eligible corporation, the control body must give notice under subsection (2) about the event to the chief executive and the commission.
- (2) The notice must—
  - (a) be in the approved form; and
  - (b) include the control body's plan and timetable for making the corporation an eligible corporation.
- (3) The giving of a notice under subsection (1) does not limit the Minister's power under section 75 to give the control body a show cause notice.

## **71 Ministerial direction to approved control body about its policies or rules**

- (1) This section applies if the Minister believes that, for 1 or more of the following reasons, it is necessary to give a control body a direction under this section—
  - (a) to ensure public confidence in the integrity of the Queensland racing industry;
  - (b) to ensure the control body is managing its code of racing in the interests of the code;
  - (c) to ensure the welfare of licensed animals;
  - (d) to ensure the control body's actions are accountable and its decision-making processes are transparent;
  - (e) to ensure the control body's rules of racing have sufficient regard to the rights and liberties of individuals

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as mentioned in the *Legislative Standards Act 1992*, section 4(3).

- (2) The Minister may, by notice given to the control body, direct the control body to do 1 or more of the following and take into account matters stated in the direction—
  - (a) make a new policy about a matter;
  - (b) review an existing policy;
  - (c) make rules of racing about a matter;
  - (d) review existing rules of racing.
- (3) The notice must state a date by which the direction must be complied with.
- (4) The date stated must be reasonable having regard to the nature of the matters to be done under the direction.

## **72 Control body is unit of public administration**

On and after the approval effect day for a control body, the control body is a unit of public administration under the *Crime and Corruption Act 2001*, to the extent of the control body's operations for the purposes of performing its function under this Act.

## **73 Audit by auditor-general**

- (1) At the request of the Minister, the auditor-general may audit a control body.
- (2) For subsection (1)—
  - (a) the auditor-general is taken to be auditing an entity under the *Auditor-General Act 2009*; and
  - (b) the control body is taken to have consented to the audit.
- (3) However, despite that Act and subsection (2)(b), the control body can not revoke or otherwise withdraw the consent mentioned in subsection (2)(b).

- (4) A control body audited under this section is liable for the fees charged by the auditor-general for the audit, as mentioned in the *Auditor-General Act 2009*.

## **Division 8                      Disciplinary action against approved control bodies**

### **74                      Grounds for disciplinary action relating to the approval of a control body for its code of racing**

- (1) Each of the following is a ground to take disciplinary action relating to an approval of a control body for its code of racing—
- (a) the control body is not an eligible corporation;
  - (b) an executive officer of the control body is not an eligible individual;
  - (c) the control body is no longer suitable to manage the code;
  - (d) the control body contravenes a provision of this Act or the Racing Integrity Act, whether or not a penalty is provided for the contravention;
  - (e) the control body fails to comply with a condition relating to its approval;
  - (f) the control body contravenes a Ministerial direction;
  - (g) in its approval application, or a notice or other document that the control body is required under this Act or the Racing Integrity Act to give to the Minister, chief executive or commission, the control body stated something it knew was false or misleading in a material particular.
- (2) For forming a belief that the ground mentioned in subsection (1)(c) exists, the Minister may have regard to the same issues to which the Minister may have regard in deciding whether an approval applicant for approval as a control body is suitable to be approved as a control body.

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## 75 Show cause notice

- (1) If the Minister believes a ground exists to take disciplinary action relating to the approval of a control body for its code of racing, the Minister must, subject to section 78(1)(a), give the control body a notice (a *show cause notice*).
- (2) The show cause notice must state the following—
  - (a) the disciplinary action the Minister proposes taking under this division (the *proposed action*);
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) if the proposed action includes suspension—the proposed suspension period;
  - (e) if the proposed action includes varying the approval—the change that it is proposed to make to a condition stated in the approval or the new condition to which it is proposed to make the approval subject;
  - (f) if the proposed action includes censuring the control body—the proposed censure;
  - (g) an invitation to the control body 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 28 days after the day the show cause notice is given to the control body.

## 76 Consideration of representations

- (1) The control body may make written 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).

## **77 Immediate suspension of an approval**

- (1) The Minister may suspend the approval of a control body immediately if the Minister believes—
  - (a) a ground exists to take disciplinary action relating to the approval of the control body for its code of racing; and
  - (b) the circumstances are so extraordinary that it is imperative to suspend the approval immediately to ensure—
    - (i) the safety of persons, or the welfare of animals, at a race meeting managed by the control body; or
    - (ii) the public interest in the code of racing is not adversely affected.
- (2) The suspension—
  - (a) can be effected only by the Minister giving the control body an information notice about the decision to suspend it, together with a show cause notice; and
  - (b) operates immediately the information notice is given to the control body; and
  - (c) continues to operate until the show cause notice is finally dealt with.

## **78 Censuring control body**

- (1) The Minister may censure a control body if the Minister—
  - (a) believes a ground exists to take disciplinary action relating to the approval of the control body but does not believe that giving a show cause notice to the control body is warranted; or
  - (b) after considering the accepted representations for a show cause notice, still believes a ground exists to take disciplinary action relating to the approval of a control body but does not believe disciplinary action is warranted.

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- (2) The censure may be effected only by the Minister giving the control body an information notice about the decision to censure it.

## **79 Direction to control body to rectify matter**

- (1) This section applies if, after considering the accepted representations for a show cause notice, the Minister—
- (a) still believes a ground exists to take disciplinary action relating to the approval of a control body; and
  - (b) believes a matter relating to the ground to take disciplinary action is capable of being rectified and it is appropriate to give the control body an opportunity to rectify the matter.
- (2) The Minister may direct the control body to rectify the matter.
- (3) The direction can be effected only by the Minister giving the control body an information notice about the decision to give the direction, including the period for rectifying the matter.
- (4) The period stated in the information notice must be reasonable having regard to the nature of the matter to be rectified.
- (5) A control body must comply with a direction under this section within the period for rectifying the matter stated in the information notice, unless it has a reasonable excuse.
- Maximum penalty—400 penalty units.
- (6) The control body can not be prosecuted, or have disciplinary action relating to its approval taken against it, for the ground giving rise to the information notice unless the control body—
- (a) fails to comply with the notice within the stated period; and
  - (b) does not have a reasonable excuse for failing to comply with the notice.
- (7) The Minister's power to give a direction to a control body under another provision of this Act is not limited by the Minister's power to give a direction under this section.

## **80 Action by Minister**

- (1) Subject to section 79(6), this section applies if—
  - (a) there are no accepted representations for a show cause notice; or
  - (b) after considering the accepted representations for a show cause notice, the Minister still believes a ground for disciplinary action exists relating to the approval.
- (2) The Minister may—
  - (a) if the proposed action was to suspend the approval—suspend the approval for not longer than the proposed suspension period; or
  - (b) if the proposed action was to vary the approval—vary the approval in the proposed way; or
  - (c) if the proposed action was to cancel the approval—cancel the approval or take another form of disciplinary action.
- (3) More than 1 type of disciplinary action relating to the approval of a control body may be taken under this section.
- (4) If the Minister decides to take action under subsection (2), the Minister must immediately give the control body an information notice about the decision.
- (5) The information notice must include a direction to the control body to return the approval to the Minister, within 14 days after receiving the information notice, for relevant action by the Minister.
- (6) The decision takes effect on the later of the following—
  - (a) the day the information notice is given to the control body;
  - (b) the day of effect stated in the information notice.



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## **Part 3                      Control bodies for codes of racing**

### **Division 1                Function and powers of control bodies**

#### **81            Function of control body**

The function under this Act of a control body is to manage its code of racing.

#### **82            Powers of control body for its code of racing**

- (1) A control body has—
- (a) the powers necessary for performing its function; and
  - (b) all other powers necessary for discharging the obligations imposed on the control body under this Act or another Act.
- (2) Without limiting subsection (1), a control body may do any of the following for any of its codes of racing—
- (a) license clubs and venues that are suitable to be licensed for the code;
  - (b) conduct audits of licence holders to decide if the licence holders continue to be suitable to be licensed, on the control body's own initiative or at the request of the Minister;
  - (c) investigate complaints about licence holders on the control body's own initiative or at the request of the Minister;
  - (d) allocate dates on which, and places at which, race meetings are to be held for the code of racing;
  - (e) prepare and implement plans and strategies for developing, promoting and marketing the commercial operations of the code of racing;

- (f) encourage and facilitate the development of ancillary racing activities for the code of racing, including, for example, the breeding and training of animals;
- (g) distribute an amount—
  - (i) as prize money for races; or
  - (ii) to a licensed club, on conditions the control body considers appropriate, for a purpose relating to the operations of the club; or
  - (iii) for undertaking research and analysis for the code of racing;
- (h) investigate, make decisions about and, on conditions the control body considers appropriate, allocate funding for venue development and other infrastructure relevant to the code of racing;
- (i) supervise—
  - (i) the construction of a new racing venue; or
  - (ii) alterations or renovations to an existing racing venue;
- (j) examine a licensed club's constitution to determine if it complies with this Act and the relevant rules of racing;
- (k) promote animal welfare and prevent animal cruelty, including ensuring adequate training is provided to participants to achieve this;
- (l) publish material to inform the public, whether in Queensland or elsewhere;
- (m) prepare, on its own motion or when directed by the Minister, reports and recommendations;
- (n) order the audit of the books and accounts of a licensed club by a registered company auditor under the Corporations Act;
- (o) enter into reciprocal arrangements with entities in other States, or in countries other than Australia, that have similar powers to the control body for recognising—

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- (i) the activities conducted by, or under the control of, the entities in the other States or the countries; and
    - (ii) another matter or thing relating to managing the code of racing;
  - (p) issue race information authorities under section 135(1);
  - (q) establish a committee or another entity that—
    - (i) assists the control body to perform its functions; or
    - (ii) provides advice to the control body about performing its functions, and performs administrative functions, for non-UBET races.
  - (3) To the extent a control body believes necessary or desirable for performing the control body's function, the control body may, by notice given to a licensed club, give a direction to the club (a ***control body direction***) relating to—
    - (a) the operations of the club, including, for example, matters in relation to the licensed club's assets; or
    - (b) a licensed venue for which the club is the licence holder.
  - (4) A control body direction may require a licensed club to do something or to refrain from doing something.
  - (5) As mentioned in section 115(1)(a), if the licensed club is not complying, or has not complied with the control body direction, the control body may suspend or cancel the club's licence.
  - (6) In this section—  
***non-UBET races*** means races on which UBET does not, or is unlikely to, offer wagering.

### **83 Control body may charge fees for its services**

- (1) A control body for a code of racing may charge fees for services it provides as part of managing its code of racing.
- (2) A fee charged by the control body for a service, including matters relating to licensing, must reflect the reasonable cost to the control body of providing the service.

- (3) Despite subsection (1), a control body may not charge a fee for a service provided to the Minister or the chief executive under this Act or to the commission for the purposes of the Racing Integrity Act.

## **Division 2                      Obligations of control bodies other than for policies**

### **84                      Obligation to have racing calendar for code of racing**

- (1) A control body for a code of racing must prepare a program (the *racing calendar*) that includes the following matters for the period in relation to which the racing calendar is published (the *calendar period*)—
  - (a) the dates on which, and places at which, race meetings are to be held for the code of racing during the calendar period;
  - (b) information about the races to be held at each race meeting, including, for example, the length of the race, the types of animals eligible for the race and the prize;
  - (c) information about dates relevant for each race, including, for example, deadlines for nominating and paying nomination fees;
  - (d) a change to the control body's rules of racing that take effect during the calendar period;
  - (e) a change to a previous racing calendar;
  - (f) a declaration under the Racing Integrity Act of a sporting contingency within the meaning of that Act.
- (2) The control body may amend the racing calendar if—
  - (a) the control body believes a licensed club is unsuitable to hold a race meeting; or
  - (b) a licensed club fails to comply with a control body direction given to the club under section 82(3).

- (3) The control body must make the racing calendar for a calendar period available at least 7 days before the start of, and during, the calendar period.
- (4) The control body may comply with subsection (2) by making the racing calendar available on its website for at least 7 days before the start of, and during, the calendar period.
- (5) The control body may publish the racing calendar in, or as part of, another publication of the control body that includes other information, including, for example, advertising.

## **Division 3                      Reporting about particular changes or events**

### **85            Notice about change of executive officers**

- (1) If an executive officer of a control body resigns, or the executive officer's appointment or employment otherwise ends, the control body must give notice about the resignation, or the end of the appointment or employment, to the chief executive under subsection (2).
- (2) The notice mentioned in subsection (1) must—
  - (a) be in the approved form; and
  - (b) be given within 14 days after the resignation, or the end of the appointment or employment, of a person as an executive officer; and
  - (c) if, at the time of the resignation or end of the appointment or employment, the executive officer was no longer an eligible individual, include the reason why the executive officer was no longer an eligible individual.
- (3) If a person is appointed or employed as an executive officer of a control body after the control body's approval or, for the board, is appointed as an executive officer of the body after the body is established, the control body must give notice

about the appointment or employment to the chief executive under subsection (4).

- (4) The notice mentioned in subsection (3) must—
- (a) be in the approved form; and
  - (b) be given within 14 days after the appointment or employment of the person as an executive officer; and
  - (c) state that the person is an eligible individual; and
  - (d) be accompanied by a consent form signed by the person that gives the person's consent to the following—
    - (i) the collection of personal information about the person by or for the chief executive;
    - (ii) the collection of background information by or for the chief executive;
    - (iii) a criminal history check.

**86 Notice of event resulting in executive officer no longer being an eligible individual**

- (1) Within 14 days after an event happening that results in an executive officer of a control body being no longer an eligible individual, the executive officer must give notice about the event to the chief executive.

Maximum penalty—40 penalty units.

- (2) The notice must be in the approved form.

## **Division 4 Reporting generally to Minister**

**87 Quarterly reports**

- (1) A control body for a code of racing must give the Minister a report on the control body's operations for the code for each quarter in a financial year.

*Note—*

As the control body for each board code of racing, the board must give the Minister 3 reports each quarter.

- (2) Each quarterly report must be given to the Minister—
  - (a) within 6 weeks after the end of the quarter; or
  - (b) if another period after the end of the quarter is agreed between the control body and the Minister—within the agreed period.
- (3) A quarterly report must contain the information required to be given in the report under the control body's operational plan for the code of racing.
- (4) In this section—

**quarter**, in a financial year, means the following periods in the year—

  - (a) 1 July to 30 September;
  - (b) 1 October to 31 December;
  - (c) 1 January to 31 March;
  - (d) 1 April to 30 June.

## **88 Control body to keep Minister informed**

- (1) A control body for a code of racing must keep the Minister reasonably informed of—
  - (a) its operations, financial performance and financial position in relation to the code; and
  - (b) its achievement of the objectives in its strategic and operational plans for the code.
- (2) A control body for a code of racing must immediately advise the Minister of any matters that arise that, the control body considers, may—
  - (a) prevent or impact on the control body's achievement of the objectives in its strategic and operational plans for the code; or

- (b) significantly impact on the public confidence in the code of racing.

## **89 Reporting to department**

- (1) By notice given to a control body, the Minister may require the control body to report to the chief executive for the purposes of section 88.
- (2) A control body given a requirement under subsection (1) must comply with it.

## **90 Other reporting requirements**

Sections 87 and 88 do not limit the matters about which a control body is required to keep the Minister informed or limit the reports or information that the control body is required to give under this Act or another Act.

# **Division 5 Strategic and operational plans**

## **91 Interaction of division with Financial Accountability Act 2009**

- (1) If something is required to be done by the board under this division as a control body for a code of racing and the same thing, or something to the same effect, is required to be done under the *Financial Accountability Act 2009*, compliance with this division is sufficient compliance with the *Financial Accountability Act 2009*.
- (2) Otherwise, the requirements that apply under this division to the board as a control body for a code of racing are in addition to the requirements under the *Financial Accountability Act 2009*.
- (3) If there is an inconsistency between the application of this division to the board as a control body for a code of racing and the *Financial Accountability Act 2009*, this division prevails to the extent of the inconsistency.



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**92 Control body to prepare draft strategic and operational plans**

- (1) Before 31 March each year, a control body for a code of racing must prepare, and give to the Minister, a draft strategic plan and a draft operational plan for the code for the next financial year.
- (2) The control body and the Minister must try to reach agreement on the draft plans as soon as possible and, in any event, not later than the start of the financial year.

**93 Procedures**

- (1) The Minister may return a draft strategic or operational plan to the control body and ask it—
  - (a) to consider, or further consider, a stated thing and deal with the thing in the draft plan; and
  - (b) to revise the draft plan in the light of the control body's consideration or further consideration.
- (2) The control body must comply with the request as a matter of urgency.
- (3) If the Minister has not agreed to the draft plan by 1 month before the start of the financial year, the Minister may, by notice, direct the control body—
  - (a) to take stated steps in relation to the draft plan; or
  - (b) to make stated modifications of the draft plan.
- (4) The control body must immediately comply with the direction and include a copy of the direction in the plan.

**94 Strategic or operational plan pending agreement**

- (1) This section applies if the Minister and a control body have not agreed to a draft strategic or operational plan before the start of a financial year.
- (2) The draft plan given, or last given, by the control body to the Minister before the start of the financial year, with any

modifications made by the control body, whether before or after that time, at the direction of the Minister, is taken to be the control body's strategic or operational plan.

- (3) Subsection (2) applies until a draft strategic or operational plan becomes the control body's strategic or operational plan under section 95.

## **95 Strategic or operational plan on agreement**

When a draft strategic or operational plan relating to a code of racing has been agreed to in writing by the Minister, it becomes the control body's strategic or operational plan for the code for the relevant financial year.

## **96 Compliance with strategic and operational plans**

A control body for a code of racing must comply with its strategic and operational plans for the code for the relevant financial year.

## **97 Modifications of strategic or operational plan**

- (1) A control body may modify its strategic or operational plan for a code of racing only with the written agreement of the Minister.
- (2) The Minister may, by notice, direct a control body for a code of racing to modify its strategic or operational plan for the code.

## **98 Content of operational plan and strategic plan**

A control body's operational plan or strategic plan for a code of racing for a financial year must comply with any requirements prescribed by regulation for the plan.

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## **Division 6                      Executive officers of control body to disclose interest in licensed animals**

### **99            Disclosure of interest in licensed animal by executive officer of control body**

- (1) This section applies if an executive officer of a control body is or becomes an owner of a licensed animal, whether or not the executive officer derives a financial benefit from the ownership interest.
- (2) The executive officer must disclose the following information to a meeting of the relevant persons of the control body—
  - (a) the number of licensed animals in which the executive officer has an ownership interest and the name by which each animal is known;
  - (b) the code of racing for which each animal is licensed;
  - (c) the percentage of the executive officer's ownership interest in each animal.

Maximum penalty—40 penalty units.

- (3) The control body must—
  - (a) within 14 days after the disclosure, give notice about the disclosure to the Minister, the chief executive and the commission; and
  - (b) if any other person requests information about the disclosure, make the information available to the person.
- (4) However, subsection (3) does not apply if the person who disclosed the information is no longer an executive officer of the control body.
- (5) The control body may charge a fee for making information available under subsection (3)(b).
- (6) A fee charged by the control body for making information available under subsection (3)(b) must not be more than the

reasonable cost to the control body of making the information available.

(7) In this section—

*relevant persons*, of the control body, means—

- (a) if the control body is the board—the members of the control body; or
- (b) if the control body is an approved control body—the directors of the control body.

## Chapter 3      Control bodies managing their codes of racing

### Part 1            Introduction

#### 100    Purpose of chapter

- (1) The main purpose of this chapter is to provide for the way a control body may perform its function of managing its code of racing.
- (2) Generally, the control body performs its function by—
  - (a) making policies about the management of its code of racing, including, for example, about its licensing schemes for controlling activities relating to clubs and venues and about the way in which races are to be held for its code of racing; and
  - (b) making rules of racing; and
  - (c) giving directions to licensed clubs and ensuring compliance by taking disciplinary action relating to the licence of a club that does not comply with a direction.

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- (3) A control body's policies ensure there is guidance for persons involved in the code of racing and transparent decision-making relating to matters dealt with by the policies.

## **101 Policies and rules of racing are statutory instruments**

The policies and rules of racing made by a control body for its code of racing are statutory instruments within the meaning of the *Statutory Instruments Act 1992*.

# **Part 2 Policies**

## **Division 1 [omitted]**

### **102 Policy for code of racing**

- (1) A control body may make a policy for a code of racing because—
- (a) the policy is required under this Act or a Ministerial direction; or
  - (b) the control body believes it is good management to have the policy.
- (2) The control body must make a policy for a licensing scheme for its code of racing.
- (3) A regulation may prescribe that a control body must make a policy for a particular matter and the provisions to be included in the policy for the matter.

### **103 Form of each policy**

- (1) A policy must state the following—
- (a) its name;
  - (b) the date it is made by the control body;
  - (c) the day it takes effect;

- (d) its purpose;
  - (e) who will be affected by it;
  - (f) how the control body will make decisions about matters provided for by the policy;
  - (g) whether or not rules of racing are to be made for the policy.
- (2) A control body makes a policy when the policy is entered into the control body's minutes as having been made by it.
  - (3) A policy can not take effect on a day that is earlier than the date the policy is made by the control body.
  - (4) If a control body wishes to amend a policy, it must make a new policy.

#### **104 Availability of policies**

- (1) A control body must ensure that its policies are publicly available.
- (2) Without limiting subsection (1), for each of its policies, the control body must—
  - (a) give a copy of the policy to the chief executive within 14 days after it makes the policy; and
  - (b) make the policy available for inspection, free of charge, at its business address during its ordinary office hours and on its website; and
  - (c) give a copy of the policy to a person if the person asks for a copy.
- (3) If a control body charges for copies of its policies, the control body is not required under subsection (2)(c) to give a person a copy of the policy without charging the person.

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## **105 Application of policy**

To remove any doubt, it is declared that a policy may apply to a club or venue even though it was not licensed when the policy was made.

## **Division 2 Policy about licensing scheme**

### **106 Purposes of control body's licensing scheme**

The purposes of a control body's licensing scheme for its code of racing are to ensure—

- (a) the integrity of licensed clubs; and
- (b) the suitability of venues to conduct racing activities for its code.

### **107 Control body's policy for a licensing scheme**

- (1) In developing the control body's policy for its licensing scheme, the control body must consider the privileges and duties that are to attach to a licence it issues and other matters relevant to an effective licensing scheme.
- (2) The control body's policy for its licensing scheme must provide for all of the following matters—
  - (a) the licences the control body may issue for its code of racing, including identifying the activities for which a licence is required;
  - (b) the way a licence may be applied for, having regard to section 108;
  - (c) the criteria for each type of licence including appropriate qualifications for, and disqualifications from, obtaining the licence;
  - (d) the way the control body will deal with an application for a licence, including the applicant's right to make further representations relating to the application;

- (e) the grant, issue and form of a licence, including, for example, whether the licence is to include a photograph of the licensee;
- (f) giving an information notice for a decision relating to an application;
- (g) the duration of a licence, its renewal and the procedure for surrendering it;
- (h) how and when the suitability of licensed clubs and venues will be audited to decide if a licensed club or venue continues to be suitable to be licensed;
- (i) the grounds for taking disciplinary action relating to a licence in relation to matters dealt with in the control body's rules of racing or as mentioned in subsection (5);
- (j) when and how a licence may be immediately suspended in order to protect the safety of persons;
- (k) how disciplinary action relating to a licence, other than immediate suspension, must be taken including the following—
  - (i) the procedure for giving a licence holder notice of the grounds for taking the disciplinary action;
  - (ii) the proposed action;
  - (iii) the way the licence holder may make representations about the proposed action;
- (l) keeping a register of licences and correcting the register;
- (m) exhibiting and producing a licence;
- (n) replacing a lost licence;
- (o) requiring a licence holder to give the control body notice of—
  - (i) a change of address; or
  - (iii) if the licence holder is a corporation—a change to the corporation's executive officers;



- (p) appointing the control body's officials, their functions and powers and issuing identity cards to them;
- (q) serving notices on licence holders.
- (3) Without limiting subsection (1), the control body's policy for its licensing scheme may provide for the following matters—
  - (a) whether an applicant for a licence should be required to give notice about the application by advertisement in a newspaper, in another publication or by a sign placed on land, because of the particular nature of the licence;
  - (b) whether there should be provision for provisional or temporary licences;
  - (c) attaching conditions to the grant of a licence, including, for example, that the licence may allow access to the licence holder's place of business.
- (4) A control body's policy for its licensing scheme about licensed clubs must provide that when auditing a licensed club, the control body must have regard to the following for a period stated in the policy—
  - (a) the number of race meetings allotted to the licensed club;
  - (b) the number of races held at each race meeting.

## 108 Application for licence

- (1) A control body's policy for its licensing scheme must require a person who wishes to obtain a licence for a club or venue (the *proposed licensee*) to apply for the licence in a control body form.
- (2) To the extent it is relevant to the application for the licence, the application must include all of the following—
  - (a) the type of licence applied for;
  - (b) the type of work or activity to be performed by the proposed licensee;
  - (c) particulars of the proposed licensee;

- (d) if the proposed licensee is an individual, appropriate training courses completed, or appropriate experience obtained, by the proposed licensee.
- (3) Also, a control body's policy relating to the licensing of a club must provide for the following matters—
- (a) for the club's application to be accompanied by a copy of a national police certificate for each executive officer of the applicant;
  - (b) the application can not be granted if an executive officer of the applicant has a conviction for any of the following, other than a spent conviction—
    - (i) an offence against this Act, the Racing Integrity Act or the repealed *Racing and Betting Act 1980*;
    - (ii) an indictable offence, or a summary offence that involved dishonesty, fraud, stealing or unlawful betting, under any other Act or repealed Act;
    - (iii) an offence against a law of another State, that is prescribed by regulation as a law about animal welfare, racing or betting;
    - (iv) an animal welfare offence;
  - (c) the extent to which the control body must have regard to another conviction stated on the national police certificate other than a conviction mentioned in paragraph (b);
  - (d) after auditing a licensed club, if the control body is not satisfied it is suitable to continue to be licensed, the control body must take disciplinary action relating to the licence.
- (4) A control body's policy for its licensing scheme may require an application for a licence for a venue to be accompanied by a copy of a national police certificate for—
- (a) if the applicant is an individual—the individual; or
  - (b) if the applicant is a corporation—each executive officer of the corporation.

- (5) If a national police certificate is required under subsection (4), the control body may consider all convictions stated in the national police certificate as relevant to the application for the licence.

### **109 Licences may not be transferred**

A control body's policy for a licensing scheme must not allow a person licensed by the control body to transfer the licence to another person.

## **Division 3 Other matters about policies**

### **110 Same venue may be licensed by control bodies**

- (1) This Act does not prevent a venue licensed by a control body for its code of racing being licensed by another control body for its code of racing.
- (2) A control body must not prevent a venue licensed by it for its code of racing being licensed by another control body.

## **Part 3 Rules of racing**

### **111 Obligation to have rules of racing for code of racing**

- (1) A control body must have rules of racing for the good management of each of its codes of racing.
- (2) Rules of racing must be made in accordance with section 112.

### **112 Process and other matters relating to making rules of racing**

- (1) Before a control body may make rules of racing, the control body must prepare a draft of the rules (the *draft rules*).

- (2) The draft rules must be given to the chief executive and the commission with a request for comments about the draft rules by a day stated in the request (the *stated day*).
- (3) The stated day must be at least 28 days or more after the day of the request unless—
  - (a) the control body is satisfied that, because of exceptional circumstances, it is necessary to make the rules of racing before 28 days after the day of the request; and
  - (b) the request states—
    - (i) the exceptional circumstances; and
    - (ii) a stated day for making comments that is earlier than the 28 days and the earlier day is reasonable given the stated exceptional circumstances.
- (4) If the chief executive or the commission gives the control body comments about the draft rules, the control body must reach agreement with the chief executive and the commission about the way in which the draft rules are to be changed.
- (5) The control body may make the rules of racing—
  - (a) if there are no comments—after the stated day; or
  - (b) otherwise—after agreement is reached as mentioned in subsection (4).

### **113 Requirement relating to rules of racing**

- (1) In making rules of racing, a control body must have regard to whether the rules have sufficient regard to the rights and liberties of individuals as mentioned in the *Legislative Standards Act 1992*, section 4(3).
- (2) Failure to comply with subsection (1) does not affect the validity of the rules.
- (3) If there is an inconsistency between any of the following (each an instrument) and a control body's rules of racing, the instrument prevails to the extent of the inconsistency—
  - (a) this Act;

- (b) the Racing Integrity Act;
- (c) a policy of the control body;
- (d) if the commission has a standard about a matter to which the rules of racing relate—the standard.

#### **114 Availability of rules of racing**

- (1) A control body for a code of racing must ensure its rules of racing for the code are publicly available, including on its website.
- (2) Without limiting subsection (1), the control body must—
  - (a) give a copy of the rules to the chief executive and the commission, free of charge, within 14 days after the control body makes the rules; and
  - (b) make its rules available for inspection, free of charge, at its business address during its ordinary office hours; and
  - (c) give a copy of its rules to a person if the person asks for a copy.
- (3) If a control body charges for copies of its rules, the control body is not required under subsection (2)(c) to give a person a copy without charging the person.

## **Part 4 Control bodies may take certain action against licensed clubs**

#### **115 Grounds for suspension or cancellation**

- (1) Each of the following is a ground for suspending or cancelling a licensed club's licence—
  - (a) the club is not complying, or has not complied, with a control body direction given to the club;

- (b) a ground that another provision of this Act states is a ground for suspending or cancelling a licensed club's licence;

*Note—*

See section 123.

- (c) for a non-proprietary club—the club contravened section 128 or 129.
- (2) Subsection (1)(c) applies whether there is or was a prosecution relating to the contravention of section 128.
  - (3) Subsection (1) does not limit the grounds that, under the control body's rules of racing about disciplinary action, may be grounds for taking disciplinary action relating to a licensed club's licence.

## 116 Show cause notice

- (1) If a control body believes a ground exists to cancel or suspend a licensed club's licence as mentioned in section 115(1), the control body must, subject to section 119(1)(a), give the club a notice (a *show cause notice*).
- (2) The show cause notice must state the following—
  - (a) the action the control body proposes taking under this part (the *proposed action*);
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) if the proposed action is to suspend the licence, the proposed suspension period;
  - (e) an invitation to the club 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 28 days after the day the show cause notice is given to the club.

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### **117 Representations about show cause notice**

- (1) The licensed club may make written representations about the show cause notice to the control body in the show cause period.
- (2) The control body must consider all written representations (the *accepted representations*) made under subsection (1).

### **118 Immediate suspension of licensed club's licence**

- (1) The control body may suspend the licensed club's licence immediately if the control body believes—
  - (a) a ground exists to suspend or cancel the licence; and
  - (b) the circumstances are so extraordinary that it is imperative to suspend the licence immediately to ensure—
    - (i) the public interest is not affected in an adverse and material way; or
    - (ii) the conduct of racing by the club is not jeopardised in a material way.
- (2) The suspension—
  - (a) can be effected only by the control body giving the club an information notice, together with a show cause notice; and
  - (b) operates immediately the notice is given to the club; and
  - (c) continues to operate until the show cause notice is finally dealt with.

### **119 Censuring licensed club**

- (1) The control body may censure a licensed club if the control body—
  - (a) believes a ground exists to suspend or cancel the club's licence but does not believe that giving a show cause notice to the club is warranted; or

- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the licensed club's licence but does not believe its suspension or cancellation is warranted.
- (2) The censure can be effected only by the control body giving the club an information notice about the control body's decision to censure it.

## **120 Direction to licensed club to rectify matter**

- (1) This section applies if, after considering the accepted representations for a show cause notice, the control body—
  - (a) still believes a ground exists to suspend or cancel the licensed club's licence; and
  - (b) believes a matter relating to the ground to suspend or cancel the licence is capable of being rectified and it is appropriate to give the club an opportunity to rectify the matter.
- (2) The control body may direct the club to rectify the matter.
- (3) The direction can be effected only by the control body giving the club an information notice about the control body's decision to give the direction to it, including the period for rectifying the matter.
- (4) The period stated in the information notice must be reasonable having regard to the nature of the matter to be rectified.
- (5) A licensed club must comply with a direction under this section within the period for rectifying the matter stated in the information notice, unless it has a reasonable excuse.

Maximum penalty—400 penalty units.

- (6) The licensed club can not be prosecuted, or have its licence suspended or cancelled, for the ground giving rise to the information notice unless the club—
  - (a) fails to comply with the notice within the period stated in the notice as the period for rectifying the matter; and



- (b) does not have a reasonable excuse for failing to comply with the notice.
- (7) A control body's power to give a direction to a licensed club under another provision of this Act is not limited by the control body's power to give a direction under this section.

## **121 Suspension or cancellation**

- (1) Subject to section 120(6), this section applies if—
- (a) there are no accepted representations for a show cause notice; or
  - (b) after considering the accepted representations for the show cause notice, the control body still believes the ground exists to cancel or suspend the licensed club's licence.
- (2) The control body may—
- (a) if the proposed action was to suspend the licence—  
suspend the licence for a period not longer than the proposed suspension period; or
  - (b) if the proposed action was to cancel the licence—
    - (i) cancel the licence; or
    - (ii) suspend the licence for a period.
- (3) If the control body decides to take action under subsection (2), the control body must immediately give the licensed club an information notice about the decision.
- (4) If the control body's decision is that the licence is cancelled or suspended, the information notice must include a direction to the club to return the licence to the control body, within 14 days of receiving the notice, for relevant action by the control body.
- (5) The decision takes effect on the later of the following—
- (a) the day the information notice is given to the licensed club;
  - (b) the day of effect stated in the information notice.

## **122 Notice of decision**

- (1) This section applies if a control body decides to—
  - (a) cancel or suspend a licensed club’s licence under section 115 or 118; or
  - (b) censure a licensed club under section 119; or
  - (c) direct a licensed club to rectify a matter under section 120.
- (2) The control body must give the commission notice of the decision.

## **Part 5 Provisions applying to licensed clubs**

### **Division 1 Contravention of this part constitutes a ground for suspending or cancelling a licensed club’s licence**

#### **123 Contravention by licensed club constitutes a ground for disciplinary action**

- (1) If a licensed club contravenes a provision of this part, the contravention constitutes a ground for suspending or cancelling the licensed club’s licence.
- (2) For subsection (1), it is immaterial whether the licensed club is prosecuted for an offence constituted by the contravention.
- (3) This part does not limit the matters that a control body’s policy about its licensing scheme may provide is a ground for disciplinary action relating to the licence of a club.

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## **Division 2                      Race meetings**

### **124      Licensed club to hold race and betting meeting at licensed venue**

- (1) A licensed club must not hold a contest, contingency or event in which 2 or more animals compete against each other for the purpose of providing a contest, contingency or event on which bets may be made unless—
- (a) the contest, contingency or event is held at a licensed venue of the licensed club; and
  - (b) the control body that licensed the club and venue is managing the venue at the time; and
  - (c) the commission is exercising control at the venue at the time.

Maximum penalty—200 penalty units.

- (2) A licensed club must not hold a meeting at which betting is carried on and at which a race is not held unless—
- (a) the meeting is held at a licensed venue of the licensed club; and
  - (b) the control body that licensed the club and venue is managing the venue at the time; and
  - (c) the commission is exercising control at the venue at the time.

Maximum penalty—200 penalty units.

## **Division 3                      Audited accounts of licensed clubs and related matters**

### **125      Licensed club to give audited accounts to control body**

- (1) Within 3 months after the end of each financial year, the responsible entity for a licensed club for the financial year must give the club statements for the financial year, that have

been signed by the club's auditors, to the control body for the code of racing in relation to which the club was licensed.

- (2) The statements must be in the control body form.
- (3) If the club was a non-proprietary club during the financial year, the control body form must provide for statements about the following—
  - (a) the club's income and expenditure, on an accrual basis;
  - (b) particulars of each amount paid by the club for a charitable, benevolent, patriotic or special purpose approved by the control body;
  - (c) particulars of other payments or expenditure made by the club of the type mentioned in section 128(3);
  - (d) its assets and liabilities as at the end of the financial year.
- (4) If the club was other than a non-proprietary club during the financial year, the control body form must provide for statements about the following—
  - (a) the club's income and expenditure, on an accrual basis;
  - (b) its assets and liabilities as at the end of the financial year.
- (5) In this section—

***responsible entity***, for a licensed club for a financial year, means—

- (a) if the corporation that was a licensed club during the financial year continues to be a licensed club—the licensed club; or
- (b) if the corporation that was a licensed club during the financial year is no longer licensed as a licensed club but the corporation continues to exist—the corporation; or
- (c) if the corporation that was a licensed club during the financial year is no longer licensed as a licensed club and the corporation no longer exists—each of the

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persons who was an executive officer of the corporation immediately before the licence ended.

## 126 Control body to report to Minister about licensed club

Within 6 months after the end of each financial year, a control body must report to the Minister about—

- (a) whether each licensed club that should have given the club's audited financial information for the financial year to the control body, as required by section 125, has done so; and
- (b) any issues that have arisen following the control body's assessment of the financial information; and
- (c) any information relating to the actions taken by the licensed club, or control body directions to the club, to rectify the identified issues; and
- (d) any other matter prescribed by regulation.

## Division 4 Provisions for licensed clubs that are non-proprietary entities

### 127 Definitions for division

In this division—

*deal with*, an asset, includes grant a right in relation to the asset, mortgage, lend, lease or register a charge over the asset, but does not include dispose of the asset.

*dispose*, of an asset, includes distribute, forfeit, relinquish possession of, sell or otherwise give up, the asset.

*non-proprietary entity* means—

- (a) a licensed club that is a non-proprietary club; or
- (b) a corporation that was a licensed club and, when it was licensed, was a non-proprietary club.

*relevant control body*, relating to a non-proprietary entity, means the control body in relation to which the entity is or was licensed.

**128 Application of revenues, profits etc. of licensed club that is or was a non-proprietary entity**

- (1) A non-proprietary entity must not divide, directly or indirectly, money comprising the entity's revenues, profits or other assets, however derived, among the individual members of the entity or any of them.
- (2) The non-proprietary entity may apply amounts comprising its revenues and profits—
  - (a) for encouraging the relevant control body's code of racing in Queensland if the application is under 1 of the control body's policies for that purpose; and
  - (b) for a charitable, benevolent, patriotic or special purpose, if the application is under the relevant control body's written approval obtained before the entity applies the amounts.
- (3) This section does not prevent—
  - (a) a payment to a member of a non-proprietary entity as—
    - (i) principal and interest payable for amounts lent to the entity by that member, calculated at a rate not exceeding the rate for the time being approved by the Reserve Bank of Australia as the maximum rate of interest chargeable by banks for overdraft accommodation; or
    - (ii) rent for a lease of a licensed venue that is the property of the member, if the lease was approved by the Minister before its execution; or
    - (iii) reimbursement for reasonable expenses incurred by the member under 1 of the relevant control body's policies that provides the expenses may be incurred; or

- (b) an expenditure by the non-proprietary entity for—
  - (i) providing reasonable entertainment for the entity's members in common with other persons; and
  - (ii) defraying a member's expenses for attending, with the approval of the entity before attending—
    - (A) a conference or meeting of persons interested or concerned in racing or in the control, holding or supervision of race meetings; or
    - (B) a conference or meeting with the relevant control body or with the Minister; or
    - (C) a place to promote the entity's interests; or
- (c) a payment to 1 of the entity's members of prize money, or for the award of a trophy, won by a licensed animal at a race meeting held by the entity; or
- (d) a payment by the entity of a reasonable amount to a person, whether or not a member of the entity, for legal, accounting, secretarial or other professional services requested by or given to the entity.

## **129 Prohibition of disposal of assets etc. of non-proprietary entity**

- (1) A non-proprietary entity may not dispose of any of its asset unless—
  - (a) if the asset is an amount comprising the entity's revenues and profits—the amount is applied under section 128(2) or (3); or
  - (b) if the asset is an interest in real property and is used for a purpose mentioned in subsection (2)—the asset is disposed of under that subsection; or
  - (c) if the asset is not an amount mentioned in paragraph (a) or an interest in real property used for a purpose mentioned in subsection (2), the asset is disposed of under—

- (i) 1 of the relevant control body's policies; or
  - (ii) a written approval of the relevant control body, obtained before the disposal and relating to that asset.
- (2) Despite this Act or another Act, or a law, custom or practice, the entity must not dispose of an interest in real property that is used for the following purposes without the approval of the Minister obtained before the disposal—
  - (a) a licensed venue;
  - (b) a place for exercising, conditioning or training licensed animals.
- (3) An approval given for subsection (2) must be published in the gazette.
- (4) The Minister may, under subsection (2), approve the disposal of an asset that is an interest in real property used for a purpose mentioned in that subsection only if the following happened before the entity sought the Minister's approval—
  - (a) the majority of the entity's members present at a meeting of it approved of the disposal;
  - (b) the relevant control body's approval was obtained.
- (5) A relevant control body may grant an approval mentioned in subsection (4)(b) on conditions the control body considers appropriate.

### **130 Dealing with assets of non-proprietary entity**

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

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



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## Part 6 Use of Queensland race information

### 131 Definitions for part

In this part—

*betting exchange* see section 132.

*document or information request* see section 136.

*licensed wagering operator* means—

- (a) a licensed bookmaker; or
- (b) a person who is the holder of an oncourse wagering permit or a race wagering licence under the *Wagering Act 1998*; or
- (c) a wagering operator who holds a licence or other authority—
  - (i) under a law of another State or a foreign country, that authorises the operator to conduct a wagering business; or
  - (ii) issued by a principal racing authority of another State or a foreign country, that authorises the operator to conduct a wagering business.

*principal racing authority*, of another State or a foreign country, means an entity that manages a type of animal racing in the other State or foreign country.

*Queensland race information* means information that identifies, or is capable of identifying any of the following—

- (a) the name, number or time of an intended race to be held at a race meeting at a licensed venue in Queensland;
- (b) the name or number of a licensed animal that has been nominated for, or that will otherwise take part in, an intended race to be held at a race meeting at a licensed venue in Queensland;

- (c) the name or number of a licensed animal that has been scratched or withdrawn from an intended race to be held at a race meeting at a licensed venue in Queensland;
- (d) the name or number of a rider, or trainer, of a licensed animal that has been nominated for, or that will otherwise take part in, an intended race to be held at a race meeting at a licensed venue in Queensland;
- (e) the outcome of a race held at a race meeting at a licensed venue in Queensland.

***race information authority*** means a race information authority issued under section 135(1).

***totalisator*** see the *Wagering Act 1998*, section 8.

***wagering monitoring system*** means a system for monitoring the wagering activity of a licensed wagering operator.

***wagering operator*** means—

- (a) a person who conducts bookmaking; or
- (b) a person who conducts a betting exchange; or
- (c) a person who conducts a totalisator; or
- (d) a person who otherwise conducts a wagering business.

## 132 Meaning of ***betting exchange***

- (1) ***Betting exchange*** means a facility that enables persons—
  - (a) to place or accept, through the operator of the facility, wagers with other persons; or
  - (b) to place with the operator of the facility wagers that, on acceptance, are matched with opposing wagers placed with and accepted by the operator.
- (2) However, ***betting exchange*** does not include a facility that enables persons to place wagers only with a person who conducts bookmaking or a totalisator.

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### **133 Use of Queensland race information**

A licensed wagering operator must not, whether in Queensland or elsewhere, use Queensland race information for the conduct of the operator's wagering business, unless the operator is authorised to do so under a race information authority.

Maximum penalty—

- (a) for a first offence—600 penalty units or 12 months imprisonment; or
- (b) for a second or subsequent offence—4,000 penalty units or 5 years imprisonment.

### **134 Application for race information authority**

- (1) A licensed wagering operator wishing to use Queensland race information for the conduct of the operator's wagering business for a code of racing may apply to the control body for the code of racing for a race information authority for the code of racing.
- (2) The application must—
  - (a) be made in the way prescribed by regulation; and
  - (b) be accompanied by—
    - (i) any application fee decided by the control body; and
    - (ii) the documents prescribed by regulation.
- (3) The control body must consider the application and either grant, or refuse to grant, the application.
- (4) In deciding the application, the control body must have regard to the criteria prescribed by regulation.
- (5) Without limiting subsection (4), the criteria that are prescribed by regulation for that subsection may state—
  - (a) the types of matters that may, or must, be taken into account by the control body in deciding the application; or

- (b) the types of matters that must not be taken into account by the control body in deciding the application.

### **135 Decision**

- (1) If the control body decides to grant the application, the control body must as soon as practicable issue a race information authority for the code of racing to the applicant.
- (2) If the control body decides to grant the application but impose conditions on the authority as mentioned in subsection (3) or to refuse to grant the application, the control body must give the applicant an information notice about the decision.
- (3) If the control body decides to grant the application, the control body may impose any of the following conditions on the authority—
  - (a) a condition that the holder of the authority pay the control body a fee for the use of Queensland race information for the conduct of the holder's wagering business for the code of racing;
  - (b) a condition of a type prescribed by regulation.
- (4) In deciding whether to impose a condition on the authority, or the type of condition, the control body must not take into account the matters prescribed by regulation.
- (5) If the applicant has used Queensland race information for the conduct of the applicant's wagering business for the code of racing at any time during the period from 1 September 2008 to the day of issue of the authority to the applicant, a condition mentioned in subsection (3)(a) may be that the holder of the authority pay a fee for the use of the information during the period.
- (6) Without limiting subsection (4), in deciding whether to impose a condition mentioned in subsection (3)(a) on the authority, or the amount of the fee, the control body must take into account any other fees payable to it by the holder of the authority under any agreement between the control body and holder of the authority.

- (7) If the control body decides to impose a condition mentioned in subsection (3)(a) on the authority, section 83(2) does not apply to the amount of the fee charged.

### **136 Standard condition of race information authority**

It is a condition of every race information authority that the holder of the authority must, unless the holder has a reasonable excuse—

- (a) take part, as required by the control body that issued the authority, in a wagering monitoring system established or nominated by the control body; and
- (b) comply with all reasonable requests by the control body to give the control body, within the reasonable time stated in the request, information or documents about bets placed with the holder (a *document or information request*).

### **137 Use of documents or information by control body**

- (1) A control body may use documents or information gained from a wagering monitoring system or under a document or information request only for—
- (a) monitoring wagering activity to detect possible breaches of this Act or the control body's rules of racing; and
  - (b) taking investigative or enforcement action about the possible breaches.
- (2) Subsection (1) does not prevent the control body from providing the documents or information to the chief executive, the commission or another person if the control body is required to do so under this Act or another Act.

### **138 Effect of providing documents or information about wagering activity**

A person who is the holder of a race information authority or an employee of the holder is not liable civilly, criminally or

under an administrative process for providing documents or information about wagering activity—

- (a) by taking part in a wagering monitoring system; or
- (b) in response to a document or information request.

### **139 Cancellation of race information authority**

A control body that has issued a race information authority to a licensed wagering operator may, by information notice given to the operator, cancel the authority on a ground prescribed by regulation.

### **140 Authorisations for competition legislation**

- (1) The following things are specifically authorised for the competition legislation—
  - (a) an agreement entered into between—
    - (i) 2 or more control bodies in relation to the appointment of an agent (an *appointed agent*) to collect, or the collection by the agent or any of the bodies of, fees that are payable to the bodies under race information authorities issued by the bodies; or
    - (ii) 1 or more control bodies and any corresponding body of another State in relation to the appointment of an agent (also an *appointed agent*) to collect, or the collection by the agent or any of the bodies of, fees that are payable to the bodies for the use of Queensland race information and corresponding information relating to the corresponding body;
  - (b) the conduct of the bodies and an appointed agent in negotiating and entering into the agreement;
  - (c) the conduct of the bodies and an appointed agent in performing the agreement.

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- (2) Anything authorised to be done by subsection (1) is authorised only to the extent to which it would otherwise contravene the *Competition and Consumer Act 2010* (Cwlth) or the Competition Code of Queensland.
- (3) In this section—  
*agreement* includes a contract, arrangement or understanding.  
*competition legislation* means the *Competition and Consumer Act 2010* (Cwlth), section 51(1)(b) or the Competition Code of Queensland, section 51.

## Chapter 4      Review of decisions

### 141      What is an *original decision* and who is the *decision-maker*

- (1) An *original decision* is any of the following—
- (a) a decision of a control body to refuse to grant or renew a licence;
  - (b) a decision of a control body to take disciplinary action relating to a licence;
  - (c) a decision of a control body to take an exclusion action against a person;
  - (d) a decision of a control body to impose a monetary penalty on a person;
  - (e) a decision of a control body to impose any other non-monetary penalty on a person;
  - (f) a decision of a control body to refuse to grant a race information authority for a code of racing;
  - (g) a decision of a control body to cancel a race information authority under section 139;

- (h) a decision under this Act prescribed by regulation as an original decision.
- (2) The *decision-maker*, for an original decision, is—
  - (a) for an original decision mentioned in subsection (1)(a) to (g)—the control body that made the original decision; or
  - (b) for a decision mentioned in subsection (1)(h)—the entity prescribed by regulation as the decision-maker for that decision.

#### **142 Who is an interested person for an original decision**

An *interested person* for an original decision means a person who is—

- (a) for an original decision refusing to grant or renew a licence—the applicant for the licence; or
- (b) a licence holder adversely affected by a decision of a control body to take the following action against the holder—
  - (i) disciplinary action;
  - (ii) exclusion action;
  - (iii) impose a monetary penalty;
  - (iv) impose any other non-monetary penalty; or
- (c) for an original decision refusing to grant a race information authority for a code of racing—the applicant for the race information authority; or
- (d) for an original decision to cancel a race information authority under section 139—the holder of the race information authority before it is cancelled; or
- (e) prescribed by regulation for the purposes of a decision under this Act that is prescribed by regulation as an original decision.



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**143 External review process starts with internal review**

A person may not apply to QCAT for review of an original decision unless there has been an internal review of the original decision.

**144 Applying for internal review of original decision**

- (1) An interested person for an original decision may apply to the decision-maker for the decision for an internal review of the decision.
- (2) The application must—
  - (a) if the decision-maker is—
    - (i) a control body—be in the relevant control body form; or
    - (ii) other than a control body—be in the relevant approved form; and
  - (b) include enough information to enable the decision-maker for the decision to decide the application; and
  - (c) be made to the decision-maker within 14 days after—
    - (i) the day the interested person is given an information notice about the decision; or
    - (ii) if the person is not given an information notice about the decision—the day the interested person otherwise becomes aware of the decision.
- (3) The decision-maker may, at any time, extend the time for making an internal review application.

**145 Staying operation of original decision on internal review**

- (1) The application for an internal review does not stay the original decision.
- (2) However, the applicant may immediately apply for a stay of the original decision to QCAT.

- (3) QCAT may stay the original decision to secure the effectiveness of the internal review and any later external review by QCAT.
- (4) QCAT may stay the operation of the internal review decision on conditions it considers appropriate.
- (5) The stay operates for the period decided by QCAT.
- (6) The period of the stay must not extend past the time when the decision-maker for the decision makes an internal review decision about the original decision and any later period QCAT allows the applicant to enable the applicant to apply for an external review of the internal review decision.
- (7) An internal review application affects the original decision, or carrying out of the decision, only if the decision is stayed.

#### **146 Reviewing original decision**

- (1) The decision-maker for an original decision must, within 20 business days after receiving an application for internal review of the original decision—
  - (a) review the original decision; and
  - (b) make a decision (the *internal review decision*) to—
    - (i) confirm the original decision; or
    - (ii) amend the original decision; or
    - (iii) substitute another decision for the original decision; and
  - (c) give the applicant a notice (the *review notice*) advising of the internal review decision.
- (2) The application may be dealt with only by a person who—
  - (a) did not make the original decision; and
  - (b) holds a more senior office than the person who made the original decision.
- (3) Subsection (2)—

- (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
  - (b) does not apply to an original decision made by a control body at a meeting.
- (4) If the internal review decision confirms the original decision, the original decision is taken to be the internal review decision.
  - (5) If the internal review decision amends the original decision, the original decision as amended is taken to be the internal review decision.
  - (6) If the internal review decision is not the decision sought by the applicant, the review notice must comply with the QCAT Act, section 157(2).
  - (7) If the decision-maker for the original decision does not give the applicant a review notice within 20 business days after receiving the application, the decision-maker is taken to have confirmed the original decision.

## **147 Applying for external review**

- (1) This section applies to a person who, under section 146, must be given a review notice complying with the QCAT Act, section 157(2) for an internal review decision.
- (2) The person may apply to QCAT, as provided under the QCAT Act, for a review of the internal review decision.

*Note—*

The QCAT Act, section 22(3) states that QCAT may stay the operation of the internal review decision, either on application by a person or on its own initiative.

## Chapter 5 Offences

### Part 1 Offences

#### Division 1 Offences relating to administration of Act

##### 148 Definitions for div 1

In this division—

*Act document* means—

- (a) a Minister's approval or licence; or
- (b) a race information authority.

*background document* means—

- (a) an approved form or control body form, completed by a person about the person's business reputation, character, criminal history, current financial position or financial background; or
- (b) a document accompanying an approved form or control body form; or
- (c) a document—
  - (i) given by a person for consideration for appointment as an executive officer of the board; and
  - (ii) relating to the person's business reputation, character, criminal history, current financial position or financial background; or
- (d) another document obtained by the Minister, the chief executive or a control body, relating to a person's business reputation, character, criminal history, current financial position or financial background.

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***confidential information***, about someone, means information about—

- (a) the person's business reputation, character, criminal history, current financial position or financial background; or
- (b) the person making an application under this Act; or
- (c) whether the person was identified by the police commissioner under a repealed section as a participant in a criminal organisation or as an unsuitable corporation.

***control body officer*** means an executive officer or employee of a control body.

***copy*** includes make a record.

***court*** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

***forge*** includes counterfeit.

***repealed section*** means section 212A(2), 224(4) or 225(4) as in force before the commencement of the *Racing Integrity Act 2016*, section 363.

## **149 Offence to disclose confidential information or copy background document**

- (1) This section applies to a person who—
  - (a) is or has been engaged in the administration of this Act; or
  - (b) has obtained access to confidential information or a background document about someone else, whether directly or indirectly, from a person mentioned in paragraph (a).
- (2) The person must not, without reasonable excuse—
  - (a) disclose confidential information to anyone else; or

- (b) copy a background document about someone else acquired by the person; or
- (c) give access to a background document about someone else.

Maximum penalty—100 penalty units.

- (3) It is a reasonable excuse if—
  - (a) the person has the written consent of the person to whom the information or background document relates or someone else authorised by the person; or
  - (b) the disclosure is authorised under this Act or another Act; or
  - (c) the disclosure is in compliance with lawful process requiring production of documents or giving evidence before a court; or
  - (d) the disclosure was of a statistical nature that could not reasonably be expected to result in the identification of the person to whom the information relates.
- (4) Subsection (3)(a) and (d) do not apply if the confidential information relates to whether the person was identified by the police commissioner under a repealed section as a participant in a criminal organisation or as an unsuitable corporation.

## **150    Forgery and uttering Act documents**

- (1) A person must not—
  - (a) forge an Act document; or
  - (b) knowingly utter an Act document that is forged.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) A person must not pretend to be a person named in an Act document, whether or not the person refers to the document.

Maximum penalty—200 penalty units or 2 years imprisonment.

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**151 Making a false statement in application or other document**

A person must not knowingly make a false statement—

- (a) in an application for a licence or approval application; or
- (b) in a document the person is required to keep, or to give to the Minister, the chief executive, a control body or another person, under this Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

**Division 2 Offences**

**152 Person must not interfere with licence holder or official of a control body**

- (1) A person must not, unless the person has a reasonable excuse, interfere with a licence holder in relation to the licence holder's performance of an activity for which the licence holder is licensed.

Maximum penalty—400 penalty units or 2 years imprisonment.

- (2) A person must not, unless the person has a reasonable excuse, interfere with an official of a control body performing a function or exercising a power under the control body's rules of racing.

Maximum penalty—400 penalty units or 2 years imprisonment.

- (3) In this section—

*interfere with*, in relation to a licence holder or an official of a control body, means—

- (a) inflict injury on or cause injury to the licence holder or official; or
- (b) threaten to inflict injury on or cause injury to the licence holder or official; or

- (c) otherwise affect in a detrimental way the behaviour, performance or physical condition of the licence holder or official.

### **153 Interfering with particular things at licensed venue or places for holding trials**

- (1) This section applies to all of the following—
  - (a) a lighting, power or control system, lure drive, or any other plant or equipment, used in connection with holding a race or trial at a licensed venue or holding a trial at another place;
  - (b) a course prepared or laid out for holding the race or trial.
- (2) A person must not interfere with a thing to which this section applies without permission from the responsible person for the licensed venue or place.

Maximum penalty—400 penalty units or 2 years imprisonment.

- (3) In this section—
  - interfere with*, in relation to the operation of plant or equipment or to a course, includes altering, damaging, destroying or removing the plant, equipment or course, or a part of the plant, equipment or course.
  - responsible person*, for a licensed venue or a place, means—
    - (a) for a day on which a race meeting is to be held at the licensed venue or on which a trial is to be held at the place—the control body managing the licensed venue or place; or
    - (b) for another day—the licensed club responsible for the licensed venue or the owner of the place.

### **154 Attempt to commit offence**

- (1) A person who attempts to commit an offence against this Act commits an offence.



Maximum penalty for an attempt—the maximum penalty for the completed offence.

- (2) The Criminal Code, section 4 applies to subsection (1).
- (3) A person may be convicted of attempting to commit an offence against this Act on a complaint or indictment charging the person with the offence.

## **Part 2                      Legal proceedings**

### **Division 1                Evidence**

#### **155    Application of division**

This division applies to a proceeding under this Act.

#### **156    Appointments and authority**

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of the Minister or the chief executive and the authority of the Minister or chief executive to do anything under this Act;
- (b) the appointment of a person as a member, the chairperson, the deputy chairperson or the chief executive officer;
- (c) the approval of a corporation as a control body.

#### **157    Signatures**

A signature purporting to be that of any of the following persons is evidence of the signature that it purports to be—

- (a) the Minister;
- (b) the chief executive;

- (c) a member, the chairperson, the deputy chairperson or the chief executive officer;
- (d) a person who is an executive officer of a corporation that is a control body.

### **158 Evidentiary aids—documents**

A document purporting to be a copy of an appointment, approval, direction, licence, notice or other document made or given under this Act is evidence of the appointment, approval, direction, licence, notice or other document and of the matters contained in it.

## **Division 2                   Matters about offence proceedings, indictable and summary offences**

### **159 Types of offences**

- (1) Subject to subsection (2), an offence against this Act is a summary offence.
- (2) An offence against section 133 is an indictable offence that is a misdemeanour.

### **160 Proceedings for indictable offence**

- (1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—
  - (a) by way of summary proceeding 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

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- (b) the magistrate believes 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
    - (b) a plea of the person charged at the start of the proceeding must be disregarded; and
    - (c) evidence brought in the proceeding 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).

### **161 Limitation on who may summarily hear indictable offence**

- (1) The proceeding must be before a magistrate if it is a proceeding—
  - (a) for the summary conviction of a person on a charge for an indictable offence; or
  - (b) for an examination of witnesses for a charge for an indictable offence.
- (2) However, if the proceeding 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*.

### **162 Limitation on time for starting summary proceeding**

A proceeding for a summary offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

- (a) within 1 year after the commission of the offence; or

- (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

### **163 Increased penalties**

A conviction for an offence against this Act or the repealed Act is not, after 10 years from the date of the conviction, receivable in evidence against a person for the purpose of subjecting the person to an increased penalty or to a forfeiture under this Act.

## **Chapter 6 Miscellaneous provisions**

### **164 Approved forms**

The chief executive may approve forms for use under this Act.

### **165 Satisfaction, belief or suspicion must be on grounds that are reasonable in the circumstances**

- (1) This section applies if, under this Act—
  - (a) a person is required to be satisfied or not satisfied of, or have a belief or suspicion about, a particular matter before the person may do or refrain from doing an act, or make a decision; or
  - (b) if the person is satisfied or not satisfied of, or has a belief or suspicion about, a particular matter, a person is required to do or refrain from doing an act, or make a decision.
- (2) The person must be satisfied or not satisfied or have the belief or suspicion on grounds that are reasonable in the circumstances.

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**166 Matters must be considered appropriate on grounds that are reasonable in the circumstances**

- (1) This section applies if, under this Act, an entity is required to consider that a particular matter is appropriate before the entity may do or refrain from doing an act or make a decision.
- (2) The entity must not do or refrain from doing the act, or make the decision, unless it considers the particular matter is appropriate on grounds that are reasonable in the circumstances.

**167 Fees etc. that are owing to the State are debts**

All fees and other amounts due and payable by a person under this Act to the State may be recovered by action as a debt.

**168 Delegations**

- (1) The Minister may delegate the Minister's powers under this Act to the chief executive or an appropriately qualified officer of the department.
- (2) The chief executive may delegate the following to an appropriately qualified person—
  - (a) the chief executive's powers under this Act;
  - (b) a power delegated to the chief executive under subsection (1).

**169 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
  - (a) prescribe a law of another State as a law about racing or betting; and
  - (b) prescribe the fees required under this Act, including the fees mentioned in sections 46 and 65.

## **Chapter 7            Repeal, transitional provisions and other provisions**

### **Part 1                Repeal**

#### **171    Repeal of Racing and Betting Act**

The Racing and Betting Act 1980 (1980 Act No. 43) is repealed.

### **Part 2                Transitional provisions for Racing Act 2002**

#### **Division 7            Miscellaneous provisions**

#### **172    References to repealed Act**

In an Act or document, a reference to the *Racing and Betting Act 1980* may, if the context permits, be taken to be a reference to this Act.

### **Part 3                Transitional provisions for Racing Amendment Act 2008**

#### **173    Definitions for pt 3**

In this part—

*commencement* means 1 July 2008.

*corresponding new control body*, for a former board, means—

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- (a) for the Greyhound Authority—the new greyhound control body; or
  - (b) for the Harness Racing Board—the new harness control body.

***former board*** means the Greyhound Authority or the Harness Racing Board.

***new greyhound control body*** means Greyhounds Queensland Limited ACN 128 067 247 approved as the control body for greyhound racing.

***new harness control body*** means Queensland Harness Racing Limited ACN 128 036 000 approved as the control body for harness racing.

## 174 Proceedings

- (1) A proceeding that could have been started by or against a former board before the commencement may be started by or against the corresponding new control body.
- (2) From the commencement, an existing proceeding may be continued and finished by or against the corresponding new control body.
- (3) In this section—

***existing proceeding*** means a proceeding that—

- (a) was taken by or against a following person before the commencement—
  - (i) a former board;
  - (ii) a member of a former board in the capacity as a member of the former board; and
- (b) has not been finished before the commencement.

## 175 Things done by former board

- (1) Anything done by a former board under this Act—
  - (a) continues to have effect; and

- (b) from the commencement, is taken to have been done by the corresponding new control body.
- (2) Without limiting subsection (1), on the commencement—
  - (a) a policy of a former board that was in effect immediately before the commencement continues as if it were a policy of the corresponding new control body; and
  - (b) rules of racing made by a former board and in force immediately before the commencement continue as if they were rules of racing made by the corresponding new control body; and
  - (c) a licence issued or taken to be issued by a former board before the commencement that is in force immediately before the commencement continues as if it had been issued by the corresponding new control body; and
  - (d) a racing calendar prepared by a former board for a period ending after the commencement continues as if it had been prepared by the corresponding new control body.

**176 Continuing application of confidentiality obligation to members and employees of former continuing boards**

A person who was a member or employee of a former board is taken to be a control body officer under section 148.

**177 Pt 3 does not affect existing legal relationships**

Nothing done under this part in relation to a former board—

- (a) places the corresponding new control body in breach of a contract, trust or confidence or otherwise makes the corresponding new control body guilty of a civil wrong; or
- (b) makes the corresponding new control body in breach of any instrument, including an instrument prohibiting,



- restricting or regulating the assignment, transfer or assumption of a right or liability; or
- (c) is taken to fulfil a condition or otherwise constitute an event—
- (i) allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation; or
- (ii) requiring money to be paid, or anything else to be done, before its stated maturity; or
- (d) releases a surety or other obligee, wholly or partly, from an obligation.

## Part 4                      **Transitional provisions for the Racing and Other Legislation Amendment Act 2010**

### 178      **Definitions for pt 4**

In this part—

*commencement* means 1 July 2010.

*former control body* means each of the following—

- (a) Queensland Racing Limited ACN 116 735 374;
- (b) Greyhounds Queensland Limited ACN 128 067 247;
- (c) Queensland Harness Racing Limited ACN 128 036 000.

*new control body* means Racing Queensland Limited ACN 142 786 874.

### 179      **Proceedings**

- (1) A proceeding that could have been started by or against a former control body before the commencement may be started by or against the new control body.

- (2) From the commencement, an existing proceeding may be continued and finished by or against the new control body.
- (3) In this section—  
*existing proceeding* means a proceeding that—
  - (a) was taken by or against one of the following before the commencement—
    - (i) a former control body;
    - (ii) a person who was a member of a former control body, in the person's capacity as a member; and
  - (b) has not been finished before the commencement.

## **180 Things done by former control bodies**

- (1) Anything done by a former control body under this Act—
  - (a) continues to have effect; and
  - (b) from the commencement, is taken to have been done by the new control body.
- (2) Without limiting subsection (1), on the commencement—
  - (a) a policy of a former control body in effect immediately before the commencement continues as if it were a policy of the new control body; and
  - (b) rules of racing made by a former control body and in force immediately before the commencement continue as if they were rules of racing made by the new control body; and
  - (c) a licence issued or taken to be issued by a former control body before the commencement and in force immediately before the commencement continues as if it had been issued by the new control body; and
  - (d) a racing calendar prepared by a former control body for a period ending after the commencement continues as if it had been prepared by the new control body.

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**181 Rights and obligations of former control bodies under this Act**

Without limiting any other provision in this part, a right or obligation of a former control body under this Act immediately before the commencement becomes a right or obligation of the new control body.

**182 Pt 4 does not affect existing legal relationships**

Nothing done under this part in relation to a former control body—

- (a) places the new control body in breach of a contract, trust or confidence or otherwise makes the new control body guilty of a civil wrong; or
- (b) makes the new control body in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, transfer or assumption of a right or liability; or
- (c) is taken to fulfil a condition or otherwise constitute an event—
  - (i) allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation; or
  - (ii) requiring money to be paid, or anything else to be done, before its stated maturity; or
- (d) releases a surety or other obligee, wholly or partly, from an obligation.

## **Part 5**                      **Transitional provisions for Racing and Other Legislation Amendment Act 2012**

### **Division 1**                **Preliminary**

#### **183**    **Definitions for pt 5**

In this part—

*amending Act* means the *Racing and Other Legislation Amendment Act 2012*.

*commencement* means the commencement of the provision in which the term is used.

*control body* means a control body under the unamended Act.

*former*, in relation to a provision, means as in force immediately before the repeal or amendment of the provision by the amending Act.

*former control body* means Racing Queensland Limited ACN 142 786 874.

*unamended Act* means this Act as in force before the commencement.

### **Division 2**                **Provisions relating to former control body**

#### **184**    **Continuity of employment**

- (1) This section applies to the transfer of an employee of the former control body to the all-codes board under section 449.
- (2) The transfer does not—
  - (a) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or

- 
- entitlement more than once for the same period of service; or
- (b) constitute a termination of employment by the former control body or a retrenchment or redundancy; or
  - (c) entitle the employee to a payment or other benefit because he or she is no longer employed by the former control body; or
  - (d) require the former control body to make any payment for the employee's accrued rights to recreation, sick, long service or other leave irrespective of any arrangement between the former control body and the employee.
- (3) The transfer has effect despite any other law, contract or other instrument.

## 185 Proceedings

- (1) A proceeding that could have been started by or against the former control body before the commencement may be started by or against the all-codes board.
- (2) From the commencement, an existing proceeding may be continued and finished by or against the all-codes board.
- (3) In this section—

*existing proceeding* means a proceeding that—

- (a) was taken by or against one of the following before the commencement—
  - (i) the former control body;
  - (ii) a person who was a member of the former control body, in the person's capacity as a member; and
- (b) has not been finished before the commencement.

## 186 Things done by former control body

- (1) Anything done by the former control body under this Act—

- (a) continues to have effect; and
  - (b) on the commencement, is taken to have been done by the all-codes board.
- (2) Without limiting subsection (1)—
- (a) a policy of the former control body in effect immediately before the commencement continues as if it were a policy of the all-codes board; and
  - (b) rules of racing made by the former control body and in force immediately before the commencement continue as if they were rules of racing made by the all-codes board; and
  - (c) a licence issued or taken to be issued by the former control body before the commencement and in force immediately before the commencement continues as if it had been issued by the all-codes board; and
  - (d) a racing calendar prepared by the former control body for a period ending after the commencement continues as if it had been prepared by the all-codes board.

### **187 Rights and obligations of former control body under this Act**

Without limiting any other provision in this part, a right or obligation of the former control body under this Act immediately before the commencement becomes a right or obligation of the all-codes board.

### **188 Continuation of action started against licensed club under ch 3, pt 4**

- (1) This section applies if, before the commencement, the former control body—
- (a) gave a licensed club a show cause notice under chapter 3, part 4; and
  - (b) had not decided whether to take action under the part in relation to the club.

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- (2) Chapter 3, part 4 continues to apply from the commencement in relation to the show cause notice as if the notice had been given by the all-codes board.
  - (3) This section does not limit section 186(1).

### **189 Existing legal relationships not affected**

Nothing done under this part in relation to the former control body—

- (a) places the all-codes board in breach of a contract, trust or confidence or otherwise makes the all-codes board guilty of a civil wrong; or
- (b) makes the all-codes board in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, transfer or assumption of a right or liability; or
- (c) is taken to fulfil a condition or otherwise constitute an event—
  - (i) allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation; or
  - (ii) requiring money to be paid, or anything else to be done, before its stated maturity; or
- (d) releases a surety or other obligee, wholly or partly, from an obligation.

### **190 References to control body or former control body**

In an Act or document, a reference to a control body or the former control body may, if the context permits, be taken as a reference to the all-codes board.

## **Division 3                      Other provisions**

### **191      Destruction of fingerprints**

- (1) Subsection (2) applies if—
  - (a) before the commencement, the chief executive obtained the fingerprints of any individual who is an approval applicant's business associate or executive associate; and
  - (b) after the commencement, the Minister—
    - (i) refuses to grant the approval application; or
    - (ii) grants the approval but the approval is later cancelled.
- (2) The chief executive must destroy the fingerprints.
- (3) Former section 32(2) continues to apply from the commencement to the chief executive in relation to an individual who was a business associate or executive associate of a control body as if former section 32 had not been repealed by the amending Act.

### **192      Continued protection for persons about whom background documents obtained**

Section 149 applies from the commencement as if section 148, definition *background document* included a reference to the fingerprints of a person obtained by the chief executive or a control body.



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## Part 6                      Transitional provision for Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013

### 193    Applications not finally decided

- (1) This section applies if, immediately before the commencement, the gaming executive had not finally decided an application for an eligibility certificate.
- (2) The chief executive must decide the application under this Act as amended by the *Criminal Law (Criminal Organisations Disruption) and Other Legislation Amendment Act 2013*.
- (3) In this section—  
*commencement* means the commencement of this section.

## Chapter 8                  Transitional provisions for Racing Integrity Act 2016

### Part 1                      Preliminary

#### 194    Definitions for chapter

In this chapter—

*all-codes board* means the Queensland All Codes Racing Industry Board as established under this Act before the commencement.

*Note—*

Under section 6, the Queensland All Codes Racing Industry Board is continued in existence under this Act under the name Racing

Queensland Board and is referred to as the board. The use of ‘all-codes board’ is to help with understanding this chapter.

*made* includes given and issued.

*pre-amended Act* means this Act as in force immediately before the commencement.

*previous*, for a stated provision that includes a number, means the provision with that number immediately before the commencement.

## **195 Purpose of chapter and relationship with Racing Integrity Act**

- (1) The purpose of this chapter is to make provisions for some matters under this Act as in force or as existing immediately before the commencement.
- (2) The Racing Integrity Act, chapter 8 states how particular matters dealt with under this Act before the commencement continue as matters under the Racing Integrity Act.
- (3) Also, a regulation made under the Racing Integrity Act, section 293 may provide for how a matter dealt with under this Act before the commencement is to be dealt with under that Act.

*Note—*

See also section 225.

- (4) This chapter does not limit the *Acts Interpretation Act 1954*, part 6 unless there is a statement to the contrary.

*Examples for subsection (4)—*

- 1 Despite the repeal of previous section 6, bets made before the commencement are lawful bets.
- 2 An omission to disclose the nature of an interest as mentioned in section 41(2) is only an offence if committed after the commencement.

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## Part 2 Provisions relating to chapter 2

### 196 Working out net UBET product fee for the year of commencement

- (1) This section applies for the purposes of the application of section 12 for the commencement year.
- (2) For the purposes of working out the net UBET product fee under section 12 in relation to a control body for the commencement year—
  - (a) the amounts to be subtracted from the product fee paid to the control body for the commencement year are also to include amounts paid in the year but before the commencement by the control body to an accredited facility; and
  - (b) prize money for non-UBET thoroughbred races conducted during the commencement year by non-UBET thoroughbred clubs includes amounts paid as prize money for non-TABQ thoroughbred races conducted in that year by non-TABQ thoroughbred clubs under the pre-amended Act.
- (3) In this section—

***accredited facility*** means a facility that was an accredited facility before the commencement.

***commencement year*** means the financial year in which this section commenced.

***net UBET product fee***, for the commencement year, includes any amount received by the board in the nature of a product fee even if it was identified as a UNiTAB product fee or otherwise.

### 197 Existing member of all-codes board

- (1) A person who was a member of the all-codes board immediately before the commencement stops being a member.

- (2) Subsection (1) applies despite the *Acts Interpretation Act 1954*, section 20B.

### **199 Existing chief executive officer of all-codes board**

- (1) This section applies if a person holds office as the chief executive officer of the all-codes board immediately before the commencement.
- (2) The person's appointment continues on the same terms and conditions that applied under the pre-amended Act, including, for example, in relation to remuneration and allowances, until different terms and conditions are decided under section 34(2).

### **201 Existing control board and members of control boards**

- (1) Each control board established under previous section 9BO is abolished.
- (2) A person who was a member of a control board immediately before the commencement stops being a member.

### **202 Previous s 9CN continues to have effect despite repeal**

- (1) This section applies to a person who, at any time before the commencement, was a member of a control board as stated in previous section 9CN.
- (2) Despite its repeal, previous section 9CN continues to apply in relation to the person and any civil liability continues to attach to the board.

### **203 Approval application received before commencement**

- (1) This section applies to an approval application made, but not decided, before the commencement.
- (2) Previous chapter 2, part 2 continues to apply to the approval application as if the part had not been amended.

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## **204 Control body's first quarterly report under s 87**

- (1) Section 87 does not apply to a control body in relation to a quarter in a financial year before the quarter in which its first operational plan is agreed to by the Minister as mentioned in section 205.
- (2) In this section—  
*quarter*, in a financial year, see section 87(4).

## **205 Control body's first strategic and operational plans**

- (1) This section applies to a control body's first strategic and operational plans after the commencement.
- (2) The time within which a control body must prepare and give a draft of each plan for section 92 is 1 month after the commencement or another time agreed between the control body and the Minister.
- (3) If a draft plan has not been agreed to within 1 month after giving it to the Minister, the Minister may give a direction under section 93(3) about the draft plan.
- (4) The period for which the strategic or operational plan applies is—
  - (a) the remainder of the financial year in which it is agreed to by the Minister; and
  - (b) if the control body and the Minister agree the plan is also to apply for the following financial year, for that financial year.

## **Part 3 Provisions relating to chapter 3**

### **207 Existing Racing Integrity Commissioner**

- (1) If a person holds office as the Racing Integrity Commissioner immediately before the commencement, the person stops holding the office.

- (2) Subsection (1) applies despite the *Acts Interpretation Act 1954*, section 20B.
- (3) Despite its repeal, previous section 113AS continues to apply in relation to the person and any civil liability continues to attach to the State.

## **208 Invoice for funding performance of Racing Integrity Commissioner's functions before commencement**

- (1) Despite its repeal, previous section 113BA continues to apply in accordance with this section for the purposes of funding the Racing Integrity Commissioner's functions before the commencement.
- (2) If an invoice under previous section 113BA was given to a control body and the amount of the invoice was not paid before the commencement, previous section 113BA(3) continues to apply and the amount of the invoice is payable in accordance with that subsection.
- (3) Also, the chief executive may exercise powers under previous section 113BA(2) within 28 days after the commencement by deciding a control body must pay an amount for a period before the commencement and give the control body an invoice for the amount.
- (4) Previous section 113BA(3) applies for paying an invoice mentioned in subsection (3).

## **209 Continued effect of previous s 113BB**

- (1) This section applies to the following invoices—
  - (a) an invoice given to a control body under previous section 113BA that became payable, but was not paid, before the commencement;
  - (b) an invoice given to a control body under previous section 113BA, that becomes payable on or after the commencement;
  - (c) an invoice given under section 208(3).

- (2) If the invoice was not or is not paid when it became or becomes payable under previous section 113BA(3), the State may recover the amount from the control body as a debt.
- (3) If the State started any proceedings for recovery of an amount in relation to an invoice mentioned in subsection (1)(a), the proceedings may continue and be dealt with by a court as if previous section 113BB had not been repealed.

## **Part 4 Provisions relating to chapter 4**

### **210 Abolition of Racing Animal Welfare and Integrity Board**

- (1) The Racing Animal Welfare and Integrity Board established under previous section 114 is abolished.
- (2) A person who was a member of the Racing Animal Welfare and Integrity Board immediately before the commencement stops being a member.

### **211 Things sent to facility before commencement**

- (1) This section applies to—
  - (a) a facility that, immediately before the commencement, was an accredited facility and was not the subject of suspension under previous section 138 or 141; or
  - (b) another facility as mentioned in section 143(4)(b) if the delivery of a thing was approved as mentioned in that paragraph.
- (2) If, before the commencement, a thing was taken to the accredited facility or the other facility, in accordance with previous provision 143(4)—
  - (a) despite the repeal of chapter 4, the facility continues to be an accredited facility on the same conditions that applied to the facility before the commencement and the nominated person for the facility continues to be the nominated person for it; and

- (b) previous sections 146 to 149 continue to apply subject to the commission taking the place of any control body or integrity officer.

## **Part 5**                      **Provisions relating to previous chapter 4A**

### **Division 1**                **Preliminary matters**

#### **212**    **Purpose of part**

The purpose of this part is to make provisions for decisions that, immediately before the commencement, were appellable decisions of a control body.

#### **213**    **Definitions for part**

In this part—

*accepted appeal* see previous section 149W.

*aggrieved person*, for an appellable decision, see previous section 149T(2).

*appellable decision*, of a control body, see previous section 149S.

*disciplinary board* means the Racing Disciplinary Board established under previous section 149A.

*notice of appeal* see previous section 149U(1).

*registrar*, of the disciplinary board, see previous schedule 3.

*relevant control body*, for an appellable decision, means the control body that made the appellable decision.



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## **Division 2                    If notice of appeal given to registrar before commencement**

### **214    Application of division**

This division applies if, before the commencement, an aggrieved person for an appellable decision had given a notice of appeal to the registrar of the disciplinary board, whether or not a notice of appeal had been given to the relevant control body.

### **215    If there is notice of appeal before commencement**

- (1) Previous chapter 4A continues to apply in relation to the appellable decision, the notice of appeal and matters relating to the appeal.
- (2) The following entities must deal with the notice of appeal and appeal—
  - (a) the registrar;
  - (b) the chairperson;
  - (c) if the notice of appeal is accepted—the constituted board for the accepted appeal, whether established before or after the commencement;
  - (d) the commission in substitution for the relevant control body for the appellable decision, if the appellable decision relates other than to a club or venue;
  - (e) any other party to the appeal.

### **216    Rejection of notice of appeal**

- (1) This section applies to an appellable decision if, as mentioned in previous section 149V(2)(c) and after the commencement, the chairperson rejects a notice of appeal relating to the appellable decision.

[s 217]

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- (2) The chairperson must give the aggrieved person for the appellable decision a notice complying with the QCAT Act, section 157(2) for the decision.
- (3) The aggrieved person may apply, as provided under the QCAT Act, to QCAT for a review of the decision.
- (4) QCAT may review the chairperson's decision to reject a notice of appeal.

### **217 Continuation of ch 4A**

- (1) For the purpose of the continuation of previous chapter 4A to a matter as mentioned in this part, the chapter is taken not to have been repealed.
- (2) Despite subsection (1), if a provision of previous chapter 4A applies to a relevant control body and the appellable decision relates other than to a club or venue, the commission takes the place of the relevant control body, unless the context does not allow for the substitution.
- (3) For subsection (2), a control body must give the commission all documents and information that the commission requests.

## **Division 3 If notice of appeal not given to registrar before commencement**

### **218 Application of division**

This division applies if, before the commencement, an aggrieved person for an appellable decision had not given a notice of appeal to the registrar of the disciplinary board, whether or not a notice of appeal had been given to the relevant control body for the appellable decision.

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**219 Person may apply to QCAT for external review of appellable decision**

- (1) If the appellable decision relates other than to a club or venue, previous chapter 4A does not apply to the appellable decision to which this division applies but the Racing Integrity Act, chapter 6, part 2, division 4 applies as if under that Act—
  - (a) the appellable decision were an original decision; and
  - (b) the aggrieved person for the appellable decision were the interested person for the original decision.
- (2) For subsection (1), the person may apply under the Racing Integrity Act, section 243 to the commission for an internal review of the decision before the person may apply, under section 246 of that Act, for an external review of the decision.
- (3) If the appellable decision relates to a club or venue, previous chapter 4A does not apply to the appellable decision but chapter 4 applies as if—
  - (a) the appellable decision were an original decision; and
  - (b) the aggrieved person for the appellable decision were the interested person for the original decision.
- (4) For subsection (3), the person may apply under section 144 to the decision-maker for the decision for an internal review of the decision before the person may apply, under section 147, for an external review of the decision.

**Part 6 Provisions relating to previous chapter 5**

**220 Referral of appeal**

- (1) This section applies if—
  - (a) as mentioned in previous section 149V(2)(d), the chairperson referred an appeal to QCAT before the commencement; or

- (b) under section 215, the chairperson refers an appeal to QCAT on or after the commencement.
- (2) Previous chapter 5 continues to apply in relation to the referred appeal as if the chapter had not been repealed.
- (3) In this section—  
*referred appeal* see previous section 150.

## **221 Continued right of review by tribunal**

- (1) This section applies if an aggrieved person is given, or is entitled to be given, a QCAT information notice for a decision of a constituted board made before, on or after the commencement.
- (2) Previous section 152A and previous chapter 5, part 3 continue to apply to the decision and any review of the decision as if the provisions had not been repealed.

## **222 Appeal under previous s 155**

- (1) This section applies to—
  - (a) an appeal that is made by a control body before the commencement under previous section 155 in relation to an appellable decision, other than an appellable decision relating to a club or venue; or
  - (b) an appeal that is made or may be made by the commission on or after the commencement in relation to a decision of a constituted board that is an appellable decision to which part 5, division 2 applies, other than an appellable decision relating to a club or venue.
- (2) For an appeal mentioned in subsection (1), the commission takes the place of the relevant control body for the appellable decision.
- (3) For subsection (2), the relevant control body must give the commission all documents and information that the commission requests.

- (4) Previous chapter 5 continues to apply to the commission and QCAT for the appeal.

### **223 Continuation of ch 5**

For the purpose of the continuation of previous chapter 5 to a matter as mentioned in this part, the previous chapter is taken not to have been repealed.

## **Part 7 Provisions relating to offences before commencement**

### **224 Act previously in force to apply to offences**

- (1) This section applies if the pre-amended Act made an act or omission an offence.
- (2) If the act or omission happened before the commencement, the pre-amended Act continues to apply in relation to the act or omission as if the pre-amended Act had not been amended.
- (3) In relation to the act or omission, a person may be charged after the commencement for the offence against the pre-amended Act.
- (4) If a person is convicted after the commencement of the offence (regardless of when the person was charged with the offence), the person can not be punished to any greater extent than was authorised under the pre-amended Act.
- (5) Subsections (2) to (4) apply even if, after the commencement, doing the act or omitting to do the act under the same circumstances would not constitute an offence against this Act or another Act.
- (6) Subsections (2) to (5) apply despite the Criminal Code, section 11 but do not limit the Racing Integrity Act, sections 272 and 273.

## Schedule 1 Dictionary

### section 5

***accepted representations***, for chapter 2, see section 76(2).

***Act document***, for chapter 5, part 1, division 1, see section 148.

***advertising notice*** see section 48(2)(a).

***affected by bankruptcy action***, in relation to an individual, means the individual is insolvent under administration within the meaning of the Corporations Act, section 9.

***animal welfare offence*** means an animal welfare offence under the Racing Integrity Act.

***application code***, in relation to an approval application, means the proposed code of racing stated in the application.

***approval***, in relation to an approval applicant, means the Minister's approval of the approval applicant.

***approval applicant*** means the applicant named in an approval application as the applicant.

***approval application*** means an application under section 45(1) for approval of a corporation as the control body for an application code.

***approval effect day***, in relation to a control body, means the day stated in the Minister's approval as the day on which the approval takes effect.

***approved control body*** means a corporation given a Minister's approval.

***approved form*** means a form approved under section 164.

***assessment report*** means a report under section 53(2) or 54(3) about an approval application or approval applications.

***at***, a place, includes in and on the place.

**background document**, for chapter 5, part 1, division 1, see section 148.

**betting exchange**, for chapter 3, part 6, see section 132.

**betting meeting** means a meeting held by a licensed club at a licensed venue under the control of a control body, but at which no race is held.

**board** means the Racing Queensland Board established under section 6.

**board code of racing** see section 7.

**bookmaking** means the business of receiving or negotiating bets and includes the settlement of bets.

**business address**, of a control body, means the business address of the control body as stated in its approval.

**business associate**—

- (a) means—
  - (i) for an approval application—a person whom the chief executive believes will, if the approval applicant is approved as a control body, be associated with the ownership or management of the operations of the control body; or
  - (ii) for a corporation approved as a control body—a person whom the chief executive believes is associated with the ownership or management of the operations of the corporation as a control body; and
- (b) includes, for any other corporation—an executive officer of the corporation.

**chairperson** means the chairperson of the board.

**chief executive officer** means the chief executive officer of the board.

**closure date** see section 49(2).

**club** means either of the following that has, as part of its objects, the object of promoting animal racing of a particular breed or type of animal—

- (a) a corporation registered under the Corporations Act;
- (b) an incorporated association under the *Associations Incorporation Act 1981*.

**code of racing** means any of the following—

- (a) thoroughbred racing;
- (b) harness racing;
- (c) greyhound racing;
- (d) another code of racing stated in a Minister's approval.

**commission** means the Queensland Racing Integrity Commission established under the Racing Integrity Act.

**confidential information**, for chapter 5, part 1, division 1, see section 148.

**control body** means—

- (a) an approved control body; or
- (b) the board.

**control body direction** see section 82(3).

**control body form** means a form approved by a control body for its code of racing.

**control body officer**, for chapter 5, part 1, division 1, see section 148.

**conviction**, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

**copy**, for chapter 5, part 1, division 1, see section 148.

**court**, for chapter 5, part 1, division 1, see section 148.

**criminal history**, of a person, means the person's criminal history within 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.

***deal with***, an asset, for chapter 3, part 5, division 4, see section 127.

***decision-maker***, for an original decision, see section 141(2).

***deputy chairperson*** means the deputy chairperson of the board.

***disciplinary action***, relating to a Minister's approval or licence, means 1 or more of the following—

- (a) cancelling the approval or licence;
- (b) suspending the approval or licence for a stated period;
- (c) varying the approval or licence in either of the following ways, except if the variation is made as the result of an application of the control body or licence holder—
  - (i) changing a condition stated in the approval or licence to which it is subject;
  - (ii) stating a new condition to which the approval or licence is to be subject.

***dispose***, for chapter 3, part 5, division 4, see section 127.

***disqualifying conviction*** means either of the following—

- (a) a conviction, whether or not a spent conviction, for an offence against—
  - (i) this Act, the Racing Integrity Act or the repealed Act; or
  - (ii) a law of another State, that is prescribed by regulation as a law about racing or betting;
- (b) a conviction for an indictable offence against another Act or law, other than an irrelevant spent conviction.

***document or information request***, for chapter 3, part 6, see section 136.

***eligible corporation*** means a corporation that—

- (a) is registered under the Corporations Act; and

- (b) has a constitution under the Corporations Act that, at all times, requires—
  - (i) at least 3 directors; and
  - (ii) the persons appointed or employed as executive officers of the corporation to be eligible individuals; and
- (c) has not, at any time, had a licence cancelled under this Act or the Racing Integrity Act.

***eligible individual*** means a person who—

- (a) is not affected by bankruptcy action; and
- (b) does not have a disqualifying conviction; and
- (c) is not subject to an exclusion action; and
- (d) is not licensed by, or is not an executive officer of a corporation that is licensed by, the commission; and
- (e) is not a member of a committee, or employee, of—
  - (i) a licensed club; or
  - (ii) an association formed in Australia to promote the interests of 1 or more participants in a code of racing; and
- (f) is not disqualified from managing corporations, under the Corporations Act, part 2D.6; and
- (g) has not, at any time, had a licence cancelled under this Act or the Racing Integrity Act.

***exclusion action***, relating to a person, means—

- (a) for an action taken by a control body against the person—naming the person on a list that—
  - (i) is kept under the control body's rules of racing and identifies persons whose entitlements under the rules are forfeited; and
  - (ii) is, from time to time, published in the control body's racing calendar; or

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- (b) for an action taken by the commission against the person—warning off the person from entering, or remaining at, a licensed venue, or other place at which trials are or are to be conducted, when the licensed venue or place is being used for a control body’s code of racing.

***executive associate*** means—

- (a) for an approval application—an executive officer of a corporation, a partner, a trustee, or another person stated by the chief executive, whom the chief executive believes will, if the approval applicant is approved as a control body, be associated with the ownership or management of the operations of the control body; or
- (b) for a corporation approved as a control body—an executive officer of the corporation, a partner, a trustee, or another person stated by the chief executive, whom the chief executive believes is associated with the ownership or management of the operations of the corporation as a control body.

***executive officer*** means—

- (a) of a corporation—a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director of the corporation or the person’s position is given the name of executive officer; or
- (b) of the board—a member, the chief executive officer or another person who is concerned with, or takes part in, the board’s management.

***exercise control***, by the commission at a licensed venue, see the Racing Integrity Act.

***forge***, for chapter 5, part 1, division 1, see section 148.

***holding company***, in relation to a body corporate, see the Corporations Act, section 9.

***indictable offence*** includes an indictable offence dealt with summarily.

**information notice**, about a decision, means a notice stating the following—

- (a) the decision;
- (b) the date of the decision;
- (c) the date the decision takes effect;
- (d) the reasons for the decision;
- (e) for a decision that is an original decision—how a person to whom the notice is given may apply for an internal review of the decision within 14 days after the person receives the notice.

**interested person**, for an original decision, see section 142.

**internal review application** means an application under section 144 for an internal review of an original decision.

**internal review decision** see section 146(1)(b).

**licence** means—

- (a) a licence under the Racing Integrity Act in relation to—
  - (i) an animal that is suitable for racing in a code of racing; or
  - (ii) a person who is suitable to be a participant in a code of racing, including, for example, as the owner of an animal or as a racing bookmaker, racing bookmaker's clerk, rider, stable supervisor, stablehand or trainer; or
- (b) a licence under this Act in relation to—
  - (i) a club that is suitable to be licensed for a code of racing; or
  - (ii) a venue that is suitable for race meetings for a code of racing.

**licence holder** means—

- (a) for an animal or place—the person stated in the licence as the holder of the licence; or
- (b) otherwise—the person who is licensed.

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**licensed** means—

- (a) for a club or venue—licensed by a control body under this Act; or
- (b) otherwise—licensed by the commission under the Racing Integrity Act.

**licensed animal** means—

- (a) an animal that is licensed by the commission for a code of racing; or
- (b) an animal that a person presents at a licensed venue, another place where a trial for licensed animals is or is to be held or any other place, as if the animal were a licensed animal.

**licensed club** means a club licensed by a control body to hold race meetings for its code of racing.

**licensed venue** means a place licensed by a control body as a place at which a race meeting may be held by a licensed club for its code of racing.

**licensed wagering operator**, for chapter 3, part 6, see section 131.

**manage**—

- (a) in relation to a code of racing or application code in an approval application, includes—
  - (i) regulating activities associated with the code or application code; and
  - (ii) prohibiting some activities, or aspects of an activity, associated with the code or application code; or
- (b) in relation to a licensed venue by a control body, means the control body that licensed the venue has included the contest, contingency, event or race meeting to be held at the venue in the control body's racing calendar.

**member** means a member of the board.

**Ministerial direction** means a direction given by the Minister to—

- (a) the board under section 44; or
- (b) an approved control body under section 71.

**Minister's approval** means an approval as a control body given by the Minister to an approval applicant under section 61.

**money** includes—

- (a) bank notes, coins, bank drafts, marketable securities, cheques and other orders, warrants, authorities or requests for the payment of money; and
- (b) an acknowledgement, note or other thing purporting or intended to entitle the bearer or another person to money or money's worth.

**non-industry member** see section 14(1)(a).

**non-proprietary club** means a club with a constitution that does both of the following—

- (a) provides for the application of all of the club's profits and other income to the promotion of the club's objects;
- (b) prohibits the payment of dividends to the members of the club.

**non-proprietary entity**, for chapter 3, part 5, division 4, see section 127.

**notice** means a written notice.

**objector** see section 50(1).

**operational plan** means a control body's operational plan under chapter 2, part 3, division 5.

**original decision** see section 141(1).

**participant** means a person involved with a code of racing, other than—

- (a) a club; or
- (b) a person who participates merely by doing either or both of the following—
  - (i) attending a race meeting;

- (ii) placing a bet with a racing bookmaker, within the meaning of the Racing Integrity Act, at a race meeting.

**place** includes land and premises.

**police commissioner** means commissioner of the police service.

**policy** means a policy made by a control body for its code of racing under chapter 3, part 2.

**premises** includes—

- (a) a building or structure, or part of a building or structure, of any type; and
- (b) a group of buildings or structures, or part of a group of buildings or structures, of any type.

**principal racing authority**, for chapter 3, part 6, see section 131.

**proposed action**, for chapter 2, see section 75(2)(a).

**Queensland race information**, for chapter 3, part 6, see section 131.

**race** means a contest, contingency or event managed by a control body in which 2 or more licensed animals compete against each other for the purpose of providing a contest, contingency or event on which bets may be made.

**race information authority**, for chapter 3, part 6, see section 131.

**race meeting** means—

- (a) a meeting for conducting racing of licensed animals; or
- (b) a betting meeting.

**racing calendar** see section 84(1).

**racing-industry member** see section 14(1)(b).

**Racing Integrity Act** means the *Racing Integrity Act 2016*.

**regulation condition** see section 66(1).

**relevant control body**, for chapter 3, part 5, division 4, see section 127.

**repealed Act** means the *Racing and Betting Act 1980*.

**review notice** see section 146(1)(c).

**rider**, of an animal, includes—

- (a) the driver of the animal; and
- (b) the jockey for the animal.

**rules of racing** means the rules of racing, as in force from time to time, of a control body for its code of racing, as required under section 111(1).

**show cause notice**—

- (a) for chapter 2, part 2, division 8—see section 75(1); or
- (b) for chapter 3, part 4—see section 116(1).

**show cause period**—

- (a) for chapter 2, part 2, division 8—see section 75(2)(g); or
- (b) for chapter 3, part 4—see section 116(2)(e).

**spent conviction** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed under section 11 of that Act.

**staff**, in relation to a control body, means persons employed by the control body in any capacity.

**strategic plan** means a control body's strategic plan under chapter 2, part 3, division 5.

**substantial holding** see the Corporations Act, section 9.

**totalisator**, for chapter 3, part 6, see section 131.

**trial** means a contest, contingency or event managed by a control body, and controlled by the commission, for testing or



training licensed animals, but is not a contest, contingency or event on which bets may be made.

**UBET** means UBET Qld Limited ACN 085 691 738.

**venue** includes a track.

**wagering monitoring system**, for chapter 3, part 6, see section 131.

**wagering operator**, for chapter 3, part 6, see section 131.

**welfare**, of an animal, means issues about the health, safety or wellbeing of the animal.