RACING BILL 2002

EXPLANATORY NOTES

Short Title

Racing Bill 2002

Policy Objectives of the Legislation

The primary policy objectives of the *Racing Bill 2002* ("the proposed Act") are to:

- maintain public confidence in the racing of animals in Queensland for which betting is lawful;
- ensure the integrity of all persons involved with racing or betting under the proposed Act;
- safeguard the welfare of all animals involved in racing under the proposed Act; and
- meet National Competition Policy obligations by removing legislative restrictions on competition that cannot be justified in the public interest.

Reasons for the Policy Objectives of the Legislation

Since 1980, the racing industry in Queensland has been governed by the *Racing and Betting Act 1980.* This legislation has been amended on numerous occasions and as a result, has become an outdated and complex piece of legislation. It was considered that further attempts to significantly amend the *Racing and Betting Act 1980* would only compound the problem and that the only viable option was to repeal the Act and draft new legislation.

The proposed Act addresses issues identified during the privatisation of the Totalisator Administration Board of Queensland (TAB), the National Competition Policy review of the *Racing and Betting Act 1980,* the strategic review process undertaken by the racing industry in Queensland

and from industry consultation undertaken by the government over a number of years, including written submissions by industry participants to the Minister's Review of the governance structure of the thoroughbred racing code in Queensland conducted in 2001.

Since the privatisation of the TAB, the role of government in the regulation of the Queensland racing industry has been to focus on matters of probity and integrity. Operational matters involving the day to day operations of racing have been gradually devolved to control bodies.

The way in which the policy objectives will be achieved by the proposed Act

The policy objectives will be achieved by the proposed Act through the implementation of a number of key reforms to the regulatory framework governing the Queensland racing industry. In particular, the proposed Act:

- provides an approval system for a control body for a code of racing, including the criteria that must be met and the matters that an applicant must demonstrate to obtain a control body approval;
- provides the chief executive with responsibility for monitoring the operations of control bodies from a probity, integrity and public accountability perspective;
- outlines the responsibilities and obligations of a control body;
- removes restrictions on new codes of racing by allowing a corporation to apply for a control body approval under the Act;
- removes the prohibition on proprietary racing. Proprietary racing is where the persons conducting the racing event receive a share of the profits, instead of the profits being returned to the code of racing for use as prize money;
- establishes the Racing Animal Welfare and Integrity Board to replace the Racing Codes Advisory Board with functions relating to drug control, animal welfare and disease management of licensed animals;
- establishes the Racing Appeals Tribunal to hear and decide appeals from the decisions of control bodies;
- maintains unlawful bookmaking and unlawful betting offences;

- includes provisions regulating racing bookmakers contained in the *Racing and Betting Amendment Act No. 21 of 2000* which provide for a two-tiered licensing system. The gaming executive is responsible for carrying out probity, criminal and financial checking on an applicant who applies for an eligibility certificate for a racing bookmakers licence. The holder of an eligibility certificate may apply to a control body for a racing bookmaker's licence;
- includes provisions contained in the *Racing and Betting Amendment Act (No 2) 2001* which established the Queensland Thoroughbred Racing Board and the Queensland Regional Racing Council and which reinforced the powers of a control body to enforce directions issued to a licensed club by taking disciplinary action against the club; and
- provides that the existing control bodies (for the thoroughbred, harness and greyhound codes) will continue as statutory authorities for a period of three (3) years, during which time they will be required to form a corporation and apply for a control body approval.

Alternatives to the proposed Act

The main alternative to introducing new legislation is to amend the *Racing and Betting Act 1980*. However, this Act is outdated and does not provide the legislative framework to empower control bodies to deal with the complex issues facing the racing industry in Queensland. In view of the scope of the reforms being implemented by the proposed Act, it is not considered a viable option to attempt to further amend the *Racing and Betting Act 1980*.

Estimated administrative cost to government

It is not expected that the proposed Act will result in any material additional administrative costs to government.

Consistency with Fundamental Legislative Principles

The proposed Act has been prepared taking into consideration fundamental legislative principles. However, on occasion, it has been

necessary to depart from the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992.*

Privacy and confidentiality—provisions excluding the protection from disclosure of convictions afforded by the *Criminal Law (Rehabilitation of Offenders) Act 1986*

Clause 9—meaning of eligible individual

An executive officer of a corporation that applies to be a control body must not have a disqualifying conviction. A disqualifying conviction is a conviction, whether or not a spent conviction, for an offence under the proposed Act or the repealed Act (the *Racing and Betting Act 1980*) or a prescribed act of another State about racing or betting. It also includes indictable offences, other than irrelevant spent convictions.

An "irrelevant spent conviction" is a conviction relating to an offence that did not involve dishonesty, fraud, stealing, unlawful betting or unlawful bookmaking.

A "spent conviction" means a conviction for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act and that is not revived as prescribed by section 11 of that Act.

Clause 23—obtaining the criminal history of an individual

The chief executive may request the commissioner of the Queensland Police Service to provide a report on the criminal history of a relevant person that is not subject to the *Criminal Law (Rehabilitation of Offenders) Act 1986* and that includes information that is both in the commissioner's possession and that can be reasonably obtained from police services in other Australian jurisdictions.

It is an important public policy objective to ensure that persons with a criminal background, (whether such offences occurred in Queensland or anywhere in Australia), do not become involved in the management of a control body of a code of racing on which betting may be conducted.

While regard has been had to the provisions of the *Criminal Law (Rehabilitation of Offenders) Act 1986* generally throughout the proposed Act, it is considered justifiable and in the public interest that persons with convictions for dishonesty, stealing and unlawful betting and bookmaking offences, regardless of when the offences were committed, should not be eligible to be associated with the management or ownership of a control body.

Only those persons of the highest integrity should be appointed as an executive officer of a control body. Control bodies are granted wide ranging powers by the legislation to manage and regulate their code of racing. If persons with a criminal background were to be involved in the management of a control body, there is the potential for not only the code of racing concerned to be brought into disrepute but the Queensland racing industry generally. Care has been taken in defining "irrelevant spent conviction" to only include those types of offences with the potential to impact upon the integrity of racing.

Clause 11(1)(d) and (e)—matters to accompany approval application

All executive officers, which includes directors, and business and executive associates of a corporation that applies to be a control body, must provide their consent to having their fingerprints taken and for their background to be investigated by the chief executive.

The requirement to provide fingerprints is contained in all Queensland gaming and wagering legislation. It is considered that the taking of fingerprints is an integral aspect of conducting probity checks. While it may be considered to be an infringement of a person's privacy, the recording of fingerprints is important for the purposes of identification, use of aliases and the past criminal history of applicants. In order to ensure the probity and integrity of persons associated with a control body and to deter criminal involvement, it is considered essential that the fingerprints of persons involved in the management of control bodies be obtained to enable criminal history checks to be undertaken.

While the close scrutiny of persons associated with control bodies may be considered to be an infringement of the rights and liberties of an individual, particularly in relation to privacy issues, it is considered essential to ensure that only those persons of the highest integrity are involved in the management of a control body. In the past, racing industries in various jurisdictions have attracted criminal activity by persons seeking to manipulate the results of races.

The proposed Act does provide safeguards for the persons concerned by making it an offence under clause 311 to disclose information except in limited specified circumstances. Clause 32 also requires the destruction of fingerprints. These requirements are similar to those contained in other wagering and gaming legislation which also have the purpose of ensuring that only persons with the highest integrity are associated with the particular wagering or gaming activity.

Clause 213—racing bookmaker licensing requirements

As is currently the requirement in the *Racing and Betting Act 1980*, a person that wishes to apply for a racing bookmaker's licence must first obtain an eligibility certificate from the gaming executive (the executive director of the Office of Gaming Regulation.)

Clause 213 requires the gaming executive to conduct investigations similar to those conducted for a control body approval application, including obtaining fingerprints and the criminal history of the applicant, the business associates, executive associates and in the case of a corporation, executive officers of the applicant.

As in the case of a control body approval application, the chief executive may request the commissioner of the Queensland Police Service to provide a report on the criminal history of the person that is not subject to the *Criminal Law (Rehabilitation of Offenders) Act 1986* and that includes information that is both in the commissioner's possession and that can be reasonably obtained from police services in other Australian jurisdictions.

The reasons for the need for these provisions are outlined above in relation to control bodies. A review of the history of racing in various jurisdictions demonstrates the need to ensure that persons with a criminal background or who are associated with criminals are not licensed as bookmakers.

As in the provisions relating to control bodies, the legislation does provide safeguards by making it an offence under clause 311 to disclose information except in limited specified cases and requiring the destruction of fingerprints in clause 241.

Section 4(3)(a), (b) and (c) of the *Legislative Standards Act 1992*—Whether the legislation has sufficient regard to the rights and liberties of individuals depends on whether, for example, the proposed Act makes rights and liberties or obligations dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

No show cause procedure for licensees other than clubs

The proposed Act gives wide powers to control bodies to license persons, clubs, participants and venues for its code of racing and to manage and regulate the code. These are the same powers that control bodies currently have under the *Racing and Betting Act 1980.* The Proposed Act

replicates the provisions of the current Act that give a control body the power to issue directions to clubs licensed by the control body, but also require the control body to comply with an established procedure ("the show cause notice") when taking disciplinary action against a club to enforce a direction issued by the control body.

However, the proposed Act does not require a control body to issue a show cause notice to take disciplinary action against a licensee other than a club. This issue is to be dealt with under a control body's policies and rules as is currently the case. Currently, stewards conduct inquiries in relation to wide ranging matters including infringements of the rules of racing that occur in relation to the running of a race and in relation to the activities of trainers. In some cases, particularly in relation to issues arising from the running of a race, it is operationally impractical to have a formal written show cause procedure because the issue needs to be decided as soon as possible on the day so that the winner of the race can be declared. However, in other cases where it is practicable, control bodies are currently obliged to issue a formal show cause notice.

Subclauses 87(2)(i), (j) and (k) of the proposed Act provide that a control body's policy for its licensing scheme must include the procedure for taking disciplinary action relating to a licence including the procedure for giving the licence holder notice of the grounds for taking the disciplinary action and the way the licence holder may make representations about the proposed action.

A right of judicial review, but not a right of de novo appeal from control body approval decisions

In drafting the proposed Act consideration was given to the appropriate method of reviewing decisions of the Minister relating to a control body approval. For the reasons set out below it is considered that the appropriate method of reviewing decisions of the Minister is judicial review under the *Judicial Review Act 1991*. Therefore, the proposed Act does not provide any additional appeal rights.

The integrity of control bodies and of the persons associated with the management and ownership of control bodies is the cornerstone of the system that ensures the integrity of the racing industry in Queensland. Public confidence in the industry can only be maintained if the integrity of racing is maintained to the highest standards. Therefore, there are stringent probity and integrity requirements placed on control bodies, including the requirement for all persons associated with the management and ownership of control bodies to provide detailed personal information. These persons should have an assurance that their personal details will not be disclosed

publicly. If a merits review of the Minister's decision was undertaken it is likely that such information would be disclosed by the court when providing its written decision. Such disclosure would not be in the public interest and may deter suitably qualified persons from seeking appointment to a position on a corporation that is an approval applicant.

Pursuant to clause 24 of the proposed Act, the Minister must decide whether to approve an "eligible corporation" as the control body for a code of racing. Clause 24 provides that the Minister must consider the following matters before making a decision in relation to a control body approval:

- a report of the chief executive assessing all applications made pursuant to clause 18(2), including the chief executive's assessment of whether the applicant corporation is suitable to be approved as the control body for a code;
- the written application made by the applicant corporation;
- further documents given by the applicant corporation to the chief executive;
- any submissions lodged by objectors pursuant to clause 15(1);
- conditions that should apply to the approval application if it was issued.

The Minister is not permitted to issue an approval application unless satisfied that the applicant has provided satisfactory evidence of the matters required by clauses 11 and 12 of the proposed Act.

The chief executive is required to assess applications for a control body approval and make a recommendation to the Minister. While the Minister must consider the report of the chief executive, the Minister must make an independent decision on the available information, whether to grant a control body approval.

After making a decision, the Minister must give an "information notice" to an applicant corporation that informs the corporation of their rights. The information notice must include written reasons for the decision and state that the decision may be reviewed by the Supreme Court pursuant to the *Judicial Review Act 1991* and the time within which such application must be filed.

As the Minister must use discretion, after considering all relevant matters, to determine whether an applicant corporation is suitable to be a control body for a code of racing, a de novo review of the Minister's decision is considered to be an inappropriate method of review of the

decision. It is however considered appropriate for the Supreme Court to review an approval decision under the *Judicial Review Act 1991* by assessing for example, whether the Minister has taken all relevant considerations into account and excluded irrelevant considerations when making the decision and that the decision making process was free of bias.

The Racing Appeals Tribunal is considered an inappropriate forum to undertake a review of the Minister's decisions concerning control body approvals, as members of the Racing Appeals Tribunal are appointed by the Governor in Council on the recommendation of the Minister. Also, the Tribunal is a specialist tribunal with expertise in hearing appeals under the rules of racing.

As any corporation that would be able to satisfy the criteria set out in clauses 11 and 12 of the proposed Act would be an entity of significant financial standing, the cost of a judicial review application is unlikely to be a financial burden.

Right of judicial review but no right of de novo appeal from accreditation decisions

The need to ensure the integrity of accredited facilities is no less important than for control bodies. Drug scandals in the racing industry in the past have resulted in loss of public confidence in the industry and a downturn in wagering turnover and revenue for the industry.

Chapter 4 part 2 of the proposed Act provides a process by which a facility may be accredited by the chief executive for the purpose of providing control bodies with drug testing and associated integrity services.

Before a facility can be accredited, it must complete a written application in an approved form, setting out information in relation to the persons to provide the services on behalf of the facility, including analysts, veterinarians and custodians of samples (clause 129). The chief executive may request further information from a facility and may have regard to advice given by the Racing Animal Welfare and Integrity Board (Integrity Board), who has specialised knowledge and experience in the operations of drug testing and integrity services [clauses 130 and 132(3)].

Clause 131 provides that the chief executive must not accredit a facility unless the chief executive is satisfied that:

- the applicant facility's procedures for analysis meet a standard that is necessary in order to ensure the integrity of the analysis;

- the persons involved in the analysis at the applicant facility have the necessary experience and expertise to perform the analysis;
- the applicant facility has entered into appropriate arrangements with other integrity service providers ("secondary facility providers"), to ensure the appropriate analysis of samples and things for which the applicant facility is unable to analyse;
- the "secondary facility provider" meets required standards of analysis and the persons involved in the analysis at the secondary facility are appropriately experienced and qualified; and
- the applicant facility complies with regulations issued pursuant to the proposed Act, in relation to analysing samples on racing animals.

Clause 131 is not an exhaustive list of all the considerations the chief executive must take into account when determining whether an applicant facility is suitable to be an accredited facility. The decision of the chief executive requires an assessment of the applicant facility's compliance with the matters prescribed in clause 131, consideration of advice from the Integrity Board and finally the use of discretion to determine, after consideration of all relevant material, whether a facility is suitable to be accredited to provide drug control and scientific services to the control bodies.

Accurate drug testing results are fundamental to the perception of the integrity of animal racing on which betting is conducted. The chief executive has knowledge of the operations of control bodies and accredited facilities and as the chief executive must use discretion, after considering all relevant matters, to determine whether an applicant corporation is suitable to be a control body for a code of racing, a de novo review of the chief executive's decision is not considered appropriate.

Judicial review by the Supreme Court under the *Judicial Review Act 1991* is considered to be the most appropriate method of review, whereby the court would review the chief executive's decision to determine whether the chief executive has taken all relevant considerations into account and excluded irrelevant considerations when making the decision and whether the decision making process was free of bias.

Applicant facilities would be by their nature, capital intensive entities, and as with control body applicants, facilities seeking accreditation would require significant financial standing. Therefore, the cost of a judicial review application would be unlikely to be a financial burden to an applicant.

Right of judicial review, but no right of de novo appeal from disciplinary action relating to control bodies and accredited facilities

The Bill provides for the Minister who has responsibility for approving corporations to be control bodies to have the power to take disciplinary action against control bodies. Similarly, the chief executive who has responsibility for accrediting facilities that provide drug control and associated integrity services to control bodies, has the power to take disciplinary action against accredited facilities.

The grounds for taking disciplinary action against control bodies and accredited facilities are stated in clauses 52 and 135 respectively.

While the Racing Appeals Tribunal has jurisdiction to hear appeals from decisions by a control body to take disciplinary action against licensees of the control body, it is considered that decisions to take disciplinary action against control bodies and accredited facilities fall outside the sphere of expertise of the Racing Appeals Tribunal. Also, as mentioned previously, it would be inappropriate for the Tribunal to hear appeals against decisions of the Minister as the Tribunal members are appointed by the Governor in Council on the recommendation of the Minister.

The proposed Act establishes a show cause procedure that the Minister and chief executive must comply with when taking any disciplinary action, save in exceptional circumstances where immediate suspension is warranted in the public interest.

Having regard to need to ensure the integrity of racing by enforcing compliance with the proposed Act and conditions of an approval or accreditation, it is considered that judicial review under the *Judicial Review Act 1992* is the appropriate method of reviewing a decision of the Minister or the chief executive to take disciplinary action against a control body or an accredited facility respectively.

Section 4(3)(a) and (b) of the *Legislative Standards Act 1992*—whether the proposed Act has sufficient regard to the institution of Parliament depends on whether, for example, the proposed Act allows the delegation of legislative power only in appropriate cases and to appropriate persons and sufficiently subjects the exercise of delegated legislative power to the scrutiny of the Legislative Assembly.

Clauses 80 and 81 of the proposed Act require a control body to have written policies for the management and regulation of its code.

Clause 79 provides that policies and rules of racing are statutory instruments. However, as neither of these documents are subordinate legislation, they are not tabled or subject to disallowance. In line with government's policy to devolve responsibility for management of a code of racing to its control body, it is consistent that the making of policies and rules of racing be devolved to control bodies and for government regulation to be kept to a minimum.

While policies and rules of racing are not subordinate legislation, they will be required to comply with the proposed Act and regulations made under the proposed Act. Also, because disciplinary action may arise out of a licence holder failing to comply with the rules of racing, each control body must, under clause 91, have regard to fundamental legislative principles when making the rules. Further, as control bodies will operate in the overall Australian racing environment and each control body's policies and rules will need to be sustainable in that environment, it is expected that there will be a certain level of uniformity with rules applying in other states.

Section 4(3)(a), (b) and (c) of the *Legislative Standards Act 1992*—Whether the proposed Act has sufficient regard to the institution of Parliament depends on whether, for example, the proposed Act allows the delegation of legislative power only in appropriate cases and to appropriate persons

Clause 142—definition of drug

Clause 142 of the proposed Act defines a "drug". It is an offence to possess a drug at specified places and to use a drug on a licensed animal. The proposed legislation provides for other substances to be included in the definition of drug by prescribing under a regulation substances likely to affect the performance of a licensed animal. This could be considered a Henry VIII clause by in effect allowing the proposed Act to be amended by subordinate legislation. As new drugs are constantly being manufactured, declaring new substances to be "drugs" by regulation ensures that legislation can be enacted quickly to prohibit the use in regulated racing of "designer drugs" that may be manufactured in the future.

Consultation

Government

Interdepartmental consultation has occurred.

Industry

Consultation in relation to the proposed Act has been undertaken with the following:

- Queensland Thoroughbred Racing Board members and senior employees;
- Queensland Harness Racing Board members and senior employees;
- Greyhound Racing Authority members and senior employees;
- Racing Appeals Authority Chair;
- Racing Codes Advisory Board members;
- Queensland Race Training Pty Ltd Manager;
- Australian Racing Board Executive Officer; and
- TAB Queensland Limited.

Results of Consultation

There is support from within government and from the industry for the proposed Act.

CHAPTER 1—INTRODUCTION

Short title

Clause 1 provides that the short title of the proposed Act is the *Racing Act 2002*.

Commencement

Clause 2 provides that the proposed Act commences on a day to be fixed by proclamation.

The amendment to the *Racing and Betting Amendment Act (No 2) 2001* is taken to have commenced on 4 April 2002. This amendment corrects a minor drafting error in that Act.

Act binds all persons

Clause 3 provides that the proposed Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and all other states and territories. No provision in the proposed Act makes the State of Queensland liable to be prosecuted for an offence.

Main purposes of Act and how they generally are achieved

Clause 4 states that the main purposes of the proposed Act are to:

- maintain confidence in the racing of animals in Queensland for which betting is lawful;
- ensure the integrity of all persons involved with racing or betting under the proposed Act; and
- safeguard the welfare of all animals involved in racing under the proposed Act.

This clause outlines how the main purposes are achieved.

Definitions

Clause 5 states that the dictionary in schedule 3 defines words used in the proposed Act.

Betting under this Act is lawful

Clause 6(1) states if betting on the outcome of a race or sporting contingency is conducted under the proposed Act, the betting is lawful.

Subclause 6(2) provides that subclause (1) does not limit the *Wagering Act 1998*. It is the intention of this provision that the proposed Act does not override the operation of the *Wagering Act 1998*.

CHAPTER 2

CONTROL BODIES TO MANAGE CODES OF RACING

PART 1—MAIN PURPOSES OF CHAPTER

Main purposes of chapter 2 and how they generally are achieved

Clause 7 states that Chapter 2 achieves the objectives of the proposed Act by:

- establishing a system whereby a suitable corporation may be approved as a control body;
- establishing a formal relationship between the Minister, chief executive and each control body; and
- fostering regional interests in relation to thoroughbred racing.

PART 2—CONTROL BODIES GENERALLY

Division 1—Meaning of eligible corporation and eligible individual

Meaning of "eligible corporation"

Clause 8 defines an eligible corporation as a corporation that is registered under the *Corporations Act 2001* and has a constitution that, at all times, requires the corporation to have:

- at least 3 directors; and
- persons appointed or employed as executive officers of the corporation who satisfy the requirements of being an *"eligible individual"*.

An *"executive officer"* is defined in the dictionary as a person who is concerned with, or takes part in, the corporation's management whether or

not the person is a director or the person's position is given the name of executive officer.

Meaning of "eligible individual"

Clause 9 defines an *"eligible individual"*. An eligible individual is an individual who is not affected by bankruptcy action and does not have a disqualifying conviction. Also, the individual must not be dealt with in an exclusion action under the control body's rules of racing. Exclusion action is defined as being named on a forfeit list, disqualified from holding a licence issued by the control body or warned off from entering a licensed venue under a control body's rules of racing.

The individual cannot be licensed by, or be an executive officer of a corporation that is licensed by any control body. For example, an executive officer of a corporation that is a racing bookmaker, a member of a committee of, or employee of, a club licensed by a control body to conduct racing, or a committee member of an association formed to promote the interests of racing industry participants cannot be executive officers of a control body. An executive officer also cannot be a person who is disqualified from managing corporations under the *Corporations Act 2001*.

An eligible individual must not have a "*disqualifying conviction*". A "*disqualifying conviction*" is a conviction, whether or not a spent conviction, for an offence under the proposed Act or the repealed Act or a prescribed act of another state about racing or betting. It also includes indictable offences, other than irrelevant spent convictions.

An *"irrelevant spent conviction"* means a spent conviction relating to an offence that did not involve dishonesty, fraud, stealing, unlawful betting or unlawful bookmaking. A *"spent conviction"* means a conviction for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act and that is not revived as prescribed by section 11 of that Act.

The intent of this provision is to ensure that persons with a criminal background or with a conflict of interest are not involved in the management of a control body.

Division 2—Applying for approval as control body for a code of racing

An eligible corporation may apply for approval as a control body

Clause 10 provides that an "eligible corporation" may apply to be approved as a control body for a code of racing that currently exists in Queensland, or a proposed code of racing. An eligible corporation may apply for an approval to be the control body for more than one code of racing.

This provision allows an applicant to apply to be a control body at any time while another corporation holds an approval. However, the chief executive and the Minister are not required to start processing an application until one (1) year prior to the expiration of the current control body approval.

Approval application to be accompanied by specific matters

Subclause 11(1) specifies that the following must accompany an application by a corporation for approval as a control body:

- the application fee prescribed by regulation;
- the applicant's written agreement to pay the pro rata cost of mediation between applicants competing for approval to be the control body of a code of racing, should this occur;
- a copy of the applicant corporation's constitution; and
- the applicant's plans for developing, operating and managing the application code and timetable for implementation.

To ensure that persons with a criminal background are not associated with the management of a control body, the following are required:

- the written consent of each of the applicant corporation's business associates (which includes executive officers) and executive associates for taking fingerprints and conducting background investigations; and
- the applicant corporation's written agreement to obtain the consent for a person that the chief executive considers to be an executive officer, but whose consent does not accompany the application.

The definitions of business and executive associates are based on provisions in Queensland legislation regulating gambling activities and are designed to ensure that all persons associated with the management and ownership of control bodies are able to be identified and required to undergo appropriate probity and background checks. The definition of "*business associate*" makes it clear that an executive officer of a corporation is a business associate of the corporation.

Subclause 11(2) requires the applicant's plans for developing, operating and managing the code must include proposals for policies for:

- lawful betting which can either relate to licensing of bookmakers for the code or selling its product to a person licensed under the *Wagering Act 1998* (TABQ Limited currently holds an exclusive race wagering licence and sports wagering licence that expires in 2014);
- licensing of animals, participants and venues;
- safeguarding the public interest;
- providing education and training for licensees and other participants;
- publishing information on a website;
- first level appeals, where the control body proposes to have a policy for appeals from stewards' decisions to be made to an appeal committee;
- animal welfare for animals that may be licensed, including disease prevention and management;
- the provision of veterinary services at race meetings; and
- the separation of the corporation's commercial and regulatory operations.

To ensure that an applicant is able to be a control body within a reasonable period of time, its proposals for its policies must be well developed and capable of implementation within eighteen (18) months of any approval granted to the control body.

Evidence of matters to be included in an approval application

Clause 12 provides that an approval application must include evidence that:

- the applicant corporation is an eligible corporation; and
- each executive officer of the applicant corporation is an eligible individual and has experience in the code or expertise in business and financial management, law, leadership or marketing.

Division 3—Referral of approval application to chief executive for processing

Minister to refer approval application to the chief executive for assessment and other action

Clause 13 provides that the Minister must refer an approval application to the chief executive. To ensure that all persons interested in an approval application are aware of an application for approval being made, the chief executive must require the applicant to advertise the application. The chief executive must also assess whether the approval applicant is suitable to be approved as the control body for the code of racing.

Advertising notice about approval application

Clause 14 sets out requirements for advertising an application for approval. Advertisements must state that persons can object by making a written submission to the chief executive. The advertised closure date for lodging objections must be at least 28 days after the advertisement first appears in a newspaper. The applicant is liable for all expenses relating to the advertisements.

Objection to approval application

Clause 15 requires an objection to state the objector's reasons for objection and may include conditions to which the objector considers the approval should be subject.

Division 4—When there is more than 1 approval application relating to a particular type of animal racing

Application of division 4

Clause 16 states that this division applies if:

- an objector's reasons for objecting to a control body approval application include that the objector is the appropriate eligible corporation to be approved as the control body; and
- within twenty-eight (28) days of lodging the objection, an eligible corporation (which may be the objector) makes application to the Minister seeking to be approved as the control body for the code of racing.

Chief executive must call meeting of all approval applicants

Clause 17 provides that the chief executive must call a meeting between competing approval applicants to explore the possibility of reaching a mediated agreement about the eligible corporation that should be approved as the control body for the particular code of racing. If a mediated settlement cannot be reached, the chief executive must report this to the Minister.

Division 5—Assessment actions by chief executive for approval applications

Assessment of an approval application if only 1 application

Clause 18 provides that if there is only one applicant, the chief executive must assess the approval application and provide a report to the Minister. This provision outlines the matters that the chief executive's report must cover.

Assessment of an approval application if more than 1 application

Clause 19 provides that if there is more than one approval applicant, the chief executive must assess all approval applications and provide a report to the Minister. The chief executive's report must include the assessed applications, submissions from objectors and others, an assessment of the merits of each application compared to other applications and a recommendation on which applicant is best qualified and most suitable to control the code of racing. In the event of only one (1) applicant, the chief executive must also assess whether the approval applicant is an eligible corporation and is suitable to be approved as a control body.

Assessing approval applicant or approval applicants

Clause 20 provides that when assessing an approval applicant the chief executive must decide whether the corporation is suitable to be approved as the control body for the application code, the chief executive must have regard to the approval applicant's application, business reputation, financial capacity and financial background. Where the applicant has a business association with another entity, the chief executive must consider the other entity's business reputation and financial capacity.

The chief executive must consider the suitability of every business associate or executive associate of the applicant in terms of their character, business reputation and financial capacity. In addition, if the business associate has a business association with another entity, the business reputation and financial capacity of this other entity must be considered.

Chief executive may require further information or documents to support approval application as part of investigations under section 20

Clause 21 empowers the chief executive to require an approval applicant, an applicant's business associates and executive associates to provide a range of documentation relating to the application, the applicant and entities associated with the applicant.

Chief executive must request fingerprints of business associates and executive associates of the approval applicant

Clause 22 requires the chief executive to make arrangements to take the fingerprints of each of the applicant's business associates (which includes executive officers) and each executive associate of the applicant.

Obtaining the criminal history of an individual

Clause 23 authorises the chief executive to request criminal history reports from the commissioner of the Queensland Police Service after fingerprints of relevant persons have been taken. The commissioner must provide a report to the chief executive containing all relevant information in the commissioner's possession plus relevant information the commissioner could reasonably obtain from other Australian jurisdictions.

Division 6—Ministerial decision about approval applications

Minister to consider and decide approval applications

Clause 24 requires the Minister to consider an approval application after the chief executive's assessment is received. The Minister must consider the application and further documentation provided by the applicant, submissions given to the chief executive, any other approval applications, the chief executive's report and any conditions the Minister considers should apply if the application is approved. The Minister must not approve an application unless satisfied the applicant has provided evidence of the matters required under clauses 11 and 12 of the proposed Act.

If more than one approval application has been received, subclause 24(4) requires the Minister to consider which applicant is best qualified and most suitable to be the control body for the code of racing.

Information notice about Minister's decision

Clause 25 requires the Minister to provide an information notice to the applicant after a decision has been made. If the Minister's decision is that approval would be given if the applicant rectified a matter, for example, amended the applicant's constitution, the notice may state the matter to be rectified and the way it may be rectified. The notice must include all conditions attached to the approval and the reasons for the conditions.

When Minister must give an approval to approval applicant

Clause 26 outlines the notifications to be made if the Minister decides to grant a control body approval to an applicant.

To ensure that circumstances of the applicant corporation have not changed between the date the application was received and the date the control body approval is given, the applicant must provide the chief executive with a notice stating there have been no changes to the information in the approval application or other documentation that would be likely to affect the Minister's decision. The applicant must pay a fee for the first year of the approval.

The Minister must publish details of the approval in the gazette.

Form of approval

Clause 27 outlines the matters that a control body approval must state.

Division 7—Other matters relating to approvals and approval applications

Approval has effect for 6 years unless it is cancelled or suspended

Clause 28 provides that a control body approval has effect for six (6) years, unless cancelled or suspended.

Yearly fee payable by each control body

Clause 29 requires a control body to pay an annual fee prescribed by regulation for its approval. Failure to pay the fee is a ground for disciplinary action against the control body. This clause does not apply to a "continuing control body" as defined in clause 359, which may receive an approval pursuant to clause 365.

Regulation may prescribe a condition applying to an approval

Clause 30 provides that a regulation may prescribe conditions to which a control body approval is subject.

Variation of approval of control body

Clause 31 enables a control body to apply to the chief executive for a variation of the conditions of the control body approval.

Destruction of fingerprints

Clause 32 provides for the destruction of fingerprints obtained from control body applicants, business associates (which includes executive officers), and executive associates as soon as practicable after an approval application has been refused. The fingerprints of executive associates, business associates and executive officers who the chief executive considers are no longer involved with a control body must also be destroyed.

PART 3—CONTROL BODIES FOR CODES OF RACING

Division 1—Function and powers of control bodies

Function of control body

Clause 33 provides that the function of a control body is to manage its code of racing. A control body has the powers stated in the proposed Act and all other powers necessary to conduct its operations as a control body.

Powers of control body for its code of racing

Clause 34 outlines the powers of a control body for managing its code of racing, including:

- licensing animals, clubs, participants and venues and testing their performance against control body policies to ensure their continued suitability to be licensed;
- implementing plans for developing, promoting and marketing the code's commercial operations;
- encouraging the development of ancillary activities, such as breeding and training racing animals
- providing education and training for licensees and other participants;
- allocating funding to licensed racing clubs and venues;
- entering into reciprocal arrangements with bodies in other states involved in the control body's code of racing regarding licensing, cancellation and suspension of licences, disqualification for holding a licence and other matters; and
- giving directions to licensed clubs relating to the operations of the club, including for example, matters in relation to a licensed club's assets, or a licensed venue for which the club is a licence holder.

Control body may charge fees for its services

Clause 35 authorises a control body to charge fees for its services, including licensing fees, but all fees charged must reflect the reasonable cost of providing the service.

Division 2—Obligations of control bodies other than for policies

Obligation to implement plans as stated in approval application

Clause 36 requires a control body to implement its plans and policies as specified in its approval application.

Obligation to have internal controls

Clause 37 requires a control body to have sufficient internal controls to enable it to perform its functions, including information systems that separate the control body's commercial and regulatory functions and record information relating to licensing.

This provision aims to ensure that a control body has systems and procedures that reflect good corporate governance principles to ensure that a control body's commercial operations for its code do not conflict with its regulatory responsibilities.

Obligation to have racing calendar for code of racing

Clause 38 requires a control body to produce and publish information relating to the code of racing, described as a *"racing calendar"*. The racing calendar must be available at least seven (7) days before the start of the calendar period and for the duration of the period and includes information about the dates and venues at which race meetings will be held and the types of races to be held at the meetings.

Obligation to have program to audit licensed animals, clubs, participants and venues

Clause 39 obliges a control body to have a policy about auditing the suitability of all licensed participants and venues to continue to hold their licence and to implement a program to audit compliance by licensees with control body policies. By 31 December each year, the control body must

provide to the chief executive a copy of the audit program for the following year.

Obligation to enter into agreement about scientific and professional services

Clause 40 requires a control body to enter into an agreement with an accredited facility for the provision of integrated scientific services that is independent of the control body.

As the provision of drug control services is central to the integrity of the racing industry in Queensland, it is essential that a control body obtains its drug control and related services from a facility that is independent of the control body. For a facility to be independent of the control body there must be no conflicts of interest between the staff at the facility and the control body. The processes and procedures established by the facility must not be able to be influenced by, or controlled in any way by the control body.

Division 3—Annual reporting by control bodies and related issues

Annual reporting by control body

Clause 41 requires control bodies to provide within fourteen (14) days of each anniversary of its approval, a notice about whether it continues to be an eligible corporation and a plan for managing its code of racing over the following twelve (12) months.

Whilst a control body is required to provide a plan for a minimum of twelve (12) months, it is envisaged that a control body's strategic planning processes for its code would enable it to provide the chief executive with plans for in excess of twelve (12) months.

Notice about change of executive officers

Clause 42 requires a control body to give the chief executive notice within fourteen (14) days of the resignation or the appointment of an executive officer. A control body must inform the chief executive if a person is appointed as an executive officer of the control body after an approval is received by a control body. The notice must state that the person is an eligible individual and must include the person's signed

consent to have their fingerprints taken and for the chief executive to investigate the person's background.

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

Clause 43 requires a control body to give notice to the chief executive within fourteen (14) days after the occurrence of an event that makes the control body no longer an eligible corporation. The notice must include the control body's plans and timetable for restoring its eligible corporation status.

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

Clause 44 requires a control body to give notice to the chief executive if an event happens resulting in an executive officer no longer being an eligible individual.

PART 4—ACTIONS RELATING TO CONTROL BODIES AND CODES OF RACING

Division 1—Ministerial directions to control bodies

Minister may give direction to control body about its policies or rules

Clause 45 provides that the Minister may give a direction to a control body to make a new policy, review an existing policy, make rules of racing about a matter authorised by its policies or review existing rules of racing. The Minister may give the direction to ensure one or more of the following:

- public confidence in the integrity of the Queensland racing industry;
- the control body is managing its code of racing in the interests of the code;
- the welfare of the control body's licensed animals;

- the control body's actions are accountable and its decision making processes are transparent; and
- the control body's rules of racing that are authorised to be made by its policies, have sufficient regard to the rights and liberties of individuals under section 4(3) of the *Legislative Standards Act 1992*.

The Minister's power to direct a control body in relation to its rules is limited to directing a control body to review its existing rules or to make new rules about a matter. If a control body reviews a particular rule and decides that the rule should not be amended, the control body would need to demonstrate that the rule of racing is in the public interest and has sufficient regard to section 4(3) of the *Legislative Standards Act 1992*, which provides that, *"whether legislation has sufficient regard to the rights and liberties of individuals depends on whether, for example, the legislation_*

(a) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and

(b) is consistent with the principles of natural justice; and

(c) allows the delegation of administrative power only in appropriate cases and to appropriate persons…."

Community expectations today require that entities empowered to make rules and policies, particularly rules and policies that affect the livelihoods and lives of persons, should have due regard to those principles outlined in section 4(3) of the *Legislative Standards Act 1992*, unless there are good public interest reasons for not doing so.

Division 2—Audit regime and other investigations

Program for auditing suitability of control bodies

Clause 46 provides for the Minister to approve an audit program under which the chief executive may assess the suitability of each control body to manage its code of racing, including whether it continues to be an eligible corporation.

Investigation into suitability of a control body

Clause 47 empowers the chief executive to investigate a control body to determine whether it is suitable to continue to manage its code of racing. Investigations may only be made under an audit program or if the chief executive suspects the corporation is no longer suitable to be a control body.

Investigation into suitability of associate of control body

Clause 48 provides that the chief executive can investigate a control body's business associates and executive associates to assess their continued suitability as associates of the control body. However, these investigations may only occur under an audit program approved by the chief executive or if the chief executive reasonably suspects the relevant control body or associate is no longer suitable or if the persons became associates after the corporation was approved as a control body.

Requirement to give information or document for investigation

Clause 49 provides that in investigating a control body or a business associate or executive associate of a control body the chief executive may require the person to give information or a document within a stated time.

Failure to give information or document for investigation

Clause 50 makes an offence to fail to comply with a requirement under clause 49(1) unless the person has a reasonable excuse.

Criminal history report for investigation

Clause 51 requires the commissioner of the police service, if requested by the chief executive, to provide the chief executive with a criminal history report on persons that the chief executive is investigating under clause 47 or 48.

Division 3—Disciplinary action against control bodies

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

Subclause 52(1) sets out the grounds upon which the Minister may take disciplinary action against a control body, other than "continuing control bodies":

- the control body is not an "eligible corporation" as defined in clause 8;
- an executive officer of the control body is not an "eligible individual" as defined in clause 9;
- the control body is no longer suitable to manage the code;
- the control body has contravened any provision of the proposed Act;
- the control body fails to comply with a condition of its approval;
- the control body contravenes a direction given to it by the Minister pursuant to clause 45 (regarding its policies or rules of racing);
- the control body fails to take disciplinary action against a licence holder when the control body is required to do so, pursuant to the provisions of chapter 3 of the proposed Act; or
- the control body stated something it knew was false or misleading in its approval application, or a notice or other document that a control body is required to give to the chief executive or the Minister pursuant to the proposed Act.

Subclause 52(2) provides that in forming a belief in relation to whether a corporation is suitable to manage the code of racing, the Minister may have regard to the same issues as when deciding whether an approval applicant is suitable to be approved as a control body.

Show cause notice

Clause 53 provides that if the Minister believes a ground for disciplinary action exists, the Minister must give a control body a show cause notice that specifies the matters that it must contain. The show cause notice must

provide the control body with at least twenty-eight (28) days to respond to the matters raised in the show cause notice.

Consideration of representations

Clause 54 provides that a control body may make written representations about the show cause notice that must be considered by the Minister.

Immediate suspension of an approval

Clause 55 provides that in extraordinary circumstances the Minister may suspend a control body's approval immediately. This power can only be exercised in extraordinary circumstances, for example, where the health and safety of the public or participants at the race club or racing venue are at risk.

Censuring control body

Clause 56 states that in certain circumstances the Minister may censure a control body. This provision allows the Minister to censure a control body in circumstances where the breach by the control body is considered by the Minister to be a ground to suspend or cancel the control body's approval, but the Minister does not believe the giving of a show cause notice is warranted, or after hearing representations for a show cause notice, the Minister does not believe suspension or cancellation of the control body's approval is warranted.

Direction to control body to rectify matter

Clause 57 states that after considering representations for a show cause notice the Minister still believes a ground exists to take disciplinary action and believes a matter is capable of being rectified the Minister may give a control body a direction to rectify a matter. This provision allows the Minister, in circumstances where the Minister considers it to be appropriate, to give a control body another opportunity to rectify a matter rather than taking more onerous action.

Action by Minister

Clause 58 lists a range of actions that may be taken if the Minister decides to take action in particular circumstances in relation to a control body's approval.

Division 4—Other provisions about control bodies

Control body is unit of public administration

Clause 59 provides that a control body is a unit of public administration under the *Crime and Misconduct Act 2001* to the extent of the control body's operations for the purposes of performing its function under this proposed Act.

Audit by auditor-general

Clause 60 provides that the Minister may request the Auditor-General to audit a control body. It is envisaged that this power would only be exercised by the Minister in circumstances where the Minister has grounds to believe that it is in the public interest for an independent audit of the control body to be conducted.

PART 5—PROVISIONS RELATING TO ENTITIES INVOLVED IN THOROUGHBRED RACING

Division 1—Racing associations

Racing associations

Clause 61 states that the five (5) racing associations established under the repealed *Racing and Betting Act 1980* for the thoroughbred code are continued in existence. Racing associations in the thoroughbred code are based on five (5) geographical areas of Queensland.

Composition of each racing association

Clause 62 provides that regulations may prescribe the composition of each racing association and the method of appointment of members of racing associations.

Functions of each racing association

Clause 63 states that racing associations are to provide advice to the control body for the thoroughbred racing code, about racing meetings conducted by clubs within each racing association. Racing associations are also empowered, if required, to nominate a member of the Queensland Regional Racing Council (the council) and to prepare submissions to the council about funding required by clubs who are members of the racing association and who conduct races on which TABQ Limited does not conduct totalisator betting.

Powers of racing association

Clause 64 provides that a racing association has all powers required to perform its functions.

Division 2—Queensland Regional Racing Council

Definitions for division 2

Clause 65 defines the following for division 2 of part 5 which relate only to the thoroughbred code of racing in Queensland:

"non-TABQ clubs" are clubs for which the TABQ does not, or is not likely to offer wagering on the majority of the club's races.

"non-TABQ races" are races on which the TABQ does not, or is not likely, to offer wagering.

Establishment of Queensland Regional Racing Council

Clause 66 provides that the council, which was established under the repealed *Racing and Betting Act 1980*, is continued in existence.

Functions of council

Clause 67 provides that the functions of the council are to:

- consider submissions from racing associations;
- develop a distribution strategy for prize money and other funding;
- make recommendations about the racing calendar and monitor the performance of non-TABQ race clubs and non-TABQ race meetings; and
- provide reports and recommendations to the control body for the thoroughbred code.

Composition of council

Clause 68 provides that the members of the council are the chairpersons of the racing associations. However, an individual cannot be a member of the council if the individual holds office as member of a racing association because of a nomination by a TABQ club or is a member of a committee of a TABQ club. If a chair of a racing association is ineligible to be a member of the council, the racing association must nominate a member of the association who is eligible.

Division 3—Provisions applying to racing associations and council

Definition for division 3

Clause 69 defines "thoroughbred entity" as a racing association or the council.

Thoroughbred entity responsible for conduct of its business

Clause 70 provides that the council and racing associations must conduct their business in the way they consider appropriate.

Chairperson of thoroughbred entity

Clause 71 requires the council and each racing association to elect a chair. The chair must advise the control body for the thoroughbred code about the election.

Presiding at meetings

Clause 72 states that the chair must preside at all meetings. However, if the chair is not present or if the office is vacant, the members must elect one of the members to preside.

Times and places of meetings

Clause 73 deals with the holding of meetings.

Quorum

Clause 74 states that a quorum is three (3) members.

Attendance by proxy

Clause 75 provides for attendance at meetings by proxy.

Conduct of meetings

Clause 76 provides for the conduct of meetings including voting and resolutions.

Minutes

Clause 77 provides that the council and each racing association must keep minutes of its meetings and a record of resolutions.

CHAPTER 3

CONTROL BODIES MANAGING THEIR CODES OF RACING

PART 1—INTRODUCTION

Purposes of chapter 3

Clause 78 outlines the purposes of the chapter. The main purposes of the chapter are to provide for the way a control body may perform its function of managing its code of racing and includes provisions applying to licensed clubs. The clause also outlines generally how a control body performs it functions.

Policies and rules of racing are statutory instruments

Clause 79 states that policies and rules of racing made by a control body are statutory instruments within the meaning of the *Statutory Instruments Act 1992* which means that rules of racing and policies made by a control body are not subordinate legislation.

PART 2—POLICIES

Division 1—General provisions about policies

Policy may be made because of this Act, or a Ministerial direction, or for good management

Clause 80(1) states that a control body may make a policy for its code of racing because it is required by the proposed Act, a Ministerial direction, or because the control body believes it is good management to have the policy.

Subclause 80(2) permits a regulation to prescribe provisions that must be included in the policy.

Under clause 45, the Minister may give a control body a direction to make a new policy, review an existing policy, make rules of racing about a matter that its policies permit, or review existing rules of racing.

The requirement for a control body to make policies ensures increased accountability and transparency in decision-making processes.

Matters for which a control body must have a policy

Clause 81 states the type of policies that a control body must make for its code of racing.

Subclause 81(a) provides that a control body must develop a policy about how it will make policies including the consultation it will undertake with affected persons. It is envisaged that such a policy should address the level of consultation that is appropriate having regard to the nature of the issues. A policy in relation to an issue that is controversial and that may affect a large number of persons may require more consultation than a policy about a matter that is well settled and not controversial.

Subclause 81(b) provides that a control body must make a policy about safeguarding the public interest in the code. In making such a policy, a control body would need to consider the need to ensure the integrity of the racing for the code.

Subclause 81(c) provides that a control body must make a policy about its licensing scheme. Clauses 86 to 89 provide guidance about specific matters that must be included in a control body licensing scheme.

Subclause 81(d) requires a control body to make a policy for the provision of an appropriate education and training system for participants for the code. Clause 82(1) states that the policy may provide for the control body, by itself or with another entity to establish, manage or fund a facility that may provide education and training for racing participants.

Subclause 81(e) requires a control body to make a policy for the testing and training of licensed animals, including conducting trials.

Subclause 81(f) requires a control body to make a policy about the wagering or betting that may be conducted on races held under the control of a control body. As the proposed Act only regulates the racing of animals on which there is betting or wagering on the outcome, it is necessary for a control body to either sell its product to a person conducting wagering

under the *Wagering Act 1998* or to provide for betting to be undertaken by racing bookmakers licensed by the control body for the code of racing.

Subclause 81(g) requires a control body to have a policy about the information and rules to be published on its website. A control body is obliged under clause 84(2)(b) to place its policies and rules of racing on the control body's website.

Subclause 81(h) states that a control body's policies may authorise it to make rules of racing to establish first level appeal committees to hear appeals against the decisions of stewards of the control body. Clauses 96 and 97 state the matters which may be included in a control body's rules of racing relating to first level appeal committees.

Currently, only the thoroughbred code has first level appeals. It is not mandatory for a control body to establish a first level appeal committee, however, if a control body decides to establish a first level appeal system, it must comply with the criteria outlined in the proposed Act

Subclause 81(i) requires a control body to develop a policy about the formation and management of clubs eligible to be licensed by the control body which clubs are subject to mandatory requirements outlined in the proposed Act. It is envisaged that this policy would address the issue of licensing both proprietary (for profit) and non-proprietary (not for profit) clubs.

Subclause 81(j) provides that a control body must develop a policy about the allocation of race days and funding to licensed clubs.

Subclause 81(k) states that a control body must have a policy about the standard of licensed venues, including the criteria for licensing different categories of venues.

Subclause 81(l) requires a control body to have a policy about the employment of persons, including officials by the control body. For example, such a policy should state the skills and experience persons would need to possess to be employed by the control body.

Subclause 81(m) states that a control body must have a policy in relation to the way races for the code are held.

Subclause 81(n) states that a control body must have a policy in relation to decisions made by stewards, the way races will be held and its decision making processes. This policy should ensure that persons affected by decisions of a control body are afforded natural justice and that the decision-making processes are transparent.

Subclause 81(o) requires a control body to have a policy about its record keeping processes, including keeping records about its decisions.

Subclause 81(p) requires a control body to have a policy that ensures that its employees are made aware of their responsibilities under other legislation such as the *Anti-Discrimination Act 1991* and the *Workplace Health and Safety Act 1995*.

Subclause 81(q) requires a control body to have a policy in relation to the consumption or use of liquor or other substances by an official of the control body or by a person licensed by the control body who has access to a licensed animal at a licensed venue.

For example, in the case of licensees, a control body policy could provide that if the licensee has access to a licensed animal at a licensed venue, the person must agree as a condition of their licence to provide a blood, urine or breath sample for testing to determine whether the person is or is likely to be affected by liquor or another substance.

The purpose of this policy is to provide protection to persons and animals against the possible dangers that could result from a person whose ability to perform their functions is impaired by alcohol or another substance.

For example, in the case of an official at a licensed venue, it could be a condition of the person's contract of employment that the person agrees to submit to blood, urine or breath testing to determine whether the person is or likely to be affected by liquor or another substance.

Subclause 81(r) requires a control body to have a policy in relation to handicapping animals for the code, including the qualifications that a person must possess to be appointed by a control body as a handicapper.

As the integrity of racing depends on a fair and transparent handicapping system, it is important that handicapping be the responsibility of the control body for the code. This ensures that animals are handicapped according to the same criteria regardless of which venue they race at, thereby promoting public confidence in the code of racing.

Subclause 81(s) requires a control body to have a policy in relation to the welfare of licensed animals that includes drug control and disease management in licensed animals. While the proposed Act defines a "drug" and makes it an offence for a person to possess or use a "prohibited thing" on a licensed animal, which includes a drug, control bodies may make policies and rules in relation to the use of substances, including drugs. For example, a control body may make rules in relation to 'code substances',

including the level or concentration of code substances permitted under the rules. If a policy authorises rules to be made, the rules may also stipulate the action that may be taken, including penalties that that may be imposed for use of a 'code substance' in breach of the rules.

Subclause 81(t) states that a control body must have a policy in relation to the types of spending permitted by a non-proprietary club (a not for profit club) licensed by the control body pursuant to clause 112 of the proposed Act.

Subclause 81(u) requires a control body to have a policy in relation to the disposal of assets by non-proprietary clubs under clause 113 of the proposed Act.

Subclause 81(v) requires a control body to have a policy in relation to the fees that it may charge, including licensing fees.

Subclause 81(w) requires a control body to make a policy about the approval of forms for the code of racing.

Further provisions about particular policies

Subclause 82(1) provides that a control body's policy for the provision of an education and training system may provide for the control body, by itself or with another entity to establish, manage or fund a facility.

Subclause 82(2) provides that a control body's policy about the welfare of licensed animals, which includes drug control and prevention and management of diseases in licensed animals, must require the control body to enter into an agreement with an accredited facility that is independent of the control body for the provision of drug control and associated services. Chapter 4 deals with the accreditation of facilities.

Subclause 82(3) clarifies that subclauses (1) and (2) do not limit the contents of the policies a control body may make in relation to education, training and the welfare of licensed animals.

Form of each policy

Clause 83 states the administrative matters that must be included in all policies. The policy must state whether rules of racing are to be made for the policy. It also requires a control body to make a new policy if it wishes to amend a policy. This requirement ensures that there is only the one document to refer to, not a document and a number of amending documents.

Availability of policies

Clause 84 requires a control body to make its policies publicly available. Within fourteen (14) days of making a policy, a control body must give a copy to the chief executive.

Application of policy

Clause 85 removes doubt that a policy may apply to an animal, club, participant or venue even though the animal, club, participant or venue was not licensed when the policy was made.

Division 2—Policy about licensing scheme

Purposes of control body's licensing scheme

Clause 86 provides that the purposes a control body's licensing scheme are to ensure the integrity of the code's racing, safety of persons and the welfare of, and prevention and management of diseases in licensed animals.

Control body's policy for a licensing scheme

Subclause 87(1) and (2) outline the matters that must be addressed by a control body in its licensing scheme, including the types of licenses issued and the criteria for eligibility to receive a licence.

Subclauses 87(2)(h) to (k) deal with a control body's responsibilities to audit licensees and the requirements for taking action if a control body believes there are grounds for taking disciplinary action.

Subclause 87(2)(h) provides that a control body's policy must provide for how and when the suitability of licensed animals, clubs, participants and venues will be audited to decide whether they are suitable to continue to be licensed.

Subclause 87(2)(i) provides that the control body's policy must include the grounds for taking disciplinary action relating to a licence as set out in any rules of racing or as a consequence of their auditing program of licensed persons and animals.

Subclause 87(2)(j) requires a control body's policy for its licensing scheme to provide for how a licence may be immediately suspended to protect the safety of persons and the welfare of animals.

Subclause 87(2)(k) outlines the procedure for giving the licence holder notice of the grounds for taking the disciplinary action, the proposed action and the way the licence holder may make representations about the proposed action.

Subclause 87(4) outlines the matters that a control body's policy for its licensing scheme must include for auditing a licensed club.

Subclause 87(5) provides that a control body's policy for its licensing scheme must provide that after auditing a licensed animal, club, participant or venue, if the control body is not satisfied that it is suitable to continue to be licensed, the control body must take disciplinary action relating to the licence.

Application for licence

Subclause 88(1) requires all licences to be applied for on a control body form.

Subclause 88(2) states the matters that must be included on the form.

Subclause 88(3) provides that a control body's policy for its licensing scheme for a club is to require the application to be accompanied by a national police certificate for each executive officer of the club. An "*executive officer*" is defined in the dictionary as a person who is concerned with or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer. This definition would include committee members of a licensed club.

A national police certificate is a certificate issued by the Queensland Police Service that contains the person's criminal history but does not include "*spent convictions*" under the *Criminal Law (Rehabilitation of Offenders) Act 1986*. Any person can apply to the Queensland Police Service for a national police certificate for his or her own criminal history upon the payment of the relevant fee.

An individual must not be an executive officer of a licensed club if the individual has a conviction for an offence under the repealed *Racing and Betting Act 1980*, the proposed Act or a prescribed law of another State about racing or betting or a conviction for an indictable offence.

Subclause 88(4) provides that a control body's policy for its licensing scheme may require an application for a licence other than for a club licence to be accompanied by a national police certificate. In the case of licensed clubs, this is a mandatory requirement.

Subclause 88(5) states that if a national police certificate is required under subclause 88(4), the control body is not limited in relation to the convictions on a national police certificate that it may consider as relevant.

Licences may not be transferred

Clause 89 provides that a control body's licensing scheme must not provide that a licence issued by the control body can be transferred to another person or animal.

Division 3—Other matters about policies

Same animal, participant or venue may be licensed by control bodies

Clause 90 provides that a control body must not prevent an animal, participant or venue for a code of racing being licensed by another control body.

PART 3—RULES OF RACING

Division 1—General provisions about rules of racing

Obligation to have rules of racing for code of racing

Clause 91 places an obligation on a control body to have rules of racing that it believes are necessary for the good management of the code. When making rules, 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*.

If there is any inconsistency between the proposed Act and any rule of racing made by a control body, the proposed Act prevails to the extent of that inconsistency.

Matters for which rules of racing may provide

Subclause 92(1) states that a control body's rules of racing may deal with a matter only if one of the control body's policies authorises the rules to be made.

Therefore, a control body must make a policy that authorises rules to be made about a subject before the control body can make a rule of racing. Clause 81(a) requires a control body to develop a policy about consultation to be undertaken when making policies.

Urgent rules of racing

Clause 93 provides that in the case of urgency, rules of racing may be made despite the absence of a policy authorising the rules to be made, provided the rules only have effect for six (6) months or less.

Availability of rules of racing

Clause 94 requires a control body to provide the chief executive within fourteen (14) days of making or amending a rule with a copy of the rules.

The control body must also make its rules of racing publicly available by making them available on its website and at its business address.

Division 2—Appeals under rules of racing

This division gives all control bodies the opportunity to establish appeal committees to hear appeals from certain decision of stewards, rather than only allowing appeals to the Racing Appeals Tribunal. Currently, only the thoroughbred code has appeal committees that are referred to as "first level appeals". The establishment of appeal committees provides a cost and time effective method of determining grievances in relation to certain decisions of stewards. The requirement to have persons with legal skills and knowledge of the rules of racing for the code aims to ensure that matters are dealt with fairly and equitably. This may result in fewer appeals to the Racing Appeals Tribunal.

Appeal against some decisions of stewards under rules of racing

Clause 95 enables a control body to make rules of racing that provide for appeals to an appeal committee.

Appeals only lie to an appeal committee from decisions of stewards to suspend a licence holder from participating in all or some stated activities for up to three (3) months and from decisions that impose a penalty of at least $100 and not more than $2000.

If a control body chose not to establish an appeal committee there is still a right of appeal to the Racing Appeals Tribunal from decisions imposing a penalty of not less than $250 as well as a range of other decisions including cancellation and suspension of a licence by a control body.

Establishment of appeal committee

Clause 96 outlines some of the rules of racing a control body may make in relation to appeal committees. This provision refers to the establishment of an appeal committee from time to time or for a period of time. This provision contemplates the possibility of a control body appointing a panel of persons from which it can appoint an appeal committee as the need arises. There is no restriction on more than one control body appointing the same persons to constitute an appeal committee.

Matters relating to establishment of appeal committee

Subclause 97(1) provides that an appeal committee must consist of three (3) persons, one (1) must be a lawyer of at least five (5) years experience, one (1) must have a thorough knowledge of the rules of racing for the code and the other person must be from either one of these categories.

Subclause 97(2) provides that before a control body appoints a person to an appeal committee it must obtain a national police certificate for the person.

A national police certificate is a certificate issued by the Queensland Police Service that contains the person's criminal history that is subject to the application of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Subclause 97(3) states the individuals who are ineligible to be appointed to an appeal committee. The purpose of this provision is to ensure a member of an appeal committee does not have a conflict of interest as a result of their employment or any position they hold on other bodies or associations and that members of appeal committees do not have criminal backgrounds.

Subclause 97(4) also aims to remove conflicts of interest from appeal committees by requiring a member of an appeal committee who owns an

animal in a race to which an appeal relates or is a relative of or has a business relationship with a person involved in an appeal, to excuse themself from hearing an appeal in which they may have a conflict of interest.

How appeal committee may consider an application for appeal

Clause 98 provides that an appeal is by way of rehearing, unaffected by the original decision, on the material before the steward or stewards that made the decision appealed against and any further evidence allowed by the appeal committee.

The appeal committee is required to observe the rules of natural justice, may inform itself in any way it considers appropriate and is not bound by the rules of evidence.

Powers of appeal committee on appeal

Clause 99 outlines the decisions that an appeal committee may make.

Form of decisions of appeal committee

Clause 100 provides that after an appeal committee makes a decision, the appeal committee must give an information notice to the appellant, the steward who made the decision and the control body on whose behalf the steward made the decision. An *"information notice"* is a notice stating:

- the decision;
- the date of the decision and the date the decision takes effect;
- the reasons for the decision; and
- any right of appeal from the appeal committee's decision and the time within which the appeal must be made.

PART 4—CONTROL BODIES MAY TAKE CERTAIN ACTION AGAINST LICENSED CLUBS

Grounds for suspension or cancellation

Clause 101(1) provides that a control body may suspend or cancel a club's licence on the following grounds:

- a club is not or has not complied with a control body direction given to the club, for example, under clause 34(2) which allows a control body to give a direction to a club relating to the operations of the club or a licensed venue under the control of the club;
- a club has contravened clause 112 which relates to the spending of club profits and revenues by non-proprietary clubs (regardless of whether there was a prosecution relating to the contravention of clause 112);
- a club has contravened clause 113 which relates to the disposal of club assets by a non-proprietary club; or
- a ground that another provision of the proposed Act states is a ground.

Clause 101(3) states that subclause (1) does not limit the grounds under the control body's rules of racing for taking disciplinary action against a club.

Show cause notice

Clause 102 provides that a control body must give a club a show cause notice and specifies the matters that it must contain. The show cause period must be at least twenty-eight (28) days.

Representations about show cause notice

Clause 103 provides that the club may make written representations about the show cause notice that must be considered by the control body.

Immediate suspension of licensed club's licence

Clause 104 provides that in extraordinary circumstances a control body may suspend a club's registration immediately. This power would only be exercised in circumstances where, for example, the health and safety of the public or participants at the race club or racing venue are at serious risk.

Censuring licensed club

Clause 105 states that in certain circumstances a control body may censure a club. This provision allows a control body to censure a club in circumstances where the breach by the club is considered by the control body to be a ground to suspend or cancel the club's licence but does not believe the giving of a show cause notice is warranted.

Direction to licensed club to rectify a matter

Clause 106 states that in certain circumstances a control body may give a club a direction to rectify a matter. This provision allows a control body, in circumstances where the control body considers it to be appropriate, to give a club another opportunity to rectify a matter rather than taking more onerous action.

Suspension or cancellation

Clause 107 states the requirements for the control body if it decides to suspend or cancel a club's licence.

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

Contravention by licensed club constitutes a ground for disciplinary action

Clause 108 states that if a licensed club contravenes a provision of this part, the contravention constitutes a ground for suspending or cancelling a licensed club's licence.

This part does not limit the matters that a control body's policy for its licensing scheme may provide as grounds for disciplinary action relating to the licence of a club.

Division 2—Race meetings

Licensed club to hold race and betting meeting at licensed venue when under control of control body that licensed club and venue

Clause 109 provides that it is an offence for a licensed club to hold a race meeting or a betting meeting at a venue that is not licensed by a control body and under the control of the control body at the time the meeting is being held.

Division 3—Audited accounts of licensed clubs and related matters

Licensed club to give audited accounts to control body

Clause 110 outlines the audited financial statements that a licensed club must provide to its control body within three (3) months after the end of each financial year.

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

Definitions for division 4

Clause 111 provides definitions for this division, including:

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

"non-proprietary club" means a licensed club that is a non-proprietary club or 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 that licensed the entity.

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

Clause 112(1) states that a non-proprietary club (a not for profit club) must not divide its money, profits, revenues or assets among individual members of the club, except as specified in clause 112(3).

Subclause 112(2) outlines how a non-proprietary club may apply its revenues and profits.

Prohibition of disposal of assets etc. of non-proprietary entity

Clause 113 provides for the disposal of club assets, including land, and outlines the relevant approvals that must be sought by a non-proprietary entity before disposing of assets.

CHAPTER 4—INTEGRITY CONTROL

PART 1—RACING ANIMAL WELFARE AND INTEGRITY BOARD

Division 1—Establishment, functions and powers of integrity board

Establishment of Racing Animal Welfare and Integrity Board

Clause 114 establishes the Racing Animal Welfare and Integrity Board ("the Integrity Board").

Functions and powers of integrity board

Clause 115 provides that the Integrity Board's powers and functions are to monitor, advise and make recommendations to the chief executive about:

- control body policies about the welfare of licensed animals. 'Welfare' is defined in the dictionary as protecting the health, safety or wellbeing of a licensed animal, including drug control the prevention and management of diseases that may affect the animal;
- the performance by integrity officers of their functions and powers;
- the quality and range of services that an accredited facility would be required to provide;
- the way things are taken and dealt with for analysis and the way accredited facilities analyse things;
- matters referred to the Integrity Board by the chief executive; and
- matters that the Integrity Board considers appropriate.

The Integrity Board also has the function to make recommendations to the chief executive about applications for accreditation.

The Integrity Board has all powers necessary to perform its functions.

Division 2—Membership

Membership of integrity board

Clause 116(1) states that the Integrity Board is to consist of at least three (3) and not more than four (4) members. This provides flexibility to allow a person with expertise in particular matters to be appointed as necessary.

The members, including a chairperson, are appointed by the Minister by gazette notice.

Clause 116(3) provides that a member of the Integrity Board is appointed for a term of not more than three (3) years and may be reappointed.

Qualification for appointment as board member

Clause 117 states that an individual must have stated qualifications and technical skills to be a member of the Integrity Board. As the nature of the advice and recommendations that the Integrity Board is required to provide is of a scientific and specialised nature, this requirement ensures that persons appointed to the Integrity Board possess the appropriate knowledge and skills.

Individuals who are bankrupt, have certain specified convictions, are named on a control body's forfeit list, disqualified by a control body from holding a licence or warned off by a control body from entering a licensed venue, may have a conflict of interest by reason of their employment or membership of clubs or associations or are disqualified from managing corporations, cannot be appointed as a member of the Integrity Board.

Resignation

Clause 118 provides that a member may resign by giving signed notice to the Minister.

Vacation of Office

Clause 119 states the circumstances in which the office of a member becomes vacant.

Leave of absence for a board member and person acting as member

Clause 120 empowers the Minister to grant a leave of absence to an Integrity Board member and to appoint another person to act in the member's place while the original member is absent with leave.

Effect of vacancy in membership of integrity board

Clause 121 provides that the performance of a function of the Integrity Board is not affected by a vacancy in the membership of the Integrity Board.

Remuneration of board members

Clause 122 provides that the remuneration of the Integrity Board members is to be decided by the Governor in Council.

Division 3—Integrity board business

Conduct of business

Clause 123 provides that subject to the division, the Integrity Board must conduct its meetings in the way it considers appropriate.

Time and place of, and quorum for, board meetings

Clause 124 provides that the meetings must be held at the times and places that the chairperson decides.

Clause 124 also states that subject to a member making a conflict of interest disclosure under Clause 128, a quorum for a meeting of the integrity board is two (2) members.

Presiding at board meetings

Clause 125 provides that the chairperson must preside over a meeting of the Integrity Board at which the chairperson is present.

Conduct of board meetings

Clause 126 outlines procedures for the conduct of meetings of the Integrity Board.

Minutes and records

Clause 127 provides that the Integrity Board must keep minutes of its meetings and a record of its resolutions.

Disclosure of interest

Clause 128 outlines the procedure that must be adopted by the Integrity Board if a member has a conflict of interest about an issue being considered or about to be considered by the Integrity Board.

PART 2—ACCREDITATION OF FACILITIES

Accreditation application

Pursuant to clause 40 of the proposed Act, a control body must enter into an agreement with an accredited facility, independent of the control body, for the provision of integrated scientific and professional services, including analysing things for the presence of drugs and other substances.

Clause 129 outlines the requirements a facility must address when applying for accreditation. The application must be in the approved form and include details of:

- the person, other than an analyst at the facility, who would take delivery of the things that are to be analysed. This requirement is aimed at ensuring the chain of secure custody of the things and to eliminate potential for corruption by ensuring that the person who analyses the sample has access only to that portion of the sample that that person is to analyse;
- the analyst who has the qualifications prescribed by regulation;
- the veterinary surgeon who has the qualifications prescribed by regulation;

- another facility (secondary facility) that has the capacity to analyse things. This provides a safeguard if the accredited facility is unable for any reason to analyse the things within a reasonable time, by allowing it to send the things to be analysed to the secondary facility; and
- the analyst at the secondary facility who has the qualifications prescribed by regulation.

Chief executive may ask for further information

Clause 130 provides that the chief executive may require an applicant to provide further information relevant to the assessment of the application for accreditation.

Chief executive may accredit facilities

Clause 131 outlines the matters for which the chief executive must be satisfied before accrediting a facility. As the detection of the use of drugs on licensed animals by the analysis of samples taken from licensed animals, is central to ensuring the integrity of the racing industry, it is necessary for the chief executive to be satisfied that the experience and qualifications of the staff and the systems and procedures of an accredited facility are of a sufficient standard that ensures that the integrity of the industry is maintained. The chief executive may have regard to information provided by the Integrity Board about the applicant seeking accreditation.

Accreditation certificate

Clause 132 sets out the notification procedure that the chief executive must adopt if a decision is made to grant an application for accreditation for a facility. An "*Accreditation Certificate*" provided to a facility must set out the conditions to which an accreditation is subject.

Regulation may prescribe a condition applying to an accreditation

Clause 133 provides that regulations can be issued prescribing conditions to which an accredited facility may be subject.

Variation of accreditation by application of accreditation holder

Clause 134 enables an accredited facility to apply to the chief executive for a variation of the terms of accreditation for the facility.

PART 3—DISCIPLINARY PROCEEDINGS RELATING TO ACCREDITED FACILITY

Grounds for disciplinary action relating to accredited facility

Clause 135 sets out the following grounds for which the chief executive may take disciplinary action against an accredited facility:

- the accreditation holder contravened a provision of the proposed Act or a condition stated in the accreditation;
- the chief executive is no longer satisfied that the accredited facility is meeting the mandatory requirements set out in clause 131(2) of the proposed Act; or
- false or misleading information was provided to the chief executive at or prior to the chief executive granting the accreditation.

Show cause notice

Clause 136 sets out the procedure that the chief executive must adopt when taking disciplinary action against an accredited facility. The chief executive must issue a written *"show cause notice"* outlining the grounds for taking disciplinary action and providing the accredited facility with twenty-eight (28) days to respond to the show cause notice.

Representations about show cause notice

Clause 137 empowers an accredited facility to make written representations in response to a show cause notice, which the chief executive must consider when assessing whether any disciplinary action should be taken.

Immediate suspension of an accreditation

Clause 138 empowers the chief executive to immediately suspend the accreditation of an accredited facility if a ground exists to take disciplinary action and the circumstances are so extraordinary, that it is essential to suspend the accreditation to ensure the safety or persons or animals in the code of racing, or public confidence in a code of racing.

Censuring accreditation holder of an accredited facility

Clause 139 empowers the chief executive to censure an accredited facility if a ground for taking disciplinary action exists, but the circumstances do not warrant suspension or cancellation of the accreditation.

Direction to accreditation holder to rectify matter

Clause 140 provides that where the chief executive is satisfied that a ground for taking disciplinary action exists and that it is appropriate to give the accredited facility the opportunity to rectify the matter and therefore avoid the need to suspend or cancel an accreditation, the chief executive may direct an accredited facility to rectify the matter.

Action by chief executive

Clause 141 empowers the chief executive to suspend or cancel an accreditation or vary the terms of an accreditation in the event that the accredited facility does not respond to the show cause notice issued by the chief executive, or after considering any written response by an accredited facility, the chief executive is satisfied that a ground for taking disciplinary action still exists.

PART 4—DEALING WITH, AND ANALYSIS OF THINGS

Division 1—Definitions

Definitions for part 4

Clause 142 defines the following for part 4 of chapter 4:

"*agreement*" means the agreement entered into between a control body and an accredited facility for the provision of integrated scientific and professional services, including analysing things for the presence of drugs and other substances under Clause 40 of the proposed Act.

"*deal*" in relation to a thing for analysis means to take, mark, seal or deliver the thing for analysis.

"*nominated person*" means:

- for an accredited facility, the person stated in the accredited facility's accreditation certificate as the person responsible for taking delivery of things for analysis for the accredited facility;
- for a secondary facility of an accredited facility, the person stated in the accredited facility's accreditation certificate as the person responsible for taking delivery of things for analysis for the secondary facility.

The following terms are defined in the dictionary:

"*accredited analyst*" means:

- for an accredited facility, a person stated in the accredited facility's accreditation certificate as an accredited analyst for the accredited facility;
- for a secondary facility of an accredited facility, a person stated in the accredited facility's accreditation certificate as an accredited analyst for the secondary facility.

"*accredited facility*" means a facility named in an accreditation certificate as an accredited facility.

"*accredited veterinary surgeon*" for an accredited facility means the person stated in the accredited facility's accreditation as an accredited veterinary surgeon.

"*code substance*" is a substance, other than a drug, relevant to a control body's rules of racing.

"*drug*" means a substance referred to in the Standard for the Uniform Scheduling of Drugs and Poisons published by the Commonwealth or another substance prescribed under a regulation as a substance likely to affect the performance of a licensed animal.

"*secondary facility*" of an accredited facility, means a facility stated in the accredited facility's accreditation certificate as a secondary facility for the accredited facility.

"*substance*" for the purpose of the definition of *"drug"* in this clause includes an artefact, isomer or metabolite of a substance.

"*thing*" includes a sample.

Division 2—Taking and dealing with things for analysis

Way control body may take or deal with a thing for analysis

Clause 143 provides that a control body must deal with a thing taken for analysis under its policy about drug control relating to licensed animals in the way prescribed under a regulation.

However, a control body may obtain approval from an integrity officer to deal with the thing for analysis in another way if the results of the analysis are only to be used for research or survey purposes. The process of taking, marking and sealing things for analysis in the way prescribed is labour intensive and time consuming. This provision allows a control body to take things for analysis that are not taken, marked, sealed or delivered in the way prescribed, for example, for screening a large number of licensed animals to determine whether there a particular drug or substance present. A decision can then be made whether further samples need be taken in accordance with the prescribed method.

Way things taken for analysis by integrity officer or qualified person must be taken and dealt with

Clause 144 provides that if an integrity officer takes or arranges for another qualified person to take a thing for analysis, the integrity officer or other person must deal with the thing in the prescribed way, or in another way the integrity officer believes will ensure the integrity of the analysis.

An integrity officer's function is to audit accredited facilities to assess whether the accredited facility is complying with the conditions of its accreditation and to audit control bodies to assess whether the control body is complying with the conditions of its approval about the welfare of licensed animals for the code. For example, an integrity officer may use samples for the purpose of assessing whether the quality assurance systems of an accredited facility are adequate.

Person must not interfere with container in which things are placed

Clause 145 makes it an offence to interfere with a container in which a sample is placed by an integrity officer or a qualified person or a control body unless the person has a reasonable excuse. It is not an offence for an integrity officer or an analyst to interfere with a sample in the process of analysing the sample.

"Interfere with a container" means to open, alter or break the container, or a seal placed on the container or to remove or erase a mark or seal placed on a container.

Division 3—Analysing things delivered for analysis

Analysis of thing

Clause 146 states the responsibilities of a nominated person for a thing for analysis that has been delivered to an accredited facility.

Subclause 146(1) provides that the nominated person for the accredited facility must as soon as practicable after it is delivered give a receipt for the thing and give it to an analyst at the accredited facility.

Subclause 146(2) provides that if the thing cannot be analysed at the accredited facility within a reasonable time, the nominated person may deliver the thing to a secondary facility for analysis.

Subclause 146(3) states that if the nominated person decides to deliver a thing to a secondary facility for analysis it is must be accompanied by a notice and outlines the information to be contained in the notice.

Subclause 146(4) outlines the responsibilities of a nominated person and analyst at a secondary facility if a thing is delivered for analysis.

Procedure after analysis

Clause 147 outlines the procedure to be followed by an analyst after a thing has been analysed. The clause outlines the information that must be included in the notice of results, including a certificate signed by an accredited analyst. Subclause 332(3) is an evidentiary aid provision for the purpose of this provision.

If analysis can not be completed

Clause 148 provides that where an accredited facility is unable to complete an analysis requested by a control body or integrity officer, the accredited facility must provide the control body or integrity officer with written reasons as to why the analysis could not be completed.

Certificate of accredited veterinary surgeon

Clause 149 states when an accredited veterinary surgeon must provide a certificate and the information that the certificate must contain. Subclause 332(4) is an evidentiary aid provision for the purpose of this provision.

CHAPTER 5—RACING APPEALS TRIBUNAL

PART 1—ESTABLISHMENT AND MEMBERSHIP OF RACING APPEALS TRIBUNAL

Establishment of Racing Appeals Tribunal

Clause 150 establishes the Racing Appeals Tribunal.

Membership of Tribunal

Clause 151 provides that there are to be three (3) members of the Tribunal who are appointed by the Governor in Council. The Governor in Council is also required to appoint a chair and deputy chair.

Advertising for nominations for appointment

Clause 152 provides that the Minister must advertise for suitably qualified persons before recommending a person to the Governor in Council for appointment.

Qualification for appointment as tribunal member

Clause 153 provides that a Tribunal member must be a lawyer with at least five (5) years experience.

Disqualification from membership

Clause 154 disqualifies persons from membership of the Tribunal if they are a director of, employed by or a member of various bodies, including a control body, a racing association, the Queensland Regional Racing Council or a licensed club or have a conviction for specified offences.

Term of appointment

Clause 155 states that a Tribunal member is appointed for a term of not more than three (3) years. A member may be appointed for more than one (1) term.

Resignation

Clause 156 provides that a Tribunal member may resign by giving signed notice to the Minister.

Vacation of office

Clause 157 provides that the office of a Tribunal member becomes vacant if a Tribunal member dies, resigns or has their appointment terminated by the Governor in Council.

Termination of appointment

Clause 158 sets out the grounds upon which the Governor in Council may terminate a Tribunal member's appointment. The Governor in Council must terminate an appointment if the member ceases to be eligible for appointment.

Remuneration of members

Clause 159 states that the remuneration of Tribunal members is to be decided by the Governor in Council.

Role of Tribunal member

Clause 160 outlines the role of a Tribunal member.

PART 2—MATTERS RELATING TO TRIBUNAL CHAIRPERSON

Role of Tribunal chairperson

Clause 161 outlines the role of the chairperson of the Tribunal.

Tribunal chairperson and secretary to work cooperatively

Clause 162 provides that the chairperson and the secretary of the Tribunal are to co-operate to promote the effective and efficient operation of the Tribunal.

Delegation and subdelegation

Clause 163 provides for the delegation of the chairperson's powers to the deputy chairperson.

The chairperson of the Tribunal may also delegate to the secretary of the Tribunal the chairperson's power to select the members to constitute the Tribunal.

PART 3—DISCLOSURE OF INTERESTS AND PROTECTION OF TRIBUNAL MEMBERS

Disclosure of Interest

Clause 164 outlines the procedure to be adopted if a Tribunal member becomes aware that the member has a conflict of interest.

PART 4–ORGANISATION, JURISDICTION AND OPERATION OF TRIBUNAL

Constitution of Tribunal

Clause 165 provides that the Tribunal may be constituted by one (1) or more members selected by the chairperson.

The Tribunal receives administrative assistance via a Central Tribunals Registry, which also assists the operations of other tribunals within the portfolio of the Department of Tourism, Racing and Fair Trading. The *Queensland Building Tribunal Act 2000* empowers the presiding case manager to hear prescribed matters as set out in regulations. Subclause 165(2) permits the Tribunal chairperson to select the presiding case manager to act as the Tribunal in relation to prescribed applications or matters.

Jurisdiction of Tribunal

Clause 166 states that the Tribunal has the jurisdiction given to it under the proposed Act.

Decisions that may be appealed

Clause 167(1) sets out the decisions made by control bodies, stewards and appeal committees, which may be the subject of an appeal to the Tribunal:

- a control body's decision to:
  - refuse to grant or renew a licence; or
  - take disciplinary action relating to a licence; or

- take exclusion action against a person; or
- impose a monetary penalty on a person; or

- a decision of an appeal committee; or
- the imposition of a penalty by, or other decision of, a steward of a control body where there is no right of appeal to an appeal committee; or
- another decision of a control body prescribed by regulation.

Subclause 167(4) provides that despite subclause 167(1), there is no right of appeal to the Tribunal in respect of the following decisions:

- a decision relating to the eligibility of an animal to race or the conditions under which an animal can race. These decisions are usually made on race day by stewards on the advice of veterinarians and relate to the physical condition of the animal, its behaviour or fitness to race which could impact on the safety of persons and animals and the welfare of the animal concerned. Once a race has been run there is no remedy to address the exclusion of the animal from the particular race;
- a decision cancelling or suspending the licence for an animal, unless the disqualification or suspension is in addition to a decision to take disciplinary action relating to a person's licence or a decision to deal with the person by exclusion action under the control body's rules of racing.

  For example, if an animal is unlawfully substituted for another animal in a race and the control body cancels the animal's licence and imposes a penalty on animal's trainer, if the animal was sold to a new owner, the new owner could appeal against the decision to cancel the animal's licence. The basis of the appeal would be on the basis that the animal's licence was cancelled because of the trainer's actions and as the animal no longer has any connections to the disqualified trainer or previous owner, the animal should no longer be disqualified;
- a decision about a protest or an objection against placed animals relating to an incident that happened during a race or trial. Final race results are required to be declared expeditiously to ensure that bets can be settled as soon as possible. it would be impractical to have an appeal from such decisions;

- a decision imposing a penalty of not more than $250. If a control body establishes an appeal committee, the committee may hear appeals from decisions of stewards imposing penalties between $100 and $2000. Appeals against decisions imposing a penalty of more than $2000 lie to the Tribunal. Therefore, if a control body does not establish an appeal committee there is the right of appeal to the Tribunal for penalties of $250 and over;

- a decision relating to what is commonly known as a "betting dispute", ie, a dispute between a racing bookmaker and a person who placed a bet with the racing bookmaker. Such disputes relate to a contract between the racing bookmaker and the punter and should be settled civilly between the parties. Clause 253 provides that a lawful bet by a racing bookmaker is a valid contract;

- a decision to stop, restart, rerun, postpone or abandon a race. It would be impractical to have an appeal from such decisions as they are made having regard to the circumstances that exist at the time. There is no remedy for a person or animal as a result of such a decision.

Subclause 167(2) allows a steward to appeal to the Tribunal against a decision of an appeal committee concerning a decision made by that steward.

Subclause 167(3) provides that unless the Tribunal has extended the time for an appeal committee to hear an appeal, the appeal is taken to have been dismissed, unless the appeal committee has decided the appeal within six (6) weeks of lodgment of the appeal with the appeal committee.

Starting an appeal against decisions allowed under s167

Clause 168 outlines the process for starting an appeal, including the lodgment of the notice of appeal with the secretary of the Tribunal, payment of fees and service of the notice of appeal.

What happens if an appeal committee refuses to hear or fails to decide an appeal

Clause 169 provides the Tribunal with power to extend the period of time within which an appeal committee can hear an appeal.

Suspension or variation of decision pending decision on appeal

Clause 170 empowers the Tribunal to order that the decision that is the subject of the appeal not come into effect until the outcome of the appeal.

Tribunal to hear appeal

Clause 171 provides that the hearing of an appeal by the Tribunal must commence within twenty-eight (28) days after the notice of appeal is lodged. The Tribunal may order that the time for commencement of the appeal be extended if special circumstances exist.

Procedure generally

Clause 172 provides that the Tribunal may decide its own procedure unless a provision of the proposed Act or a practice direction issued by the chairperson of the Tribunal specifies the procedure to be adopted.

In making a decision, the Tribunal must observe the rules of natural justice, is not bound by the rules of evidence and may inform itself of anything in the way it considers appropriate.

Way question to be decided

Clause 173 outlines how a question is to be decided depending on the number of members constituting the Tribunal for the matter.

Expert consultant

Clause 174 provides that the Tribunal may engage an expert consultant to provide advice to the Tribunal. All advice and reports given to the Tribunal by an expert must be disclosed to all parties to the appeal.

Hearing must be held in public

Clause 175 provides that the hearing of an appeal must be in public at the time and place the Tribunal decides.

Evidence

Clause 176 states that evidence before the Tribunal must be given orally unless the Tribunal allows otherwise and must be given on oath or by affirmation.

Attendance of witnesses

Clause 177 provides that the Tribunal may order the secretary of the Tribunal to issue and serve a summons on a person to attend before the Tribunal to give evidence or produce a thing stated in the summons.

Witness fees and expenses

Clause 178 provides for the payment of witness expenses.

Swearing or affirming witnesses

Clause 179 states that a Tribunal member may require a witness appearing before the Tribunal to take an oath or make an affirmation and may administer the oath or affirmation.

Offences by witnesses

Clause 180(1) makes it an offence for a person served with a summons to fail to attend or to continue to attend as required by the Tribunal, without reasonable excuse.

Subclause 180(2) makes it an offence for a person to refuse to take an oath or make an affirmation if required to do so by the Tribunal.

Subclause 180(3) makes it an offence for a person appearing as a witness before the Tribunal, to fail to answer a question the person is required to answer by the Tribunal or to produce a thing the person is required by a summons to produce, without reasonable excuse.

Subclause 180(4) makes it a reasonable excuse for the person to refuse to answer a question or produce a thing on the ground that answering the question or producing the thing might tend to incriminate the person.

Power to adjourn

Clause 181 empowers the Tribunal to adjourn a proceeding.

Presence and representation of party

Subclause 182(1) provides that an individual that is a party to an appeal must attend personally unless excused by the Tribunal.

Subclause 182(2) provides that a corporation or other body that is a party to an appeal must attend through an officer of the corporation or other body unless excused by the Tribunal.

Subclause 182(3) provides that a party to the appeal may be represented by a lawyer or with the approval of the Tribunal, by another person.

Subclause 182(4) empowers the Tribunal to hear an appeal or make a decision in the absence of a party who fails to attend at the hearing.

Withdrawal of appeal

Clause 183 provides that an appellant must obtain the leave of the Tribunal to withdraw an appeal. If the Tribunal gives leave to withdraw an appeal, it may make the orders that it considers appropriate, including the payment of costs.

Joinder of person as party

Clause 184 provides for the Tribunal to join a person as a party to an appeal, if the Tribunal is satisfied that the person's interests will be affected by the outcome of the appeal.

Costs

Clause 185 provides that, subject to clause 183(3), each party to an appeal must pay their own costs. However, if the Tribunal considers it would be unjust in a particular case for each party to pay their own costs, it may award costs.

If the Tribunal awards costs, the requirements for enforcing the payment of the costs are outlined in this provision.

Powers of Tribunal on appeal

Clause 186 provides that the Tribunal may make any decision that the entity that made the decision appealed against could have made, including confirming the decision, varying the decision or setting aside the decision and substituting its own decision.

Form of decisions of tribunal

Clause 187 provides that the decision of the Tribunal that finally decides the appeal must be in writing and must state the decision and the reasons for the decision and may be published.

Secretary must give information notice to parties

Clause 188 provides that as soon as practicable after the Tribunal gives its decision, the secretary must give an information notice to the parties.

Effect of tribunal's decision

Clause 189 states that a Tribunal's decision relating to an appeal takes effect on the date given or a later date stated in the decision.

The parties to an appeal must give effect to the Tribunal's decision.

Contempt of tribunal

Clause 190 creates a contempt offence for actions including insulting a Tribunal member, deliberately interrupting a proceeding before the Tribunal, creating a disturbance or doing anything that would constitute contempt of court. A Tribunal member for this provision includes the presiding case manager when the manager constitutes the Tribunal under subclause 165(2).

Protection and immunity of tribunal members

Clause 191 outlines the protection of and immunity of Tribunal members, legal representatives and witnesses.

Annual report on operation of tribunal

Clause 192 requires the Tribunal chair to give a report to the Minister by 30 September each year. The annual report of the Minister's department is to include a report on the operations of the Tribunal.

PART 5—APPEAL FROM TRIBUNAL TO DISTRICT COURT

Who may appeal

Clause 193 provides that an appeal lies to the District Court from a decision of the Tribunal on a question of law only. The Uniform Civil Procedure Rules set out the procedure for appeals to the District Court.

CHAPTER 6—RACING BOOKMAKERS

This chapter provides a two-tiered system for licensing racing bookmakers that requires an applicant to first obtain an eligibility certificate from the gaming executive and then apply to a control body for a racing bookmakers' licence.

PART 1—REQUIREMENT FOR RACING BOOKMAKERS' LICENCES AND FOR RELATED MATTERS

Requirement to hold a racing bookmaker's licence

Clause 194(1) provides that a person must not carry on bookmaking at a licensed venue unless the person is a racing bookmaker whose licence is issued by the control body exercising control at the licensed venue.

Subclause 194(2) provides that a racing bookmaker who is an individual must have their racing bookmaker's licence with them while carrying on bookmaking, unless the person has a reasonable excuse.

Subclause 194(3) provides that a licensed executive officer of a corporation that is a racing bookmaker must have the corporation's licence or a certified copy of the licence with them while carrying on bookmaking unless the person has a reasonable excuse.

A "*licensed executive officer*" of a corporation that is a racing bookmaker is defined in the dictionary as an executive officer of the corporation identified in the bookmaker's licence as an executive officer who may carry on bookmaking for the corporation.

Requirement for racing bookmaker to hire licensed clerks

Subclause 195(1) requires a racing bookmaker to only employ racing bookmaker's clerks who are licensed by the control body exercising control at the licensed venue where the racing bookmaker is carrying on bookmaking.

Subclause 195(2) makes it clear that a racing bookmaker that is a corporation does not commit an offence because an executive officer of the corporation carries on bookmaking for the corporation.

Clause 202 outlines the requirements for obtaining a corporate bookmaker's licence.

Requirement to hold licence as a racing bookmaker's clerk

Subclause 196(1) provides that a person must not be employed as a racing bookmaker's clerk unless the person has been granted a racing bookmaker's clerk's licence issued by the control body exercising control at the licensed venue.

Subclause 196(2) requires a licensed racing bookmaker's clerk to have their licence with them at all times while working as a racing bookmaker's clerk at a licensed venue, unless the person has a reasonable excuse.

Requirement to produce licence

Clause 197 makes it a requirement for a racing bookmaker, an executive officer of a corporation that is a racing bookmaker or a racing bookmaker's clerk, to produce the person's licence, or in the case of a corporation, the corporation's racing bookmaker's licence if asked to do so by an official of a control body.

Requirement for control body to ensure certain persons have current licences

Clause 198 provides that a control body must ensure that a person is not permitted to carry on bookmaking or be employed by a racing bookmaker at a licensed venue unless the person has the appropriate licence with the person.

Unlawful bookmaking by racing bookmaker

Clause 199 makes it an offence for a racing bookmaker to carry on bookmaking except at a licensed venue under the control of a control body that licenses the racing bookmaker and at the time a race meeting is being held and betting with bookmakers may be carried on under the proposed Act.

A *"race meeting"* is defined in the dictionary to include a betting meeting.

Requirements for betting by racing bookmakers

Subclause 200(1) outlines the contests, contingencies and events on which a racing bookmaker may make bets.

Subclause 200(2) permits a licensed racing bookmaker to make a bet on:

- a race at the licensed venue at which the racing bookmaker is present; or
- a race at another licensed venue under the control of a control body; or
- a sporting contingency declared by a control body that licensed the racing bookmaker; or
- a contest, contingency or event at a meeting for the racing of animals held outside of Queensland under the control of an entity that has entered into reciprocal arrangements with the control body that licensed the racing bookmaker.

Subclause 200(3) makes it an offence for a racing bookmaker to make a bet with a person who is not present at the licensed venue with the racing bookmaker, unless the bet is made through a system for bookmaking using telephones approved by the control body exercising control at the racing venue.

PART 2–LICENSING OF PERSONS AS RACING BOOKMAKERS

Applicant for racing bookmaker's licence to hold eligibility certificate

Clause 201 provides that an applicant for a racing bookmaker's licence must hold an eligibility certificate.

What corporate licence must include

Clause 202 requires a racing bookmaker's licence issued by a control body to a corporation to state the name of each executive officer who may carry on bookmaking on behalf of the corporation.

A control body must not state the name of an executive officer in a racing bookmaker's licence unless the person has been identified in an eligibility certificate for the corporation and the control body believes the person has the experience and knowledge to carry on bookmaking.

This provision ensures that only persons who have undergone probity and criminal history checks and have the necessary skills and experience are able to carry on bookmaking for a corporation.

PART 3—ELIGIBILITY CERTIFICATES

Division 1—Suitability of applicants and business and executive associates

Suitability of applicants for eligibility certificate

Clause 203 provides the matters to which the gaming executive must have regard when deciding whether an applicant is a suitable person to hold an eligibility certificate.

The "*gaming executive*" is defined in the dictionary as the chief executive of the department administering the *Wagering Act 1998*.

Suitability of associates

Clause 204 provides the matters to which the gaming executive must have regard when deciding whether a business or executive associate of an

applicant for an eligibility certificate is a suitable person to be associated with the applicant.

The terms "*business associate*" and "*executive associate*" are defined in the dictionary.

Other matters about suitability

Clause 205 states that clauses 203 and 204 do not limit the matters to which the gaming executive may have regard when considering whether to issue an eligibility certificate.

Division 2–Applications for, and issue of, eligibility certificates

Application for eligibility certificate

Clause 206 provides that an application for an eligibility certificate may only be made by an adult or a corporation.

Requirements about applications

Clause 207 provides that an application for an eligibility certificate is to be made to the gaming executive and be accompanied by an application fee which will be prescribed by regulation. It is also a condition precedent that applicants who are individuals, and business associates and executive associates of applicants who are corporations, are agreeable to having their fingerprints taken by or for the gaming executive and for their background to be investigated by the gaming executive.

An applicant that is corporation must agree to obtain the consent of a person whom the gaming executive believes to be an executive officer or a business or executive associate.

Further information or documents to support application

Clause 208 provides that the gaming executive may, by giving written notice require an applicant to provide further information. The gaming executive may only require information that is necessary and reasonable to help the gaming executive decide the application. The gaming executive must allow the applicant at least twenty-eight (28) days to provide the further information.

Taking fingerprints

Clause 209 requires the gaming executive to take the fingerprints of an individual who is an applicant for an eligibility certificate and the fingerprints of any executive associates and business associates of a corporation that is an applicant for an eligibility certificate.

Consideration of application

Clause 210 provides for the consideration of the application by the gaming executive.

Conditions for granting application for eligibility certificate

Clause 211 provides that the gaming executive may only grant an eligibility certificate if the gaming executive is satisfied that the applicant is suitable to hold an eligibility certificate and any business or executive associates of the applicant are suitable to be associated with the applicant.

Investigation of suitability of persons

Clause 212 allows the gaming executive to investigate an applicant to decide whether the applicant is a suitable person to be a certificate holder and to investigate a business associate or executive associate of an applicant to decide whether the associate is a suitable person to be associated with the applicant.

The gaming executive may also investigate an executive officer to decide whether to amend an eligibility certificate of a corporation to acknowledge a change in executive officers.

Criminal history reports for investigations

Clause 213 requires the commissioner of the Queensland Police Service to provide a criminal history report to the gaming executive if so requested.

Requirement of associate to give information or document for investigation

Clause 214 provides that the gaming executive may by notice given to a business or executive associate of an applicant require the person to give the gaming executive information or a document relevant to the

investigation. The gaming executive must allow the person at least twenty-eight (28) days notice to provide the information requested.

Requirement of control body to give information or document for investigation

Clause 215 provides that the gaming executive may ask a control body that licensed a racing bookmaker to provide information or a document the gaming executive believes is relevant to the investigation.

Failure by control body to give information or document for investigation

Clause 216 makes it an offence for a control body to fail to comply with a requirement to provide information or a document unless the control body has a reasonable excuse.

It is a reasonable excuse not to comply if the information or document sought by the gaming executive is not in fact relevant to the investigation.

Decision on application

Clause 217 requires the gaming executive to notify an applicant as soon as practicable after making a decision, either by giving a certificate to the applicant if the decision is to grant the application for an eligibility certificate or an information notice if the decision is to refuse the application.

Form of eligibility certificate

Clause 218 provides that an eligibility certificate is to be in a form approved by the gaming executive.

An eligibility certificate for a corporation must state the names of the executive officers of the corporation who have undergone probity checks and found to be suitable to be associated with the certificate holder.

Period for which eligibility has effect

Clause 219 provides that an eligibility certificate continues to have effect unless the certificate lapses as a result of the certificate holder failing to apply to a control body for a racing bookmaker's licence within two (2)

months after the certificate is granted or the certificate is cancelled by the gaming executive or the certificate is surrendered.

If an eligibility certificate holder applies to a control body for a racing bookmakers' licence within two (2) months of the certificate being granted, the eligibility certificate remains current. Even if the certificate holder is refused a racing bookmakers' licence by a control body, the eligibility certificate remains current and allows the eligibility certificate holder to apply at some time in the future should they wish. As the eligibility certificate holder is subject to audit by the gaming executive, current information is able to be obtained by the gaming executive in relation to an applicant's financial affairs, criminal history and background information.

Date by which certificate holder must apply for racing bookmaker's licence

Clause 220 provides that an eligibility certificate lapses after two (2) months if an application is not made to a control body for a racing bookmaker's licence. In order to balance the need to provide a reasonable period of time in which to apply for a racing bookmaker's licence, after obtaining an eligibility certificate with the need to ensure that the eligibility certificate is based is current information, it is considered that two (2) months is a reasonable time period in which to apply for a racing bookmaker's licence.

Corporate certificate holder must advise gaming executive of change in executive officers or persons with substantial holdings

Clause 221 requires a certificate holder that is a corporation to advise the gaming executive of any change in executive officers of the corporation or change to the persons who have substantial holdings in the corporation, within fourteen (14) days of the change. This requirement is necessary to ensure that the gaming executive can investigate all executive officers to determine whether they are suitable to be associated with the racing bookmaker.

Similar notice is also required of a change in a substantial holding in the corporation or its holding company.

Gaming executive may amend eligibility certificate to show change in executive officers

Clause 222 provides that a bookmaker that is a corporation may request the gaming executive to amend an eligibility certificate to include or omit the names of executive officers. The gaming executive may only include the names of executive officers who have been investigated by the gaming executive and found to be suitable persons to be associated with the certificate holder.

This provision is linked to clause 202 which states that a control body that licenses a corporation as a racing bookmaker must state the names of those persons carrying on bookmaking for the corporation on the racing bookmaker's licence. The only persons who may be named as executive officers on a corporation's eligibility certificate are persons who the control body consider have the necessary skills and experience to carrying on bookmaking.

Division 3—Investigations of certificate holders and their business and executive associates

Audit program

Clause 223 allows the gaming executive to approve an audit program for investigations. The gaming executive is responsible for ensuring that investigations are conducted under the approved audit program in accordance with the program. A person may only be investigated under an audit program once every three (3) years.

Investigation into suitability of certificate holder

Clause 224 provides that the gaming executive may only investigate a certificate holder if the gaming executive reasonably suspects the certificate holder is not, or is no longer suitable to hold an eligibility certificate or the investigation is made under an audit program approved by the gaming executive.

Investigation into suitability of associate of certificate holder

Clause 225 gives the gaming executive power to investigate a business associate or executive associate of a certificate holder for the purpose of

determining whether the person is suitable to be or continue to be associated with bookmaking operations.

Subclause 225(2) lists the circumstances in which such investigations may be carried out.

Requirement to give information or document for investigation

Clause 226 provides that the gaming executive may, by written notice, require a certificate holder, or business or executive associate of a certificate holder to give information or a document for the purposes of an investigation. The gaming executive must allow the person at least twenty-eight (28) days to provide the information.

Criminal history report for investigation

Clause 227 provides that the commissioner of the Queensland Police Service must, upon request, provide a criminal history report to the gaming executive and specifies the information it must contain.

Gaming executive may require control body to give information or document for investigation

Clause 228 provides that the gaming executive may, by written notice, require a control body to give information or a document for the purposes of an investigation. The gaming executive must allow the control body at least 28 days notice to provide the requested information or document.

Failure to give information or document for investigation

Clause 229 provides that failure to comply with a requirement under clauses 226 or 228, without reasonable excuse is an offence. This clause has been drafted to comply with fundamental legislative principles by providing that it is a reasonable excuse not to comply, if the requirement would tend to incriminate the person and that it is not an offence if the information or document sought by the gaming executive is not in fact relevant to the investigation.

Division 4—Cancellation of eligibility certificates

Grounds for cancellation

Clause 230 states the grounds for cancellation of an eligibility certificate.

Show cause notice

Clause 231 outlines when the gaming executive must issue a show cause notice and the content of the notice. This clause also allows the certificate holder to make written representations about the show cause notice to the gaming executive in the show cause period.

Involvement of control bodies in show cause process

Clause 232 provides that the gaming executive must give a copy of the show cause notice to each control body. A control body may make representations to the gaming executive in the show cause period.

Consideration of representations

Clause 233 provides that the gaming executive must consider all written representations by the certificate holder or a control body made in the show cause period.

Ending show cause process without further action

Clause 234 provides that if after considering all representations and the gaming executive considers no ground exists to cancel the eligibility certificate, the gaming executive must give notice to the certificate holder and each control body that no further action is to be taken.

Censuring certificate holder

Clause 235 allows the gaming executive to censure the certificate holder in certain circumstances.

Cancellation of eligibility certificates

Clause 236 allows the gaming executive to cancel the eligibility certificate in specified circumstances.

Return of cancelled eligibility certificate

Clause 237 requires an eligibility certificate that is cancelled to be returned the gaming executive within fourteen (14) days.

Automatic cancellation of all licences granted to racing bookmakers

Clause 238 provides that if an eligibility certificate is cancelled and the certificate holder is the holder of a racing bookmaker's licence, the racing bookmaker's licence is also cancelled.

Notice to control bodies of decisions

Clause 239 provides that if the gaming executive censures a certificate holder or cancels a certificate, the gaming executive must give written notice of the decision to each control body.

Division 5—Other matters relating to eligibility certificates

Surrender of eligibility certificate

Clause 240 provides that a certificate holder may surrender the holder's eligibility certificate by notice to the gaming executive. The gaming executive must give written notice about the surrender to each control body.

Destruction of fingerprints

Clause 241 provides for the destruction of fingerprints by the gaming executive as soon as practicable after the gaming executive refuses to grant an application or if the gaming executive is satisfied that an individual is no longer a business or executive associate.

Division 6—Appeals relating to eligibility certificates

Appeals

Clause 242 provides that if the gaming executive refuses an application for an eligibility certificate, cancels an eligibility certificate, or censures a certificate holder, the applicant or certificate holder may appeal to the Gaming Commission.

Starting an appeal against a decision of the gaming executive

Clause 243 outlines the requirements for starting an appeal before the Gaming Commission.

Stay of operation of decisions

Clause 244 provides that the Gaming Commission may grant a stay the operation of a decision which is the subject of the appeal.

Hearing procedures

Clause 245 outlines the powers and obligations of the Gaming Commission in hearing an appeal and states that the appeal is to be by way of rehearing.

Power to gather evidence

Clause 246 states the powers of the Gaming Commission to obtain evidence.

Powers of Gaming Commission on appeal

Clause 247 states the powers of the Gaming Commission in deciding an appeal.

Appeals to District Court

Clause 248 provides that an appeal lies to the District Court from a decision of the Gaming Commission on a question of law only.

PART 4—OTHER PROVISIONS ABOUT RACING BOOKMAKERS

When a racing bookmaker may make a bet with a person who is not present at a licensed venue

Clause 249 provides for a racing bookmaker who is present at a race meeting to take bets from a person who is not present at the licensed venue while a race meeting is being held, if the bet is made through a telephone system for bookmaking approved by the control body exercising control at the licensed venue.

Currently, the telephone bookmaking system for racing bookmakers is approved by the chief executive of the department responsible for racing. In line with government policy to devolve responsibility to control bodies, it is to be the responsibility of control bodies to approve and supervise a telephone bookmaking system.

Racing bookmakers to maintain policy of insurance or bond to indemnify bettors against default

Clause 250 protects persons betting with racing bookmakers by providing that racing bookmakers must maintain a policy of insurance or a bond to indemnify bettors against default.

Control bodies to ensure racing bookmakers have policies of insurance or bond

Clause 251 protects persons who place bets with bookmakers, by providing that a control body must not licence a racing bookmaker unless the racing bookmaker has a policy of insurance or a bond under clause 250.

If a racing bookmaker does not have a policy of insurance or bond as required by clause 250, the control body must immediately suspend the racing bookmaker's licence.

Prohibition of betting by racing bookmaker with minor

Clause 252 creates an offence for a racing bookmaker or an agent or employee of a racing bookmaker to bet with a minor or with a person that the racing bookmaker or an agent or employee knows is betting for a minor.

Lawful bet by racing bookmaker is taken to be valid contract

Clause 253 provides that a bet made by a racing bookmaker is a valid contract.

Payment and settlement of bets

Clause 254 provides for a regulation to approve a place for the payment and settlement of a bet.

PART 5—MISCELLANEOUS

Bookmaking on certain declared sporting contingencies

Clause 255 provides for a control body to declare an event to be a declared sporting contingency for which racing bookmakers licensed by that control body may carry on bookmaking.

A "*sporting contingency*" is defined in the dictionary to include a contest, contingency or event relating to animals, other than a race, or a contest contingency or event relating to an athletic meeting, exercise, fight, game, pastime or sport.

The clause also outlines the matters that the control body must consider before declaring an event to be a sporting contingency.

Racing bookmaker's agent during certain periods

Clause 256 allows a racing bookmaker's clerk who is not required to have an eligibility certificate to carry on the racing bookmaker's business for a period not exceeding twelve (12) weeks if the racing bookmaker is incapacitated through illness or accident or is on vacation or for other reasons acceptable to the control body.

Control body to give notice of certain actions about racing bookmakers to gaming executive

Clause 257 requires a control body to provide information to the gaming executive about actions taken by the control body including licensing a

certificate holder, refusing to licence a certificate holder and exercising disciplinary action in relation to a racing bookmaker's licence.

Gaming executive may give information to control body about racing bookmaker or applicant for eligibility certificate

Clause 258 provides that the gaming executive may give information to a control body about a racing bookmaker if the gaming executive considers it appropriate.

Delegation by gaming executive

Clause 259 provides for the gaming executive to delegate the gaming executive's powers to an appropriately qualified public service employee.

Approval of forms for chapter 6

Clause 260 provides that the gaming executive may approve forms for this chapter.

CHAPTER 7—AUTHORISED OFFICERS

PART 1—APPOINTMENT AND FUNCTIONS

Appointment and qualifications

Clause 261 provides that the chief executive may appoint persons as either compliance officers or integrity officers. The chief executive may only appoint to these positions a public service employee or a person or a member of a class of persons prescribed under a regulation. The chief executive must be satisfied that any person appointed as an authorised officer has the necessary expertise or experience.

Functions of authorised officers

Subclause 262(1) states that an authorised officer's function is to investigate and enforce compliance with the proposed Act.

Subclause 262(2) provides that a compliance officer's function to investigate compliance with the proposed Act includes:

- Monitoring compliance with the proposed Act by a control body in relation to licensing clubs, participants and venues; and
- Auditing each control body to assess whether the control body is complying with the conditions of its approval, other than conditions relating to welfare of licensed animals.

Subclause 262(3) states that an integrity officer's function to investigate compliance with the proposed Act includes:

- Monitoring the activities of each control body relating to the welfare of licensed animals for the code of racing;
- Auditing each control body to assess whether the control body is complying with the conditions of its approval relating to the welfare of licensed animals for the code of racing; and
- Auditing accredited facilities to assess whether the accredited facilities are complying with the conditions of accreditation.

"*Welfare*" of an animal means protecting the health, safety and wellbeing of the animal, including drug control and the prevention and management of diseases that may affect the animal.

Appointment conditions and limit on powers

Clause 263 provides that an authorised officer holds office on any conditions stated in the instrument of appointment or a notice signed by the chief executive or a regulation, which conditions may limit an authorised officer's functions and powers under the proposed Act.

Issue of identity card to each authorised officer

Clause 264 requires the chief executive to issue an identity card to an authorised officer.

The purpose of this provision is to ensure that an authorised officer can be easily identified.

Production or display of identity card

Clause 265 requires all authorised officers to produce their identity card for inspection by a person before exercising a power or to clearly display their identity card when exercising a power. However, in circumstances where it is impractical for an authorised officer to produce their card before or when exercising the power, they must do so at the first reasonable opportunity.

When authorised officer ceases to hold office

Clause 266 outlines the circumstances in which an authorised officer ceases to hold office.

Resignation

Clause 267 specifies the conditions and method of resignation of an authorised officer.

Return of identity card

Clause 268 outlines the circumstances under which an identity card issued to an authorised officer must be returned to the chief executive. This is to ensure that a person does not represent that they are an authorised officer after ceasing to be one.

PART 2—POWERS OF AUTHORISED OFFICERS

Division 1—Entry to places other than vehicles

Application of division 1

Clause 269 states that this division applies to a place other than a vehicle. “Place” is defined in the dictionary to include land, premises and a vehicle. “Premises” and “vehicle” are also defined in the dictionary.

Power of entry

Clause 270 sets out when an authorised officer may enter a place other than a vehicle. An authorised officer may enter a place if:

- The occupier consents to the entry; or
- It is a public place and the entry is made when the place is open to the public; or
- It is a place of business and the entry is made when the place is open for carrying on activities for which the place is a place of business or is otherwise open for entry; or
- The entry is authorised by a warrant.

A "*place of business*" is defined as including a place:

- Used by a control body to conduct activities for managing its code;
- Used by a licence holder to conduct activities for which the licence holder is licensed;
- That is an accredited facility or a secondary facility.

However an individual's residence is specifically excluded from the definition of a "*place of business*".

If an authorised officer intends to enter a place to ask the occupier for consent to enter, the authorised officer may enter the land around the premises to the extent that is reasonable to contact the occupier or enter part of the place that the authorised officer reasonably considers that members of the public are permitted entry.

Procedure for entry with consent

Clause 271 outlines the procedures an authorised officer must follow when seeking consent to enter a place.

Other entries without warrant

Clause 272 applies where an authorised officer is intending to enter a place other than with the consent of the occupier, where it is a public place or with a warrant. In those circumstances, the authorised officer must, if the occupier is present, before entering, make a reasonable attempt to:

- Display the authorised officer's identity card; and

- Tell the occupier the purpose of entry; and
- Tell the occupier the authorised officer is permitted to enter the place without the person's consent or a warrant.

Application for warrant

Clause 273 makes provision for an authorised officer to apply to a magistrate for a warrant to enter a place.

Issue of warrant

Clause 274 sets out the conditions under which a magistrate may issue a warrant and specifies the information that must be stated in the warrant.

Special warrants

Clause 275 outlines the procedure by which an authorised officer can apply for a warrant by electronic communication, phone, fax, radio, or other means of communication because of urgent or special circumstances.

Warrants–procedure before entry

Clause 276 outlines the procedures that an authorised officer must follow or attempt to follow prior to entering a place under a warrant. However, the procedures need not be complied with if immediate entry is required to ensure the effective execution of the warrant is not frustrated.

Division 2—Entry to vehicles

Application of division 2

Clause 277 states that this division applies to vehicles that are at or about a place used by a:

- control body for conducting activities in relation to managing its code; or
- licence holder for conducting activities for which the licence holder is licensed.

"*Vehicle*" is defined in the dictionary to mean anything used for carrying an animal, person or thing by land, water or air.

This provision limits the places that an integrity officer can enter a vehicle. An integrity officer has no right to stop a vehicle being driven on the highway. An integrity officer can however, enter vehicles that are at or about a licensed venue or licensed stables. For example, a horse float parked outside the gates of a licensed venue could be entered by an integrity officer under this division.

Power of entry

Clause 278 provides that an integrity officer may enter a vehicle if the integrity officer suspects the vehicle is being or has been used in the commission of an "interference offence" or that the vehicle, or an animal or other thing in the vehicle may provide evidence of the commission of an interference offence

An "*interference offence*" is an offence under clauses 317, 318, 319 or 327.

Procedure before entry

Clause 279 outlines the requirements that an integrity officer must comply with if the integrity officer intends to enter a vehicle.

Power to stop vehicle that may be entered

Clause 280 empowers an integrity officer to signal the person in control of a vehicle, that an integrity officer may enter under this division, to stop or not to move the vehicle.

As provided by clause 277, it is only those vehicles that are at or about a place used by a control body for carrying on a business or a licence holder for carrying on their licensed business that an integrity officer may enter under this division.

Failure to obey signal

Clause 281 creates an offence where a person in control of a vehicle fails to comply with a stop signal given by an integrity officer. It will not be an offence if the person had a reasonable excuse such as that immediately

obeying the signal would have endangered the person or someone else and the signal was complied with as soon as practicable.

Other powers relating to vehicles that may be entered

Clause 282 provides that if an integrity officer has power to enter a vehicle under this division, the integrity officer has the power to require the person in control of the vehicle to give the integrity officer reasonable help to enter the vehicle or to bring the vehicle to a stated place to allow the integrity officer to exercise a power.

Subclause 282(2) requires the integrity officer to warn the person that it is an offence to fail to comply with the requirements outlined above, unless the person has a reasonable excuse.

Subclause 282(3) creates an offence for a person to fail to comply with the requirements outlined above, without a reasonable excuse.

Division 3—Powers for entry to all places

Application of division 3

Clause 283 provides that this division applies to an authorised officer, who, may enter or has entered a place:

- To obtain the consent of the occupier (but not after consent is refused); or
- With the consent of the occupier; or
- That is a public place; or
- That is a place of business used by a control body or licence holder and entry is made when the place is open for carrying on business activities;
- That is an *"accredited facility"* as defined; or
- Pursuant to a warrant obtained by the authorised officer.

General powers of compliance officer after entering places

Clause 284 sets out a compliance officer's powers to:

- Search any part of the place;

- Inspect, film, photograph, videotape or otherwise record an image of an animal, document or other thing;
- Make a copy of a document at the place; and
- Take into the place the equipment, materials or persons the compliance officer reasonably requires for exercising a power under this part.

General powers of integrity officer after entering places

Clause 285 sets out the powers of an integrity officer. An integrity officer has the same powers as a compliance officer and additional powers relating to the integrity officer's responsibilities in relation to the welfare of licensed animals and accredited facilities.

An integrity officer is authorised to take or authorise another person to take a sample from a licensed animal or a thing or a sample of or from a thing, attached to or used on a licensed animal.

Subclause 285(2) provides that a person must be appropriately qualified to take a sample.

An integrity officer must give a receipt in an approved form, for a sample or thing taken as soon as practicable after the sample is taken. If it is not practicable to comply with this requirement, the integrity officer must leave the receipt at the place in a conspicuous place and in a secure way.

If the sample is of intrinsic value, the integrity officer must return it to person who appears to be the owner at the end of six (6) months.

Power to require reasonable help or information

Clause 286 empowers an authorised officer to require reasonable help from the occupier or a person at the place being entered by the authorised officer to give reasonable help as is necessary to exercise a power or information to help the authorised officer ascertain whether the proposed Act is being complied with.

The authorised officer must warn the person that it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

Subclause 286(3) makes it an offence for a person to fail to comply with the requirement unless the person has a reasonable excuse.

Subclause 286(4) states that it is not an offence for an individual to fail to comply with the requirement if complying with the requirement might incriminate the person.

Division 4—Seizure

Definition for division 4

Clause 287 defines "*thing*" to include a dead animal but not a live animal. This provision, in context, allows an integrity officer to seize a dead animal for the purpose of conducting an autopsy to determine whether its death resulted from the commission of an offence under the proposed Act.

Power to seize evidence–entry without consent or warrant

Clause 288 limits the things that may be seized by an authorised officer who enters a place without consent and without a warrant to things that the authorised officer believes:

- may constitute evidence of an offence against the proposed Act;
- the seizure is necessary to prevent the destruction or loss of the thing or the thing being hidden; or
- the seizure is necessary to prevent the thing being used to commit, continue or repeat an offence against the proposed Act.

Power to seize evidence-entry with consent or warrant

Clause 289 provides that where an authorized officer has a warrant to enter a place or obtains the consent of the occupier to enter a place, the authorised officer may seize a thing:

- specified in the warrant;
- that the authorised officer believes is evidence of an offence under the proposed Act and it is necessary to seize the thing to prevent the thing being destroyed, hidden, lost or used to commit an offence under the proposed Act; or
- if the occupier consents to the entry of the authorised officer for the purpose of looking for a thing and the authorised officer

believes that seizure of the thing is evidence of an offence under the proposed Act.

Securing seized things

Clause 290 outlines how the authorised officer may secure a thing seized.

Offence to tamper with seized thing

Clause 291 makes it an offence for a person to tamper without approval or attempt to tamper with a thing that has been seized by an authorised officer and the authorised officer has restricted access to it.

Powers to support seizure

Clause 292 provides that in order for a thing to be seized, an authorised officer may, by notice, require the person in control of the thing to do specified acts to assist the authorised officer.

Receipt for seized thing

Clause 293 requires an authorised officer to give a receipt to the person from whom the thing is seized.

Return of seized thing

Clause 294 provides for the return of seized things to their owner and outlines the requirements.

Access to seized thing

Clause 295 provides for the owner of a seized thing to inspect it, and if it is a document, to copy it unless it would be impractical to do so.

Division 5—Forfeiture

Forfeiture by authorised officer

Clause 296 sets out the circumstances in which a sample or thing seized by an authorised officer is forfeited to the State.

Forfeiture on conviction

Clause 297 provides that if a person is convicted of an offence against the proposed Act, the court may order the forfeiture to the State of anything owned by the person and seized under division 4.

Dealing with forfeited sample or thing

Clause 298 provides that a thing forfeited to the State becomes the property of the State and may be dealt with as the chief executive believes appropriate.

Division 6—Other powers

Power to require name and address

Clause 299 empowers an authorised officer to require a person's name and address in certain circumstances. When making such a requirement, the inspector must warn the person that it is an offence to fail to state their name and address, unless the person has a reasonable excuse.

If the authorised officer reasonably suspects that the name and address stated is false, the inspector may require the person to give evidence of the correctness of the stated name or address.

Failure to give name or address

Clause 300 makes it an offence for a person to fail to comply with a requirement to give their name and address unless the person has a reasonable excuse. However, a person does not commit an offence by not complying with such a requirement, if the requirement was given where an authorised officer suspected the person had committed an offence against

the proposed Act and the person is proven not to have committed that offence.

Power to require information about contravention

Clause 301 provides that an authorised officer may require a person who the authorised officer believes may be able to give information about a contravention of the proposed Act, to give the information.

Failure to give information about contravention

Clause 302 makes it an offence for a person of whom a requirement is made under clause 301 to fail to comply with the requirement. It is a reasonable excuse for an individual not to give information if the information might tend to incriminate the person.

Power to require production of documents

Clause 303 empowers an authorised officer to require a person to make available for inspection a document which is required to be kept for inspection.

The authorised officer may keep the document and copy it but must return it as soon as practicable after copying.

Failure to produce document

Clause 304 makes it an offence for a person to fail to make a document available for inspection as requested by an authorised officer under clause 303, unless the person has a reasonable excuse.

Refusal to produce a document to an authorised officer on the grounds of self-incrimination is not a reasonable excuse for the purposes of this clause.

PART 3—OFFENCES RELATING TO AUTHORISED OFFICERS

False or misleading statements

Clause 305 makes it an offence for a person to state anything to an authorised officer that the person knows is false or misleading in a material particular.

False or misleading documents

Clause 306 makes it an offence to give an authorised officer a document that the person knows contains information that is false or misleading in a material particular. However, it is not an offence if the person, when giving the document, tells the authorised officer how it is false and misleading and if reasonably possible, gives the correct information.

Obstruction of authorised officer

Clause 307 makes it an offence to obstruct an authorised officer in the exercise of a power under part 2 unless the person has a reasonable excuse. "*Obstruct*" is defined to include assault, hinder, resist, and attempt or threaten to obstruct.

PART 4—NOTICE OF DAMAGE AND COMPENSATION

Notice of damage

Clause 308 requires an authorised officer to give written notice, to the person who appears to be the owner or person in possession of the thing, if an authorised officer damages property when exercising or purporting to exercise a power under part 2. However, if this proves impractical, the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way at the place where the damage happened. If the authorised officer believes that the damage occurred due to a latent defect in the thing, the authorised officer may state this in the notice.

An authorised officer is not required to comply with this requirement if authorised officer believes the damage is trivial.

Compensation

Clause 309 provides that if a person incurs loss or damage because of the exercise or purported exercise of a power under part 2, the person is entitled to be paid compensation agreed with the chief executive or, failing agreement, as ordered by a court.

CHAPTER 8—OFFENCES

PART 1—OFFENCES

Division 1—Offences relating to administration of Act

Definitions for division 1

Clause 310 defines the following words for the purpose of this division:

"*Act document*" is defined as an approval, licence, eligibility certificate or other authority given under the proposed Act or a document issued by or for a racing bookmaker evidencing a bet with the racing bookmaker.

"*Background document*" means:

- an approved form, control body form, or a gaming executive form; or
- a document accompanying an accreditation application, approval application, a licence application, approved form, control body form or gaming executive form; or
- fingerprints of a person obtained by the chief executive, gaming executive or a control body; or
- another document obtained by the chief executive, gaming executive or a control body relating to a person's business reputation, character, criminal history, current financial position or financial background.

"*confidential information*" means information about a person's business reputation, character, criminal history, current financial position or financial background or information about a person making an application under the proposed Act.

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

"*copy*" includes making 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.

Protection of persons about whom confidential information or background documents obtained

Clause 311 makes it an offence for a person who, in the course of administrating the proposed Act or the repealed Act, acquired confidential information or gained access to a background document about someone else without reasonable excuse, to disclose the confidential information to anyone else, or copy a background document, or give anyone else access to a background document.

It is a reasonable excuse if the person discloses the information:

- in the performance of a function under the proposed Act; or
- with the consent of the person to whom the information or document relates; or
- under the authority of the proposed Act or other legislation;
- In compliance with a lawful process requiring production of documents or giving evidence before a court; or
- for the purposes of collating information of a statistical nature that could not reasonably be expected to result in the identification of the person.

Forgery and uttering Act documents

Clause 312 makes it an offence for a person to:

- forge an "Act document";
- knowingly utter an "Act document" that is forged; or

- pretend to be a person named in an "Act document", such as an authorised officer or a person named in an identity card.

Making a false statement in application or other document

Clause 313 makes it an offence for a person to knowingly make a false statement in an accreditation application, approval application, a licence application, an application for an eligibility certificate or a document that the person is required to keep, or give to the chief executive, the gaming executive or a control body or another person under the proposed Act.

Division 2—Offences relating to racing contingencies

Definitions for division 2

Clause 314 defines terms for the division.

"*conduct*" in relation to a racing contingency is defined to include all aspects of arranging, organising, promoting, seeking nominations, arranging for bookmakers, advertising or helping in any of the above activities or to participate other than by merely being present at the place where the racing contingency is conducted.

"*racing contingency*" is defined to be a contest, contingency or event, other than a race meeting held under the proposed Act, in which 2 or more animals compete against each other for the purpose of providing an event upon which bets are made.

Person must not conduct a racing contingency

Clause 315 makes it an offence for a person to conduct a racing contingency and for the occupier of a place to allow a racing contingency to be conducted at the place.

The intent of this provision is to prohibit betting on races that are not held under the control of a control body. The integrity of animal racing on which bets may be made can only be assured if it is conducted under the proposed Act which provides for a control body to be responsible for the ensuring the integrity of the event by having appropriate procedures and processes.

Division 3—Offences relating to prohibited things or interfering with licensed animals, persons or things

Definitions for division 3

Clause 316 defines terms for this division.

"*interfere with*" in relation to a licensed animal, a licence holder or an official of a control body is defined widely. It means to inflict or cause injury or threaten to inflict or cause injury to a licensed animal, a licence holder or an official of a control body or otherwise affect, in a detrimental way, the behaviour, performance, or physical condition of the licensed animal, licence holder or an official of a control body.

"*possess*" a thing means have custody of the thing and have control of it at any place, whether or not someone else has custody of it.

"*prohibited thing*" means any of the following:

- a drug;
- a noxious or toxic thing that could be used to affect the behaviour, performance or physical condition of an animal or person;
- a thing that does, or is designed to do, any of the following and may be used in an animal in a detrimental way:
  - supply electrical energy or another form of energy;
  - conduct, discharge or store an electrical charge, current, voltage or another form of energy;
  - apply, deposit, propel or spray a substance;
- a hypodermic syringe or needle or other medical or veterinary instrument.

"*use*" a prohibited thing on a licensed animal means:

- to use on, or administer it to, the animal;
- to cause it to be used on, or administer it to, the animal.

Person must not possess prohibited thing at particular places

Clause 317 makes it an offence for a person to have a prohibited thing without a reasonable excuse at a licensed venue, a place where a trial is or

to be held, a place used for the purpose of training a licensed animal, a stable or kennel used for sheltering a licensed animal, in or about a vehicle being used or about to be used to transport a licensed animal or another place where a licensed animal is located.

For example, depending on the particular circumstances it would be likely that a trainer who had been supplied a drug by a veterinary surgeon to treat a condition or injury to a licensed animal would have a reasonable excuse for having the drug at a stable.

Person must not use prohibited thing on, or interfere with, a licensed animal

Clause 318 makes it an offence for a person to use a prohibited thing on a licensed animal or otherwise interfere with a licensed animal unless the person has a reasonable excuse. It is a reasonable excuse for a veterinary surgeon to use a prohibited thing on or otherwise interfere with a licensed animal to treat a condition or injury of the animal.

As public confidence in the racing industry relies on animals being allowed to compete on their ability in accordance with the rules of racing for the code, it is considered appropriate for a substantial penalty to be imposed for a breach of this provision. Therefore, a maximum penalty of six hundred (600) penalty units has been provided.

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

Clause 319 makes it an offence to interfere with any licence holder in relation to the licence holder's performance of an activity for which the licence holder is licensed without a reasonable excuse.

Similarly if is an offence to interfere with an official of a control body when they are performing a function or exercising a power under the control body's rules of racing.

The intent of this provision is to deter unlawful activities that may affect the outcome of a race. For example, to deter persons from attempting to 'fix' races by threatening or otherwise causing injury to a jockey or other person involved with a licensed animal such as a strapper or trainer.

Division 4—Unlawful bookmaking, places where betting done unlawfully and other provisions

Application of division 4

Clause 320 states that this division does not apply to wagering conducted under the *Wagering Act 1998* or betting with racing bookmakers. This provision also lists various legislation that the division does not affect in any way.

Unlawful bookmaking other than by racing bookmakers etc.

Clause 321 states that a person must not carry on bookmaking unless the person is a racing bookmaker, or an executive officer of a corporation that is a racing bookmaker or a racing bookmaker's clerk. Chapter 6 of the proposed Act deals with the licensing of racing bookmakers.

Illegal betting place

Clause 322 defines an illegal betting place as a place used wholly or partly for one or more of the following purposes:

- bookmaking by the occupier;
- receiving money or other property by or for the occupier as or for consideration for:
    - an undertaking, promise or agreement to pay or give money or other property in relation to a race or sporting contingency;
    - securing the payment of or giving by someone else of money or other property in relation to a race or sporting contingency;
- the payment or settlement of a bet in relation to a race or sporting contingency.

A "*sporting contingency*" is widely defined in the dictionary to include a contest, contingency or event relating to animals, other than a "*race*", or a contest contingency or event relating to an athletic meeting, exercise, fight, game, pastime or sport.

A "*race*" defined in the dictionary as a contest, contingency or event held under the control of a control body on which bets may be made.

Prohibition on opening, keeping, using or promoting an illegal betting place

Clause 323 makes it an offence for:

- a person to open, keep or use an illegal betting place;
- an occupier to allow a place to be opened, kept or used as an illegal betting place;
- a person to help in any way to operate an illegal betting place; or
- a person to advertise an illegal betting place.

Subclauses 323(2) and (3) state that a person who is the occupier of the illegal betting place, or acting for the occupier of the illegal betting place, or in any way helping in operating an illegal betting place, must not directly or indirectly, receive money or other property:

- as a bet on a race or sporting contingency; or
- as a deposit on a bet on condition of paying or giving money or other property in relation to a race or sporting contingency; or
- as consideration for an assurance, undertaking, promise or agreement, express or implied, to pay or give money or other property in relation to a race or sporting contingency.

Contravention of s321 or 323

Clause 324 sets out the maximum penalties for first, second and third offences under clauses 321 and 323 ranging from six hundred (600) penalty units or one (1) year imprisonment for a first offence, twelve hundred (1200) penalty units or two (2) years imprisonment for a second offence and four thousand (4000) penalty units or five (5) years imprisonment for a third offence.

While these penalties are high, there are considered justified and necessary to deter illegal bookmaking in Queensland, particularly by offshore betting operators who may otherwise operate through offices set up in Queensland.

Using an illegal betting place

Clause 325 makes it an offence for a person to use the services of an illegal betting place.

Prohibition of betting at a public place

Clause 326 makes it an offence to bet at a public place unless the betting is lawfully conducted under the proposed Act or other legislation.

Division 5—Other offences

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

Clause 327 makes it an offence to interfere with things at a licensed venue necessary for conducting a race or trial and provides definitions for the purposes of this clause.

Attempt to commit offence

Clause 328 makes it an offence to attempt to commit an offence against the proposed Act.

PART 2—LEGAL PROCEEDINGS

Division 1—Evidence

Application of division 1

Clause 329 states that this division applies to a proceeding for an offence under the proposed Act.

Appointments and authority

Clause 330 states that the appointment of and the authority of the Minister, chief executive, gaming executive or an authorised officer must be presumed unless a party to a proceeding, by notice, requires proof of it.

Subclause 330(2) states that the approval of a control body, the accreditation of a facility and the statement of an accredited analyst or

accredited veterinary surgeon must be presumed unless a party to a proceeding requires proof of it.

Signatures

Clause 331 states that the signature purporting to be that of the Minister, the chief executive, the gaming executive, the presiding case manager, an authorised officer, the secretary or steward of a control body, the secretary of a licensed club, an accredited analyst and an accredited veterinary surgeon is evidence of the signature that it purports to be.

Evidentiary aids–documents

Clause 332 outlines matters in documents that are evidence.

Other evidentiary provisions

Clause 333 outlines matters in a complaint or indictment that are evidence.

Division 2—Matters about offence proceedings, indictable and summary offences

Types of offences

Clause 334 provides that an offence against the proposed Act is a misdemeanour except for offences under 321 (unlawful bookmaking other than by racing bookmakers) or 323 (prohibition on opening, keeping, using or promoting an illegal betting place).

Proceedings for indictable offence

Clause 335 deals with when indictable offences may be heard summarily.

Limitation on who may summarily hear indictable offence

Clause 336 states that a proceeding must be heard before a magistrate if it is a proceeding for a summary conviction on a charge for an indictable

offence or on an examination of witnesses on a charge for an indictable offence. The jurisdiction of a justice who is not a magistrate is limited to making or taking a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Limitation on time for starting summary proceeding

Clause 337 provides that the following time limitations for commencing a proceeding for a summary offence against the proposed Act by way of a summary proceeding under the *Justices Act 1886*:

- within one (1) year after the commission of the offence; or
- within six (6) months after the offence comes to the complainant's knowledge, but within two (2) years after the commission of the offence.

Increased penalties

Clause 338 states that a conviction against the proposed Act or the repealed Act is not receivable in evidence against the person after ten (10) years for the purpose of subjecting the person to an increased penalty.

Executive officers must ensure corporation complies with Act

Clause 339 provides that if a corporation commits an offence against the proposed Act, each executive officer of the corporation also commit an offence, namely, the offence of failing to ensure that the corporation complies with the provision. It also provides certain defences for executive officers.

CHAPTER 9—MISCELLANEOUS PROVISIONS

Division 1—Miscellaneous provisions relating to racing and betting

Time race meeting taken to commence

Clause 340 states that a race meeting is taken to commence at the time betting with racing bookmakers may commence under the direction of a steward in charge of the meeting.

Void betting contracts etc

Clause 341 provides that subject to clause 342, the following agreements are void:

- a contract relating to betting, unless it is a lawful bet made by a racing bookmaker pursuant to clause 253; or
- a promise to pay money to a person, by way of commission, fee, reward, payment for services rendered or otherwise, in relation to a contract relating to betting;

Betting and other activities to which s341 does not apply

Clause 342 provides that clause 341 does not apply to the following agreements:

- a lawful bet permitted under the *Wagering Act 1988* or other Queensland gaming legislation; or
- a subscription or contribution, or agreement to subscribe or contribute for a prize, amount or plate to be awarded to the winner of a lawful game, sport, pastime, or exercise, eg agreement to contribute prizemoney for a race.

Division 2—Forms and use of e-mail addresses

Approved forms

Clause 343 provides that the chief executive may approve forms to be used under the proposed Act.

Electronic applications

Clause 344 states that applications may be made electronically if the form provides for it.

Electronic notices about applications

Clause 345 provides that notices about applications may be given by e-mail.

E-mail addresses for service generally

Clause 346 provides for the Minister, the chief executive or the gaming executive to give notices to a control body, a certificate holder or an accreditation holder by e-mail.

Acts Interpretation Act 1954, s39 not limited by ss 344_346

Clause 347 states that clauses 344 to 346 do not limit the operation of the *Acts Interpretation Act 1954*.

Division 3—Administrative and other matters

Protection from liability

Clause 348 provides protection to stated persons including the Minister, the chief executive, the gaming executive, someone who has been requested to and is helping an authorised officer, a person who is or was a public service employee of the department and persons complying with requirements under stated provisions of the proposed Act, from civil liability for an act done or omission made honestly and without negligence under the proposed Act and in certain circumstances, shifts liability to the State.

Things to be done as soon as practicable

Clause 349 provides that if a provision of the proposed Act does not prescribe a time within which something must be done, then the thing must be done as soon as practicable and as often as the relevant occasion happens.

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

Clause 350 provides that if a person is to be satisfied or have a belief or suspicion about a particular matter, the person must be satisfied or have the belief or suspicion on grounds that are reasonable in the circumstances.

This provision applies to "persons" as defined in section 32D of the *Acts Interpretation Act 1954*, and includes the Minister, the chief executive, authorised officers, control bodies and the Gaming Commission.

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

Clause 351 provides that if a court, the Integrity Board, a racing association, the Queensland Regional Racing Council or the Tribunal are required to consider whether a particular matter is appropriate before the entity may do or not do an act or make a decision, the entity must not make the decision unless it considers that the particular matter is appropriate, on grounds that are reasonable in the circumstances.

Records about drugs and veterinary surgeons

Clause 352 provides for the chief executive of the Department of Health to give to the chief executive responsible for racing, information relating to controlled drugs, restricted drugs and poisons obtained by a veterinary surgeon and records a veterinary surgeon is required to keep under the *Health Act 1937* about controlled drugs and poisons.

Fees etc. that are owing to the State are debts

Clause 353 provides that all fees and other amounts due and payable to the State by a person under the proposed Act may be recovered as a debt due to the State.

Delegations

Clause 354 provides that the Minister may delegate the Minister's powers under the proposed Act to the chief executive or to an appropriately qualified officer of the department.

The chief executive may delegate the chief executive's powers (including those powers delegated by the Minister to the chief executive) to an appropriately qualified person. For example, it is envisaged that the chief executive may delegate powers in relation to conducting investigations of corporations that apply for a control body approval, including executive officers and business and executive associates of the corporation, to the gaming executive.

Division 4—Regulations

Regulation-making power

Clause 355 sets out certain matters that may be prescribed by regulation.

CHAPTER 10—REPEAL, TRANSITIONAL PROVISIONS AND OTHER PROVISIONS

PART 1—REPEAL

Repeal of Racing and Betting Act 1980

Clause 356 states that the *Racing and Betting Act 1980* ("the repealed Act") is repealed.

PART 2—TRANSITIONAL PROVISIONS FOR RACING ACT 2002

Division 1—Definition for part 2

Definition for part 2

Clause 357 provides that in this chapter, "*commencement*" means the commencement of the provision in which the term is used.

Division 2—Provisions relating to chapter 2

Subdivision 1—Matters about relocated provisions and control bodies under the repealed Act

Effect of relocation

Clause 358 provides that relocated provisions continue to have effect as provisions of the proposed Act.

Codes of racing for which continuing control bodies responsible

Subclause 359 provides that:

- the Queensland Thoroughbred Racing Board continues as the control body for thoroughbred racing;
- the Queensland Harness Racing Board continues as the control body for harness racing; and
- the Greyhound Racing Authority continues as the control body for greyhound racing.

Things done under relocated provisions continue to have effect

Clause 360 provides that a thing authorised to be done under a provision of the *Racing and Betting Act 1980* that was in force immediately before the provision was relocated into the proposed Act, continues to have effect as if the thing had been done under the proposed Act.

Relocation does not affect legal personality etc

Clause 361 makes it clear that the relocation of a provision from the *Racing and Betting Act 1980* to the proposed Act does not affect the continuing control body's legal personality or identity or any rights, entitlements or liabilities.

Relocation does not affect existing legal relationships

Clause 362 clarifies that without limiting clause 361(1) the relocation of a provision from the *Racing and Betting Act 1980* to the proposed Act:

- does not place the continuing control body in breach of contract or in breach of any instrument or make it guilty of a civil wrong; and
- is not taken to fulfil a condition; and
- does not release a surety or other obligee from an obligation.

Function of continuing control body

Clause 363 states that it is the function of each continuing control body to manage its code of racing, and that the management of a code of racing requires a continuing control body to perform all of the functions that the *Racing and Betting Act 1980* imposed upon the continuing control body.

Powers of continuing control body

Clause 364 clarifies that each continuing control body has the powers:

- set out in the proposed Act; and
- conferred by the *Racing and Betting Act 1980* that are not conferred upon a control body by the proposed Act.

Minister to give each continuing control body an approval

Clause 365 states that the Minister may give each continuing control body an approval with conditions attached.

Membership of continuing control body and chairpersons

Clause 366 provides for the continuation of the members, deputy chairperson and chairperson of the Queensland Harness Racing Board and the Greyhound Racing Authority.

Subclause 366(3) provides that the members, chairperson and deputy chairperson of the Queensland Thoroughbred Racing Board hold office until the expiry of schedule 1 of the proposed Act. Clause 370 provides that schedule 1 expires three (3) years after the provisions in schedule 1 commence.

Delegations by continuing control bodies

Clause 367 provides that a continuing control body may delegate its power. The provision also provides that any delegations made by a continuing control body pursuant to a power under the *Racing and Betting Act 1980*, its rules of racing or by resolution, continue to have effect.

Application of this Act to continuing control body

Clause 368 provides that if a provision of the proposed Act is not capable of applying to a continuing control body, the provision does not apply.

Subclause 368(2) clarifies that a reference to an executive officer of a control body does include a member of a continuing control body.

Racing calendar

Clause 369 states that if a continuing control body had a racing calendar prior to the commencement, it is taken to have complied with clause 38, which imposes an obligation upon a control body to have a racing calendar.

Expiry of schedule 1 (relocated provisions)

Clause 370 provides that the provisions contained in schedule 1 to the proposed Act expire three (3) years after the commencement of those provisions.

Subdivision 2—Transitional provisions for provisions about control bodies under chapter 2

When corporation may apply for approval as a control body for thoroughbred, harness or greyhound racing

Clause 371 provides that an eligible corporation may make application to be approved as the control body for the thoroughbred, harness and greyhound codes within one (1) year after the commencement of clause 371.

Subdivision 3—Racing associations

Membership of racing associations and chairpersons

Clause 372 provides for the continuation of members and the chairperson of the five (5) racing associations within the thoroughbred racing code and for the continuation of matters being performed by racing associations during the transition to the proposed Act.

Subdivision 4—Queensland Regional Racing Council

Continuation of council and its members and chairperson

Clause 373 provides for the continuation of members and the chairperson of the Queensland Regional Racing Council.

Division 3—Provisions relating to chapter 3

Licences and other forms of authority continue to have effect

Clause 374 provides that licences and other forms of authority issued by a continuing control body before the commencement of the proposed Act remain in force. These licences continue to operate subject to the proposed Act

Actions by control body continue to have effect

Clause 375 provides that any action taken by a continuing control body against a person, such as a licensee before the commencement continues to have effect and operates subject to the provisions of the proposed Act.

Consultation to be undertaken as part of development of policy

Clause 376 provides that if, as at the date of commencement, a continuing control body does not have a policy about how it will make policies, then before introducing any new policies, the continuing control body must advertise specific information about the proposed policy in a newspaper likely to be read by racing participants.

Rules of continuing control bodies are rules of racing under this Act

Clause 377 provides that rules of racing of a continuing control body that were in force before the commencement, remain in force for a period of three (3) years, despite the absence of a policy authorising those rules of racing to be made.

Subclause 377(5) provides that a regulation may be made declaring a particular rule or rules of a continuing control body referred to above, to be invalid.

Amendment etc. of rules continued in force under section 377

Clause 378 provides that the rules of racing of a continuing control body that were in force prior to the commencement and by virtue of clause 377 are taken to be rules of racing made under the proposed Act, may be amended, omitted or repealed by a continuing control body.

Registered clubs taken to be licensed

Clause 379 is a transitional provision that provides for the continuation of registration of a race club, greyhound club or a trotting club registered by a continuing control body prior to the commencement of the proposed Act.

A reference in legislation to a greyhound club, race club or trotting club under the *Racing and Betting Act 1980* is, where the context permits, a reference to a club licensed by the continuing control bodies.

Directions for section 101

Clause 380 defines *"control body direction"* for section 101 to mean a direction given by a control body to a club pursuant to sections 11B(2)(r)**,** 52(3)(t) and 93(3)(t) and 11B(3), 52(A)(2) and 93(A)(2) of the *Racing and Betting Act 1980.*

Division 4—Provisions relating to chapter 4

Definitions for division 4

Clause 381 defines terms for division 4.

Integrity board is continuation of advisory board

Clause 382 provides that the Integrity Board is a continuation of the Racing Codes Advisory Board.

Members and chairperson of advisory board continue as board members and board chairperson

Clause 383 provides for the continuation of members and the chair of the Racing Codes Advisory Board as the members and chair of the Integrity Board.

Racing Science Centre taken to be accredited facility

Clause 384 is a transitional provision that provides that the Racing Science Centre is taken to have been accredited by the chief executive. The accreditation expires six (6) months after the commencement.

Division 5—Provisions relating to chapter 5

Definitions for division 5

Clause 385 inserts definitions for Division 5.

Tribunal is continuation of Racing Appeals Authority

Clause 386 states that the Racing Appeals Tribunal is a continuation of the Racing Appeals Authority.

Members of authority continue in office as Tribunal members etc

Clause 387 provides that the members and Chairperson of the Racing Appeals Authority immediately before the commencement continue as a member of the Racing Appeals Tribunal.

Appeals under repealed Act

Clause 388 confirms that appeals commenced under the *Racing and Betting Act 1980*, including appeals from decisions from which there is no right of appeal to the Tribunal under the proposed Act, may be dealt with or continue to be dealt with by the Tribunal under the provisions of the proposed Act with any necessary changes.

Decisions of authority

Clause 389 states that a decision of the Racing Appeals Authority applies as a decision of the Racing Appeals Tribunal.

Division 6—Provisions relating to chapter 6

Racing bookmaker and racing bookmaker's clerk

Clause 390 provides that a racing bookmaker or a racing bookmaker's clerk licensed by a control body under the *Racing and Betting Act 1980* continues to operate as a racing bookmaker or a racing bookmaker's clerk under the proposed Act for the remaining period of the relevant licence unless sooner cancelled or suspended.

Eligibility certificate

Clause 391 provides that an eligibility certificate issued by the gaming executive under the *Racing and Betting Act 1980* that had not lapsed before the commencement, continues to operate as an eligibility certificate issued under the proposed Act.

Audit program and investigation

Clause 392 continues any audit program approved by the gaming executive under the *Racing and Betting Act 1980* and in force immediately before the commencement, as an audit program approved by the gaming executive under clause 223 of the proposed Act.

Cancellation of eligibility certificate

Clause 393 allows the gaming executive to continue to deal with a matter started under the *Racing and Betting Act 1980*, as though it was a matter commenced under the proposed Act.

Appeal relating to eligibility certificate

Clause 394 provides for the continuation of appeals to the Gaming Commission from decisions of the gaming executive concerning eligibility certificates, as if those appeals were commenced under the provisions of the proposed Act.

Approved bookmaking system under repealed Act taken to be approved under section 141 by a continuing control body

Clause 395 provides that any telephone bookmaking system approved by the chief executive under the *Racing and Betting Act 1980*, immediately before the commencement, is taken to be approved by the relevant continuing control body under the proposed Act.

Division 7—Miscellaneous provisions

References to repealed Act

Clause 396 provides that, where the context permits, a reference to the *Racing and Betting Act 1980* is taken to be a reference to the proposed Act.

Transitional regulation-making power

Clause 396 provides a power to make a transitional regulation for a period of one (1) year from the commencement of clause 396, if it is necessary to make provision to allow or facilitate the doing of anything to

achieve the transition from the operation of the *Racing and Betting Act 1980* to the operation of the proposed Act.

A transitional regulation expires one (1) year after its enactment.

CHAPTER 11—AMENDMENT OF OTHER ACTS

Amendment of Acts in schedule 2

Clause 298 provides that the provisions contained in schedule 2 amend certain provisions contained in:

- other Queensland legislation; and
- the *Racing and Betting Act 1980* and relocates those provisions to schedule 1 of the proposed Act.

SCHEDULE 1—RELOCATED PROVISIONS

PART 1—DEFINITIONS FOR THIS SCHEDULE

Schedule 2 part 2 relocates the definitions of committee, officer and selection panel, from section 5 of the *Racing and Betting Act 1980* (as amended by Schedule 2 part 1) to schedule 1 part 1 of the proposed Act.

PART 2—PROVISIONS ABOUT THE QUEENSLAND THOROUGHBRED RACING BOARD

Schedule 2 part 2 division 2 relocates sections 11, 11A, 11AA, 11C to 11FB, and 11G to 15A of the *Racing and Betting Act 1980* (as amended by schedule 2 part 2 division 1) to schedule 1 part 1 of the proposed Act.

PART 3—PROVISIONS ABOUT THE QUEENSLAND HARNESS RACING BOARD

Schedule 2 part 2 division 2 relocates sections 35 to 50 and 53 to 54A of the *Racing and Betting Act 1980* (as amended by schedule 2 part 2 division 1) to schedule 1 part 3 of the proposed Act.

PART 4—PROVISIONS ABOUT THE GREYHOUND RACING AUTHORITY

Schedule 2 part 2 division 2 relocates sections 76 to 91 and 94 to 95A of the *Racing and Betting Act 1980* (as amended by schedule 2 part 1 division 1) to schedule 1 part 4 of the proposed Act.

PART 5—PROVISIONS APPLYING TO ALL CONTINUING CONTROL BODIES

Schedule 2 part 2 division 2 relocates section 132 of the *Racing and Betting Act 1980* (as amended by schedule 2 part 1 division 1) to Schedule 1 part 1 of the proposed Act.

SCHEDULE 2—AMENDMENT OF ACTS

PART 1—AMENDMENT OF ACTS OTHER THAN THE RACING AND BETTING ACT 1980

ANIMAL CARE AND PROTECTION ACT 2001

Clause 1 amends the *Animal Care and Protection Act 2001* to remove a reference to the *Racing and Betting Act 1980* and replace it with a reference to the proposed Act.

LIQUOR ACT 1992

Section 134(1)(a)(i)

Clause 1 amends the *Liquor Act* to extend the circumstances for the chief executive to cancel, suspend or vary a permit to include unlawful bookmaking and the use of the premises as an illegal betting place.

Section 136(1)(b)(iii)

Clause 2 re-numbers a paragraph.

Section 136(1)(b)

Clause 3 extends the circumstances for the chief executive to take disciplinary action against a licensee to include unlawful bookmaking and the use of the licensed premises as an illegal place betting place.

Section 151A

Clause 4 inserts a new clause to clarify that only authorised betting is allowed on licensed premises or premises to which a permit relates. A defence to a charge is available for a licensee or permittee if they can prove that they did not know of the offence, and could not have reasonably

prevented the offence, and that proper instructions and systems to ensure that an offence would not be committed had been issued and were in place.

Part 9 division 1 heading

Clause 5 omits this heading from the *Liquor Act 1992* as it is superfluous.

Section 232A

Clause 6 inserts a new clause requiring the commissioner of the Queensland Police Service to provide the chief executive with particulars of convictions relating to certain offences. These offences are betting on licensed premises, unlawful bookmaking and the use of the licensed premises as an illegal betting place.

POLICE POWERS AND RESPONSIBILITIES ACT 2000

Section 28(f)(i), "Racing and Betting Act 1980"

Clause 1 replaces a reference to the *Racing and Betting Act 1980* with a reference to the proposed Act.

QUEENSLAND BUILDING TRIBUNAL ACT 2000

Schedule 2, definition "central tribunal", paragraph (d), 'Authority'

Clause 1 replaces references to the "Racing Appeals Authority" in the *Queensland Building Tribunal Act 2000* with "Racing Appeals Tribunal".

Schedule 2, definition "central tribunal Act", paragraph (c), '*Racing and Betting Act 1980*'

Clause 2 replaces references to the repealed Act in the *Queensland Building Tribunal Act 2000* with the proposed Act.

Schedule 2, definition "Racing Appeals Authority"

Clause 3 replaces a reference to the "Racing Appeals Authority" in the Act with "Racing Appeals Tribunal".

RACING AND BETTING AMENDMENT ACT (NO 2) 2001

Section 35

Clause 1 corrects a drafting error by replacing reference to "section 279D" with "section 279DD".

TRADING (ALLOWABLE HOURS) ACT 1990

Section 33(2)(b)

Clause 1 replaces a reference to "a racing venue where meeting under the *Racing and Betting Act 1980*" with a licensed venue where a race meeting is held under the proposed Act.

VAGRANTS GAMING AND OTHER OFFENCES ACT 1931

Section 2, definition "gaming Acts", "Racing and Betting Act 1980"

Clause 1 replaces references to the repealed Act in the *Vagrants Gaming and Other Offences Act 1931* with references to the proposed Act.

WAGERING ACT 1998

Offences against totalisators

Clause 1 relocates an offence in relation to the unlawful operation of totalisators from the *Racing and Betting Act 1980* to the *Wagering Act 1998*, which is the legislation regulating the operation of totalisators in Queensland.

Section 12, "Racing and Betting Act 1980"

Clause 2 replaces a reference to the repealed Act with a reference to the proposed Act.

PART 2—AMENDMENT AND RELOCATION OF PROVISIONS OF THE *RACING AND BETTING ACT 1980*

Division 1—Amendments

Schedule 2, division 1 amends specified provisions of the *Racing and Betting Act 1980* which are to be relocated to schedule 1 of the proposed Act. The amendments are necessary to achieve consistency with the terminology used in the proposed Act.

Division 2—Relocation

Schedule 2, division 2, relocates provisions of the *Racing and Betting Act 1980* to schedule 1 of the proposed Act.

SCHEDULE 3

DICTIONARY

This schedule sets out the definitions for words and terms used in the proposed Act.