



# **Racing Integrity Act 2016**

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Queensland

# Racing Integrity Act 2016

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# Racing Integrity Act 2016

**An Act to safeguard the welfare of animals, to ensure the integrity of persons involved in the racing industry and to manage matters relating to betting and sporting contingencies**

## Chapter 1 Preliminary

### 1 Short title

This Act may be cited as the *Racing Integrity Act 2016*.

### 2 Commencement

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

### 3 Main purposes of Act and their achievement

- (1) The main purposes of this Act are—
  - (a) to maintain public confidence in the racing of animals in Queensland for which betting is lawful; and
  - (b) to ensure the integrity of all persons involved with racing or betting under this Act or the Racing Act; and
  - (c) to safeguard the welfare of all animals involved in racing under this Act or the Racing Act.
- (2) The purposes are to be achieved primarily by—
  - (a) establishing the Queensland Racing Integrity Commission; and
  - (b) regulating racing bookmakers by establishing a framework that provides for—

- (i) licensing by the commission; and
- (ii) the granting of offcourse approvals.

#### **4 Extraterritorial application of Act**

- (1) This Act applies both within and outside Queensland.
- (2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

#### **5 Dictionary**

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

#### **6 Act binds State, Commonwealth and other States**

- (1) This Act binds the State and, as far as the legislative authority of the Parliament permits, the Commonwealth and the other States.
- (2) However, an entity mentioned in subsection (1) can not be prosecuted for an offence against this Act.

## **Chapter 2 Queensland Racing Integrity Commission**

### **Part 1 Establishment**

#### **7 Establishment and status**

- (1) The Queensland Racing Integrity Commission (the *commission*) is established.

- (2) The commission consists of the commissioner, each deputy commissioner and the staff of the commission.
- (3) The staff are to be employed under the *Public Service Act 2008*.
- (4) However, race day stewards are employed under this Act and not the *Public Service Act 2008*.

## **8 Commission represents the State**

- (1) The commission represents the State.
- (2) Without limiting subsection (1), the commission has the status, privileges and immunities of the State.

## **9 Application of other Acts**

- (1) The commission is—
  - (a) a unit of public administration under the *Crime and Corruption Act 2001*; and
  - (b) a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B explains how that Act affects the commission's powers.

# **Part 2 Functions and powers**

## **10 Functions**

- (1) The commission has the following functions—
  - (a) to license animals and participants that are suitable to be licensed for a code of racing;
  - (b) to assess under this Act the suitability of an applicant to be an approved control body;

- (c) to conduct audits of licence holders to decide if the licence holders continue to be suitable to be licensed, on the commission's own initiative or at the request of the Minister;
- (d) to investigate complaints about matters relevant to a code of racing, on the commission's own initiative or at the request of the Minister, including—
  - (i) complaints about the processes of a control body; and
  - (ii) complaints about a licence holder;
- (e) to conduct investigations into breaches of this Act or the Racing Act;
- (f) to oversee the integrity of race meetings, including matters preliminary to race meetings;

*Examples of matters preliminary to race meetings—*

jumpouts, trackwork sessions, trials

- (g) to manage testing of things, including developing or adopting procedures about the way things for analysis are to be taken and dealt with;
- (h) to keep records that provide for the identification and monitoring of animals;

*Example—*

records that show the 'end-to-end tracking' of an animal

- (i) to safeguard the welfare of any animal involved, whether directly or indirectly and whether lawfully or unlawfully, in racing;
- (j) to make decisions about disciplinary matters;
- (k) to prevent noncompliance and lapses in integrity, as far as practicable, in the racing industry;
- (l) to promote compliance and integrity, and to promote animal welfare and prevent animal cruelty, by educating, providing information for, and working with, participants;

- 
- (m) to regularly review and assess compliance and the integrity of participants and practices in the racing industry, on the commission's own initiative or at the request of the Minister;
  - (n) to work collaboratively with entities responsible for investigating and prosecuting offences, including—
    - (i) sharing information with the entities for crime prevention; and
    - (ii) in circumstances where the commission reasonably suspects an offence may have been committed;
  - (o) to identify opportunities for cooperative partnerships with entities to improve compliance and integrity in the racing industry;
  - (p) to report and make recommendations to the Minister about matters relevant to the performance of its functions and any other matters referred to it by the Minister;
  - (q) to make all necessary inquiries it believes necessary to fulfil a function mentioned in paragraphs (a) to (o);
  - (r) to perform a function incidental to a function mentioned in paragraphs (a) to (o);
  - (s) to perform a function given to it under another Act.
- (2) In this section—

***compliance*** includes compliance with this Act or the Racing Act.

***processes***, of a control body, includes policies, systems, actions and decisions made by the control body.

## 11 General restriction on functions

It is not a function of the commission to investigate—

- (a) a matter that has already been decided by a court or the tribunal; or

- (b) a matter the subject of an unfinished proceeding that has started in a court or the tribunal.

## **12 Powers**

- (1) The commission has all the powers of an individual and may, for example—
  - (a) enter into contracts or agreements; and
  - (b) acquire, hold, deal with, and dispose of, property; and
  - (c) appoint agents and attorneys; and
  - (d) engage consultants and researchers; and
  - (e) charge a fee for services and other facilities it supplies; and
  - (f) do anything else necessary or convenient to be done in performing its functions.
- (2) Without limiting subsection (1), the commission has the powers given to it under this Act or another Act.

## **13 Ministerial directions**

- (1) The Minister may give the commission a written direction about the performance of its functions or the exercise of its powers if the Minister is satisfied it is in the best interests of the Queensland racing industry to give the direction.
- (2) However, the Minister may not give the commission a direction about any of the following—
  - (a) a decision of the commission that is an original decision;
  - (b) a decision of the commission made under the rules of racing for a code of racing;
  - (c) a decision mentioned in section 240(2);
  - (d) a matter for which the commission is conducting an audit or investigation.

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- (3) The commission must comply with a direction given under subsection (1).
  - (4) The commission—
    - (a) must include in its annual report, prepared under the *Financial Accountability Act 2009*, section 63, details of any direction given by the Minister under subsection (1) during the financial year to which the report relates; and
    - (b) may include in the report a comment about the effect on the commission's activities of complying with the direction.

## Part 3 **Racing Integrity Commissioner and Deputy Racing Integrity Commissioners**

### 14 **Racing Integrity Commissioner**

- (1) There is to be a Racing Integrity Commissioner (the *commissioner*).
- (2) The Governor in Council is to appoint the commissioner.
- (3) A person may be appointed as the commissioner for a term of not more than 3 years.
- (4) The commissioner may be reappointed.
- (5) The commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- (6) Subject to this Act, a person holds office as the commissioner on the conditions decided by the Governor in Council.
- (7) The commissioner must be appointed under this Act and not under the *Public Service Act 2008*.

## **15 Deputy Racing Integrity Commissioners**

- (1) There is to be 1 or 2 Deputy Racing Integrity Commissioners (each a *deputy commissioner*).
- (2) The Governor in Council is to appoint each deputy commissioner, including—
  - (a) a deputy commissioner who is to be called the *1st deputy commissioner*; and
  - (b) if 2 deputy commissioners are to be appointed, a deputy commissioner who is to be called the *2nd deputy commissioner*.
- (3) A person may be appointed as a deputy commissioner for a term of not more than 3 years.
- (4) A deputy commissioner may be reappointed.
- (5) A deputy commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- (6) Subject to this Act, a person holds office as a deputy commissioner on the conditions decided by the Governor in Council.
- (7) A deputy commissioner must be appointed under this Act and not under the *Public Service Act 2008*.

## **16 Persons eligible to be commissioner or deputy commissioner**

A person is eligible to be the commissioner or a deputy commissioner if the person—

- (a) is an eligible individual within the meaning of the Racing Act; and
- (b) is not, and has not been in the previous 2 years, a member or employee of a control body; and
- (c) is not, and has not been in the previous 2 years, an executive officer of a corporation that is an approved control body.

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## 17 Functions of commissioner

- (1) The main functions of the commissioner are—
  - (a) to ensure the effective and efficient administration and operation of the commission and the performance of its functions; and
  - (b) to manage the staff of the commission in accordance with the requirements of this Act and the *Public Service Act 2008*.
- (2) The commissioner's functions also include any other function given to the commissioner under this Act or another Act.

## 18 Functions of deputy commissioner

- (1) The main functions of a deputy commissioner are—
  - (a) to assist the commissioner in ensuring the effective and efficient administration and operation of the commission and the performance of its functions; and
  - (b) to assist the commissioner in managing the staff of the commission in accordance with the requirements of this Act and the *Public Service Act 2008*; and
  - (c) for the 1st deputy commissioner—to act in the office of the commissioner if the commissioner is absent or for any other reason is unable to perform the functions of the office; and
  - (d) for the 2nd deputy commissioner, if 2 deputy commissioners are appointed—to act in the office of the commissioner if the commissioner and 1st deputy commissioner are absent or for any other reason are unable to perform the functions of the office.
- (2) A deputy commissioner's functions also include any other function given to the deputy commissioner under this Act or another Act.

## **19 Powers of commissioner and deputy commissioner**

- (1) The commissioner and a deputy commissioner have the powers necessary for performing the commissioner's or deputy commissioner's functions.
- (2) The commissioner and a deputy commissioner also have the other powers given to the commissioner and a deputy commissioner under this Act or another Act.
- (3) The commissioner may exercise the powers of the commission, and any other powers given to the commissioner, under this Act or another Act.

## **20 Vacancy in office**

- (1) The office of the commissioner becomes vacant if the commissioner—
  - (a) ceases to be eligible to be the commissioner under section 16; or
  - (b) resigns under section 21; or
  - (c) is removed from office under section 22.
- (2) The office of a deputy commissioner becomes vacant if the deputy commissioner—
  - (a) ceases to be eligible to be a deputy commissioner under section 16; or
  - (b) resigns under section 21; or
  - (c) is removed from office under section 22.

## **21 Resignation**

- (1) The commissioner or a deputy commissioner may resign the commissioner's or deputy commissioner's office by giving the Minister a signed letter of resignation.
- (2) The resignation takes effect when the Minister receives the resignation or, if a later day is stated in the letter, the later day.

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## **22 Removal or suspension**

The Governor in Council may remove or suspend a person from office as the commissioner or as a deputy commissioner if the person—

- (a) becomes incapable of performing the functions of the commissioner or deputy commissioner because of mental or physical incapacity; or
- (b) has performed the duties of the commissioner or deputy commissioner carelessly, incompetently or inefficiently; or
- (c) has engaged in dishonourable conduct; or
- (d) has been found guilty of an offence the Governor in Council considers make the person inappropriate to perform the functions of the commissioner or deputy commissioner.

## **23 Acting commissioner**

- (1) This section applies if—
  - (a) there is a vacancy in the office of commissioner or the commissioner is absent or for any other reason is unable to perform the functions of the office; and
  - (b) there is not a deputy commissioner who is able to perform the functions of the commissioner's office.
- (2) The Minister may appoint a person to act as commissioner for a period of not more than 3 months.
- (3) However, the Minister may extend the appointment for a further 3 months.
- (4) A person appointed to act as commissioner—
  - (a) has all the functions and powers of the commissioner; and
  - (b) is taken to be the commissioner for all purposes relating to this Act.

## **24 Acting deputy commissioner**

- (1) This section applies if there is a vacancy in the office of a deputy commissioner or a deputy commissioner is absent or for any other reason is unable to perform the functions of the office.
- (2) The Minister may appoint a person to act as a deputy commissioner for a period of not more than 3 months.
- (3) However, the Minister may extend the appointment for a further 3 months.
- (4) A person appointed to act as a deputy commissioner—
  - (a) has all the functions and powers of a deputy commissioner; and
  - (b) is taken to be a deputy commissioner for all purposes relating to this Act.

## **25 Preservation of rights of commissioner and deputy commissioner**

- (1) This section applies if a person who is a public service officer is appointed as the commissioner or as a deputy commissioner.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the commissioner or as a deputy commissioner were a continuation of service as a public service officer.
- (3) At the end of a person's term of office or resignation as the commissioner or as a deputy commissioner, the person's service as the commissioner or as a deputy commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

## **26 Delegations**

- (1) The commissioner may delegate any of the commissioner's functions under this Act or another Act to a deputy commissioner.

- (2) The commissioner may delegate any of the commissioner's functions under this Act or another Act, other than section 36, 37, 38 or 40, to an appropriately qualified person, including an employee of the commission or of a department.
- (3) A person delegated a function under subsection (2) may subdelegate the function to an appropriately qualified person.
- (4) In this section—  
*function* includes power.

## **Part 4                      Commission's role in    assessing approval    applications**

### **27      Assessment of approval applications**

- (1) The commission must assess an approval application referred under the Racing Act, section 48(1)(b), to the commission.
- (2) The commission must prepare and give to the Minister a report relating to the approval application that includes the following matters—
  - (a) whether the commission is reasonably satisfied the applicant for the approval application is suitable to be an approved control body;
  - (b) whether the commission is reasonably satisfied the commission can adequately regulate the activities relating to the proposed code of racing for the approval application, including licensing participants and appointing stewards to be in charge of race meetings for the code;
  - (c) whether the commission is reasonably satisfied the commission can license persons who would become racing bookmakers for the proposed code of racing;
  - (d) whether the applicant's draft strategic plan and operation plan that, under the Racing Act, section 46,

- accompanied the approval application have satisfied all relevant operational and integrity matters associated with the applicant becoming an approved control body;
- (e) any submissions given to the commission under the Racing Act, section 50(1) about the approval application, and the commission's assessment of and response to the submissions;
  - (f) any other matter relating to the approval application that, in the commission's opinion, may impact on the applicant's suitability as a control body.
- (3) If the commission is given a submission about the approval application as mentioned in subsection (2)(e), the commission must give the chief executive (racing) a copy of it.

## **28 Assessment if 2 or more approval applications**

- (1) This section applies if—
- (a) there are 2 or more approval applications for approval as the control body for a code of racing; and
  - (b) the chief executive (racing) calls a meeting of the approval applicants under the Racing Act, section 52(1); and
  - (c) there is no mediated agreement supported by all of the approval applicants.
- (2) The commission must prepare and give to the Minister a single report relating to each of the approval applications that includes the following matters—
- (a) the matters mentioned in section 27 for each approval application;
  - (b) an assessment about the merits of each approval application compared to the other approval applications;
  - (c) the commission's recommendation about which approval applicant is best qualified and most suitable to be the control body for the code of racing, having regard to the matters mentioned in section 29.

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## **29 Assessing applicants for approval applications**

- (1) This section applies to the commission in assessing an approval application as mentioned in section 27.
- (2) The commission must decide whether the applicant for the approval application is suitable to be approved as the control body for the proposed code of racing.
- (3) For subsection (2), the commission must have regard to and, if necessary, investigate—
  - (a) the approval application, matters accompanying or included in the approval application as mentioned in the Racing Act, section 46, and evidence given by the approval applicant in support of the application about the matters mentioned in section 47 of that Act; and
  - (b) the suitability of every business associate and executive associate of the applicant to be associated with the applicant as a control body; and
  - (c) if the approval applicant has a business association with another entity—the entity’s character or business reputation.
- (4) In deciding about the suitability of a business associate or executive associate of the applicant, the commission must have regard to and, if necessary, investigate—
  - (a) the associate’s character or business reputation; and
  - (b) if the associate has a business association with another entity—the entity’s character or business reputation.

## **30 Commission may require further information or documents**

- (1) For an investigation under section 29 relating to an approval application, the commission may, by notice given to the applicant for the approval application, require the applicant to give the commission further information or a document relating to any of the following within the reasonable period stated in the notice—

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- (a) the approval application;
  - (b) the applicant;
  - (c) a business associate or executive associate of the applicant;
  - (d) an entity with which the applicant has a business association.
- (2) For an investigation under section 29 relating to a business associate or executive associate of an applicant, the commission may, by notice given to the associate and a copy of the notice given to the applicant, require the associate to give the commission information or a document relating to the following within the reasonable period stated in the notice—
- (a) the association with the applicant;
  - (b) an entity with which the associate has a business association.
- (3) When making the requirement, the commission must warn the applicant and associate that the approval application will not be considered further until the requirement is complied with.

## **Part 5                      Audits and investigations**

### **Division 1                      Commission's powers for investigations**

#### **31                      Investigations into suitability of a control body**

The commission may investigate a control body to find out whether it is suitable under this Act to continue to manage its code of racing.

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### **32 Investigation into suitability of associate of control body**

The commission may investigate a control body associate to decide whether the associate is a suitable person to be, or to continue to be, associated with the control body's operations.

### **33 Requirement to give information or document for investigation**

- (1) In investigating a control body or a control body associate, the commission may, by notice given to the control body or the associate, require the control body or associate to give the commission information or a document the commission reasonably believes relevant to the investigation.
- (2) The notice must include—
  - (a) the reasonable period within which the control body or control body associate must comply with the requirement; and
  - (b) a warning that it is an offence to fail to comply with the requirement, unless the control body or associate has a reasonable excuse.
- (3) If the requirement is made of a control body associate, the commission must give a copy of the notice to the control body.

### **34 Failure to give information or document for investigation**

- (1) A person to whom a notice is given under section 33(1) must comply with the requirement in the notice within the period stated in the notice, unless the person has a reasonable excuse.  
Maximum penalty—200 penalty units.
- (2) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.
- (3) The person does not commit an offence against this section if the information or document sought by the commission is not in fact relevant to the investigation.

### **35 Criminal history report for investigation**

- (1) If the commission, in investigating a person under section 31 or 32, asks the police commissioner for a written report on the person's criminal history, the police commissioner must give the report to the commission.
- (2) The report is to contain—
  - (a) the person's criminal history; and
  - (b) a brief description of the circumstances of a conviction mentioned in the person's criminal history.
- (3) However, the duty imposed on the police commissioner applies only to information in the police commissioner's possession or to which the police commissioner has access.

## **Division 2 Commissioner's powers for audits and investigations**

### **36 Powers for audits and investigations**

- (1) If the commission is conducting an audit or investigation, the commissioner may—
  - (a) act in the absence of a person who has been given reasonable notice of the audit or investigation; and
  - (b) receive evidence on oath or affirmation or by statutory declaration; and
  - (c) disregard a minor defect, error, omission or insufficiency in a document.
- (2) The commissioner may administer an oath or affirmation to a person appearing as a witness before the commissioner.

### **37 Power to require attendance and giving of evidence**

- (1) If the commissioner reasonably believes a person has information relevant to an audit or investigation, the commissioner may, by notice given to the person, require the

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person to attend before the commissioner to answer questions relevant to the audit or investigation.

- (2) The notice must state—
  - (a) the place at which the person must attend; and
  - (b) a reasonable time at which, or a reasonable period for which, the person must attend.
- (3) The notice may require the person to give evidence on oath or affirmation.

### **38 Power to require information, document or thing**

- (1) If the commissioner reasonably believes a person has information or a document or thing relevant to an audit or investigation, the commissioner may, by notice given to the person, require the person to—
  - (a) give the information to the commissioner in writing signed by the person or, in the case of a corporation, by an officer of the corporation; or
  - (b) produce the document or thing to the commissioner.
- (2) The notice must state—
  - (a) the place at which the information, document or thing must be given or produced to the commissioner; and
  - (b) a reasonable time at which, or a reasonable period within which, the information, document or thing must be given or produced.

### **39 Offences by witnesses**

- (1) A person who is given a notice under section 37 or 38 must not, without reasonable excuse—
  - (a) fail to attend as required by the notice; or
  - (b) fail to continue to attend as required by the commissioner until excused from further attendance; or

(c) fail to produce a document or thing the person is required to produce by the notice.

Maximum penalty—100 penalty units.

(2) A person appearing as a witness at the audit or investigation must not, without reasonable excuse—

(a) fail to take an oath or make an affirmation when required by the commissioner; or

(b) fail to answer a question the person is required to answer by the commissioner.

Maximum penalty—100 penalty units.

(3) A person appearing as a witness at the audit or investigation must not give the commissioner information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

(4) A person who is given a notice under section 38 must not give the commissioner information, or a document containing information, the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

(5) Subsection (3) or (4) does not apply to a person who, when giving a document—

(a) tells the commissioner, to the best of the person's ability, how the information is false or misleading; and

(b) if the person has, or can reasonably get, the correct information—gives the correct information to the commissioner.

#### **40 Power to refuse to investigate complaint**

(1) This section applies if a person makes a complaint to the commission about a matter relevant to a code of racing.

(2) The commissioner may refuse to investigate the complaint or, having started to investigate the complaint, may refuse to continue the investigation if—

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- (a) the matter is being investigated by another entity; or
  - (b) the commissioner is reasonably satisfied—
    - (i) it is appropriate for another entity to investigate the matter; or
    - (ii) the complaint is about a frivolous matter or was made vexatiously.
- (3) If the commissioner refuses to investigate or continue to investigate a complaint under subsection (2), the commissioner must prepare a report stating—
- (a) the reasons the commissioner refused to investigate or to continue to investigate the complaint; and
  - (b) whether the commissioner is likely to investigate or continue to investigate the complaint in the future; and
  - (c) any other matter the commissioner considers reasonable to include in the report.
- (4) The commissioner must give a copy of the report to the Minister.

## **Part 6 Reporting and accountability**

### **Division 1 Reporting generally**

#### **41 Quarterly reports**

- (1) The commission must give the Minister a report on its operations for each quarter in a financial year.
- (2) A quarterly report must be given to the Minister—
  - (a) within 6 weeks after the end of the quarter; or
  - (b) if another period after the end of the quarter is agreed between the commission and the Minister—within the agreed period.

- (3) A quarterly report must contain the information required to be given in the report under the commission's operational plan.
- (4) In this section—  
*quarter*, in a financial year, means the following periods in the year—
  - (a) 1 July to 30 September;
  - (b) 1 October to 31 December;
  - (c) 1 January to 31 March;
  - (d) 1 April to 30 June.

## **42 Commission to keep Minister informed**

The commission must—

- (a) keep the Minister reasonably informed of its operations, financial performance and financial position and its achievement of the objectives in its strategic and operational plans; and
- (b) immediately inform the Minister of any matters that arise that, in the commission's opinion, may—
  - (i) prevent, or significantly affect, achievement of the objectives in its strategic and operational plans; or
  - (ii) significantly impact on public confidence in the integrity of the Queensland racing industry.

## **43 Reporting to department**

- (1) The Minister may act under this section for the purpose of monitoring, assessing or reporting on the commission's performance of its functions.
- (2) The Minister may require the commission to report to the department by, for example, giving stated information at stated times to the chief executive.
- (3) The commission must comply with the requirement.

#### **44 Other reporting requirements**

Sections 42 and 43 do not limit the matters of which the commission is required to keep the Minister informed, or limit the reports or information that the commission is required, or may be required, to give under another Act.

### **Division 2 Annual reports**

#### **45 Annual report**

- (1) The annual report for a financial year must contain details of the operations of the commission during the financial year.
- (2) Without limiting subsection (1), the annual report must contain the following—
  - (a) a review of the work undertaken by the commission during the financial year; and
  - (b) proposals, if any, for improving the operations of the commission; and
  - (c) a forecast of the work of the commission for the following financial year.
- (3) In this section—

*annual report* means the commission's annual report under the *Financial Accountability Act 2009*.

### **Division 3 Strategic and operational plans**

#### **46 Interaction with the Financial Accountability Act 2009**

- (1) If something is required to be done under this division and the same thing, or something to the same effect, is required to be done under the *Financial Accountability Act 2009*, compliance with this division is sufficient compliance with the *Financial Accountability Act 2009*.

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- (2) Otherwise, the requirements under this division are in addition to the requirements under the *Financial Accountability Act 2009*.
- (3) If there is an inconsistency between this division and the *Financial Accountability Act 2009*, this division prevails to the extent of the inconsistency.

#### **47 Draft strategic and operational plans**

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

#### **48 Procedures**

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

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#### **49 Strategic or operational plan pending agreement**

- (1) This section applies if the Minister and the commission have not agreed to the draft strategic or operational plan before the start of the relevant financial year.
- (2) The draft plan given, or last given, by the commission to the Minister before the start of the financial year, with any modifications made by the commission, whether before or after that time, at the direction of the Minister, is taken to be the commission's strategic or operational plan.
- (3) Subsection (2) applies until a draft strategic or operational plan becomes the commission's strategic or operational plan under section 50.

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

When the draft strategic or operational plan has been agreed to in writing by the Minister, it becomes the commission's strategic or operational plan for the relevant financial year.

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

The commission must comply with its strategic and operational plans for a financial year.

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

- (1) The commission may modify its strategic or operational plan only with the written agreement of the Minister.
- (2) The Minister may, by written notice, direct the commission to modify its strategic or operational plan.

#### **53 Content of strategic and operational plans**

- (1) The commission's strategic plan for a financial year must include the matters prescribed by regulation.
- (2) The commission's operational plan for a financial year must include the matters prescribed by regulation.

## Part 6A Information sharing

### 53A Exchange of information

- (1) The commission may enter into an arrangement (an *information-sharing arrangement*) with a relevant agency for the purposes of sharing or exchanging information—
  - (a) held by the commission or the relevant agency; or
  - (b) to which the commission or the relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
  - (a) the commission perform the commission's functions under this Act; or
  - (b) the relevant agency perform its functions.
- (3) Under an information-sharing arrangement, the commission and the relevant agency are, despite another Act or law, authorised to—
  - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
  - (b) disclose information to the other party.
- (4) The commission may use criminal intelligence given to the commission by the police commissioner under an information-sharing arrangement only for monitoring compliance with this Act.
- (5) In this section—

*information* does not include information given to the commission or a relevant agency, or to which the commission or relevant agency has access, under the *Crime and Corruption Act 2001*.

*relevant agency* means the following—

  - (a) the police commissioner;

- (b) the chief executive of a department;
- (c) a local government;
- (d) a person prescribed by regulation.

## **Part 7 Administration**

### **54 Funding**

- (1) The cost of the performance of the commission's functions is to be funded mainly by the control bodies.
- (2) The chief executive must—
  - (a) decide the amount a control body must pay from time to time towards the cost of the performance of the commission's functions; and
  - (b) give the control body an invoice for the amount.
- (3) The amount of the invoice is payable 28 days after the control body receives the invoice.

### **55 Recovery of unpaid amounts**

If a control body does not pay an amount payable under section 54(3), the State may recover the amount from the control body as a debt.

### **56 Commission may charge fees for its services**

- (1) The commission may charge fees for services it provides as part of the performance of its functions.
- (2) A fee charged by the commission for its service, including matters relating to licensing, must reflect the reasonable cost to the commission of providing the service.
- (3) Despite subsection (1), the commission must not charge a fee for a service provided under this Act or the Racing Act to the Minister or the chief executive.

## **Chapter 3            Commission's functions in relation to codes of racing**

### **Part 1                Preliminary**

#### **57            Purpose of chapter**

- (1) The main purpose of this chapter is to provide for the way the commission may perform its functions in relation to each code of racing.
- (2) Generally, the commission performs its functions by making standards for each code of racing, particularly about the licensing scheme for controlling activities relating to animals and participants and about the way in which races are to be held for the code of racing.
- (3) The standards ensure there is guidance for persons involved in the code of racing and transparent decision-making relating to matters dealt with by the standards.

### **Part 2                Standards**

#### **Division 1            General provisions about standards**

#### **58            Standards for codes of racing**

- (1) The commission may make a standard for a code of racing if—
  - (a) the standard is required under this Act or a Ministerial direction; or
  - (b) the commission reasonably believes it is good management to have the standard.

- (2) A regulation may prescribe that the commission must make a standard for a particular matter and the provisions to be included in the standard for the matter.

## **59 Form of standards**

- (1) A standard must state the following—
  - (a) its name;
  - (b) the day the commission made the standard;
  - (c) the day it takes effect;
  - (d) its purpose;
  - (e) who will be affected by it;
  - (f) how the commission will make decisions about matters provided for by the standard;
  - (g) whether the standard will provide for matters about rules of racing.
- (2) The commission makes a standard when the standard is approved by the commissioner.
- (3) A standard can not take effect on a day earlier than the day the commissioner approves the standard.
- (4) If the commission wishes to amend a standard, it must make a new standard.

## **60 Availability of standards**

- (1) The commission must ensure each standard is publicly available.
- (2) Without limiting subsection (1), the commission must, for each of the standards—
  - (a) give a copy of the standard to the chief executive and each control body within 14 days after it makes the standard; and

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- (b) make the standard available for inspection, free of charge, at its business address during its ordinary office hours and on its website; and
- (c) if a person asks for a copy of the standard, give the person a copy on payment of a fee that is no more than the reasonable cost of providing the copy.

## **61 Application of standards**

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

## **62 Standards are statutory instruments**

A standard is a statutory instrument.

# **Division 2 Standards for licensing schemes**

## **63 Purposes of licensing schemes**

The purposes of the licensing scheme for a code of racing are to ensure—

- (a) the integrity of racing activities conducted as part of the code; and
- (b) the safety of persons involved in racing or training licensed animals; and
- (c) the welfare of licensed animals while involved in racing or training, or activities associated with racing or training.

## **64 Standards for licensing schemes for codes of racing**

- (1) The commission must make a standard for a licensing scheme for each code of racing.

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- (2) In developing the standard for a licensing scheme for a code of racing, the commission must consider the privileges and duties that are to attach to a licence it issues and other matters relevant to an effective licensing scheme.

## **65 Standards for a licensing scheme—mandatory matters**

- (1) The standard for a licensing scheme must provide for all of the following matters—
- (a) the licences the commission may issue for each code of racing, including identifying the activities for which a licence is required;
  - (b) the way a person may apply for a licence, having regard to section 67;
  - (c) the criteria for each type of licence, including appropriate qualifications for, and disqualifications from, obtaining the licence;
  - (d) the way the commission will deal with an application for a licence, including the applicant's right to make further submissions relating to the application;
  - (e) the grant, issue and form of a licence, including, for example, whether the licence is to include a photograph of the licensee;
  - (f) the giving of an information notice about a decision relating to an application;
  - (g) the duration of a licence, its renewal and the procedure for surrendering it;
  - (h) how and when the suitability of licensed animals and participants will be audited to decide if a licensed animal or participant continues to be suitable to be licensed;
  - (i) the grounds for taking disciplinary action relating to a licence in relation to matters dealt with in the rules of racing for the code of racing for which the licence is issued or as mentioned in subsection (3);

- (j) when and how a licence may be immediately suspended to protect the safety of persons or welfare of animals;
  - (k) how disciplinary action relating to a licence, other than immediate suspension, must be taken, including the following—
    - (i) the procedure for giving a licence holder notice of the grounds for taking the disciplinary action;
    - (ii) the proposed action;
    - (iii) the way the licence holder may make submissions about the proposed action;
  - (l) keeping a register of licences and correcting the register;
  - (m) exhibiting and producing a licence;
  - (n) replacing a lost licence;
  - (o) requiring a licence holder to give the commission notice of—
    - (i) a change of address; or
    - (ii) a change to the place for the keeping of a licensed animal; or
    - (iii) if the licence holder is a corporation—a change to the corporation's executive officers;
  - (p) serving notices on licence holders;
  - (q) the fees payable to the commission, including fees payable in relation to licensing for each code of racing.
- (2) The standard for a licensing scheme must also provide that, after auditing a licensed animal or participant, if the commission is not satisfied it is suitable to continue to be licensed, the commission must take disciplinary action relating to the licence.
- (3) This section does not limit section 64.

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## 66 Standards for a licensing scheme—discretionary matters

- (1) The standard for a licensing scheme may provide for the following matters—
  - (a) whether an applicant for a licence is required to give notice about the application by advertisement in a newspaper, in another publication or by a sign placed on land, because of the particular nature of the licence;
  - (b) whether there is provision for provisional or temporary licences;
  - (c) the attaching of conditions to the grant of a licence, including, for example, that the licence may allow access to the licence holder's place of business or where a licensed animal is kept.
- (2) The standard for a licensing scheme may also provide for matters relating to an offcourse approval held by a racing bookmaker that are relevant to an effective licensing scheme.
- (3) This section does not limit section 64.

## 67 Application for licence

- (1) The standard for a licensing scheme must require a person who wishes to obtain a licence for an animal or participant (the *proposed licensee*) to apply for the licence in the approved form.
- (2) To the extent it is relevant to the application for the licence, the application must include all of the following—
  - (a) the type of licence applied for;
  - (b) the type of work or activity to be performed by the proposed licensee;
  - (c) particulars of the proposed licensee;
  - (d) if the proposed licensee is an individual—appropriate training courses completed, or appropriate experience obtained, by the proposed licensee.

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- (3) The standard for a licensing scheme may require an application for a licence to be accompanied by a copy of a national police certificate for—
  - (a) if the applicant is an individual—the individual; or
  - (b) if the applicant is a corporation—each executive officer of the corporation.
- (4) If a national police certificate is required under subsection (3), the commission may consider all convictions stated in the national police certificate as relevant to the application for the licence.
- (5) In this section—

*national police certificate* means a document known as a national police certificate and available from the police commissioner.

## **68 Licences may not be transferred**

The standard for a licensing scheme must not allow a person who is licensed to transfer the licence to another person.

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

### **69 Same animal or participant may be licensed for multiple codes of racing**

This Act does not prevent an animal or participant licensed for a code of racing being licensed for another code of racing.

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## Chapter 4 Racing bookmakers

### Part 1 Requirements for racing bookmakers' licences and for related matters

#### 70 Requirement to hold racing bookmaker's licence or approval

- (1) A person must not carry on bookmaking for a code of racing at any time at a licensed venue unless—
- (a) the person is a racing bookmaker for the code of racing; and
  - (b) the control body for the code of racing is managing the venue at the time; and
  - (c) the commission is exercising control at the venue at the time.

Maximum penalty—600 penalty units.

- (2) A person must not carry on bookmaking at a place unless—
- (a) the person is a racing bookmaker who holds an offcourse approval for carrying on bookmaking at an approved place; and
  - (b) the place is an approved place for the offcourse approval.

Maximum penalty—600 penalty units.

- (3) A racing bookmaker for a code of racing who is an individual must, unless the individual has a reasonable excuse, have the individual's licence with the individual at all times the individual is carrying on bookmaking at a licensed venue when—
- (a) the control body for the code of racing is managing the venue; and

(b) the commission is exercising control at the venue.

Maximum penalty—40 penalty units.

- (4) A racing bookmaker who is an individual and holds an offcourse approval for carrying on bookmaking at an approved place must have the individual's approval with the individual at all times the individual is carrying on bookmaking at the approved place, unless the individual has a reasonable excuse.

Maximum penalty—40 penalty units.

- (5) A licensed executive officer of a corporation that is a racing bookmaker for a code of racing must, unless the officer has a reasonable excuse, have the corporation's licence, or a certified copy of the corporation's licence, with the officer at all times the officer is carrying on bookmaking for the corporation at a licensed venue when—

(a) the control body for the code of racing is managing the venue; and

(b) the commission is exercising control at the venue.

Maximum penalty—40 penalty units.

- (6) A licensed executive officer of a corporation that is a racing bookmaker and holds an offcourse approval for carrying on bookmaking at an approved place must have the corporation's approval, or a certified copy of the corporation's approval, with the officer at all times the officer is carrying on bookmaking for the corporation at the approved place, unless the officer has a reasonable excuse.

Maximum penalty—40 penalty units.

## **71 Requirement for racing bookmaker to hire licensed clerk**

- (1) A racing bookmaker for a code of racing must not, at a licensed venue, employ someone else in the conduct of the racing bookmaker's business unless—

(a) the other person is a racing bookmaker's clerk; and

- (b) the control body for the code of racing is managing the venue at the time; and
- (c) the commission is exercising control at the venue at the time.

Maximum penalty—200 penalty units.

- (2) A racing bookmaker for a code of racing who holds an offcourse approval for carrying on bookmaking at an approved place must not, at the approved place, employ someone else in the conduct of the racing bookmaker's business unless the other person is a racing bookmaker's clerk for that code of racing.

Maximum penalty—200 penalty units.

- (3) A racing bookmaker that is a corporation does not commit an offence against subsection (1) or (2) merely because a licensed executive officer of the corporation carries on bookmaking for the corporation.

## **72 Requirement to hold licence as racing bookmaker's clerk**

- (1) A person must not be employed by a racing bookmaker for a code of racing at a licensed venue in the conduct of the racing bookmaker's business unless the person—
  - (a) is a racing bookmaker's clerk for the code of racing; or
  - (b) if the racing bookmaker is a corporation—is a licensed executive officer of the corporation and carrying on bookmaking for the corporation.

Maximum penalty—200 penalty units.

- (2) A person must not be employed by a bookmaker for a code of racing who holds an offcourse approval for carrying on bookmaking at an approved place in the conduct of the racing bookmaker's business unless the person—
  - (a) is a racing bookmaker's clerk for the code of racing; or

- (b) if the racing bookmaker is a corporation—is a licensed executive officer of the corporation and carrying on bookmaking for the corporation.

Maximum penalty—200 penalty units.

- (3) A racing bookmaker's clerk at a licensed venue must have the person's licence with the person at all times the person is employed by a racing bookmaker in the conduct of the racing bookmaker's business at the licensed venue, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (4) Subsection (5) applies in relation to a racing bookmaker who holds an offcourse approval for carrying on bookmaking at an approved place.
- (5) A person who is a racing bookmaker's clerk at the approved place must have the person's licence with the person at all times the person is employed by the racing bookmaker in the conduct of the racing bookmaker's business at the approved place, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—40 penalty units.

### **73 Requirement to produce licence or approval**

- (1) A racing bookmaker who is an individual and who is, or appears to be, carrying on bookmaking at a licensed venue must produce the person's licence to an official of the commission or of the control body that is managing the venue if asked to do so by the official, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) Subsection (3) applies to a racing bookmaker who—
- (a) is an individual; and
- (b) holds an offcourse approval for carrying on bookmaking at an approved place; and

(c) is, or appears to be, carrying on bookmaking at the approved place.

- (3) The racing bookmaker must produce the person's offcourse approval to an official of the commission if asked to do so by the official, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (4) A licensed executive officer of a corporation that is a racing bookmaker and who is, or appears to be, carrying on bookmaking for the corporation at a licensed venue must produce the corporation's licence, or a certified copy of the corporation's licence, to an official of the commission or of the control body that is managing the venue if asked to do so by the official, unless the officer has a reasonable excuse.

Maximum penalty—40 penalty units.

- (5) Subsection (6) applies to a licensed executive officer of a corporation that is a racing bookmaker and holds an offcourse approval for carrying on bookmaking at an approved place and who is, or appears to be, carrying on bookmaking for the corporation at the approved place.

- (6) The executive officer must produce the corporation's approval, or a certified copy of the corporation's approval, to an official of the commission if asked to do so by the official, unless the officer has a reasonable excuse.

Maximum penalty—40 penalty units.

- (7) A racing bookmaker's clerk who is, or appears to be, employed in the conduct of a racing bookmaker's business at a licensed venue must produce the person's licence to an official of the commission or of the control body that is managing the venue if asked to do so by the official, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (8) Subsection (9) applies in relation to a racing bookmaker who holds an offcourse approval for carrying on bookmaking at an approved place.

- (9) A racing bookmaker's clerk who is, or appears to be, employed in the conduct of the racing bookmaker's business at the approved place must produce the person's licence to an official of the commission if asked to do so by the official, unless the person has a reasonable excuse.

Maximum penalty for subsection (9)—40 penalty units.

#### **74 Requirement for commission to ensure particular persons have current licences**

The commission must ensure that, unless a person has a current appropriate licence with the person at the time, the person is not permitted, at any time, to carry on bookmaking for a code of racing, or to be employed by a racing bookmaker for a code of racing in the conduct of a racing bookmaker's business, at a race meeting held at a licensed venue when—

- (a) the control body for the code of racing is managing the venue; and
- (b) the commission is exercising control at the venue.

#### **75 Unlawful bookmaking by racing bookmaker**

- (1) A racing bookmaker for a code of racing must not carry on bookmaking at a place unless—
- (a) when the racing bookmaker carries on the bookmaking, the place is a licensed venue managed by the control body for the code of racing and at which the commission is exercising control; and
  - (b) at the place when the racing bookmaker is carrying on bookmaking—
    - (i) a race meeting is being held under this Act; and
    - (ii) betting with racing bookmakers may take place, under a direction given by the steward who is in charge of the race meeting.

Maximum penalty—600 penalty units or 2 years imprisonment.

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- (2) However, a racing bookmaker does not commit an offence against subsection (1) if—
- (a) the racing bookmaker holds an offcourse approval for carrying on bookmaking at an approved place; and
  - (b) the place where the racing bookmaker carries on bookmaking is an approved place for the offcourse approval; and
  - (c) the bookmaking is carried on at the place at a time permitted under the offcourse approval.

## 76 Requirements for betting by racing bookmakers

- (1) This section applies to a racing bookmaker at a race meeting held at a licensed venue (the *first venue*) when—
- (a) a control body (the *first control body*) is managing the venue; and
  - (b) the commission is exercising control at the venue.
- (2) The racing bookmaker must not make a bet on a contest, contingency or event other than—
- (a) a race to be decided at the first venue; or
  - (b) a race to be decided at another race meeting at another licensed venue managed by a control body and at which the commission is exercising control; or
  - (c) a sporting contingency declared, under section 141, by the first control body as a declared sporting contingency; or
  - (d) a contest, contingency or event at a meeting for the racing of animals held outside Queensland that is managed by an entity with which the first control body has entered into an arrangement as mentioned in the Racing Act, section 82(2)(k) and at which the commission is exercising control.

Maximum penalty—400 penalty units.

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- (3) Subject to section 135, the racing bookmaker must not make a bet with a person who is not present at the first venue at the time the bet is made.

Maximum penalty—400 penalty units.

**77 Special requirements for betting by racing bookmaker who holds offcourse approval**

A racing bookmaker for a code of racing who holds an offcourse approval must not make a bet on a contest, contingency or event other than—

- (a) a race to be decided at a race meeting at a licensed venue managed by the control body for the code of racing and at which the commission is exercising control; or
- (b) a sporting contingency declared, under section 141, by the control body for that code of racing as a declared sporting contingency; or
- (c) a contest, contingency or event at a meeting for the racing of animals held outside Queensland that is managed by an entity with which the control body for the code of racing has entered into an arrangement as mentioned in the Racing Act, section 82(2)(k) and at which the commission is exercising control.

Maximum penalty—400 penalty units.

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## **Part 2                      Licensing of persons as racing bookmakers**

### **Division 1                Applications for racing bookmaker's licences**

#### **78        Applications**

An application for a racing bookmaker's licence may be made only by an adult or a corporation.

#### **79        Requirements about applications**

- (1) An application for a racing bookmaker's licence must be made to the commission in the approved form.
- (2) The application must be accompanied by—
  - (a) the application fee prescribed by regulation; and
  - (b) if the applicant is an individual—a consent, in the approved form, signed by the individual for the following—
    - (i) the individual's fingerprints to be taken for the commission;
    - (ii) information about the individual to be obtained by the commission;
    - (iii) the individual's background to be investigated by the commission; and
  - (c) if the applicant is a corporation—a consent, in the approved form, signed by each person the applicant considers is a business associate or an executive associate of the corporation for each of the following—
    - (i) if the associate is an individual—the associate's fingerprints to be taken for the commission;

- (ii) information about the associate to be obtained by the commission;
  - (iii) the associate's background to be investigated by the commission; and
- (d) if the applicant is a corporation—the corporation's agreement to obtain a consent of the type mentioned in paragraph (c) for a person whom the commission reasonably believes to be a business associate or an executive associate of the corporation but whose consent does not accompany the application.

## **80 Further information or documents to support application**

- (1) The commission may, by notice given to the applicant, require the applicant to give the commission, within the reasonable period of at least 28 days stated in the notice, further information or a document the commission reasonably requires to decide the application.
- (2) When making the requirement, the commission must warn the applicant that the application will not be considered further until the requirement is complied with, unless the person has a reasonable excuse for the failure to comply.

## **Division 2 Suitability of applicants and associates**

### **81 Suitability of applicants for racing bookmaker's licence**

- (1) This section applies to the commission in deciding whether an applicant for a racing bookmaker's licence is a suitable person to hold a racing bookmaker's licence.
- (2) The commission may have regard to all of the following matters—
  - (a) the applicant's character or business reputation;

- (b) the applicant's current financial position and financial background;
- (c) if the applicant has a business association with another entity—
  - (i) the other entity's character or business reputation; and
  - (ii) the other entity's current financial position and financial background;
- (d) if the applicant is a corporation—the persons who have a substantial holding in the applicant, or in a corporation that is a holding company of the applicant.

## **82 Suitability of business and executive associates**

- (1) This section applies to the commission in deciding whether a business associate or an executive associate of an applicant for a racing bookmaker's licence is a suitable person to be associated with the applicant.
- (2) The commission may have regard to all of the following matters—
  - (a) the associate's character or business reputation;
  - (b) the associate's current financial position and financial background;
  - (c) if the associate has a business association with another entity—
    - (i) the other entity's character or business reputation; and
    - (ii) the other entity's current financial position and financial background;
  - (d) if the associate is a corporation—the persons who have a substantial holding in the associate, or in a corporation that is a holding company of the associate.

### **83 Other matters about suitability**

- (1) Sections 81 and 82 do not limit the matters the commission may have regard to in deciding matters to which the sections relate.
- (2) However, the commission may not have regard to criminal intelligence given by the police commissioner to the commission under section 53A when deciding the matters to which sections 81 and 82 relate.

## **Division 3 Dealing with applications**

### **84 Taking fingerprints**

- (1) On receipt of the application, and compliance by the applicant with this part in relation to the application, the commission must—
  - (a) for an application by an individual—cause the fingerprints to be taken of the applicant; and
  - (b) for an application by a corporation—cause the fingerprints to be taken of each of the business associates and executive associates of the applicant, who is an individual.
- (2) The commission may also cause the fingerprints to be taken of an individual who has consented, as mentioned in section 79(2)(d), to the individual's fingerprints being taken.
- (3) However, if the commission is satisfied an individual's fingerprints are already held by the commission, the commission need not cause the individual's fingerprints to be taken under this section.

### **85 Consideration of application**

- (1) The commission must consider the application and either grant or refuse to grant the application.

- (2) However, the commission is not required to decide the application if—
- (a) the commission has given a person a notice under section 80 or 90 relating to the application requiring the person to give the commission information or a document as stated in the section; and
  - (b) the person has failed, without reasonable excuse, to comply with the requirement within the period stated in the notice.

## **86 Conditions for granting application**

The commission may grant the application only if the commission is satisfied—

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

## **87 Investigation of suitability of persons**

- (1) The commission may investigate the applicant to help the commission decide whether the applicant is a suitable person to be a licence holder.
- (2) The commission may investigate a business associate or an executive associate of the applicant to help the commission decide whether the associate is a suitable person to be associated with the applicant.

## **89 Criminal history reports for investigations**

- (1) If the commission, in investigating a person under section 87, asks the police commissioner for a written report on the person's criminal history, including whether the person is, or has been, the subject of a control order or registered

corresponding control order, the police commissioner must give the report to the commission.

- (2) The report is to contain—
  - (a) the person's criminal history; and
  - (b) a brief description of the circumstances of a conviction mentioned in the person's criminal history.
- (3) However, the duty imposed on the police commissioner applies only to information in the police commissioner's possession or to which the police commissioner has access.
- (4) A report under subsection (2) must, if the person is, or has been, the subject of a control order or registered corresponding control order—
  - (a) state the details of the order; or
  - (b) be accompanied by a copy of the order.

## **90 Requirement of associate to give information or document for investigation**

- (1) In investigating a business associate or an executive associate of an applicant, the commission may, by notice given to the associate, require the associate to give the commission, within the reasonable period of at least 28 days stated in the notice, information or a document the commission reasonably believes is relevant to the investigation.
- (2) When making the requirement, the commission must—
  - (a) warn the associate that the application for the racing bookmaker's licence will not be considered further until the requirement is complied with; and
  - (b) give the applicant a copy of the notice.

## **91 Decision on application**

- (1) If the commission grants an application for a racing bookmaker's licence, the commission must give the applicant the licence.

- (2) If the commission refuses to grant an application for a racing bookmaker's licence, the commission must give the applicant an information notice about the decision.

## **92 Form of racing bookmaker's licence**

A racing bookmaker's licence is to be in the approved form.

## **93 What corporate licence must include**

- (1) A racing bookmaker's licence for a corporation must state the name of each executive officer of the corporation who may carry on bookmaking for the corporation under the licence.
- (2) The commission must not, under subsection (1), state an executive officer's name in the licence unless the executive officer—
  - (a) has been investigated by the commission and found suitable to be associated with the licence holder; and
  - (b) is a person whom the commission reasonably believes has the experience and knowledge necessary to properly carry on bookmaking for the corporation under the licence.

## **94 Period for which racing bookmaker's licence has effect**

A racing bookmaker's licence continues to have effect until the earlier of the following happens—

- (a) the licence is cancelled under section 106;
- (b) a surrender of the licence takes effect under section 111.

## **Division 4                      Investigations of racing bookmakers and associates**

### **95            Audit program**

- (1) The commission may approve an audit program for investigating racing bookmakers, and the business associates and executive associates of racing bookmakers.
- (2) The commission is responsible for ensuring that investigations of racing bookmakers, and the business associates and executive associates of racing bookmakers, are conducted under the audit program.

### **96            Investigations into suitability of licence holder**

- (1) The commission may investigate a licence holder to find out whether the licence holder is a suitable person to hold, or to continue to hold, a racing bookmaker's licence.
- (2) The commission may investigate the licence holder under this section only if—
  - (a) the commission reasonably suspects the licence holder is not, or is no longer, a suitable person to hold a racing bookmaker's licence; or
  - (b) the investigation is made under an audit program approved by the commission.

### **97            Investigation into suitability of associate of licence holder**

- (1) The commission may investigate a business associate or an executive associate of a licence holder to decide whether the associate is a suitable person to be, or to continue to be, associated with the licence holder's operations.
- (2) The commission may investigate a business associate or an executive associate of a licence holder under this section only if—

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- (a) the commission reasonably suspects the associate is not, or is no longer, a suitable person to be associated with a licence holder's operations; or
  - (b) the investigation is part of an investigation under this division of the licence holder in relation to whom the associate is a business associate or an executive associate; or
  - (c) the investigation is made under an audit program approved by the commission; or
  - (d) the associate became a business associate or an executive associate of the licence holder after the issue of the racing bookmaker's licence to the licence holder; or
  - (e) the associate has not been investigated previously under an audit program mentioned in paragraph (c).

## **98 Criminal history report for investigation**

- (1) If the commission in investigating a person under section 96, 97 or 110(2) asks the police commissioner for a written report on the person's criminal history, including whether the person is, or has been, the subject of a control order or registered corresponding control order, the commissioner must give the report to the commission.
- (2) The report is to contain—
  - (a) the person's criminal history; and
  - (b) a brief description of the circumstances of a conviction mentioned in the person's criminal history.
- (3) However, the duty imposed on the police commissioner applies only to information in the commissioner's possession or to which the commissioner has access.
- (4) A report under subsection (2) must, if the person is, or has been, the subject of a control order or registered corresponding control order—
  - (a) state the details of the order; or

- (b) be accompanied by a copy of the order.

**99 Requirement to give information or document for investigation**

- (1) In investigating a licence holder, or a business associate or an executive associate of a licence holder, the commission may, by notice given to the person, require the person to give the commission information or a document the commission reasonably believes is relevant to the investigation.
- (2) The notice must state a reasonable period of at least 28 days within which the person must comply with the requirement.
- (3) When making the requirement, the commission must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

**100 Failure to give information or document for investigation**

- (1) A person of whom a requirement is made under section 99 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.
- (3) The person does not commit an offence against this section if the information or document sought by the commission is not in fact relevant to the investigation.

**Division 5 Cancellation of racing bookmaker's licences**

**101 Grounds for cancellation**

- (1) A ground for cancelling a racing bookmaker's licence exists if the licence holder—

- (a) is not a suitable person to hold a racing bookmaker's licence; or
  - (b) is convicted for an offence against—
    - (i) this Act or the Racing Act; or
    - (ii) a law of another State, that is prescribed by regulation as a law about racing or betting; or
  - (c) is convicted of an indictable offence against another Act or law; or
  - (d) contravenes a provision of this Act, whether or not a penalty is provided for the provision; or
  - (e) is affected by bankruptcy action.
- (2) Also, a ground for cancelling a racing bookmaker's licence exists if—
- (a) the racing bookmaker's licence was granted because of a materially false or misleading representation or declaration; or
  - (b) a business associate or an executive associate of the licence holder is not a suitable person to be associated with a licence holder.
- (3) Criminal intelligence given by the police commissioner to the commission under section 53A can not be the basis of the ground for the cancellation of a racing bookmaker's licence.

### 103 Show cause notice

- (1) The commission must give a licence holder a notice (a *show cause notice*) if the commission reasonably believes—
- (a) a ground exists to cancel the licence holder's racing bookmaker's licence; and
  - (b) the act, omission or other thing forming the ground is of a serious and fundamental nature; and
  - (c) the public interest may be affected in an adverse and material way.

- (2) The show cause notice must state the following—
  - (a) the action (the *proposed action*) the commission proposes taking under this division;
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) that the licence holder may, within a stated period (the *show cause period*), make submissions to the commission to show why the proposed action should not be taken.
- (3) The show cause period must end at least 28 days after the licence holder is given the show cause notice.
- (4) The licence holder may, in the show cause period, make submissions to the commission about the show cause notice.

#### **104 Consideration of submission**

The commission must consider any submissions made by the licence holder in the show cause period.

#### **105 Ending show cause process without further action**

If, after considering the submissions for the show cause notice, the commission no longer believes a ground exists to cancel the racing bookmaker's licence, the commission must—

- (a) take no further action about the show cause notice; and
- (b) give a notice to the licence holder that no further action is to be taken.

#### **106 Cancellation**

- (1) The commission may cancel the racing bookmaker's licence if—
  - (a) there are no submissions for the show cause notice; or

- 
- (b) after considering the submissions for the show cause notice, the commission still believes—
    - (i) a ground exists to cancel the racing bookmaker’s licence; and
    - (ii) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
    - (iii) the public interest may be affected in an adverse and material way.
  - (2) The commission must immediately give the licence holder an information notice about the decision to cancel the racing bookmaker’s licence.
  - (3) The information notice must include—
    - (a) a direction to the licence holder to return the racing bookmaker’s licence to the commission within 14 days after the cancellation; and
    - (b) a warning to the licence holder that, without a reasonable excuse, it is an offence to fail to comply with the direction.
  - (4) The decision takes effect on the later of the following—
    - (a) the day the information notice is given to the licence holder;
    - (b) the day of effect stated in the information notice.

## **107 Return of cancelled racing bookmaker’s licence**

- (1) A person must comply with a direction to the person under section 106(3)(a) unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) If a person is unable to comply with subsection (1) because the person’s racing bookmaker’s licence has been lost or destroyed, the person must, within 14 days after the cancellation, give the commission a statutory declaration stating details of the loss or destruction.

Maximum penalty—40 penalty units.

- (3) A person does not commit an offence against subsection (1) if the person is not given a warning that, without a reasonable excuse, it is an offence to fail to comply with the direction.

## **108 Censuring licence holder**

- (1) This section applies if the commission—
  - (a) reasonably believes a ground exists to cancel a racing bookmaker’s licence but does not believe that giving a show cause notice is warranted; or
  - (b) after considering the submissions for a show cause notice, still believes a ground exists to cancel a racing bookmaker’s licence but does not believe cancellation of the licence is warranted.
- (2) The commission may censure the licence holder for a matter relating to the ground for cancellation.
- (3) The censure can be effected only by the commission giving the licence holder an information notice about the decision to censure the holder.

## **Division 6 Other matters relating to licensing**

### **109 Corporate licence holder must advise commission of change in executive officers or persons with substantial holdings**

- (1) This section applies to a licence holder that is a corporation.
- (2) Within 14 days after either of the following changes, the licence holder must give the commission notice of the change—
  - (a) a change to the persons who are executive officers of the corporation;
  - (b) a change to the persons who have substantial holdings in the corporation, or a holding company of the corporation.

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Maximum penalty—100 penalty units.

**110 Commission may amend racing bookmaker's licence to show change in executive officers**

- (1) This section applies if a licence holder has given the commission notice under section 109(2)(a) and asks the commission to amend the racing bookmaker's licence to omit or include a person as an executive officer of the corporation.
- (2) The commission may investigate the executive officer for the purpose of deciding whether to grant the request.
- (3) However, the commission must not include the name of an executive officer in the licence unless the commission has investigated the executive officer and found the person to be suitable to be associated with the licence holder.

**111 Surrender of racing bookmaker's licence**

- (1) A licence holder may surrender the holder's racing bookmaker's licence by notice given to the commission.
- (2) The surrender of the racing bookmaker's licence takes effect—
  - (a) on the day the notice is given to the commission; or
  - (b) if a later day of effect is stated in the notice—on the later day.
- (3) The commission must give each control body notice of the surrender.

**112 Destruction of fingerprints**

- (1) After the commission refuses to grant an application for a racing bookmaker's licence or a racing bookmaker's licence is surrendered or cancelled, the commission must destroy the fingerprints of any individual who is—
  - (a) the applicant or licence holder; or

- (b) a business associate or an executive associate of the applicant or licence holder.
- (2) Also, if the commission is reasonably satisfied an individual who was a business associate or an executive associate of an applicant or licence holder is no longer a business associate or an executive associate of the applicant or licence holder, the commission must destroy the individual's fingerprints.

## Part 3                      **Offcourse approvals for racing bookmakers**

### Division 1                **Applications for, and granting of, offcourse approvals**

#### 116    **Application for offcourse approval**

- (1) A racing bookmaker may apply to the Minister for an approval (an *offcourse approval*) to carry on bookmaking at a place, other than a licensed venue, using a telecommunications system.
- (2) The application must be in the approved form and accompanied by each of the following—
  - (a) details of the place or places (each an *approved place*), other than a licensed venue, at which the racing bookmaker will carry on bookmaking using a telecommunications system;  
*Example of an approved place—*
    - the racing bookmaker's home or office
  - (b) details of the times during which the racing bookmaker will carry on bookmaking at the place or each of the places mentioned in paragraph (a);
  - (c) details of the number of race meetings, and the licensed venues for the race meetings, at which the racing

- bookmaker carried on bookmaking in person for the 12 months immediately before making the application;
- (d) details of the number of race meetings, and the licensed venues for the race meetings, at which the racing bookmaker proposes to carry on bookmaking in person for the 12 months immediately after the offcourse approval is granted;
  - (e) if the details mentioned in paragraph (d) differ from those mentioned in paragraph (c)—an explanation for the difference;
  - (f) an undertaking as to the minimum number of race meetings, and the licensed venues for the race meetings, at which the racing bookmaker will carry on bookmaking in person if the offcourse approval applied for is granted;
  - (g) the prescribed fee.

### **117 Further information or documents to support application**

- (1) The Minister may, by notice given to the applicant, require the applicant to give the Minister, within the reasonable period of at least 28 days stated in the notice, further information or a document the Minister reasonably requires to decide the application.
- (2) The applicant is taken to have withdrawn the application if the applicant does not comply with the notice.

### **118 Requirement of commission to give information or documents relating to application**

- (1) The Minister may, by notice given to the commission, require the commission to give the Minister, within the reasonable period of at least 28 days stated in the notice, information or a document the Minister reasonably considers is relevant to deciding the application.
- (2) The commission must comply with the notice.

### **119 Consideration of application**

- (1) In considering the application, the Minister must have regard to how often the applicant has undertaken to carry on bookmaking in person at race meetings at licensed venues.
- (2) The Minister may, by notice given to the applicant, ask the applicant to review the undertaking that accompanied the application and give the Minister, within the reasonable period of at least 28 days stated in the notice, a revised undertaking.
- (3) The applicant is taken to have withdrawn the application if the applicant does not comply with the notice.

### **120 Decision on application**

- (1) The Minister must consider the application and decide to—
  - (a) grant the offcourse approval; or
  - (b) refuse to grant the offcourse approval.
- (2) A grant of an offcourse approval is subject to the mandatory conditions, and may be subject to other conditions imposed by the Minister.

### **121 What are the *conditions* of an offcourse approval**

- (1) The *conditions* of a racing bookmaker's offcourse approval are—
  - (a) for a racing bookmaker who is an individual—the racing bookmaker must carry on bookmaking in person at a licensed venue in accordance with the accepted undertaking for the offcourse approval; and
  - (b) for a racing bookmaker who is a corporation—the executive officers of the racing bookmaker must carry on bookmaking in person at a licensed venue in accordance with the accepted undertaking for the offcourse approval; and
  - (c) an approved place for the offcourse approval must not be open to, or available for use by, the public; and

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- (d) a condition imposed by the Minister on the offcourse approval when granting the approval.
- (2) A condition mentioned in subsection (1)(a), (b) or (c) is a *mandatory condition* of the offcourse approval.

## 122 What is the *accepted undertaking* for an offcourse approval

- (1) The *accepted undertaking* for an offcourse approval is—
- (a) the undertaking that accompanied the application; or
  - (b) if the Minister asked the applicant under section 119(2) to review the undertaking—the revised undertaking.
- (2) However, if—
- (a) the offcourse approval is granted; and
  - (b) the racing bookmaker who holds the offcourse approval applies to the Minister to vary the accepted undertaking for the offcourse approval; and
  - (c) the Minister varies the accepted undertaking;
- the undertaking as varied is the *accepted undertaking* for the offcourse approval.

## 123 Notice of decision on application

The Minister must, as soon as practicable after deciding the application, give the applicant and the commission notice of the decision.

## Division 2 Cancellation of offcourse approval

### 124 Grounds for cancellation

Each of the following is a ground for cancelling a racing bookmaker's offcourse approval—

- (a) the racing bookmaker has contravened—

- (i) a condition of the offcourse approval; or
- (ii) the accepted undertaking for the offcourse approval;
- (b) the offcourse approval was granted because of a materially false or misleading representation or declaration;
- (c) the racing bookmaker has been convicted of an indictable offence or an offence against this Act or the Racing Act;
- (d) the racing bookmaker is affected by bankruptcy action.

## 125 Show cause notice

- (1) The Minister must give the racing bookmaker a notice under this section (a *show cause notice*) if the Minister reasonably believes—
  - (a) a ground exists to cancel the offcourse approval; and
  - (b) the act, omission or other thing forming the ground is of a serious and fundamental nature; and
  - (c) the public interest may be affected by the act, omission or other thing in an adverse and material way.
- (2) The show cause notice must state the following—
  - (a) the Minister proposes to cancel the offcourse approval;
  - (b) the grounds for the proposed cancellation;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) that the racing bookmaker may, within a stated period (the *show cause period*), make submissions to the Minister to show why the offcourse approval should not be cancelled.
- (3) The show cause period must end at least 28 days after the racing bookmaker is given the show cause notice.

- (4) The racing bookmaker may, in the show cause period, make submissions about the show cause notice to the Minister.

## **126 Involvement of commission in show cause process**

- (1) The Minister must immediately give the commission a copy of the show cause notice.
- (2) The commission may, in the show cause period, make submissions about the show cause notice to the Minister.

## **127 Consideration of submissions**

The Minister must consider all submissions made in the show cause period by each of the following—

- (a) the racing bookmaker;
- (b) the commission.

## **128 Ending show cause process without further action**

If, after considering the submissions for the show cause notice, the Minister no longer believes a ground exists to cancel the offcourse approval, the Minister must—

- (a) take no further action about the show cause notice; and
- (b) give to the following a notice that no further action about the show cause notice is to be taken—
- (i) the racing bookmaker;
- (ii) the commission.

## **129 Cancellation**

- (1) This section applies if, after considering the submissions for the show cause notice, the Minister—
- (a) still believes—
- (i) a ground exists to cancel the offcourse approval;  
and

- (ii) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
    - (iii) the public interest may be affected in an adverse and material way; and
  - (b) believes cancellation of the offcourse approval is warranted.
- (2) This section also applies if there are no submissions for the show cause notice.
- (3) The Minister may cancel the offcourse approval.
- (4) The Minister must immediately give the racing bookmaker an information notice about the decision to cancel the offcourse approval.
- (5) The notice must include—
- (a) a direction to the racing bookmaker to return the offcourse approval to the Minister within 14 days after the cancellation; and
  - (b) a warning to the racing bookmaker that, without a reasonable excuse, it is an offence to fail to comply with the direction.

### **130 Return of cancelled offcourse approval**

- (1) A person must comply with a direction to the person under section 129(5)(a) unless the person has a reasonable excuse.
- Maximum penalty—40 penalty units.
- (2) If the person is unable to comply with subsection (1) because the person's offcourse approval has been lost or destroyed, the person must, within 14 days after the cancellation, give the Minister a statutory declaration stating details of the loss or destruction.
- Maximum penalty—40 penalty units.
- (3) A person does not commit an offence against subsection (1) if the person is not given a warning that, without a reasonable excuse, it is an offence to fail to comply with the direction.

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**131 Automatic cancellation or suspension of offcourse approval**

- (1) Subsection (2) applies if—
  - (a) a person’s racing bookmaker’s licence is cancelled; and
  - (b) the person is the holder of an offcourse approval.
- (2) On the cancellation of the licence, the offcourse approval is cancelled.
- (3) Subsection (4) applies if—
  - (a) a person’s racing bookmaker’s licence is suspended; and
  - (b) the person is the holder of an offcourse approval.
- (4) On the suspension of the licence, the offcourse approval is suspended.

**132 Censuring racing bookmaker**

- (1) This section applies if the Minister reasonably believes—
  - (a) a ground exists to cancel the offcourse approval; but
  - (b) the giving of a show cause notice is not warranted.
- (2) The Minister may censure the racing bookmaker for a matter relating to the ground for cancellation.
- (3) The censure can be effected only by the Minister giving the racing bookmaker an information notice about the decision to censure the racing bookmaker.

**133 Notice to commission of decisions**

- (1) This section applies if the Minister decides to—
  - (a) cancel an offcourse approval under section 129; or
  - (b) censure the racing bookmaker under section 132.
- (2) The Minister must give the commission and each control body notice of the decision.

## **Division 3                      Immediate suspension of offcourse approval**

### **134      Immediate suspension of offcourse approval**

- (1) The Minister may suspend immediately an offcourse approval of a racing bookmaker if the Minister reasonably believes—
  - (a) a ground exists to cancel the offcourse approval; and
  - (b) the circumstances are so extraordinary that it is imperative to suspend the offcourse approval immediately to ensure the public interest in a code of racing is not adversely affected.
- (2) The suspension—
  - (a) can be effected only by the Minister giving the racing bookmaker an information notice about the decision to suspend the offcourse approval, together with a show cause notice; and
  - (b) operates immediately the information notice is given to the racing bookmaker; and
  - (c) continues to operate until the show cause notice is finally dealt with.

## **Part 3A                      Betting inducements and direct marketing**

### **134A    Definitions for part**

In this part—

*interactive betting account*, of a person, means an account—

- (a) in the name of the person with a racing bookmaker; and
- (b) that is accessible by means of a telecommunications system; and

- (c) against which the racing bookmaker has a right to debit the amount of a bet made by the person.

*interactive bettor* means a person who has an interactive betting account.

### 134B Prohibited inducements

A racing bookmaker or a person acting for a racing bookmaker must not offer, or cause to be offered, to a person who is in Queensland (a *relevant person*) any credit, voucher, reward or other benefit as an incentive for the relevant person—

- (a) to open an interactive betting account with the racing bookmaker; or
- (b) to refer another person to the racing bookmaker for the purpose of that person opening an interactive betting account with the racing bookmaker; or
- (c) to make bets through the racing bookmaker's telecommunications system; or
- (d) to refer another person to the racing bookmaker to make bets through the racing bookmaker's telecommunications system; or
- (e) not to close an interactive betting account with the racing bookmaker after the relevant person asks the racing bookmaker to close the account.

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—200 penalty units.

### 134C Betting using free bets

- (1) A racing bookmaker or a person acting for a racing bookmaker must not offer, or cause to be offered, a free bet to an interactive bettor who is in Queensland and has an interactive betting account with the racing bookmaker unless

the interactive bettor can withdraw payouts arising from the free bet at any time.

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—200 penalty units.

(2) In this section—

*free bet* see the *Betting Tax Act 2018*, section 7.

### 134D Restrictions on direct marketing

(1) A racing bookmaker or a person acting for a racing bookmaker must not send promotional or advertising material directly by email, SMS message or other direct means to a person who is in Queensland (a *relevant person*) unless—

- (a) the relevant person has given express and informed consent to receiving promotional or advertising material directly by that means; and
- (b) either—
  - (i) the relevant person has not withdrawn the consent; or
  - (ii) the relevant person has withdrawn the consent but the racing bookmaker or person is not aware of the withdrawal.

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—200 penalty units.

(2) If the relevant person has given consent to receiving promotional or advertising material, the racing bookmaker or a person acting for the racing bookmaker—

- (a) must provide the relevant person with a means to easily withdraw the consent at any time; and
- (b) if the relevant person attempts to withdraw the consent—must not offer, or cause to be offered, to the

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relevant person any credit, voucher, reward or other benefit as an incentive for the relevant person not to withdraw the consent.

Maximum penalty—

- (a) for an individual—20 penalty units; or
  - (b) for a corporation—200 penalty units.
- (3) If the racing bookmaker or a person acting for the racing bookmaker sends promotional or advertising material to the relevant person electronically, the racing bookmaker or person must provide a mechanism, including, for example, an electronic link, in the material allowing the relevant person to easily withdraw consent from receiving promotional or advertising material.

Maximum penalty—

- (a) for an individual—20 penalty units; or
  - (b) for a corporation—200 penalty units.
- (4) For this section, if the relevant person withdraws consent from receiving promotional or advertising material, the withdrawal takes effect 5 business days, or a shorter period prescribed by regulation, after the relevant person withdraws consent.

### **134E Obligation of racing bookmaker to identify person's location**

- (1) A racing bookmaker must, when receiving a bet made from an interactive betting account, take reasonable steps to identify the location of the person making the bet.

Maximum penalty—100 penalty units.

- (2) For complying with subsection (1), the racing bookmaker may rely on either of the following addresses as being the location of the person making the bet—
- (a) for an individual—an address given to the racing bookmaker by the individual as the individual's residential address;



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- (a) the commission has the system assessed by an entity that is independent of the commission and approved by the Minister; and
  - (b) the entity assessing the system gives the commission a report stating that the system is of a standard that will ensure the integrity of bets made and protect the money and privacy of persons placing bets.
- (3) The Minister may give the commission a written direction, if the Minister is reasonably satisfied it is in the best interests of the Queensland racing industry to give the direction—
- (a) to have a telecommunications system approved by the commission independently audited; and
  - (b) to give the Minister the results of the audit.
- (4) The commission must comply with a direction given under subsection (3).

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

- (1) For each code of racing for which a racing bookmaker is licensed, the racing bookmaker must have an insurance policy or bond, acceptable to the commission.
- (2) Without limiting subsection (1), an insurance policy or bond must—
  - (a) indemnify persons who bet with the racing bookmaker for amounts payable to the persons by the racing bookmaker; and
  - (b) include conditions required by the commission.
- (3) An insurance policy or bond acceptable to the commission under this section is an *accepted insurance policy or bond*.

**137 Commission to ensure racing bookmaker has accepted insurance policy or bond**

- (1) The commission must not license a person as a racing bookmaker, or renew a racing bookmaker's licence, unless the person or racing bookmaker has an accepted insurance policy or bond.

Maximum penalty—100 penalty units.

- (2) If a racing bookmaker does not have an accepted insurance policy or bond, the commission must immediately suspend the racing bookmaker's licence until it is reasonably satisfied the racing bookmaker has an accepted insurance policy or bond.
- (3) The commission may make enquiries, and do other acts, as it reasonably believes necessary to find out if a racing bookmaker has an accepted insurance policy or bond.

**138 Prohibition of betting by racing bookmaker with minor**

- (1) A racing bookmaker, or an agent or employee of a racing bookmaker, must not—
  - (a) bet with a minor; or
  - (b) bet with a person if the racing bookmaker, agent or employee knows the person is betting for a minor.

Maximum penalty—400 penalty units.

- (2) It is a defence to a charge for an offence against subsection (1) for the defendant to prove that at the time of the offence the defendant honestly and reasonably believed that the person whose age is material to the offence was an adult.
- (3) A minor must not bet with a racing bookmaker or an agent or employee of a racing bookmaker.

Maximum penalty—400 penalty units.

- (4) A person must not, for a minor, bet with a racing bookmaker or an agent or employee of a racing bookmaker.

Maximum penalty for subsection (4)—400 penalty units.

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**139 Lawful bet by racing bookmaker is taken to be a valid contract**

- (1) This section applies if a racing bookmaker at a licensed venue makes a bet with another person as part of the lawful engagement of the racing bookmaker in bookmaking.
- (2) The racing bookmaker is taken to have entered into a valid contract with the other person relating to the bet and may sue or be sued on the contract.

**140 Payment and settlement of bets**

- (1) Subsection (2) applies to the payment and settlement of a bet that was lawfully made by and with a racing bookmaker at a licensed venue.
- (2) A regulation may approve a place for the payment and settlement of the bet.
- (3) Subsection (4) applies to the payment and settlement of a bet that was lawfully made by and with a racing bookmaker who holds an offcourse approval if a telecommunications system was used to make the bet.
- (4) The offcourse approval may state a place for the payment and settlement of the bet.
- (5) For the payment and settlement of the bet, that place is not an illegal betting place.

## **Part 5 Miscellaneous**

**141 Bookmaking on particular declared sporting contingencies**

- (1) A control body for a code of racing may declare a sporting contingency to be a declared sporting contingency for which—
  - (a) racing bookmakers for the code of racing may carry on bookmaking at a licensed venue when—

- (i) a race meeting is being held at the venue; and
    - (ii) the control body is managing the venue; and
    - (iii) the commission is exercising control at the venue; and
  - (b) racing bookmakers for the code of racing who hold an offcourse approval may carry on bookmaking at an approved place for the offcourse approval and at the times approved by the Minister.
- (2) Before the control body declares a sporting contingency to be a declared sporting contingency, the control body must consider all of the following—
- (a) whether declaring the sporting contingency brings, or has the potential to bring, its code of racing, or racing bookmakers licensed for the code of racing, into disrepute;
  - (b) whether declaring the sporting contingency will erode public confidence in the Queensland racing industry;
  - (c) whether a decision about the result of the sporting contingency can be relied on by the commission, control body, racing bookmakers and the public.
- (3) Notice about the declaration of a sporting contingency must be given by the control body—
- (a) by publication in the control body’s racing calendar under the Racing Act; or
  - (b) by making the notice available on its website; or
  - (c) by giving each racing bookmaker for the code of racing a copy of the declaration.
- (4) A racing bookmaker for a code of racing must not carry on bookmaking on a sporting contingency, other than a race, unless the sporting contingency has been declared by the control body for the code of racing to be a declared sporting contingency and—
- (a) the bookmaking is carried on at a licensed venue when—

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- (i) a race meeting is being held at the venue; and
  - (ii) the control body is managing the venue; and
  - (iii) the commission is exercising control at the venue;  
or
- (b) if the racing bookmaker holds an offcourse approval, the bookmaking is carried on at an approved place for the offcourse approval and at the times approved by the Minister.

Maximum penalty for subsection (4)—400 penalty units.

#### **142 Racing bookmaker's agent during particular periods**

- (1) This section applies if a racing bookmaker applies to the commission in the approved form to authorise a person to act as the racing bookmaker's agent by carrying on bookmaking as the racing bookmaker for a period.
- (2) The commission may authorise the person to act as the racing bookmaker's agent and carry on bookmaking as the racing bookmaker for the period only if—
  - (a) the racing bookmaker—
    - (i) is temporarily incapacitated through illness or accident; or
    - (ii) is on vacation for a period that, together with any previous period in which the racing bookmaker was on vacation, does not exceed 12 weeks in any year; or
    - (iii) is temporarily unable, for reasons acceptable to the commission, to carry on bookmaking for a period not exceeding 12 weeks; and
  - (b) the person nominated in the application as the racing bookmaker's agent is a racing bookmaker's clerk.
- (3) The application must be signed by the racing bookmaker.
- (4) However, if a racing bookmaker is unable to carry on bookmaking for a period due to incapacity caused by illness

or accident, the commission may waive the requirement that the application be signed by the racing bookmaker if it is satisfied the person who signed and lodged the application is acting for the racing bookmaker.

- (5) For this Act, the person authorised as the racing bookmaker's agent is taken to be the racing bookmaker during the period stated in the authority and this Act applies to the racing bookmaker's agent as if the agent were the racing bookmaker.
- (6) Subsection (7) applies if—
  - (a) the racing bookmaker holds an offcourse approval; and
  - (b) the commission authorises a person to act as the racing bookmaker's agent under this section.
- (7) Despite subsection (5), the person authorised as the racing bookmaker's agent may carry on bookmaking as the racing bookmaker at—
  - (a) an approved place for the offcourse approval; or
  - (b) another place approved by the Minister.

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## **Chapter 5            Investigation and                                  enforcement**

### **Part 1                    General provisions about                                  authorised officers**

#### **Division 1            Appointment**

##### **143    Authorised officers under this chapter**

- (1) This chapter includes provisions for the appointment of authorised officers, and gives authorised officers particular powers.
- (2) The purpose of these provisions is to ensure the commission has available to it suitably qualified persons who can help the commission deal with issues about compliance under this chapter.

##### **144    Functions of authorised officers**

An authorised officer has the following functions—

- (a) to investigate, monitor and enforce compliance with this Act or the Racing Act;
- (b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act or the Racing Act;
- (c) to facilitate the exercise of powers under this Act or the Racing Act.

##### **145    Appointment and qualifications**

- (1) The commissioner may, by instrument in writing, appoint either of the following persons as authorised officers—

- (a) a public service employee;
  - (b) other persons prescribed by regulation.
- (2) However, the commissioner may appoint a person as an authorised officer only if the commissioner is satisfied the person is appropriately qualified.

#### **146 Appointment conditions and limit on powers**

- (1) An authorised officer holds office on any conditions stated in—
- (a) the authorised officer’s instrument of appointment; or
  - (b) a signed notice given to the authorised officer; or
  - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the officer’s powers.
- (3) In this section—  
*signed notice* means a notice signed by the commissioner.

#### **147 When office ends**

- (1) The office of a person as an authorised officer ends if any of the following happens—
- (a) the term of office stated in a condition of office ends;
  - (b) under another condition of office, the office ends;
  - (c) the authorised officer’s resignation under section 148 takes effect.
- (2) Subsection (1) does not limit the ways the office of a person as an authorised officer ends.
- (3) In this section—  
*condition of office* means a condition under which the authorised officer holds office.

## **148 Resignation**

- (1) An authorised officer may resign by signed notice given to the commissioner.
- (2) However, if holding office as an authorised officer is a condition of the authorised officer holding another office, the authorised officer may not resign as an authorised officer without resigning from the other office.

## **Division 2 Identity cards**

### **149 Issue of identity card**

- (1) The commissioner must issue an identity card to each authorised officer.
- (2) The identity card must—
  - (a) contain a recent photo of the authorised officer; and
  - (b) contain a copy of the authorised officer's signature; and
  - (c) identify the person as an authorised officer under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issuing of a single identity card to a person for this Act and other purposes.

### **150 Production or display of identity card**

- (1) In exercising a power in relation to a person in the person's presence, an authorised officer must—
  - (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

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- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised officer does not exercise a power in relation to a person only because the authorised officer has entered a place as mentioned in section 154(1)(b) or (d).

### **151 Return of identity card**

If the office of a person as an authorised officer ends, the person must return the person's identity card to the commissioner within 21 days after the office ends unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

## **Division 3 Miscellaneous provisions**

### **152 Reference to exercise of powers**

If—

- (a) a provision of this chapter refers to the exercise of power by an authorised officer; and
- (b) there is no reference to a specific power;

the reference is to the exercise of all or any authorised officers' powers under this Act or a warrant, to the extent the powers are relevant.

### **153 Reference to document includes reference to reproductions from electronic document**

A reference in this chapter to a document includes a reference to an image or writing—

- (a) produced from an electronic document; or

- (b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.

## **Part 2                      Entry of places by authorised officers**

### **Division 1                Power to enter**

#### **154      General power to enter places**

- (1) An authorised officer may enter a place if—
  - (a) an occupier of the place consents under division 2 to the entry and section 161 has been complied with for the occupier; or
  - (b) it is a public place and the entry is made when the place is open to the public; or
  - (c) the entry is authorised under a warrant and, if there is an occupier of the place, section 169 has been complied with for the occupier; or
  - (d) it is a place of business and the entry is made when the place is—
    - (i) open for carrying on activities for which the place is a place of business; or
    - (ii) otherwise open for entry; or
  - (e) the entry is authorised under section 155, 156, 157 or 158.
- (2) For subsection (1)(d) and (e), entry to a place does not include entry to a part of a place where a person resides.
- (3) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn.

- (4) If the power to enter is under a warrant, the power is subject to the terms of the warrant.
- (5) The consent may provide consent for re-entry and is subject to the conditions of consent.
- (6) If the power to re-enter is under a warrant, the re-entry is subject to the terms of the warrant.
- (7) In this section—  
*place of business* means either of the following places—
  - (a) a place used by a control body to conduct activities in relation to managing any of its codes of racing;
  - (b) a place used by a licence holder to conduct activities for which the licence holder is licensed or otherwise holds the licence, including a place that is an approved place for an offcourse approval held by a racing bookmaker.

**155 Power to enter place to check action required under animal welfare direction**

- (1) This section applies if an occupier of a place has been given an animal welfare direction.
- (2) An authorised officer may, at reasonable times, enter the place to check whether the occupier has taken or is taking the action required under the direction.

*Notes—*

- 1 See, however, the restrictions on entry under section 154(2).
- 2 See section 163 for the procedure for entry under this section.

**156 Power to enter place to ascertain if animal severely injured**

- (1) This section applies if an authorised officer reasonably suspects—
  - (a) an animal at the place has just sustained a severe injury;  
and

- (b) the injury is likely to remain untreated, or untreated for an unreasonable period.
- (2) The authorised officer may enter the place to ascertain if the animal is severely injured.

*Notes—*

- 1 See, however, the restrictions on entry under section 154(2).
- 2 See section 163 for the procedure for entry under this section.

### **157 Power to enter place in relation to animal welfare offence**

- (1) This section applies if an authorised officer reasonably suspects—
  - (a) there is an imminent risk of death or injury to an animal at a place because of an accident or from an animal welfare offence; or

*Examples of imminent risk of death or injury to an animal—*

- 1 a dogfight involving, or apparently involving, an imminent risk of death or injury to the dogs
- 2 the beating or torture of an animal at the place
- (b) any delay in entering the place will result in the concealment, death or destruction of anything at the place that is—
  - (i) evidence of an animal welfare offence; or
  - (ii) being used to commit, continue or repeat, an offence.

- (2) The authorised officer may enter the place.

*Notes—*

- 1 See, however, the restrictions on entry under section 154(2).
- 2 See section 163 for the procedure for entry under this section.

### **158 Limited entry power to provide relief to animal**

- (1) Subsection (2) applies if—
  - (a) an authorised officer reasonably suspects—

- (i) an animal at a place, other than a vehicle, is suffering from lack of food or water or is entangled; and
  - (ii) the person in charge of the animal is not, or is apparently not, present at the place; and
- (b) the animal is not at a part of the place at which a person resides, or apparently resides.
- (2) The authorised officer may enter and stay at the place while it is reasonably necessary to provide the food or water or to disentangle the animal.
- (3) An authorised officer may enter a vehicle if the authorised officer reasonably suspects there is a need to enter the vehicle to relieve an animal in pain in the vehicle or prevent an animal in the vehicle from suffering pain.
- (4) If an authorised officer enters a vehicle under subsection (3), the authorised officer may take reasonable measures to relieve the pain of an animal in the vehicle.

*Examples of measures—*

feeding, untethering or watering the animal

- (5) Before leaving the place or vehicle, the authorised officer must leave a notice in a conspicuous position and in a reasonably secure way stating the following—
  - (a) the authorised officer's name and business address or telephone number;
  - (b) the action taken by the authorised officer under subsection (2) or (4);
  - (c) when the action was taken.
- (6) This section does not limit section 154.

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## **Division 2                      Entry by consent**

### **159      Application of division**

This division applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 154(1)(a).

### **160      Incidental entry to ask for access**

For the purpose of asking the occupier for the consent, an authorised officer may, without the occupier's consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

### **161      Matters authorised officer must tell occupier**

Before asking for the consent, the authorised officer must give a reasonable explanation to the occupier—

- (a) about the purpose of the entry, including the powers intended to be exercised; and
- (b) that the occupier is not required to consent; and
- (c) that the consent may be given subject to conditions and may be withdrawn at any time.

### **162      Consent acknowledgement**

- (1) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.
- (2) The acknowledgement must state—

- (a) the purpose of the entry, including the powers to be exercised; and
  - (b) the following has been explained to the occupier—
    - (i) the purpose of the entry, including the powers intended to be exercised;
    - (ii) that the occupier is not required to consent;
    - (iii) that the consent may be given subject to conditions and may be withdrawn at any time; and
  - (c) the occupier gives the authorised officer or another authorised officer consent to enter the place and exercise the powers; and
  - (d) the time and day the consent was given; and
  - (e) any conditions of the consent.
- (3) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (4) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) a signed acknowledgement complying with subsection (2) for the entry is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

## **Division 3                      Entry for particular purposes**

### **163      Entry of place under ss 155, 156 and 157**

- (1) This section applies to an authorised officer intending to enter a place under section 155, 156 or 157.
- (2) The authorised officer must, before entering the place, make a reasonable attempt to locate an occupier of the place and obtain the occupier's consent to the entry.

*Note—*

See division 2.

- (3) The authorised officer may enter the place if—
  - (a) the authorised officer is unable to locate an occupier after making a reasonable attempt to do so; or
  - (b) the occupier refuses to consent to the entry.
- (4) If, after the authorised officer enters the place under subsection (3)(a), the officer finds an occupier present at the place, or if the occupier refuses to consent to the entry, the authorised officer must make reasonable attempts to—
  - (a) produce the authorised officer’s identity card for the occupier’s inspection; and
  - (b) inform the occupier—
    - (i) of the reason for entering the place; and
    - (ii) that the authorised officer is authorised under this Act to enter the place without the permission of the occupier.

*Note—*

See, however, the restrictions on entry under section 154(2).

- (5) If the authorised officer does not find an occupier present at the place, the authorised officer must leave a notice in a conspicuous position and in a reasonably secure way stating the date and time of the entry and information addressing the matters mentioned in subsection (4)(b).

## **Division 4            Entry under warrant**

### **Subdivision 1        Obtaining warrant**

#### **164    Application for warrant**

- (1) An authorised officer may apply to a magistrate for a warrant for a place.

- (2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the written application to be given by statutory declaration.

## **165 Issue of warrant**

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting that there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of—
  - (a) an animal welfare offence; or
  - (b) another offence against this Act or the Racing Act.
- (2) The warrant must state—
  - (a) the place to which the warrant applies; and
  - (b) that a stated authorised officer or any authorised officer may with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry to the place; and
    - (ii) exercise the authorised officer's powers; and
  - (c) particulars of the offence that the magistrate considers appropriate; and
  - (d) the name of the person suspected of having committed the offence unless the name is unknown or the magistrate considers it inappropriate to state the name; and
  - (e) the evidence that may be seized under the warrant; and

- 
- (f) the hours of the day or night when the place may be entered; and
  - (g) the magistrate's name; and
  - (h) the day and time of the warrant's issue; and
  - (i) except for a warrant allowing for re-entry of the place, the day, within 14 days after the warrant's issue, the warrant ends.
- (3) To the extent that the warrant allows for re-entry of the place, it ends on the day stated in the warrant.

## **166 Electronic application**

- (1) An application under section 164 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer reasonably considers it necessary because of—
- (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the authorised officer's remote location.
- (2) The application—
- (a) may not be made before the authorised officer prepares the written application under section 164(2); but
  - (b) may be made before the written application is sworn.

## **167 Additional procedure if electronic application**

- (1) For an application made under section 166, the magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
- (a) it was necessary to make the application under section 166; and
  - (b) the way the application was made under section 166 was appropriate.
- (2) After the magistrate issues the original warrant—

- (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised officer, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised officer; or
  - (b) otherwise—
    - (i) the magistrate must tell the authorised officer the information mentioned in section 165(2); and
    - (ii) the authorised officer must complete a form of warrant, including by writing on it the information mentioned in section 165(2) provided by the magistrate.
- (3) The copy of the warrant mentioned in subsection (2)(a), or the form of the warrant completed under subsection (2)(b), (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.
- (4) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
- (a) the written application complying with section 164(2) and (3); and
  - (b) if the authorised officer completed a form of warrant under subsection (2)(b)—the completed form of warrant.
- (5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—
- (a) attach the documents to the original warrant; and
  - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (6) Despite subsection (3), if—
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
  - (b) the original warrant is not produced in evidence;

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the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

(7) This section does not limit section 164.

(8) In this section—

*relevant magistrates court*, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

## 168 Defect in relation to a warrant

(1) A warrant is not invalidated by a defect in—

(a) the warrant; or

(b) compliance with this subdivision;

unless the defect affects the substance of the warrant in a material particular.

(2) In this section—

*warrant* includes a duplicate warrant mentioned in section 167(3).

## Subdivision 2 Entry procedure

### 169 Entry procedure

(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this division.

(2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person who is an occupier of the place and is present by producing the authorised officer's identity card or another document evidencing the authorised officer's appointment;

(b) give the person a copy of the warrant;

- (c) tell the person the authorised officer is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.
- (4) In this section—
- warrant* includes a duplicate warrant mentioned in section 167(3).

## **Part 3                      Other authorised officers’ powers and related matters**

### **Division 1                Stopping or moving vehicles**

#### **170      Application of division**

This division applies if an authorised officer reasonably suspects, or is aware, that a thing in or on a vehicle may provide evidence of the commission of—

- (a) an animal welfare offence; or
- (b) another offence against this Act or the Racing Act.

#### **171      Power to stop or move**

- (1) If the vehicle is moving, the authorised officer may, to exercise his or her powers, signal or otherwise direct the person in control of the vehicle to stop the vehicle and to bring the vehicle to, and keep it at, a convenient place within a reasonable distance to allow the authorised officer to exercise the powers.

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- (2) If the vehicle is stopped, the authorised officer may direct the person in control of the vehicle—
    - (a) not to move it until the authorised officer has exercised the authorised officer’s powers; or
    - (b) to move the vehicle to, and keep it at, a stated reasonable place to allow the authorised officer to exercise the powers.
  - (3) When giving the direction under subsection (2), the authorised officer must give the person in control an offence warning for the direction.

## **172 Identification requirements if vehicle moving**

- (1) This section applies if the authorised officer proposes to give a direction under section 171(1) and the vehicle is moving.
- (2) The authorised officer must clearly identify himself or herself as an authorised officer exercising the authorised officer’s powers.

### *Examples—*

- 1 If the authorised officer is in a moving vehicle, he or she may use a loudhailer to identify himself or herself as an authorised officer exercising powers.
  - 2 If the authorised officer is standing at the side of the road, he or she may use a sign to identify himself or herself as an authorised officer exercising powers.
- (3) When the vehicle stops, the authorised officer must—
    - (a) have with him or her the authorised officer’s identity card; and
    - (b) immediately produce the identity card for the inspection of the person in control of the vehicle.
  - (4) Subsection (3) applies despite section 150.

### **173 Failure to comply with direction**

- (1) The person in control of the vehicle must comply with a direction under section 171 unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) It is a reasonable excuse for the person not to comply with a direction if—
- (a) the vehicle was moving and the authorised officer did not comply with section 172; or
  - (b) to comply immediately would have endangered someone else or caused loss or damage to property, and the person complies as soon as it is practicable to do so.
- (3) Subsection (2) does not limit subsection (1).
- (4) A person does not commit an offence against subsection (1) if—
- (a) the direction the person fails to comply with is given under section 171(2); and
  - (b) the person is not given an offence warning for the direction.

## **Division 2                      General powers of authorised officers after entering places**

### **174 Application of division**

- (1) The powers under this division may be exercised if an authorised officer—
- (a) enters a place under section 154(1)(a), (c) or (d); or
  - (b) stops or moves a vehicle under division 1.
- (2) However, if the authorised officer enters under section 154(1)(a) or (c), the powers under this division are subject to any conditions of the consent or terms of the warrant.

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## 175 General powers

(1) The authorised officer may do any of the following (each a *general power*)—

- (a) search any part of the place;
- (b) open, using reasonable force, a bag, cage, container, pen, yard or other structure confining or containing an animal or other thing to examine the structure, animal or other thing;
- (c) muster, yard, detain, clip or otherwise deal with an animal at the place;
- (d) take reasonable measures to relieve the pain of an animal at the place;

*Example of measures—*

feeding, untethering or watering an animal

- (e) inspect, examine or film any part of the place or anything at the place;
- (f) subject to subsection (5), take for examination a thing, or a sample of or from a thing, at the place;
- (g) place an identifying mark in or on anything at the place;
- (h) take an extract from, or copy, a document at the place, or take the document to another place to copy;
- (i) produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing;
- (j) take to, into or onto the place and use any person, equipment and materials the authorised officer reasonably requires for exercising the authorised officer's powers under this division;
- (k) remain at the place for the time necessary to achieve the purpose of the entry.

- (2) The authorised officer may take a necessary step to allow the exercise of a general power.

*Example of a step—*

moving a licensed animal at the place to allow a sample to be taken from the animal

- (3) If the authorised officer takes a document from the place to copy it, the authorised officer must copy the document and return it to the place as soon as practicable.
- (4) If the authorised officer takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised officer must produce the document and return the article or device to the place as soon as practicable.
- (5) If the authorised officer does not believe that he or she is appropriately qualified to take a thing or sample under subsection (1)(f), the authorised officer must arrange for an appropriately qualified person (a **qualified person**) to take the sample or thing for the authorised officer.
- (6) If the authorised officer or qualified person takes for examination a thing, or a sample of or from a thing, under subsection (1)(f), the authorised officer must—
- (a) give a receipt for the thing or sample to the person in charge of the animal or place from which it was taken; and
- (b) for a thing or sample with an intrinsic value—at the end of 6 months after the thing or sample was taken, return it to the person who appears to be the owner of it or the person in charge of the animal or place from which it was taken.

*Note—*

See division 3 for what happens if the sample or thing can not be returned to its owner.

- (7) However, if for any reason it is not practicable to comply with subsection (6)(a), the authorised officer must leave the receipt at the place in a conspicuous position and in a reasonably secure way.

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- (8) The receipt mentioned in subsection (6)(a) must be in the approved form.
- (9) In this section—
- examine* includes analyse, test, account, measure, weigh, grade, gauge and identify.
- film* includes photograph, videotape and record an image in another way.
- inspect*, a thing, includes open the thing and examine its contents.

## 176 Power to require reasonable help

- (1) The authorised officer may make a requirement (a *help requirement*) of an occupier of the place or a person at the place to give the authorised officer reasonable help to exercise a general power, including, for example, to produce a document or to give information.
- (2) When making the help requirement, the authorised officer must give the person an offence warning for the requirement.

## 177 Offence to contravene help requirement

- (1) A person of whom a help requirement has been made must comply with the requirement unless the person has a reasonable excuse.
- Maximum penalty—200 penalty units.
- (2) It is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.
- (3) However, subsection (2) does not apply if a document or information the subject of the help requirement is required to be held or kept by the defendant under this Act or the Racing Act.

*Note—*

See, however, section 210.

## **Division 3                    Seizure by authorised officers and forfeiture**

### **Subdivision 1            Power to seize**

#### **178    Seizing evidence at a place that may be entered without consent or warrant**

An authorised officer who enters a place the authorised officer may enter under this Act without the consent of an occupier of the place and without a warrant may seize a thing at the place if the authorised officer reasonably believes the thing is evidence of—

- (a) an animal welfare offence; or
- (b) another offence against this Act or the Racing Act.

#### **179    Seizing evidence at a place that may be entered only with consent or warrant**

- (1) This section applies if—
  - (a) an authorised officer is authorised to enter a place only with the consent of an occupier of the place or a warrant; and
  - (b) the authorised officer enters the place after obtaining the consent or under a warrant.
- (2) If the authorised officer enters the place with the occupier's consent, the authorised officer may seize a thing at the place only if—
  - (a) the authorised officer reasonably believes the thing is evidence of—
    - (i) an animal welfare offence; or
    - (ii) another offence against this Act or the Racing Act; and

- (b) seizure of the thing is consistent with the purpose of entry as explained to the occupier when asking for the occupier's consent.
- (3) If the authorised officer enters the place under a warrant, the authorised officer may seize the evidence for which the warrant was issued.
- (4) The authorised officer may also seize anything else at the place if the authorised officer reasonably believes—
  - (a) the thing is evidence of—
    - (i) an animal welfare offence; or
    - (ii) another offence against this Act or the Racing Act; and
  - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.
- (5) The authorised officer may also seize a thing at the place if the authorised officer reasonably believes it has just been used in committing—
  - (a) an animal welfare offence; or
  - (b) another offence against this Act or the Racing Act.

## **180 Seizure of property subject to security**

- (1) An authorised officer may seize a thing, and exercise powers relating to the thing, despite a lien or other security over the thing claimed by another person.
- (2) However, the seizure does not affect the other person's claim to the lien or other security against a person other than the authorised officer or a person acting under the direction or authority of the authorised officer.

## **Subdivision 2 Powers to support seizure**

### **181 Power to secure seized thing**

- (1) Having seized a thing under this division, an authorised officer may—
  - (a) leave it at the place where it was seized (the *place of seizure*) and take reasonable action to restrict access to it; or
  - (b) move it from the place of seizure.
- (2) For subsection (1)(a), the authorised officer may, for example—
  - (a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or
  - (b) for equipment—make it inoperable; or  
*Example—*  
make it inoperable by dismantling it or removing a component without which the equipment can not be used
  - (c) require a person the authorised officer reasonably believes is in control of the place or thing to do an act mentioned in paragraph (a) or (b) or anything else an authorised officer could do under subsection (1)(a).

### **182 Offence to contravene seizure requirement**

A person must comply with a requirement made of the person under section 181(2)(c) unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

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### **183 Offence to interfere**

(1) If access to a seized thing is restricted under section 181, a person must not tamper with the thing or with anything used to restrict access to the thing without—

- (a) an authorised officer's approval; or
- (b) a reasonable excuse.

Maximum penalty—400 penalty units.

(2) If access to a place is restricted under section 181, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—

- (a) an authorised officer's approval; or
- (b) a reasonable excuse.

Maximum penalty—400 penalty units.

## **Subdivision 3 Safeguards for seized things**

### **184 Receipt and information notice for seized thing**

(1) This section applies if an authorised officer seizes anything under this division unless—

- (a) the authorised officer reasonably believes there is no-one apparently in possession of the thing or the thing has been abandoned; or
- (b) because of the condition, nature and value of the thing it would be unreasonable to require the authorised officer to comply with this section.

(2) The authorised officer must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—

- (a) a receipt for the thing that generally describes the thing and its condition; and
- (b) an information notice about the decision to seize it.

- (3) However, if an owner or person from whom the thing is seized is not present when it is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place at which the thing is seized.
- (4) The receipt and information notice may—
  - (a) be given in the same document; and
  - (b) relate to more than 1 seized thing.
- (5) The authorised officer may delay giving the receipt and information notice if the authorised officer reasonably suspects giving them may frustrate or otherwise hinder an investigation by the authorised officer under this Act or the Racing Act.
- (6) However, the delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place at which the thing was seized to keep it under observation.

## **185 Access to seized thing**

- (1) Until a seized thing is forfeited or returned, the authorised officer who seized the thing must allow an owner of the thing—
  - (a) to inspect it at any reasonable time and from time to time; and
  - (b) if it is a document—to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.
- (3) The inspection or copying must be allowed free of charge.

## **186 Return of seized thing**

- (1) This section applies if a seized thing is not—
  - (a) forfeited or transferred under subdivision 4 or 5; or

- (b) subject to a disposal order under division 4.
- (2) As soon as the commissioner stops being satisfied there are reasonable grounds for retaining the thing, the commissioner must return it to its owner.
- (3) If the thing is not returned to its owner within 3 months after it was seized, the owner may apply to the commissioner for its return.
- (4) Within 30 days after receiving the application, the commissioner must—
  - (a) if the commissioner is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner an information notice about the decision, including the grounds for retaining the thing; or
  - (b) otherwise—return the thing to the owner.
- (5) For this section, there are reasonable grounds for retaining a seized thing if—
  - (a) the thing is being, or is likely to be, examined; or
  - (b) the thing is needed, or may be needed, for the purposes of—
    - (i) a proceeding for an animal welfare offence, or another offence against this Act or the Racing Act, that is likely to be started or that has been started but not completed; or
    - (ii) an appeal from a decision in a proceeding for an animal welfare offence or another offence against this Act or the Racing Act; or
  - (c) it is not unlawful for the owner to possess the thing.
- (6) Subsection (5) does not limit the grounds that may be reasonable grounds for retaining the seized thing.
- (7) Nothing in this section affects a lien or other security over the seized thing.
- (8) In this section—

*examine* includes analyse, test, account, measure, weigh, grade, gauge and identify.

## **Subdivision 4      Forfeiture**

### **187      Forfeiture by commissioner decision**

- (1) The commissioner may decide a seized thing is forfeited to the State if an authorised officer—
  - (a) after making reasonable inquiries, can not find an owner; or
  - (b) after making reasonable efforts, can not return it to an owner; or
  - (c) reasonably believes it is necessary to keep the thing to prevent it being used to commit the offence for which it was seized.
- (2) However, the authorised officer is not required to—
  - (a) make inquiries if it would be unreasonable to make inquiries to find an owner; or
  - (b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.

*Example for paragraph (b)—*

the owner of the thing has migrated to another country

- (3) Regard must be had to the thing's condition, nature and value in deciding—
  - (a) whether it is reasonable to make inquiries or efforts; and
  - (b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.

### **188      Information notice about forfeiture decision**

- (1) If the commissioner decides under section 187(1) to forfeit a thing, the commissioner must as soon as practicable give a

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person who owned the thing immediately before the forfeiture (the *former owner*) an information notice about the decision.

- (2) If the decision was made under section 187(1)(a) or (b), the information notice may be given by leaving it at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.
- (3) The information notice must state that the former owner may apply for a stay of the decision if he or she appeals against the decision.
- (4) However, subsections (1) to (3) do not apply if—
  - (a) the decision was made under section 187(1)(a) or (b); and
  - (b) the place where the thing was seized is—
    - (i) a public place; or
    - (ii) a place where the notice is unlikely to be read by the former owner.

## **Subdivision 5      Dealing with property forfeited or transferred to the State**

### **189      When thing becomes property of the State**

A thing becomes the property of the State if—

- (a) the thing is forfeited to the State under section 187(1); or
- (b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.

### **190      How property may be dealt with**

- (1) This section applies if, under section 189, a thing becomes the property of the State.

- (2) The commissioner may deal with the thing as the commissioner considers appropriate, including, for example, by destroying it or giving it away.
- (3) The commissioner must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.
- (4) If the commissioner sells the thing, the commissioner may, after deducting the following costs, return the proceeds of the sale to the former owner of the thing—
  - (a) the costs of the sale;
  - (b) any costs the commission may recover from a person under section 237.
- (5) This section is subject to any disposal order made for the thing.

## Division 4                      Disposal orders

### 191      Disposal order

- (1) This section applies if a person is convicted of an animal welfare offence or another offence against this Act or the Racing Act.
- (2) The court may make an order (a *disposal order*), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—
  - (a) anything that was the subject of, or used to commit, the offence;
  - (b) another thing the court considers is likely to be used by the person or another person in committing a further animal welfare offence or another further offence against this Act or the Racing Act.
- (3) The court may make a disposal order for a thing—
  - (a) whether or not it has been seized under this Act; and

- (b) if the thing has been seized—whether or not it has been returned to the former owner.
- (4) In deciding whether to make a disposal order for a thing, the court—
  - (a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and
  - (b) must hear any submissions that any person claiming to have any property in the thing may wish to make.
- (5) The court may make any order to enforce the disposal order that it considers appropriate.
- (6) This section does not limit the court’s powers under another law.

## **Division 5                      Animal welfare directions**

### **192      Application of division**

- (1) This division applies if an authorised officer reasonably believes—
  - (a) a person has committed, is committing, or is about to commit, an animal welfare offence; or
  - (b) an animal—
    - (i) is not being cared for properly; or
    - (ii) is experiencing undue pain; or
    - (iii) requires veterinary treatment; or
    - (iv) should not be used for work.
- (2) This division also applies if an animal has been seized under division 3, subdivision 1.
- (3) In this section—  
***veterinary treatment***, of an animal, means—

- (a) consultation by a person with a veterinary surgeon about the animal's condition; or
- (b) performance by a veterinary surgeon of a medical or surgical procedure on the animal; or
- (c) performance by someone other than a veterinary surgeon of a medical procedure of a curative or preventive nature on the animal if the procedure is to be performed under a veterinary surgeon's directions.

### **193 Power to give animal welfare direction**

- (1) The authorised officer may give a written direction (an *animal welfare direction*) requiring stated action about the animal or its environment.
- (2) The direction may be given to—
  - (a) a person in charge of the animal; or
  - (b) a person whom the authorised officer reasonably believes is in charge of the animal; or
  - (c) if the animal has been seized under division 3, subdivision 1—
    - (i) a person who, immediately before the seizure, was a person in charge of the animal; or
    - (ii) a person whom the authorised officer reasonably believes was, immediately before the seizure, a person in charge of the animal.
- (3) Without limiting subsection (1), the direction may require any of the following actions to be taken—
  - (a) care for, or treat, the animal in stated way;
  - (b) provide the animal with stated accommodation, food, rest, water or other living conditions;
  - (c) consult a veterinary surgeon about the animal's condition before a stated time;

- (d) move the animal from the place where it is situated when the direction is given to another stated place for a purpose mentioned in paragraph (a), (b) or (c);
  - (e) not to move the animal from the place where it is situated when the direction is given.
- (4) However, action may be required only if the authorised officer considers it to be necessary and reasonable in the interests of the animal's welfare.
- (5) The direction may state how the person given the direction may show that the stated action has been taken.

#### **194 Requirements for giving animal welfare direction**

- (1) An animal welfare direction must—
- (a) be in the approved form; and
  - (b) describe—
    - (i) the animal in a way that reasonably allows the person given the direction to identify it; or
    - (ii) if the direction is given because the authorised officer reasonably believes a person has committed, is committing or is about to commit, an animal welfare offence—the type of animal to which the offence relates; and
  - (c) state—
    - (i) each requirement; and
    - (ii) a time for the person to comply with each requirement; and
  - (d) include an information notice about the decision to give the direction.
- (2) Despite subsection (1)(a), an animal welfare direction may be given orally if—
- (a) the authorised officer considers it to be in the interests of the animal's welfare to give the direction immediately; and

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- (b) for any reason it is not practicable to immediately give the direction in the approved form; and
  - (c) the authorised officer gives the person an offence warning.
- (3) If the direction is given orally, the authorised officer must confirm the direction by also giving it in the approved form as soon as practicable after giving it orally.
- (4) An animal welfare direction may state that an authorised officer proposes, at a stated time or at stated intervals, to enter the following where an animal the subject of the direction is kept at to check compliance with the direction—
- (a) a vehicle of which the person is the person in control;
  - (b) another place of which the person is the occupier.

## **195 Failure to comply with animal welfare direction**

A person to whom an animal welfare direction has been given must comply with the direction unless the person has a reasonable excuse.

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

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 263, to have also committed the offence.

## **Division 6 Authorised officer's power to destroy animals**

### **196 Power of destruction**

An authorised officer may destroy an animal, or cause it to be destroyed, if—

- (a) an authorised officer has seized the animal under this part or the person in charge of the animal has given written consent to the destruction; and
- (b) the authorised officer reasonably believes that the animal is in pain to the extent that it is cruel to keep it alive.

## **Division 7                      Other information-obtaining powers of authorised officers**

### **197      Power to require name and address**

- (1) This section applies if an authorised officer—
  - (a) finds a person committing—
    - (i) an animal welfare offence; or
    - (ii) another offence against this Act or the Racing Act;  
or
  - (b) finds a person in circumstances that lead the authorised officer to reasonably suspect the person has just committed—
    - (i) an animal welfare offence; or
    - (ii) another offence against this Act or the Racing Act;  
or
  - (c) has information that leads the authorised officer to reasonably suspect a person has just committed—
    - (i) an animal welfare offence; or
    - (ii) another offence against this Act or the Racing Act.
- (2) The authorised officer may require the person to state the person's name and address.
- (3) The authorised officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—

- (a) be in possession of evidence of the correctness of the stated name or address; or
  - (b) otherwise be able to give the evidence.
- (4) When making a personal details requirement, the authorised officer must give the person an offence warning for the requirement.
- (5) A requirement under this section is a *personal details requirement*.
- (6) In this section—  
*address*, of a person, includes the person’s residential and business address and, for a person temporarily in Queensland, includes the place where the person is living in Queensland.

### **198 Offence to contravene personal details requirement**

- (1) A person of whom a personal details requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) A person may not be convicted of an offence under subsection (1) unless the person is found guilty of the offence in relation to which the personal details requirement was made.

### **199 Power to require production of document**

- (1) An authorised officer may require a person to make available for inspection by an authorised officer, or to produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer—
- (a) a document issued to the person under this Act or the Racing Act; or
  - (b) a document required to be kept by the person under this Act or the Racing Act; or

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- (c) if a document or information required to be kept by the person under this Act or the Racing Act is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document or information.
- (2) A requirement under subsection (1) is a *document production requirement*.
- (3) For an electronic document, compliance with the document production requirement requires the making available or production of a clear written reproduction of the electronic document.
- (4) The authorised officer may keep the document to copy it.
- (5) If the authorised officer copies the document, or an entry in the document, the authorised officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (6) A requirement under subsection (5) is a *document certification requirement*.
- (7) The authorised officer must return the document to the person as soon as practicable after copying it.
- (8) However, if a document certification requirement is made of a person, the authorised officer may keep the document until the person complies with the requirement.

## **200 Offence to contravene document production requirement**

- (1) A person of whom a document production requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) It is not a reasonable excuse for a person to fail to comply with a document production requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

*Note—*

See, however, section 210.

- (3) The authorised officer must inform the person, in a way that is reasonable in the circumstances—
  - (a) that the person must comply with the document production requirement even though complying might tend to incriminate the person or expose the person to a penalty; and
  - (b) that, under section 210, there is a limited immunity against the future use of the information or document given in compliance with the requirement.
- (4) If the person fails to comply with the document production requirement when the authorised officer has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).
- (5) If a court convicts a person of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the document production requirement.

## **201 Offence to contravene document certification requirement**

- (1) A person of whom a document certification requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) It is not a reasonable excuse for a person to fail to comply with a document certification requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

*Note—*

See, however, section 210.

- (3) The authorised officer must inform the person, in a way that is reasonable in the circumstances—

- (a) that the person must comply with the document certification requirement even though complying might tend to incriminate the person or expose the person to a penalty; and
  - (b) that, under section 210, there is a limited immunity against the future use of the information or document given in compliance with the requirement.
- (4) If the person fails to comply with the document certification requirement when the authorised officer has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).

## **202 Power to require information**

- (1) This section applies if an authorised officer reasonably believes—
- (a) an animal welfare offence, or another offence against this Act or the Racing Act, has been committed; and
  - (b) a person may be able to give information about the offence.
- (2) The authorised officer may, by notice given to the person, require the person to give the authorised officer information related to the offence at a stated reasonable time and place.
- (3) For information that is an electronic document, compliance with the requirement requires the giving of a clear image or written version of the electronic document.
- (4) In this section—  
*information* includes a document.

## **203 Offence to contravene information requirement**

- (1) A person of whom a requirement is made under section 202(2) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) It is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual or expose the individual to a penalty.

## **Part 4**                      **Miscellaneous provisions relating to authorised officers**

### **Division 1**                **Damage**

#### **204**    **Duty to avoid inconvenience and minimise damage**

In exercising a power, an authorised officer must take all reasonable steps to cause as little inconvenience, and do as little damage, as possible.

*Note—*

See also section 206.

#### **205**    **Notice of damage**

- (1) This section applies if—
- (a) an authorised officer damages something when exercising, or purporting to exercise, a power; or
  - (b) a person (the *assistant*) acting under the direction or authority of an authorised officer damages something.
- (2) However, this section does not apply to damage the authorised officer reasonably considers is trivial or if the authorised officer reasonably believes—
- (a) there is no-one apparently in possession of the thing; or
  - (b) the thing has been abandoned.
- (3) The authorised officer must give notice of the damage to the person who appears to the authorised officer to be an owner, or person in control, of the thing.

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- (4) However, if for any reason it is not practicable to comply with subsection (3), the authorised officer must—
    - (a) leave the notice at the place where the damage happened; and
    - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
  - (5) The authorised officer may delay complying with subsection (3) or (4) if the authorised officer reasonably suspects complying with the subsection may frustrate or otherwise hinder the performance of the authorised officer's functions.
  - (6) The delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place.
  - (7) If the authorised officer believes the damage was caused by a latent defect in the thing or circumstances beyond the control of the authorised officer or the assistant, the authorised officer may state the belief in the notice.
  - (8) The notice must state—
    - (a) particulars of the damage; and
    - (b) that the person who suffered the damage may claim compensation under section 206.

## **Division 2                      Compensation**

### **206      Compensation**

- (1) A person may claim compensation from the commission if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised officer including a loss arising from compliance with a requirement made of the person under this chapter.
- (2) However, subsection (1) does not include loss arising from a lawful forfeiture.

- (3) Section 204 does not provide for a statutory right of compensation other than is provided by this section.
- (4) In this section—  
*loss* includes costs and damage.

## **Division 3                      Other offences relating to authorised officers**

### **207      Giving authorised officer false or misleading information**

- (1) A person must not give an authorised officer information the person knows is false or misleading in a material particular.  
Maximum penalty—300 penalty units.
- (2) Subsection (1) applies to information given whether or not the information was given in response to a specific power under this Act.
- (3) Subsection (1) does not apply to a person if the person, when giving information in a document—
  - (a) tells the authorised officer, to the best of the person's ability, how the document is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

### **208      Obstructing authorised officer**

- (1) A person must not obstruct an authorised officer exercising a power, or someone helping an authorised officer exercising a power, unless the person has a reasonable excuse.  
Maximum penalty—500 penalty units.
- (2) If a person has obstructed an authorised officer, or someone helping an authorised officer, and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—

- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and
  - (b) the authorised officer considers the person's conduct an obstruction.
- (3) In this section—
- obstruct* includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.
- power* means a power under this Act.

## 209 Impersonating authorised officer

A person must not impersonate an authorised officer.

Maximum penalty—250 penalty units.

## Division 4 Other provisions

### 210 Evidential immunity for individuals complying with particular requirements

- (1) Subsection (2) applies if an individual gives or produces information or a document to an authorised officer under section 177, 200 or 201.
- (2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.
- (3) Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.

## Chapter 6      General

### Part 1            Offences

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

##### 211      Definitions for division

In this division—

*Act document* means—

- (a) an approval, licence, identity card or other authority given under this Act; or
- (b) a document issued by or for a racing bookmaker evidencing a bet made with the racing bookmaker.

*background document* means—

- (a) an approved form, completed by a person about the person's business reputation, character, criminal history, current financial position or financial background; or
- (b) a document accompanying an application for a licence, approval application or approved form; or
- (c) the fingerprints of a person obtained by the commission; or
- (d) another document obtained by the chief executive or the commission, relating to the person's business reputation, character, criminal history, current financial position or financial background.

*confidential information*, about a person, means information about—

- (a) the person's business reputation, character, criminal history, current financial position or financial background; or

- (b) the person if the person is making an application under this Act; or
- (c) whether the person was identified by the police commissioner under a repealed section as a participant in a criminal organisation or as an unsuitable corporation.

*repealed section* means section 88(2), 96(4) or 97(4) as in force before the commencement.

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

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

Maximum penalty—100 penalty units.

- (3) It is a reasonable excuse if—
  - (a) the person has the written consent of the person to whom the information or background document relates or someone else authorised by the person, unless the information or background information is criminal intelligence; or
  - (b) the disclosure is authorised under this Act or another Act; or

- (c) the disclosure is in compliance with lawful process requiring production of documents or giving evidence before a court; or
  - (d) the disclosure was of a statistical nature that could not reasonably be expected to result in the identification of the person to whom the information relates.
- (4) Subsection (3)(a) and (d) do not apply if the confidential information relates to whether the person was identified by the police commissioner under a repealed section as a participant in a criminal organisation or as an unsuitable corporation.
- (5) In this section—
- copy* includes make a record.
- court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

## 213 Forgery and uttering Act documents

- (1) A person must not—
- (a) forge an Act document; or
  - (b) knowingly utter an Act document that is forged.
- Maximum penalty—200 penalty units or 2 years imprisonment.
- (2) A person must not pretend to be a person named in an Act document, whether or not the person refers to the document.
- Examples for subsection (2)—*
- 1 If a person steals an authorised officer's identity card, the person must not pretend to be the authorised officer identified in the card.
  - 2 A person must not pretend to be an authorised officer by telling someone else that the person is an authorised officer.
- Maximum penalty—200 penalty units or 2 years imprisonment.
- (3) In this section—

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*forge* includes counterfeit.

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

A person must not knowingly make a false statement—

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

Maximum penalty—200 penalty units or 2 years imprisonment.

**Division 2 Offences relating to racing contingencies**

**215 Person must not conduct a racing contingency**

- (1) A person must not conduct a racing contingency.

Maximum penalty—200 penalty units.

- (2) An occupier of a place must not allow a person to conduct a racing contingency at the place.

Maximum penalty—200 penalty units.

- (3) In this section—

*conduct*, in relation to a racing contingency, includes—

- (a) to arrange for a place to be used for the racing contingency; and
- (b) to advertise or otherwise promote the racing contingency and seek nominations for animals to race; and
- (c) to arrange for persons to carry on bookmaking at the racing contingency; and

- (d) to participate in the racing contingency other than merely by being present at the place where the racing contingency is being, or is about to be, held; and
- (e) to help in any of the activities mentioned in paragraphs (a) to (d).

***racing contingency*** means a contest, contingency or event, other than a lawfully held race meeting, in which 2 or more animals compete against each other for the purpose of providing a contest, contingency or event on which bets are made.

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

### **216      Definitions for division**

In this division—

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

- (a) inflict or cause injury to the licensed animal, licence holder or official; or
- (b) threaten to inflict or cause injury to the licensed animal, licence holder or official; or
- (c) otherwise affect in a detrimental way the behaviour, performance or physical condition of the licensed animal, licence holder or official.

***prohibited thing*** means any of the following—

- (a) a drug;
- (b) a noxious or toxic thing that could be used to affect the behaviour, performance or physical condition of an animal or person;

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- (c) a thing that does, or is designed to do, any of the following and may be used on a licensed animal in a detrimental way—
- (i) supply electrical energy or another form of energy;
  - (ii) conduct, discharge or store an electrical charge, current, voltage or another form of energy;
  - (iii) apply, deposit, propel or spray a substance;
- (d) a hypodermic syringe or needle or other medical or veterinary instrument.

*use*, a prohibited thing on a licensed animal, means—

- (a) to use it on, or administer it to, the animal; or
- (b) to cause it to be used on, or administered to, the animal.

## **217 Person must not possess prohibited thing at particular places**

- (1) A person must not possess a prohibited thing at any of the following places unless the person has a reasonable excuse—
- (a) a licensed venue;
  - (b) a place where a trial is held or to be held;
  - (c) a place used for the purpose of training a licensed animal;
  - (d) a kennel, stable or other place used for sheltering a licensed animal;
  - (e) in or about a vehicle being, or about to be, used to transport a licensed animal;
  - (f) another place where a licensed animal is located.

Maximum penalty—400 penalty units or 2 years imprisonment.

- (2) In this section—

*possess*, a prohibited thing, means—

- (a) have custody of the thing; or

- (b) have control of it at any place, whether or not someone else has custody of it.

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

- (1) A person must not, unless the person has a reasonable excuse—

- (a) use a prohibited thing on a licensed animal; or
- (b) interfere with a licensed animal.

Maximum penalty—600 penalty units or 2 years imprisonment.

- (2) For a veterinary surgeon, it is a reasonable excuse to use a prohibited thing on, or interfere with, a licensed animal—

- (a) to treat a condition or injury of the animal; or
- (b) to do something else that accords with normal veterinary practice.

**219 Person must not interfere with licence holder or official of the commission**

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

Maximum penalty—400 penalty units or 2 years imprisonment.

- (2) A person must not, unless the person has a reasonable excuse, interfere with an official of the commission performing a function or exercising a power under this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

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

### **220      Application of division**

- (1) This division does not apply in relation to—
  - (a) wagering lawfully conducted under the *Wagering Act 1998*; or
  - (b) betting by and with any 1 of the following persons as part of the person lawfully carrying on bookmaking, or conducting a racing bookmaker's business, at a licensed venue—
    - (i) a racing bookmaker;
    - (ii) if a racing bookmaker is a corporation—a licensed executive officer of the corporation;
    - (iii) a racing bookmaker's clerk.
- (2) This division is in addition to, and does not limit, any of the following Acts—
  - (a) the *Charitable and Non-Profit Gaming Act 1999*;
  - (b) the Criminal Code;
  - (c) the *Wagering Act 1998*.

### **221      Unlawful bookmaking other than by racing bookmakers etc.**

A person must not carry on bookmaking unless the person is 1 of the following and lawfully carrying on bookmaking under the relevant racing bookmaker's licence—

- (a) a racing bookmaker;
- (b) if a racing bookmaker is a corporation—a licensed executive officer of the corporation;

- (c) a racing bookmaker's clerk who carries on bookmaking as part of conducting the racing bookmaker's business.

## **222 Illegal betting place**

- (1) Subject to subsection (2), a place is an *illegal betting place* if the place is opened, kept or used, wholly or partly, for 1 or more of the following—
  - (a) bookmaking by the occupier of the place with someone else;
  - (b) receiving money or other property by or for the occupier of the place as or for consideration for—
    - (i) any assurance, undertaking, promise or agreement, express or implied, to pay or give money or other property in relation to a race or sporting contingency; or
    - (ii) securing the paying or giving by someone else of money or other property in relation to a race or sporting contingency;
  - (c) the payment or settlement of a bet made in relation to a race or sporting contingency.
- (2) A place is not an illegal betting place for an activity mentioned in subsection (1) if—
  - (a) the place is a licensed venue and the activity takes place when—
    - (i) a control body for a race meeting held at the venue is managing the venue; and
    - (ii) the commission is exercising control at the venue; or
  - (b) the place may be lawfully used under another Act for the activity.
- (3) This section does not limit section 140.

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

- (1) A person must not—
- (a) open, keep or use an illegal betting place; or
  - (b) allow a place, of which the person is the occupier, to be opened, kept or used as an illegal betting place, whether the occupier is or is not present at the time the place is opened, kept or used as an illegal betting place; or
  - (c) help, in any way, in operating an illegal betting place; or  
*Example for paragraph (c)—*

A person, or an occupier of a place, may invite someone else to use a service or facility at the illegal betting place.
  - (d) advertise by any means, including electronically, that a place is opened, kept or used, wholly or partly for betting on a race or sporting contingency in Queensland or elsewhere, if that place is an illegal betting place.
- (2) Subsection (3) applies to each of the following persons—
- (a) a person who is an occupier of an illegal betting place;
  - (b) a person who is acting for an occupier of an illegal betting place;
  - (c) a person who is in any way helping in operating an illegal betting place.
- (3) The person must not, directly or indirectly, receive money or other property—
- (a) as a bet on a race or sporting contingency; or
  - (b) 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
  - (c) as or for 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.

- (4) A person must not give an acknowledgement on the receipt of money or other property, received in a way and for a purpose specified in subsection (3), purporting or intended to entitle the bearer or another person to receive money or other property in relation to a race or sporting contingency.

## **224 Contravention of s 221 or 223**

- (1) This section applies to a person who contravenes section 221 or 223 (a *relevant section*).
- (2) The person is liable to—
- (a) for a first offence—a maximum penalty of 600 penalty units or 1 year’s imprisonment; or
  - (b) for a second offence—a maximum penalty of 1200 penalty units or 2 years imprisonment; or
  - (c) for a third or subsequent offence—a maximum penalty of 4000 penalty units or 5 years imprisonment.
- (3) A person is liable for the penalty under this section—
- (a) for a second offence—if the person has been convicted of a single offence against a relevant section or a repealed provision; or
  - (b) for a third or subsequent offence—if the person has been convicted of 2 or more offences against a relevant section or a repealed provision.
- (4) In this section—
- repealed provision* means—
- (a) the Racing Act, repealed section 321 or 323; or
  - (b) the repealed *Racing and Betting Act 1980*, section 214, 216 or 217.

## **225 Using an illegal betting place**

A person must not in any way use a service or facility at an illegal betting place, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

## **226 Prohibition of betting at public place**

A person must not bet at a public place unless the betting is lawfully conducted under this Act or another Act.

Maximum penalty—100 penalty units.

## **Division 5 Other offence**

### **227 Attempt to commit offence**

- (1) A person who attempts to commit an animal welfare offence or an offence against this Act commits an offence and, on conviction, is liable to the same penalty as if the person had committed the offence.
- (2) The Criminal Code, section 4 applies to subsection (1).
- (3) A person may be convicted of attempting to commit an animal welfare offence or an offence against this Act on a complaint or indictment charging the person with the offence.

*Note—*

See also the Racing Act, section 154.

## **Part 2                      Evidentiary and legal proceedings**

### **Division 1                Evidence**

#### **228      Application of division**

This division applies to a proceeding under this Act.

#### **229      Appointments and authority**

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

- (a) the appointment of the commissioner, a deputy commissioner or an authorised officer;
- (b) the power of the chief executive or a person mentioned in paragraph (a) to do anything under this Act.

#### **230      Evidentiary aids**

- (1) A certificate purporting to be signed by the chief executive or the commissioner stating any of the following matters is evidence of the matter—
  - (a) a stated document is a decision, direction or notice under this Act;
  - (b) a stated thing is a thing that must or may be included in a register kept under this Act;
  - (c) that a stated document is a document kept under this Act;
  - (d) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
  - (e) that on a stated day—
    - (i) a stated person was given a stated decision, direction or notice under this Act; or

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- (ii) a stated person was the holder of a stated licence or approval; or
  - (iii) a stated direction or requirement under this Act was given to or made of a stated person.
- (2) A document purporting to be signed by a steward who was in charge of a race meeting held by a licensed club and stating any of the following matters is evidence of the matter—
- (a) on a stated day, or at a stated place, a race meeting was held or allotted to be held by the club;
  - (b) a stated animal competed in, or had been entered to compete in, a race at the race meeting;
  - (c) the times when, under a direction given by the steward, betting with racing bookmakers could take place at the race meeting.

## **231 Other evidentiary provisions**

- (1) In support of an allegation in a complaint or indictment about either of the following relating to a place, until the contrary is proved, it is sufficient to prove a bet was made or settled with, or paid to, a person at that place—
- (a) that the place stated in the complaint or indictment is an illegal betting place;
  - (b) that a person is conducting bookmaking at the place stated in the complaint or indictment.
- (2) A statement in a complaint or indictment of 1 or more of the following matters is evidence, for this Act, of the matter or matters—
- (a) a place was a public place at a stated time;
  - (b) a particular person was, at a stated time, an occupier of a stated place;
  - (c) a particular person was, at a stated time, a member of or holder of an office in the committee of a stated licensed club or other stated association;

- (d) on a stated day a race meeting was held, or allotted to be held, at a stated place;
  - (e) an animal known by a stated name competed in, or had been entered to compete in, a race meeting on a stated day.
- (3) Proof that a place is opened, kept or used wholly or partly for a purpose specified in section 223 is evidence that the place in question is opened, kept or used with the permission of an occupier of the place.
- (4) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

## **Division 2                      Offence proceedings**

### **232      Types of offences**

- (1) Subject to subsection (2), an offence against this Act is a simple offence.
- (2) An offence against section 221 or 223 is an indictable offence that is a misdemeanour.

### **233      Proceedings for indictable offences**

- (1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—
  - (a) by way of summary proceeding under the *Justices Act 1886*; or
  - (b) on indictment.
- (2) A magistrate must not hear an indictable offence summarily if—
  - (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

- (b) the magistrate believes the charge should be prosecuted on indictment.
- (3) If subsection (2) applies—
  - (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
  - (b) any plea of the person charged, made at the start of the proceeding, must be disregarded; and
  - (c) any evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
  - (d) before committing the person for trial or sentence, the magistrate must make a statement to the person under the *Justices Act 1886*, section 104(2)(b).

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

- (1) The proceeding must be before a magistrate if it is a proceeding—
  - (a) for the summary conviction of a person on a charge for an indictable offence; or
  - (b) for an examination of witnesses for a charge for an indictable offence.
- (2) However, if the proceeding is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

### **235 Proceedings for simple offences**

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

- (a) within 1 year after the offence is committed;

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

### **236 When convictions for offences not receivable in evidence**

A conviction for an offence against this Act, the Racing Act or the repealed *Racing and Betting Act 1980* is not, after 10 years from the date of the conviction, receivable in evidence against a person for the purpose of subjecting the person to an increased penalty or to a forfeiture under this Act.

## **Division 3 Remedies**

### **237 Recovery of seizure, compliance or destruction costs**

- (1) This section applies if the commission has incurred a cost for an authorised officer to do 1 or more of the following acts in relation to an animal—
  - (a) if the animal has, under chapter 5, part 3, division 3 been seized—
    - (i) taking possession of, or moving, the animal; or
    - (ii) taking action to restrict access to the animal; or
    - (iii) providing the animal with accommodation, food, rest, water or other living conditions; or
    - (iv) arranging for the animal to receive veterinary or other treatment;
  - (b) if an animal welfare direction given in relation to the animal has not been complied with—taking action to ensure the direction is complied with;
  - (c) if the animal has been destroyed under section 196—destroying it.
- (2) The commission may recover the cost from the animal's owner or former owner if incurring the cost was necessary and reasonable—

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- (a) in the interests of the animal's welfare or to destroy it; or
  - (b) if the animal has been destroyed under section 196—for the destruction.
- (3) However, if a cost mentioned in subsection (1)(a)(iii) or (iv) was for a period during which the animal was retained on the grounds mentioned in section 186(5)(b), it may be recovered only if the animal's retention was reasonably required as evidence.

### **238 Compensation because of animal welfare offence**

- (1) A court may order a person convicted of an animal welfare offence to—
- (a) pay compensation to a person who, because of the commission of the offence, has—
    - (i) suffered damage or loss to property; or
    - (ii) incurred costs in avoiding or minimising, or attempting to avoid or minimise, damage or loss to property; or
  - (b) pay a person an amount for costs incurred by the person in—
    - (i) taking possession of, or moving, the animal; or
    - (ii) providing it with accommodation, food, rest, water or other living conditions; or
    - (iii) arranging for it to receive veterinary or other treatment.
- (2) However, an order under subsection (1) can not be made in favour of the commission.

### **239 General provisions for orders about compensation or costs**

- (1) Compensation or costs that may be recovered under section 206 or this division may be claimed and ordered in a proceeding—

- (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an alleged animal welfare offence, or another alleged offence against this Act or the Racing Act, the investigation of which gave rise to the claim for compensation.
- (2) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (3) In considering whether it is just to order compensation, the court must have regard to any relevant offence committed by the claimant.
- (4) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.

## **Division 4                      Reviews and appeals for original decisions**

### **Subdivision 1              Preliminary**

#### **240      What is an *original decision***

- (1) An *original decision* is a decision to do any of the following—
- (a) refuse to grant or renew a licence;
  - (b) take disciplinary action relating to a licence;
  - (c) censure the holder of a licence;
  - (d) take an exclusion action against a person;
  - (e) impose a monetary penalty on a person;
  - (f) impose any other non-monetary penalty on a person;

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- (g) seize, under this Act or a warrant, an animal or other thing, unless the seizure was in a circumstance mentioned in section 184(1)(a) or (b);
  - (h) forfeit, under section 187(1), an animal or other thing;
  - (i) give an animal welfare direction;
  - (j) another decision prescribed by regulation.
- (2) However, the following decisions are not original decisions—
- (a) a decision relating to the eligibility of an animal to race or the conditions under which an animal can race;  
*Example—*
    - the commission’s decision requiring an animal to pass a stated examination or test before being allowed to race
  - (b) a decision cancelling or suspending a licence for an animal, unless the cancellation or suspension relates to—
    - (i) a decision to take disciplinary action relating to the licence of a licence holder; or
    - (ii) a decision to take an exclusion action, under the control body’s rules of racing, against a person;
  - (c) a decision about a protest or objection against placed animals relating to an incident that happened during a race or trial;
  - (d) a decision relating to a dispute between a racing bookmaker and a person who placed a bet with the bookmaker for a race;
  - (e) a decision to stop, restart, rerun, postpone or abandon a race.

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

An *interested person* for an original decision is—

- (a) if the original decision is a decision to seize or forfeit an animal or other thing—

- (i) a person who has been given, or is entitled to be given, an information notice about the decision; and
- (ii) if the decision relates to an animal—the person in charge of the animal; or
- (b) if the original decision is a decision other than to seize or forfeit an animal or other thing—
  - (i) for a decision about the grant or refusal of a licence—the applicant for the licence; or
  - (ii) for a decision to give an animal welfare direction—
    - (A) a person who has been given, or is entitled to be given, an information notice about the decision; and
    - (B) the person in charge of the animal the subject of the animal welfare direction; or
  - (iii) for a decision prescribed by regulation—the person prescribed by regulation for the decision; or
  - (iv) otherwise—the licence holder adversely affected by the original decision.

## **Subdivision 2 Internal reviews**

### **242 Review starts with internal review**

A person may not apply for a review of, or an appeal against, an original decision unless there has been an internal review of the decision.

### **243 Applying for internal review of original decision**

- (1) An interested person for an original decision may apply to the commission for an internal review of the decision.
- (2) The application must—

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

#### **244 Staying operation of original decision on internal review**

- (1) The application for an internal review does not stay the original decision.
- (2) However, the applicant may immediately apply for a stay of the original decision to the relevant body.
- (3) The relevant body may stay the original decision to secure the effectiveness of the internal review and a later appeal to the court or external review by QCAT.
- (4) The relevant body may stay the operation of the internal review decision on conditions the relevant body considers appropriate.
- (5) The stay operates for the period decided by the relevant body.
- (6) The period of the stay must not extend past the time when the commission makes an internal review decision about the original decision and any later period the relevant body allows the applicant to enable the applicant to appeal against, or apply for an external review of, the internal review decision.
- (7) An internal review application affects the original decision, or carrying out of the decision, only if the decision is stayed.
- (8) In this section—  
*relevant body* means—

- (a) for an original decision to seize or forfeit an animal or other thing—the court; or
- (b) for another original decision—QCAT.

## 245 Reviewing original decision

- (1) The commission must, within 20 business days after receiving an application for internal review of an original decision—
  - (a) review the original decision; and
  - (b) make a decision (the *internal review decision*) to—
    - (i) confirm the original decision; or
    - (ii) amend the original decision; or
    - (iii) substitute another decision for the original decision; and
  - (c) give the applicant a notice (the *review notice*) advising of the internal review decision.
- (2) The application may be dealt with only by a person who—
  - (a) did not make the original decision; and
  - (b) holds a more senior office than the person who made the original decision.
- (3) Subsection (2)—
  - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
  - (b) does not apply to an original decision made personally by the commissioner.
- (4) If the internal review decision confirms the original decision, the original decision is taken to be the internal review decision.
- (5) If the internal review decision amends the original decision, the original decision as amended is taken to be the internal review decision.

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- (6) If the internal review decision is not the decision sought by the applicant and the original decision is a decision other than to seize or forfeit an animal or other thing, the review notice must comply with the QCAT Act, section 157(2).
  - (7) If the internal review decision is not the decision sought by the applicant and the original decision is a decision to seize or forfeit an animal or other thing, the review notice must state the following information—
    - (a) the day the notice is given to the applicant;
    - (b) the decision;
    - (c) the reasons for the decision;
    - (d) the applicant has a right to appeal to the court against the decision;
    - (e) how, and the period within which, the applicant may appeal against the decision;
    - (f) how the applicant may apply to the court for a stay of the operation of the decision.
  - (8) If the commission does not give the applicant a review notice within 20 business days after receiving the application, the commission is taken to have confirmed the original decision.

### **Subdivision 3 External review**

#### **246 Applying for external review**

- (1) This section applies to a person who, under section 245(6), must be given a review notice complying with the QCAT Act, section 157(2) for an internal review decision.
- (2) The person may apply to QCAT, as provided under the QCAT Act, for a review of the internal review decision.

*Note—*

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

## **Subdivision 4 Appeals**

### **247 Appealing internal review decision**

- (1) If an interested person has applied for an internal review of an original decision that is a decision to seize or forfeit an animal or other thing, any interested person for the original decision may appeal to the court against the internal review decision by filing a notice of appeal with the registrar of the court.
- (2) The notice of appeal must state fully the grounds of the appeal.
- (3) The person must file the notice of appeal within 28 days after a review notice under section 245(1)(c) about the internal review decision is given to the person.
- (4) However, the court may, on application, at any time, extend the time for filing the notice of appeal.
- (5) The person must serve a copy of the notice of appeal, and any application to extend the time for filing a notice of appeal, on the commission.
- (6) The appeal does not—
  - (a) affect the operation of the internal review decision; or
  - (b) prevent the internal review decision being implemented.

### **248 Staying operation of internal review decision**

- (1) The court may, by order, stay the operation of the internal review decision to secure the effectiveness of the appeal.
- (2) The court may stay the operation of the internal review decision on conditions the court considers appropriate.
- (3) The stay operates for the period decided by the court.
- (4) However, the period of the stay must not extend past the time when the court decides the appeal.

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## **249 Powers of court on appeal**

- (1) When deciding an appeal against an internal review decision, the court—
  - (a) has the same powers as the commission in making the internal review decision; and
  - (b) is not bound by the rules of evidence; and
  - (c) must comply with natural justice.
- (2) An appeal is by way of rehearing.
- (3) The court may—
  - (a) confirm the internal review decision; or
  - (b) substitute another decision for the internal review decision; or
  - (c) set aside the internal review decision and return the matter to the commission with directions the court considers appropriate.

## **250 Effect of court's decision on appeal**

- (1) If the court substitutes another decision for the internal review decision—
  - (a) the substituted decision is taken to be a decision of the commission; and
  - (b) the commission may give effect to the decision as if—
    - (i) the decision were the original decision of the commission; and
    - (ii) no application for review or appeal had been made.
- (2) If the court sets aside the internal review decision and returns the matter to the commission with directions, any decision made by the commission in accordance with the directions may not be reviewed or appealed against under this division.

## **251 Particular powers about seizure or forfeiture**

- (1) If the court confirms an internal review decision about forfeiture, it may also give directions about the sale or disposal of the animal or other thing.
- (2) If the court sets aside an internal review decision about seizure or forfeiture, it may also—
  - (a) order the return of the animal or other thing; or
  - (b) make another order it considers appropriate for its disposal; or
  - (c) make an order under section 206.
- (3) However, the court must not order the return to a person of any of the following seized things—
  - (a) an animal or other thing that may be evidence in a proceeding started in relation to the thing seized;
  - (b) a thing that has been destroyed because it has no intrinsic value;
  - (c) a thing that has been disposed of because it was perishable;
  - (d) a thing the person may not lawfully possess.

## **252 Appeal to District Court**

An appeal lies to a District Court from a decision of the court, but only on a question of law.

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## Chapter 7 Miscellaneous provisions

### Part 1 Miscellaneous provisions relating to racing and betting

#### 253 Betting under this Act is lawful

- (1) If betting on the outcome of a race or sporting contingency is conducted under this Act, the betting is lawful.
- (2) Subsection (1) does not limit the *Wagering Act 1998*.

#### 254 Time race meeting taken to commence

A race meeting, under the management of a control body, is taken to commence at the time that, under the direction of the steward who is in charge of the race meeting, betting with racing bookmakers may commence.

#### 255 Void betting contracts etc.

Subject to sections 139 and 256—

- (a) a contract relating to betting is void; and
- (b) a promise, whether express or implied, to do any of the following under or in relation to a contract relating to betting is void—
  - (i) to pay money to a person;
  - (ii) to pay money to a person by way of commission, fee, reward or otherwise;
  - (iii) to pay money to a person for services rendered; and
- (c) an action may not be brought in a court to recover money or other property—
  - (i) alleged to be won or lost on a bet; or

- (ii) given to a person as a stakeholder for an event on which a bet has been made; or
- (iii) lent or advanced for the purpose of betting.

## **256 Betting and other activities to which s 255 does not apply**

Section 255 does not apply—

- (a) if the betting is conducted under any of the following Acts—
  - (i) the *Casino Control Act 1982*;
  - (ii) the *Charitable and Non-Profit Gaming Act 1999*;
  - (iii) the *Gaming Machine Act 1991*;
  - (iv) the *Interactive Gambling (Player Protection) Act 1998*;
  - (v) the *Keno Act 1996*;
  - (vi) the *Lotteries Act 1997*;
  - (vii) the *Wagering Act 1998*; or
- (b) to a subscription or contribution, or agreement to subscribe or contribute, for or to a prize, trophy or amount to be awarded to the winner of a lawful game, sport, pastime or exercise or to a person who receives or holds the subscription or contribution for that purpose.

## **Part 2 Other miscellaneous provisions**

### **257 Approved forms**

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

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## 258 Delegations

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

## 259 Protection from civil liability

- (1) This section applies to each of the following persons (a *relevant person*)—
  - (a) the commissioner;
  - (b) a deputy commissioner;
  - (c) a steward;
  - (d) if an authorised officer has asked another person to help the officer to exercise a power under this Act and the other person is giving the help—the other person;
  - (e) a person who, under this Act, is required to comply, and is complying, with a direction or requirement under section 171(1) or (2), 176(1), 181(2)(c), 199(1) or 202(2).
- (2) A relevant person does not incur civil liability for engaging, or for the result of engaging, in connection with—
  - (a) for a relevant person mentioned in subsection (1)(a), (b) or (c)—performing a function or exercising a power; or
  - (b) for a relevant person mentioned in subsection (1)(d) or (e)—giving the help or acting under the direction or requirement.
- (3) If subsection (2) prevents a civil liability attaching to a relevant person, the liability attaches instead to the State.

- (4) If liability attaches to the State under subsection (3), the State may recover contribution from the relevant person but only if the conduct was engaged in—
  - (a) other than in good faith; and
  - (b) with gross negligence.
- (5) In a proceeding under subsection (4) to recover contribution, the amount of contribution recoverable is the amount found by the court to be just and equitable in the circumstances.
- (6) This section does not apply to a person who is a State employee under the *Public Service Act 2008*, section 26B(4) engaging in conduct in an official capacity under section 26C of that Act.

*Note—*

For protection from civil liability in relation to State employees, see the *Public Service Act 2008*, section 26C.

- (7) In this section—

***civil liability*** includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

***conduct*** means an act or omission to perform an act.

## **260 Protection from liability for giving information**

- (1) This section applies if a person, acting honestly and in good faith, gives an authorised officer information the person reasonably believes may help with an investigation of an animal welfare offence.

*Example—*

Acting in good faith may include a person choosing a time and a place to give the information to an authorised officer to avoid other people overhearing the information.

- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Also, merely because the person gives the information, the person can not be held to have—

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- (a) breached any code of professional etiquette or ethics; or
  - (b) departed from accepted standards of professional conduct.
- (4) Without limiting subsections (2) and (3)—
- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
  - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
    - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
    - (ii) is not liable to disciplinary action for giving the information.

## **261 Sharing of information by authorised officer**

- (1) Despite section 212, an authorised officer may give information obtained under this Act in the following circumstances—
- (a) to a police officer if the authorised officer considers the information will help a police officer in the performance of the police officer's functions in relation to—
    - (i) an animal; or
    - (ii) an animal welfare offence;
  - (b) to an ACPA authorised person if the authorised officer considers the information will help an ACPA authorised person in the performance of the person's functions under the *Animal Care and Protection Act 2001* in relation to—
    - (i) an animal; or
    - (ii) an animal welfare offence.
- (2) In this section—

***ACPA authorised person*** means an authorised officer, or inspector, under the *Animal Care and Protection Act 2001*.

## **262 Interaction with other laws**

- (1) Sections 260 and 261 do not limit a power or obligation under another Act or law to give information about an animal or an animal welfare offence.
- (2) Sections 260 and 261 apply to information despite any other law that would otherwise prohibit or restrict the giving of the information.

*Example of another law for subsection (2)—*

*Police Service Administration Act 1990, section 10.1*

## **263 Executive officer may be taken to have committed offence**

- (1) If a corporation commits an offence against section 195, each executive officer of the corporation is taken to have also committed the offence if—
  - (a) the officer authorised or permitted the corporation's conduct constituting the offence; or
  - (b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence against section 195 whether or not the corporation has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following—
  - (a) the liability of the corporation for the offence against section 195;
  - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against section 195.

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**265 Fees etc. owing to the State are debts**

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

**266 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may make provision with respect to—
  - (a) the matters to be included in a program to audit the suitability of licensed animals and participants to continue to be licensed; and
  - (b) the matters to be included in a program for assessing the suitability of control bodies to manage their codes of racing; and
  - (c) the provisions, or provisions of a type, that must be included in the standards for a code of racing;
  - (d) a law of another State as a law about racing or betting; and
  - (e) the fees payable under this Act;
  - (f) imposing a penalty of no more than 20 penalty units for a contravention of a regulation.

## **Chapter 8 Transitional provisions for Act No. 12 of 2016**

### **Part 1 Purposes and definitions**

**267 Main purposes**

The main purposes of this chapter are—

- (a) to provide for provisions of this Act, that are substantially the same as particular provisions of the *Racing Act 2002* as in force immediately before the commencement, to be dealt with as replacements of the particular provisions; and
- (b) without limiting paragraph (a), if a matter was dealt with under particular provisions of the *Racing Act 2002* as in force immediately before the commencement, to provide for the continuation of the matter under this Act.

## 268 Definitions for chapter

- (1) In this chapter—

***continuing matter*** means an existing matter under a previous provision in relation to which there is a corresponding provision and that, as stated in section 269(2), is continued in force or to have effect.

***corresponding provision***, for a previous provision, means a provision of this Act that is substantially the same as or equivalent to the previous provision.

***existing matter***, in relation to a previous provision, see section 269.

***made*** includes given and issued.

***obligation*** includes duty.

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

***previous provision*** means any of the following provisions of the unamended Act—

- (a) sections 47 to 51;
- (b) chapter 3, part 2, divisions 2 and 3;
- (c) chapter 3A, part 3;
- (d) chapter 6, parts 1 and 3A to 5;
- (e) chapter 7;

(f) section 352.

**protection** includes a statement to the effect of any of the following—

- (a) that there is no liability;
- (b) that there is no invalidity;
- (c) that a person has an entitlement.

**unamended Act** means the *Racing Act 2002* as in force immediately before the commencement.

(2) A provision of this Act is substantially the same as or equivalent to a previous provision even if, under the provision of this Act, the commission or the commissioner may perform a function or exercise a power and any of the following could have performed the function or exercised the power under the previous provision—

- (a) the chief executive;
- (b) the all-codes board;
- (c) the Racing Integrity Commissioner;
- (d) a control body.

(3) A provision of this Act is substantially the same as or equivalent to a previous provision even if, under the provision of this Act, an authorised officer may perform a function or exercise a power and any of the following could have performed the function or exercised the power under the previous provision—

- (a) a compliance officer;
- (b) an integrity officer;
- (c) an authorised officer.

*Note—*

Previous section 261(2) provided that a reference in the unamended Act to an authorised officer is a reference to a compliance officer or an integrity officer.



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The appointment may be terminated under this Act. Also the commission may issue a new identity card under this Act to the person.

- (3) Subsection (2)(b) applies whether or not the previous provision refers to the existing matter under a previous provision generally or by reference to the previous provision.
- (4) This section is subject to the Racing Act, section 223.
- (5) Part 3 includes examples for this section.

*Note—*

The examples are examples under the *Acts Interpretation Act 1954*, section 14D.

## **270 Terminology in things mentioned in s 269**

- (1) This section applies to a document (the *relevant document*) that is—
  - (a) a document mentioned in section 269(1); or
  - (b) evidence of an existing matter under a previous provision.
- (2) A reference in the relevant document to an existing matter under a previous provision is to be read, if the context permits and with the necessary changes to terminology, as if the existing matter existed or were made, kept, done, applied or otherwise provided for under this Act.
- (3) Without limiting subsection (2), it is declared that a reference in a relevant document to—
  - (a) the appointment of a person as a compliance officer or an integrity officer under previous section 261 is an existing matter under a previous provision; and
  - (b) the necessary changes include that the relevant document is to be read as if the appointment of the person were an appointment of the person as an authorised officer under this Act.

## **271 Period stated in previous provision**

- (1) This section applies if, under a previous provision, there was a period for doing something, and the period for doing the thing started but did not finish before the commencement.
- (2) If there is a corresponding provision to the previous provision and both the corresponding provision and the previous provision provide for the same period, the period for doing the thing continues to have started from when the period started under the previous provision.

*Examples—*

- 1 See previous section 214 and section 102.
- 2 See previous section 248I and section 130.

## **272 Period or day stated in document given under previous provision**

- (1) This section applies if—
  - (a) a previous provision provided for a document to be made under it; and
  - (b) there is a corresponding provision to the previous provision; and
  - (c) under the previous provision and before the commencement, a document was given to a person, whether or not the person had received the document before the commencement.
- (2) If the document stated a period for doing something—
  - (a) the stated period continues to apply for doing the thing; and
  - (b) the period continues to have started from when the period started under the previous provision.
- (3) If the document stated a day before which, or by which, a thing is to be done (however expressed), the thing must be done by the stated day.

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- (4) If the previous provision and corresponding provision provided that, if the thing were not done by the end of the stated period, the person is liable for an offence for the failure or may be subject to a penalty for the failure, the person does not commit an offence until the stated period ends.

**273 Action happening before commencement may be relevant to proceeding for particular acts or omissions**

- (1) Despite the *Acts Interpretation Act 1954*, section 20C, an existing matter under a previous provision is not precluded from having relevance to—
- (a) an act or omission that happened before the commencement constituting grounds for suspending or cancelling a licence under this Act; or
  - (b) a proceeding relating to a contravention of a provision of this Act involving an act or omission that happened after the commencement.
- (2) In this section—  
*contravention* includes an alleged contravention.

**Part 3 Examples of continuing matters for previous provisions**

**274 Examples for previous ss 47–51**

The following are examples of continuing matters dealt with under previous sections 47 to 51—

- (a) an investigation of a control body as mentioned in previous section 47 or a control body associate as mentioned in previous section 48;
- (b) a notice given to a control body or control body associate as mentioned in previous section 49;
- (c) a request given to the police commissioner as mentioned in previous section 51.

### **275 Examples for previous ch 3, pt 2, divs 2 and 3**

- (1) The following are examples of continuing matters dealt with under previous chapter 3, part 2, division 2 or 3—
  - (a) a policy for a code of racing, or provisions of a policy, to the extent the policy or provisions are for a licensing scheme as mentioned in previous chapter 3, part 2, division 2;
  - (b) an application for a licence as mentioned in previous section 88 that has not been granted or refused before the commencement.
- (2) For subsection (1)(a), a policy or provisions of a policy mentioned in that paragraph are taken to be standards made under this Act.
- (3) For subsection (1)(b), the application for a licence is taken to have been made to the commission and, for that purpose, the control body to which the application was made must give the commission the application and any document or information relevant to the application.

### **276 Examples for previous ch 3A, pt 3**

The following are examples of continuing matters dealt with under previous chapter 3A, part 3—

- (a) a notice requiring a person to attend to answer questions relevant to an audit or investigation as mentioned in previous section 113AU;
- (b) a notice requiring a person to give information or produce a document or thing as mentioned in previous section 113AV;
- (c) an obligation applying to a person given a notice under previous section 113AU or 113AV, or appearing as a witness at an audit or investigation, as mentioned in previous section 113AW.

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**277 Examples for previous ch 6, pts 1 and 3A to 5**

The following are examples of continuing matters dealt with under previous chapter 6, parts 1 and 3A to 5—

- (a) an application for an offcourse approval as mentioned in previous section 243 that has not been granted or refused before the commencement, a notice requesting further information or a document to decide the application as mentioned in previous section 244 or 245 and a notice asking an applicant to review an undertaking that accompanied an application as mentioned in previous section 246;
- (b) a notice of a decision about an application for an offcourse approval as mentioned in previous section 248B;
- (c) a ground for cancelling a bookmaker's offcourse approval as mentioned in previous section 248C, a show cause notice relating to a ground as mentioned in previous section 248D and the obligation to consider all representations in relation to the show cause notice as mentioned in previous section 248F;
- (d) a notice about the decision to cancel a bookmaker's offcourse approval given to the bookmaker as mentioned in previous section 248H and the obligation to comply with a direction to return the offcourse approval as mentioned in previous section 248I;
- (e) an information notice about the censure of a racing bookmaker as mentioned in previous section 248K or the immediate suspension of an offcourse approval as mentioned in previous section 248M;
- (f) an approval of a telecommunications system and the making of a bet, a consent to a recording of a betting transaction and the confirmation of the transaction, as mentioned in previous section 249(1);
- (g) a direction for an independent audit of a telecommunications system and a requirement to give

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- the Minister the results of the audit, as mentioned in previous section 249(3);
- (h) a declaration of sporting contingency as mentioned in previous section 255 that has not happened before the commencement;
  - (i) an application to authorise a person to act as a racing bookmaker's agent by carrying on bookmaking as the racing bookmaker for a period as mentioned in previous section 256 and an authority granted under that section;
  - (j) an obligation to give notice about a licensing, a refusal to licence or the exercising of disciplinary action as mentioned in previous section 257 or the power to give information as mentioned in previous section 258;
  - (k) a delegation as mentioned in previous section 259 and an approval of forms as mentioned in previous section 260.

## **278 Examples for previous ch 7**

The following are examples of continuing matters dealt with under previous chapter 7—

- (a) subject to section 270(3), the appointment of a person as a compliance officer or an integrity officer as mentioned in previous section 261, including conditions stated in the officer's instrument of appointment or a signed notice given to the officer as mentioned in previous section 263;

*Note—*

Previous section 261(2) provided that a reference in the unamended Act to an authorised officer is a reference to a compliance officer or an integrity officer.

- (b) an identity card that was issued to a person mentioned in paragraph (a) under previous section 264;
- (c) an application for a warrant as mentioned in previous section 273 or 275 that has not been granted or refused before the commencement, and a warrant issued by a

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- magistrate under previous section 274 or a special warrant issued under previous section 275;
- (d) the seizure of a thing before the commencement as mentioned in previous chapter 7, part 2, division 4 and obligations under that division for not tampering, or attempting to tamper, with a thing, or something restricting access to a thing, seized before the commencement, or for returning a thing seized before the commencement;
  - (e) the entitlement to be paid reasonable compensation as mentioned in previous section 309 in relation to loss or damage that happened before the commencement.

## Part 4 Other matters

### Division 1 Staff of the commission

#### 279 What is the *employee register*

- (1) The *employee register* is a register of employees of the board that is prepared for the commission and approved by the chief executive.

*Note—*

Under the Racing Act, section 6, the Queensland All Codes Racing Industry Board is continued in existence under that Act under the name Racing Queensland Board and is referred to as the board.

- (2) It must be stated in the employee register, for each employee of the board whose name is stated in the employee register, whether the employee is employed by the board as a race day steward.
- (3) The chief executive may approve the employee register for the purpose of subsection (1).
- (4) At any time within 1 year after the commencement, the chief executive may change the employee register to correct an omission or error.

## **280 Who is a *transferable employee***

A *transferable employee* is a person—

- (a) who, immediately before the commencement, was an employee of the board; and
- (b) whose name is stated in the employee register as an employee to be transferred to the commission.

## **281 Transfer of transferable employees**

- (1) On the commencement—
  - (a) a transferable employee becomes an employee of the commission; and
  - (b) a transferable employee who is employed by the board as a race day steward, as stated in the employee register—
    - (i) becomes employed by the commission as a race day steward; and
    - (ii) is taken to be employed under this Act and not the *Public Service Act 2008*; and
  - (c) a transferable employee who is not a race day steward, as stated in the employee register, is taken to be employed under the *Public Service Act 2008*; and
  - (d) the records of the board, to the extent they relate to the employment of transferable employees, become records of the commission.
- (2) However, if an employee of the board becomes a transferable employee because of a register correction, subsection (1) applies to the employee as if the reference in the subsection to the commencement were a reference to the day after the register correction happens.
- (3) Also, if a person ceases to be a transferable employee because of a register correction, the person is taken never to have been—
  - (a) a transferable employee; or

(b) transferred to the commission.

(4) In this section—

*register correction* means a change to the employee register under section 279(4) to correct an omission or error.

## **282 Preservation of rights of transferable employees**

The transfer of a transferable employee to the commission does not—

- (a) adversely affect the employee's total remuneration; or
- (b) prejudice the employee's existing or accruing rights to superannuation or annual, sick or long service leave; or
- (c) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
- (d) constitute a retrenchment, redundancy or termination of the employee's employment by the board; or
- (e) entitle the employee to a payment or other benefit because he or she is no longer employed by the board; or
- (f) require the board to make any payment in relation to the employee's accrued rights to annual, sick or long service leave irrespective of any arrangement between the board and the employee.

## **Division 2 Eligibility certificates**

### **283 Existing applications for eligibility certificates**

- (1) An application for an eligibility certificate made under the unamended Act and not decided on the commencement is taken to have been withdrawn.

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- (2) If the fingerprints of the applicant or of a business associate or executive associate of the applicant were taken under previous section 209 in relation to the application, the gaming executive must destroy the fingerprints.
- (3) The application fee that accompanied the application must be refunded in full to the applicant.

#### **284 Existing right to apply for licence as racing bookmaker**

- (1) This section applies to a person if—
  - (a) the person was granted an eligibility certificate under the unamended Act; and
  - (b) the day stated in the eligibility certificate by which the person must apply for a licence as a racing bookmaker has not lapsed; and
  - (c) the person has not applied to a control body for a racing bookmaker's licence before the commencement.
- (2) From the commencement, the person may apply to the commission for the licence before the day the eligibility certificate lapses under previous section 220(3) as if this Act had not been enacted.

#### **285 Continuing obligation of certificate holders to give notice of particular changes**

- (1) This section applies if—
  - (a) a certificate holder is required to give the gaming executive a notice under previous section 221; and
  - (b) immediately before the commencement, the certificate holder has not given the notice.
- (2) On the commencement—
  - (a) the obligation to give the notice continues to apply as if this Act had not been enacted; and
  - (b) a reference to the gaming executive in that section is taken to be a reference to the commission.

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## **286 Approved audit program**

- (1) This section applies to an audit program approved by the gaming executive under previous section 223.
- (2) On the commencement, the audit program—
  - (a) is taken to be an audit program for investigating licence holders, and the business associates and executive associates of licence holders, approved by the commission under section 95(1); and
  - (b) may be varied, revoked or otherwise dealt with, and enforced, by the commission.

## **287 Continuation of show cause process**

- (1) This section applies to a show cause notice given to a person who is a certificate holder under previous section 231 if, immediately before the commencement, the gaming executive had not—
  - (a) given the certificate holder a notice under previous section 234(3); or
  - (b) censured the certificate holder under previous section 235(4); or
  - (c) cancelled the eligibility certificate under previous section 236.
- (2) From the commencement, the show cause notice is taken to be a show cause notice given by the commission to the person.

## **288 Reviews**

- (1) A review under previous chapter 6, part 3, division 6 that has started but not been finalised before the commencement may continue as if this Act had not been enacted.
- (2) If, immediately before the commencement, a person has a right of review under previous section 242(1)(b) or (c), the right continues as if this Act had not been enacted.

- (3) Previous section 242A continues to apply to a review under previous chapter 6, part 3, division 6.
- (4) Previous section 242B continues to apply to a decision of the gaming executive mentioned in previous section 242A(1).

## **289 Continuing obligation of control body to give notice of certain actions about racing bookmakers**

- (1) This section applies if—
  - (a) a control body is required to give the gaming executive a notice under previous section 257; and
  - (b) immediately before the commencement, the control body has not given the notice.
- (2) On the commencement—
  - (a) the obligation to give the notice continues to apply as if this Act had not been enacted; and
  - (b) a reference to the gaming executive in that section is taken to be a reference to the commission.

## **Division 3 Miscellaneous provisions**

### **290 Licences and other documents under policies**

- (1) This section applies to—
  - (a) a control body's policy for a licensing scheme for a code of racing as in force immediately before the commencement; and
  - (b) a current licence granted by the control body for the code of racing under the policy; and
  - (c) any of the following in relation to the current licence—
    - (i) a document that continued to have effect or was in force immediately before the commencement;

- (ii) an action done in relation to the current licence if the action continued to have effect immediately before the commencement;
  - (iii) an entity's obligation or right to take action (including a ground for action) in relation to the current licence if the obligation applied to the entity, or the right to take the action existed, immediately before the commencement;
  - (iv) an entity's protection in relation to the current licence that applied to the entity immediately before the commencement.
- (2) The current licence continues to have effect for the code of racing to the same extent as it did under the unamended Act.
  - (3) The document, action, obligation, right or protection in relation to the licence as mentioned in subsection (1)(c) continues in force or to have effect.
  - (4) For this section, a reference to a control body in the policy for the licensing scheme, the current licence or the document, action, obligation, right or protection in relation to the licence is to be taken as a reference to the commission.
  - (5) In this section—  
***current licence*** means a licence granted under a policy that, before the commencement, has not ended under the policy and includes a licence that is suspended.

## **291 Offences before commencement**

The Racing Act, section 223 does not limit the application of section 273(1)(b), including, for example, if an offence against this Act is a continuing offence and involves an act or omission that happened before the commencement.

## **292 Acts Interpretation Act 1954, s 20 not limited**

This chapter does not limit the *Acts Interpretation Act 1954*, section 20.

## **Chapter 9      Other transitional provisions**

### **Part 1                      Transitional provisions for Serious and Organised Crime Legislation Amendment Act 2016**

#### **294      Applications not finally decided**

- (1) This section applies if, immediately before the commencement, the commission had not finally decided an application for the grant of a racing bookmaker's licence.
- (2) The commission must decide the application under this Act as in force after the commencement.

#### **295      Show cause process not finally decided**

- (1) This section applies if—
  - (a) the commission had given a show cause notice to a racing bookmaker under section 103(1); and
  - (b) immediately before the commencement, the commission had not finally dealt with matters relating to the show cause notice under section 105 or 106 (the *show cause process*).
- (2) The show cause process must continue under this Act as in force after the commencement.

#### **296      Proceedings not finally decided**

- (1) This section applies if, immediately before the commencement, the following proceedings had been started but not finally dealt with—

- (a) a proceeding before QCAT for a review of a relevant decision;
  - (b) a proceeding before the Supreme Court about a relevant decision.
- (2) The proceeding is discontinued and the matter is remitted to the commission for the commission to decide again under this Act as in force after the commencement.
- (3) QCAT or the Supreme Court must return to the police commissioner any criminal intelligence relating to the proceeding in QCAT's or the Supreme Court's possession or control.
- (4) For subsection (1), a proceeding had not been finally dealt with if—
- (a) QCAT or the Supreme Court had not made a decision; or
  - (b) QCAT or the Supreme Court had made a decision but the appeal period for the decision had not ended; or
  - (c) QCAT or the Supreme Court had made a decision and an appeal against the decision had started but not ended.

- (5) In this section—

***criminal intelligence*** means criminal intelligence within the meaning of repealed section 114(6).

***relevant decision*** means a decision—

- (a) for which a review notice mentioned in section 245(6) was given to a person; and
- (b) made because the person was not a suitable person to hold a racing bookmaker's licence because the person—
  - (i) was identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as a participant in a criminal organisation; or
  - (ii) had a business associate or executive associate who was—

- (A) if the associate was an individual—identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as a participant in a criminal organisation; or
  - (B) if the associate was a corporation—identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as a criminal organisation; or
- (iii) was identified by the police commissioner under repealed section 88(2), 96(4) or 97(4) as an unsuitable corporation.

*repealed*, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

## **Part 2**

# **Transitional provision for Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Act 2021**

### **297 Interactive betting accounts established before commencement**

Sections 134B, 134C and 134E apply in relation to an interactive bettor whether the interactive bettor's interactive betting account, however called, was established before or after the commencement.

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# Schedule 1      Dictionary

## section 5

*1st deputy commissioner* see section 15(2)(a).

*2nd deputy commissioner* see section 15(2)(b).

*accepted insurance policy or bond* see section 136(3).

*accepted undertaking*, for an offcourse approval, see section 122.

*Act document*, for chapter 6, part 1, division 1, see section 211.

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

*animal welfare direction* see section 193(1).

*animal welfare offence* means—

- (a) an offence against section 195, 217 or 218; or
- (b) an offence against the Racing Act, section 317 or 318, as in force before the repeal of the section by this Act; or
- (c) in relation to a licensed animal or an animal that could be licensed under this Act, an offence against—
  - (i) the *Animal Care and Protection Act 2001*, other than chapter 6, part 2, divisions 2, 3, 4 and 7 and sections 206, 207, 208, 209 and 210; or
  - (ii) the Criminal Code, section 242 or 468.

*approval application* means an approval application under the Racing Act.

*approved control body* means an approved control body under the Racing Act.

*approved form* means a form approved under section 257.

**approved place**, for an offcourse approval, see section 116(2)(a).

**authorised officer** means a person who holds office under chapter 5, part 1 as an authorised officer.

**background document**, for chapter 6, part 1, division 1, see section 211.

**bet** includes the action, behaviour, conduct or performance of a person who, whether on 1 or more than 1 occasion, does any of the following acts for the person or for another person, or who cooperates with another person for the doing of any of the acts—

- (a) makes or receives a bet or wager;
- (b) pays, receives, negotiates or settles a bet or wager;
- (c) offers, agrees or otherwise negotiates—
  - (i) to bet or wager; or
  - (ii) to pay, receive or settle a bet or wager.

**betting meeting** means a meeting held by a licensed club at a licensed venue, but at which no race is held.

**board** means the board under the Racing Act.

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

**business associate**—

- (a) means—
  - (i) for an approval application—a person whom the chief executive (racing) reasonably believes will, if the applicant for the approval application is approved as a control body, be associated with the ownership or management of the operations of the control body; or
  - (ii) of an applicant for a racing bookmaker's licence—a person whom the commission reasonably believes will, if the applicant is licensed as a racing bookmaker, be associated with the

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ownership or management of the business conducted by the racing bookmaker; or

(iii) of the holder of a racing bookmaker's licence—a person whom the commission reasonably believes is associated with the ownership or management of the business conducted by the racing bookmaker; and

(b) includes, for any corporation, an executive officer of the corporation.

**certified copy**, in relation to a racing bookmaker's licence of a corporation, means a copy of the licence certified as a true copy by the commission.

**chief executive (racing)** means the chief executive administering the Racing Act.

**club** means a club under the Racing Act.

**code of racing** means a code of racing under the Racing Act.

**commission** see section 7(1).

**commissioner** see section 14(1).

**conditions**, of an offcourse approval, see section 121.

**confidential information**, about a person, for chapter 6, part 1, division 1, see section 211.

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

**control body associate** means—

- (a) for an approved control body—a business associate or executive associate of the control body; or
- (b) for the board under the Racing Act—a person whom the chief executive (racing) believes is associated with the operations of the board.

**control order** see the *Penalties and Sentences Act 1992*, section 161N.

**conviction** means a finding of guilt, or the acceptance of a plea of guilty, by any court.

**court** means a Magistrates Court.

***criminal history***, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite section 6 of that Act, includes a conviction of the person to which the section applies; and
- (b) despite section 5 of that Act, includes a charge made against the person for an offence.

***criminal intelligence*** see the Criminal Code, section 86(3).

***deputy commissioner*** see section 15(1).

***disciplinary action***, relating to an approval or licence, means 1 or more of the following—

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

***document certification requirement*** see section 199(6).

***document production requirement*** see section 199(2).

***drug*** means—

- (a) a substance mentioned in the Standard for the Uniform Scheduling of Medicines and Poisons as in force from time to time, published by the Commonwealth; or

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- (b) another substance, likely to affect the performance of a licensed animal, prescribed by regulation.

**electronic document** means a document of a type under the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

**employ** includes—

- (a) engage; and
- (b) employ or engage whether or not for payment.

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

- (a) for an action taken by a control body against the person—naming the person on a list that—
- (i) is kept under the control body’s rules of racing and identifies persons whose entitlements under the rules are forfeited; and
- (ii) is, from time to time, published in the control body’s racing calendar; or
- (b) for an action taken by the commission against the person—warning off the person from entering, or remaining at, a licensed venue, or other place at which trials are or are to be conducted, when the licensed venue or place is being used for a control body’s code of racing.

**executive associate** means—

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

ownership or management of the business conducted by the racing bookmaker; or

- (c) of the holder of a racing bookmaker's licence—an executive officer of a corporation, a partner, a trustee, or another person stated by the commission, whom the commission reasonably believes is associated with the ownership or management of the business conducted by the racing bookmaker.

*executive officer*, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director of the corporation or the person's position is given the name of executive officer.

*exercise control*, by the commission at a licensed venue, means the commission performs its functions at the venue when a contest, contingency, event or race meeting is held at the venue.

*Notes—*

- 1 The commission exercises control at a licensed venue by having stewards present at a race meeting held at the venue to provide oversight of the meeting in accordance with the functions and powers given to stewards under the rules of racing.
- 2 If a steward who is present at a licensed venue at the time a race meeting is to be held at the venue advises the person responsible at the venue, the control body that licensed the venue or the licensed club at the venue that the meeting must be stopped or must not start, the commission is no longer exercising control at the venue.

*former owner* see section 188(1).

*general power* see section 175(1).

*help requirement* see section 176(1).

*identity card*, for a provision about authorised officers, means an identity card issued under section 149(1).

*illegal betting place* see section 222.

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

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

- (a) the decision;
- (b) the day the decision is made;
- (c) the day the decision takes effect;
- (d) the reasons for the decision;
- (e) for a decision that is an original decision—that the person to whom the notice is given may apply to the commission for an internal review of the decision within 14 days after the person receives the notice;
- (f) for a decision other than an original decision—how a person to whom the notice is given may apply for a review of the decision and the period within which the application must be made.

**interactive betting account**, of a person, for chapter 4, part 3A, see section 134A.

**interactive bettor**, for chapter 4, part 3A, see section 134A.

**interested person**, for an original decision, see section 241.

**interfere with**, in relation to a licensed animal, licence holder or an official of the commission or a control body, for chapter 6, part 1, division 3, see section 216.

**internal review application** means an application under section 243 for an internal review of an original decision.

**internal review decision** see section 245(1)(b).

**licence holder** means—

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

*Example of a licence holder for paragraph (a)—*

An animal called ‘Rocket’ may be licensed by the commission. Joan Rockettes may be the owner of the licensed animal. The licence will state that Joan Rockettes is the licence holder of the licence for the licensed animal ‘Rocket’.

***licensed*** means licensed by the commission.

***licensed animal*** means—

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

***licensed club*** means a licensed club under the Racing Act.

***licensed executive officer***, of a corporation that is a racing bookmaker, means an executive officer of the corporation identified in the corporation's racing bookmaker's licence as an executive officer who may carry on bookmaking for the corporation under the licence.

***licensed venue*** means a licensed venue under the Racing Act.

***manage***—

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

***mandatory condition***, of an offcourse approval, see section 121(2).

***notice*** means a written notice.

***occupier***, of a place, includes the following—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;

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- (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;
  - (c) if no-one apparently occupies the place—any person who is an owner of the place.

**of**, a place, includes at or on the place.

**offcourse approval** see section 116(1).

**offence warning**, for a direction or requirement by an authorised officer, means a warning that, without a reasonable excuse, it is an offence for the person to whom the direction or requirement is made not to comply with it.

**official** means—

- (a) of the commission—an authorised officer or a steward;  
or
- (b) of a control body—a person who holds a position in the control body that is stated, under the control body's rules of racing, as a position for which the holder is an official of the control body.

*Example for paragraph (b)—*

A control body's rules of racing may state a holder of the position of handicapper or starter is an official of the control body.

**operational plan** means the commission's operational plan under section 50.

**original decision** see section 240.

**owner**, of a seized thing, includes a person who would be entitled to possession of the thing had it not been seized.

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

- (a) a club; or
- (b) a person who participates merely by doing either or both of the following—
  - (i) attending a race meeting;
  - (ii) placing a bet with a racing bookmaker at a race meeting.

***personal details requirement*** see section 197(5).

***person in control***—

- (a) of a vehicle, includes—
  - (i) the vehicle’s driver or rider; and
  - (ii) anyone who reasonably appears to be, claims to be, or acts as if he or she is, the vehicle’s driver or rider or the person in control of the vehicle; or
- (b) of another thing, includes anyone who reasonably appears to be, claims to be, or acts as if he or she is, the person in possession or control of the thing.

***place*** includes the following—

- (a) premises;
- (b) vacant land;
- (c) a place in Queensland waters;
- (d) a place held under more than 1 title or by more than 1 owner;
- (e) the land or water where a building or structure, or a group of buildings or structures, is situated.

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

***premises*** includes the following—

- (a) a building or other structure;
- (b) a part of a building or other structure;
- (c) a caravan or vehicle;
- (d) a cave or tent;
- (e) premises held under more than 1 title or by more than 1 owner.

***prohibited thing***, for chapter 6, part 1, division 3, see section 216.

***proposed action***, for chapter 3, see section 72(2)(a).

***public place*** means a place, or part of a place—

- (a) that the public is entitled to use, that is open to members of the public or that is used by the public, whether or not on payment of money; or

*Examples of a place that may be a public place under paragraph (a)—*

a beach, a park, a road

- (b) the occupier of which allows, whether or not on payment of money, members of the public to enter.

*Examples of a place that may be a public place under paragraph (b)—*

a saleyard, a showground

***Queensland Racing Integrity Commission*** means the Queensland Racing Integrity Commission established under section 7.

***race*** means a race under the Racing Act.

***race day steward*** means a steward who is employed by the commission to supervise particular matters at race meetings.

***race meeting*** means—

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

***Racing Act*** means the *Racing Act 2002*.

***racing bookmaker*** means the holder of a racing bookmaker's licence.

***racing bookmaker's clerk*** means the holder of a racing bookmaker's clerk licence.

***racing bookmaker's clerk licence*** means a licence from the commission to be employed by a racing bookmaker as a clerk in the conduct of the racing bookmaker's business at a licensed venue.

***racing bookmaker's licence*** means a licence from the commission as a racing bookmaker for a code of racing.

***Racing Integrity Commissioner*** means the person who, under section 14, holds office as the Racing Integrity Commissioner.

***reasonably believes*** means believes on grounds that are reasonable in the circumstances.

***reasonably suspects*** means suspects on grounds that are reasonable in the circumstances.

***registered corresponding control order*** see the *Penalties and Sentences Act 1992*, section 161N.

***repealed section***, for chapter 6, part 1, division 1, see section 211.

***rules of racing*** means the rules of racing under the Racing Act.

***show cause notice***—

- (a) for chapter 3, part 3, see section 72(1); or
- (b) for chapter 4, part 2, see section 103(1); or
- (c) for chapter 4, part 3, see section 125(1).

***show cause period***—

- (a) for chapter 3, part 3, see section 72(2)(e); or
- (b) for chapter 4, part 2, see section 103(2)(d); or
- (c) for chapter 4, part 3, see section 125(2)(d).

***sporting contingency*** includes the following whether happening in Queensland or elsewhere—

- (a) a contest, contingency or event relating to animals, other than a race;
- (b) a contest, contingency or event relating to an athletic meeting, exercise, fight, game, pastime or sport.

***staff***, of the commission, means persons employed by the commission in any capacity.

***standard*** means a standard for a code of racing, made by the commission under chapter 3, part 2.

***steward*** means a person appointed by the commission as a steward or deputy steward.

***strategic plan*** means the commission's strategic plan under section 50.

**telecommunications system** means a system or network consisting of an electronic device or other equipment for communicating at a distance, including, for example, a telephone system and a system that allows communication electronically by means of the internet, a cable television network or another online communications system.

**thing** includes an animal, whether dead or alive.

**tribunal** means QCAT.

**use**, a prohibited thing on a licensed animal, for chapter 6, part 1, division 3, see section 216.

**vehicle** means anything used for carrying any animal, person or thing by land, water or air.

*Examples—*

aircraft, boat, trailer, train, tram

**venue** includes a track.

**veterinary surgeon** means a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1936*.

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