

# TASMANIA

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## RACING REGULATION AND INTEGRITY BILL 2024

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# **RACING REGULATION AND INTEGRITY BILL 2024**

*(Brought in by the Minister for Racing, the Honourable Jane Colleen Howlett)*

## **A BILL FOR**

**An Act to provide for the regulation of thoroughbred, harness and greyhound racing, to ensure the integrity of persons involved in such racing, to safeguard the welfare of animals, and for related purposes**

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

## **PART 1 – PRELIMINARY**

### **1. Short title**

This Act may be cited as the *Racing Regulation and Integrity Act 2024*.

### **2. Commencement**

The provisions of this Act commence on a day or days to be proclaimed.

### **3. Interpretation**

In this Act, unless the contrary intention appears –

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***accept a bet*** includes negotiate a bet;

***act*** includes omission;

***Advisory Committee*** means the Integrity and Animal Welfare Advisory Committee established by section 55;

***annual integrity plan*** means a plan prepared by Tasracing under section 61(1);

***appeal*** means an appeal to the TRAB;

***approved sports event*** means an approved sports event within the meaning of the *Gaming Control Act 1993*;

***Australian Rules of Racing*** means the national Rules of Racing for a code of racing, as promulgated by the code's peak national body;

***authorised betting*** has the meaning referred to in section 167;

***betting*** means betting on –

- (a) contingencies relating to horse races or greyhound races; or
- (b) contingencies relating to approved sports events;

***betting-only meeting*** means a meeting of a registered club (held under the authority of Tasracing on a racecourse) at which no racing takes place but during which the club may conduct totalizator betting

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or allow lawful bookmaking to be carried on;

***betting ticket*** means a ticket issued by or on behalf of a bookmaker in evidence of a bet accepted by that bookmaker;

***Board*** means the board of directors of Tasracing referred to in section 14 of the *Racing (Tasracing Pty Ltd) Act 2009*;

***bookmaker*** means a person who is engaging in bookmaking, whether as a registered bookmaker or registered bookmaker's agent;

***bookmaker's agent*** means a person who independently accepts bets for or on behalf of a bookmaker but does not mean a person who, by virtue of the person's employment and under direction, merely assists a bookmaker or bookmaker's agent to engage in bookmaking;

***bookmaking*** – see section 131;

***Chief Racing Integrity Officer*** means the person appointed as the Chief Racing Integrity Officer under section 67;

***club committee*** means the committee or other governing body of a registered club;

***code of racing*** means, according to the context –

- (a) thoroughbred racing; or

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(b) harness racing; or

(c) greyhound racing;

***Commissioner*** means the person appointed as the Tasmanian Racing Integrity Commissioner under section 7;

***control*** includes supervision;

***controlling club***, in relation to a racecourse, means the registered club for the time being in control of that racecourse;

***counsel*** means an Australian legal practitioner;

***direct*** means direct in writing;

***financial year*** means –

(a) in the case of a club, the financial year used by the club; or

(b) in any other case, the 12-month period ending on 30 June in any year;

***functions*** includes duties and responsibilities;

***greyhound*** means a greyhound dog bred for the purposes of racing;

***greyhound race*** means a race between greyhound dogs in pursuit of a mechanical lure;

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***horse*** means a thoroughbred horse, or a standardbred horse, bred for the purposes of racing;

***issue***, in relation to a betting ticket, includes deliver;

***made***, in relation to any Rules of Racing, includes adopted;

***major appeal*** means an appeal under section 76 that is not a minor appeal;

***minor*** means a person who has not attained the age of 18 years;

***minor appeal*** means an appeal by a person under section 76 against a decision of the steward to impose either, or both, of the following:

- (a) a fine on the person not exceeding \$2 000 or, if another amount is prescribed, the prescribed amount;
- (b) a suspension on the person, or on a horse or greyhound owned, leased or trained by the person, for a period not exceeding 30 days;

***notice*** means notice in writing;

***off-course function approval*** means an approval issued under section 155(4)(a);

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***off-course function betting*** means betting with a registered bookmaker at a function to which relates an off-course function approval issued to the bookmaker;

***off-course function betting endorsement*** means an off-course function betting endorsement that is endorsed under section 149(9)(b) on a bookmaker's certificate of registration and that is in force;

***off-course telephone betting*** means betting by telephone with a registered bookmaker who is at the premises specified, in accordance with section 150(1)(a), in the bookmaker's off-course telephone betting endorsement;

***off-course telephone betting endorsement*** means an off-course telephone betting endorsement that is endorsed under section 149(9)(b) on a bookmaker's certificate of registration and that is in force;

***on-course telephone betting*** means betting by telephone with a registered bookmaker, or a bookmaker's agent, who is at a racecourse;

***on-course telephone betting endorsement*** means an on-course telephone betting endorsement that is endorsed under section 149(9)(b) on a bookmaker's



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certificate of registration and that is in force;

***premises*** includes a part of premises;

***principal*** means the person specified in the certificate of registration of a bookmaker's agent as the registered bookmaker for or on whose behalf the bookmaker's agent may engage in bookmaking;

***public place*** has the same meaning as in the *Police Offences Act 1935*;

***racecourse*** means the place where a race meeting or betting-only meeting is held;

***race field information publication approval*** means a race field information publication approval granted under section 128;

***race meeting*** has the meaning referred to in section 103;

***racing*** means horse racing or greyhound racing other than racing of that kind conducted exclusively for the purpose of training animals, drivers or riders;

***racing club*** means a club that is registered under section 108;

***racing industry association*** means a body prescribed in the regulations;

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***Racing Integrity Committee*** means the committee established by section 57;

***racing official*** means a person holding an appointment under section 68;

***racing year*** means the 12-month period commencing on 1 July in any year;

***registered*** means registered under this Act;

***regulations*** means the regulations made and in force under this Act;

***respondent***, in relation to an appeal to the TRAB, means the person or persons responsible for making the decision that is the subject of appeal;

***RSPCA*** means the Royal Society for the Prevention of Cruelty to Animals Tasmania Ltd (ACN 611 485 271);

***Rules of Racing*** means the Rules of Racing made and in force under this Act for a code of racing;

***Standards*** means Standards issued by the Commissioner under section 53;

***statutory rule*** means a statutory rule for the purposes of the *Rules Publication Act 1953*;

***steward*** means a person holding an appointment as a stipendiary steward under section 68;

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***Tasmanian race field information*** means information that identifies, or is capable of identifying, the name or number of a horse or greyhound –

- (a) as a horse or greyhound that has been nominated for, or that will otherwise take part in, a race intended to be held at any race meeting in Tasmania; or
- (b) as a horse or greyhound that has been scratched or withdrawn from a race intended to be held at any race meeting in Tasmania;

***Tasracing*** means Tasracing Pty Ltd formed under section 5 of the *Racing (Tasracing Pty Ltd) Act 2009*;

***Tasracing Integrity Unit*** means the unit of Tasracing referred to in section 66;

***totalizator*** has the same meaning as in the *Gaming Control Act 1993*;

***TRAB*** means the Tasmanian Racing Appeal Board continued under section 71;

***unauthorised betting*** has the meaning referred to in section 167(3);

***wager*** has the same meaning as in the *Gaming Control Act 1993*;

***wagering operator*** means a person –

- (a) who –

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- (i) is a bookmaker; or
  - (ii) operates a totalizator; or
  - (iii) operates a betting exchange, within the meaning of the *Gaming Control Act 1993*; or
  - (iv) operates such other form of wagering as may be prescribed; and
- (b) who holds a licence or other authority (however described) that relates to wagering under the legislation of this State or any other State or a Territory or any country.

**4. Act binds Crown**

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

**5. Application of Act**

This Act does not apply to, limit or render unlawful –

- (a) the conduct of, or participation in, totalizator betting authorised under the *Gaming Control Act 1993*; or

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- (b) the conduct of, or participation in, games, gaming or gaming activities authorised under the *Gaming Control Act 1993* or *TT-Line Gaming Act 1993*; or
  - (c) business, technical or promotional activities associated with the activities referred to in paragraphs (a) and (b); or
  - (d) such other activities as may be prescribed.

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**PART 2 – TASMANIAN RACING INTEGRITY  
COMMISSIONER**

*Division 1 – Preliminary*

**6. Interpretation of Part**

In this Part, unless the contrary intention appears –

*adverse finding* means a finding of the Commissioner under section 27, that is adverse to the interests of a person;

*inquiry* means an inquiry held by the Commissioner under Division 4;

*private session* means a private session held by the Commissioner under section 28.

*Division 2 – Tasmanian Racing Integrity Commissioner*

**7. Tasmanian Racing Integrity Commissioner**

- (1) The Governor, on the recommendation of the Minister, is to appoint a person as the Tasmanian Racing Integrity Commissioner.
- (2) The Governor may appoint a State Service officer or State Service employee to be Commissioner and that officer or employee may hold that office in conjunction with State Service employment.
- (3) A person who is a member of a House of Parliament of the Commonwealth, or of a State

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or Territory of the Commonwealth, or a candidate for election as a member of such House of Parliament, is disqualified from being appointed as Tasmanian Racing Integrity Commissioner and, if a person holding the office of Tasmanian Racing Integrity Commissioner becomes a candidate for election as such a member, that person vacates that office on becoming such a candidate.

- (4) For the purposes of subsection (3), a person becomes a candidate for election as a member of a House of Parliament when nominated for that election in accordance with the law regulating the election.
- (5) Schedule 1 has effect in respect of the Commissioner and the Commissioner's appointment.

**8. Staff and facilities**

- (1) The Commissioner may arrange with the Head of a State Service Agency for the services of a State Service officer or State Service employee, or facilities and goods, of the Agency to be made available to the Commissioner to enable the Commissioner to perform the Commissioner's functions under this Act or any other Act.
- (2) Officers and employees made available under subsection (1) may serve the Commissioner in any capacity in conjunction with State Service employment.

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**9. Functions of Commissioner**

- (1) The Commissioner has the following functions:
- (a) to oversee integrity in racing and the welfare of animals that are or have been involved in racing;
  - (b) to monitor the administration and regulation of racing;
  - (c) to research and investigate integrity in racing, animal welfare and related matters;
  - (d) to advise the Minister on integrity in racing, animal welfare and related matters and make policy proposals for the development of racing;
  - (e) to advise the Minister on the Rules of Racing;
  - (f) to promote compliance with this Act and integrity in racing, and to promote animal welfare and prevent animal cruelty;
  - (g) to liaise with authorities and persons responsible for integrity in racing, animal welfare and related matters in this State and, as appropriate, elsewhere;
  - (h) to facilitate cooperation, in relation to animal welfare initiatives, between Tasracing, the department responsible for the administration of the *Animal Welfare*



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*Act 1993*, the department responsible for the administration of the *Biosecurity Act 2019*, and the RSPCA;

- (i) to review annual integrity plans for Tasracing;
- (j) to review proposals relating to new or amended Rules of Racing and give advice and make recommendations in relation to those rules;
- (k) to make Standards that provide for any matter relating or incidental to the conduct of racing (including but not limited to integrity in the racing industry and animal welfare) and to monitor, review, and give advice and make recommendations in relation to the implementation of, and compliance with, those Standards;
- (l) to provide oversight over Tasracing's administration and regulation of the racing industry, including Tasracing's approval of registrations and granting of licences under the Rules of Racing, and its administration, registration and regulation of racing clubs;
- (m) to provide oversight over Tasracing's administration and registration of bookmakers and bookmakers' agents;
- (n) to give advice and make recommendations to Tasracing and others in relation to the training of people

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employed or otherwise engaged in the racing industry;

- (o) to conduct audits and reviews, and make recommendations, in relation to the functions, processes and systems of Tasracing and racing clubs, including in relation to integrity in racing, animal welfare, governance and finances;
- (p) to investigate allegations made and other matters relating to integrity in racing and animal welfare, including with respect to Tasracing and the performance and the exercise of its functions and powers;
- (q) to conduct own-motion investigations and inquiries, including into integrity in racing, animal welfare and systemic issues in racing;
- (r) to inquire into any matters referred to the Commissioner by the Minister or such matters as requested by Tasracing;
- (s) if appropriate, refer matters to a public authority, the Commissioner of Police, the DPP or any other person that the Commissioner considers appropriate;
- (t) to make such recommendations, following the investigation of any matter or an inquiry by the Commissioner, as the Commissioner considers appropriate;
- (u) such other functions as are prescribed.

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- (2) The Commissioner has such other functions as are conferred or imposed on the Commissioner by or under this or any other Act.

**10. General powers of Commissioner**

- (1) The Commissioner has power to do such things (other than employ persons) as the Commissioner considers necessary or convenient for, or in connection with, the exercise or performance of any power or function conferred or imposed on the Commissioner by this or any other Act.
- (2) In exercising the Commissioner's powers under this Act, the Commissioner –
- (a) is to have regard to the Standards; and
  - (b) may seek the advice of Tasracing or such other persons as the Commissioner think fit.
- (3) The following payments may be used for the purposes of the Commissioner:
- (a) payments received under this Act, for and on behalf of the Crown;
  - (b) such other payments as the Minister may approve.

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**11. Performance and exercise of Commissioner's functions and powers generally**

Except as otherwise provided in this Act, the Commissioner is not subject to the direction or control of the Minister in respect of the performance or exercise of the functions or powers of the Commissioner.

**12. Recommendations by Commissioner**

- (1) The Commissioner may make such recommendations to such persons in relation to racing, including (but not limited to) integrity in racing and animal welfare, as the Commissioner considers appropriate.
- (2) If the Commissioner makes a recommendation under subsection (1) to Tasracing, the Commissioner may request Tasracing to notify the Commissioner, within a specified time, of –
  - (a) the steps that have been, or are proposed to be, taken to give effect to the recommendation; or
  - (b) if no such steps have been or are proposed to be taken, the reasons why they have not been taken or, as the case may be, are not proposed to be taken.

**13. Compliance with direction of Commissioner**

- (1) If Tasracing or a racing club fails to comply with a recommendation given to it by the Commissioner under this Act, the Commissioner

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may issue a direction to Tasracing or the racing club requiring compliance with the recommendation.

- (2) Before issuing a direction to Tasracing under subsection (1), the Commissioner must consult with Tasracing in relation to the proposed direction.

**14. Delegation**

The Commissioner may delegate any of the Commissioner's powers or functions under this Act other than this power of delegation.

***Division 3 – Investigations by Commissioner***

**15. Investigations**

The Commissioner may investigate any matter relating to racing including, but not limited to, matters relating to integrity in racing and animal welfare.

**16. Refusal to conduct investigation**

- (1) The Commissioner may decide not to conduct an investigation into a matter under this Division if the Commissioner considers that –
- (a) the subject matter of the investigation is frivolous, vexatious, lacking in substance or is not raised in good faith; or

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- (b) the subject matter of the investigation is trivial; or
  - (c) the subject matter of the investigation relates to a matter permitted or required under any law; or
  - (d) the subject matter of the investigation has already been investigated or otherwise dealt with by any other person or body (whether or not still in existence) with the power to require the production of documents or the answering of questions.
- (2) The Commissioner must refuse to conduct an investigation under this Division into a matter if the matter is the subject of, or the investigation would prejudice –
  - (a) any criminal proceedings or criminal investigations; or
  - (b) an appeal to the TRAB; or
  - (c) an inquiry by the stewards under the Rules of Racing.
- (3) If the Commissioner refuses to conduct an investigation into a matter the Commissioner must, within a reasonable time after so refusing, notify the TRAB of the refusal if the matter is the subject of, or the investigation would prejudice, an appeal to the TRAB.

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**17. Procedure on investigation**

- (1) Before commencing an investigation under this Act, the Commissioner may give notice, of the Commissioner's intention to conduct the investigation, to either or both of the following:
  - (a) the person or body that is the subject of the investigation;
  - (b) if the investigation is commenced as the consequence of a complaint or allegation, the person making the complaint or allegation.
- (2) Subject to this Act, the Commissioner –
  - (a) may make any investigations that the Commissioner considers appropriate; and
  - (b) may conduct an investigation in any manner that the Commissioner considers appropriate, including in private; and
  - (c) must observe the rules of natural justice.
- (3) If the Commissioner considers that a matter raised with the Commissioner for investigation, or a matter raised by or during the course of an investigation, should be investigated by another person that has functions under any law of Tasmania, another State, a Territory or the Commonwealth, the Commissioner may do either or both of the following:
  - (a) refer the matter to the other person (as the case requires) for investigation;

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- (b) refuse to investigate the matter.
- (4) If the Commissioner has a direct or indirect interest in a matter being considered, or about to be considered, in an investigation, the Commissioner must –
  - (a) delegate the matter to another person for investigation; or
  - (b) if appropriate, refer the matter for investigation by another person or body under subsection (3).
- (5) Subject to subsection (6) and section 16, the Commissioner's powers to investigate a matter are not affected by the matter having been referred under subsection (3) to another person for investigation.
- (6) Subject to section 16, the Commissioner must conduct an investigation into a matter relating to integrity, or animal welfare, in racing referred to the Commissioner by the TRAB.

**18. Conduct of investigations**

- (1) In conducting an investigation under this Division, the Commissioner, by notice given to a person, may require or direct the person to do all or any of the following:
  - (a) to provide the Commissioner or any person assisting the Commissioner with any information or explanation that the Commissioner requires;



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- (b) to produce to the Commissioner or any person assisting the Commissioner any record, information, material, or thing, in the custody or possession or under the control of a person.

- (2) A person who, without reasonable excuse, fails to comply with a requirement or direction under subsection (1) within 14 days of receiving it commits an offence.

Penalty: Fine not exceeding 50 penalty units.

- (3) For the purpose of obtaining any record, information, material or thing under subsection (1), the Commissioner may –
  - (a) inspect and take copies of or take extracts from any such record, information, material or thing; and
  - (b) require or direct any person to give such assistance as may be required.
- (4) Any record, information, material, or thing, obtained by the Commissioner may be used for the purposes of the investigation or any subsequent inquiry under Division 4.
- (5) For the avoidance of doubt, the Commissioner may exercise a power, under this section in respect of a person, regardless of whether –
  - (a) the person is in Tasmania or elsewhere;  
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- (b) compliance with a requirement under this section requires information, or documents, that are in Tasmania or elsewhere.
- (6) A person complying with a requirement or direction of the Commissioner under this section cannot, by virtue of complying with that requirement or direction –
  - (a) be held to have breached any code of professional etiquette or ethics; or
  - (b) be taken to have departed from acceptable standards of professional conduct; or
  - (c) be taken to have contravened any confidentiality requirements of any Act.

**19. Procedure on completion of investigation**

- (1) On completion of an investigation, the Commissioner may –
  - (a) make recommendations under section 12; or
  - (b) proceed to an inquiry; or
  - (c) make a report in relation to the matter to such person or body as the Commissioner considers appropriate; or
  - (d) refer the matter to such person or body as the Commissioner considers appropriate, with a recommendation as to actions that

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should be taken in relation to the matter;  
or

- (e) determine that no further action is to be taken in respect of the matter.

- (2) The Commissioner must not disclose any information under subsection (1) if the Commissioner considers that the disclosure of the information would –

- (a) not be in the public interest or in the interests of justice; or
- (b) put a person's safety at risk; or
- (c) prejudice any criminal proceedings or criminal investigations, or other investigations; or
- (d) otherwise contravene any applicable statutory obligations or involve the unreasonable disclosure of information relating to the personal affairs of any person.

**20. Disclosure of information by Commissioner**

- (1) The Commissioner may provide or disclose any information received or obtained by the Commissioner to a person or body specified in subsection (2) if the Commissioner considers that –

- (a) the information is relevant to the performance of the functions or the

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exercise of the powers of the person or body; and

- (b) it is appropriate for the information to be brought to the attention of the person or body, having regard to the nature of the information.

(2) For the purposes of subsection (1), the following persons or bodies are specified:

- (a) the Secretary of the Department;
- (b) the Commissioner of Police or a police officer authorised in writing by the Commissioner of Police;
- (c) the Commissioner of the Australian Federal Police or a member of the Australian Federal Police authorised in writing by that Commissioner;
- (d) Tasracing;
- (e) the Integrity Commission established by the *Integrity Commission Act 2009*;
- (f) the Ombudsman;
- (g) the TRAB;
- (h) a Minister of the Crown;
- (i) the Advisory Committee;
- (j) the Auditor-General;
- (k) a local authority;

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- (l) a State Service Agency;
- (m) any other person or body to which the Commissioner has referred a matter for investigation;
- (n) such other persons or bodies as may be prescribed.

***Division 4 – Inquiries***

***Subdivision 1 – General powers and procedures***

**21. Holding of inquiries**

- (1) The Commissioner must inquire into any matter referred to the Commissioner for an inquiry by the Minister.
- (2) The Commissioner may hold an inquiry into any matter in racing that the Commissioner considers appropriate, including, but not limited to, matters relating to integrity in racing and animal welfare.

**22. Conduct of inquiries**

- (1) In holding an inquiry, the Commissioner –
  - (a) is to proceed with as little formality and technicality, and with as much expedition, as a proper consideration of the matter permits; and
  - (b) must observe the rules of natural justice; and

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- (c) may proceed with and determine the inquiry notwithstanding the absence of a person who has been required to appear; and
  - (d) may adjourn the inquiry from time to time or from place to place as the Commissioner thinks fit; and
  - (e) except as provided by this Act, may determine the Commissioner's own procedure in holding an inquiry.
- (2) The Commissioner has power to –
  - (a) control the Commissioner's proceedings; and
  - (b) maintain order at any hearing of an inquiry or other proceedings of the Commissioner.
- (3) The Commissioner may request the Commissioner of Police to assist the Commissioner in maintaining order at any hearing of an inquiry or other proceeding conducted by the Commissioner.
- (4) The Commissioner of Police is authorised and required to accede to a request made under subsection (3).

**23. Hearings to be public**

- (1) Subject to subsection (2) and Subdivision 2, the hearing of an inquiry is to be open to the public.

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- (2) The Commissioner may refuse to admit the public or any person to a hearing if the Commissioner is satisfied that the public interest in an open hearing is outweighed by any other consideration, including public security, privacy of personal or financial affairs and the right of any person to a fair trial.
  - (3) If the Commissioner intends to take or receive evidence at the hearing of an inquiry which is not open to the public, the Commissioner must announce that intention during a previous hearing which is open to the public and state, in general terms, the reasons why the Commissioner intends to hold a closed hearing.

**24. Control of public reporting**

- (1) The Commissioner may, by order, prohibit or restrict the public reporting of a hearing of an inquiry, or the publishing of any evidence taken or received by the Commissioner at a hearing, if the Commissioner is satisfied that the public interest in the reporting of that hearing or the publishing of that evidence is outweighed by any other consideration, including public security, privacy of personal or financial affairs and the right of any person to a fair trial.
- (2) An order under subsection (1) is to be made during a hearing which is open to the public and, on making the order, the Commissioner must state, in general terms, the reasons for making the order.

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- (3) A person must comply with an order of the Commissioner made under subsection (1).

Penalty: In the case of –

- (a) an individual, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years; or
- (b) a body corporate, a fine not exceeding 1 000 penalty units.

**25. Referral of questions of law**

- (1) In this section –

*parties* means persons who have been given leave to appear before an inquiry or have been interviewed by the Commissioner for the purposes of an inquiry.

- (2) The Commissioner may refer a question of law arising in the course of an inquiry to the Supreme Court for decision.
- (3) If the Commissioner refers a question of law to the Supreme Court for decision, the Commissioner may –
- (a) conclude the inquiry subject to the decision; or
  - (b) adjourn the inquiry until the decision is given.



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- (4) A question of law may be referred to the Supreme Court in the form of a special case drawn up by the parties to the inquiry or, if there are no parties to the inquiry or the parties cannot agree, by the Commissioner.
  - (5) The decision of the Supreme Court on a question of law referred to it under this section is final and is binding on the Commissioner and the parties to the inquiry.

**26. Allegations of misconduct**

- (1) In this section –

***misconduct*** means conduct by a person that could reasonably be considered likely to result in a criminal charge, civil liability, disciplinary proceedings, or other legal proceedings, being brought against that person in respect of the conduct.

- (2) If the Commissioner is satisfied that –

- (a) an allegation of misconduct involving a person has been or should be made in an inquiry; and
  - (b) that person should be required, or is likely to be required, to give evidence in the inquiry in relation to the allegation –

the Commissioner must give that person notice of –

- (c) the allegation; and

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- (d) the substance of the evidence, or nature and substance of anticipated evidence, supporting the allegation.
- (3) A notice under subsection (2) is to be given to a person within a reasonable period, to be not less than 48 hours, before the person is called to give evidence in relation to the allegation.
- (4) Subsection (3) does not apply in respect of a person given a notice under subsection (2) if –
  - (a) the allegation specified in the notice relates to misconduct by the person in respect of the giving, or presentation, of evidence in the inquiry; or
  - (b) the person waives the reasonable period, referred to in subsection (3), in respect of the allegation specified in the notice.
- (5) A person who receives notice of an allegation of misconduct may respond to that allegation by doing all or any of the following:
  - (a) making oral or written submissions to the Commissioner;
  - (b) giving evidence to the Commissioner to contradict or explain the allegation or evidence, including the giving of oral evidence under examination by the person's counsel;
  - (c) cross-examining the person making the statement constituting the allegation or evidence;

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- (d) calling witnesses on matters relevant to the allegation or evidence.
  - (6) For the purposes of subsection (5) –
    - (a) the Commissioner must allow the person a reasonable period in which to prepare the response; and
    - (b) the person may be represented by counsel as of right.
  - (7) In determining what constitutes a reasonable period for the purposes of subsections (3) and (6)(a), the Commissioner may have regard to such matters as the Commissioner considers relevant in the circumstances.
  - (8) The Commissioner must not make a finding of misconduct against a person unless the person has been given notice of the misconduct and an opportunity to respond to the notice in accordance with this section.

**27. Commissioner's findings**

- (1) The Commissioner, on completion of an inquiry, is to submit a report of the Commissioner's findings and recommendations to the Minister.
- (2) Subject to section 26(8), in the report to the Minister the Commissioner may make a finding of fact on or in respect of any matter into which the Commissioner inquires.

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- (3) In the report the Commissioner must not express a conclusion of law in respect of the legal liability of a person.
- (4) If, in the report, the Commissioner intends to make a finding that is an adverse finding in respect of a person, the Commissioner must –
  - (a) notify the person in writing of –
    - (i) the Commissioner’s intention to make the adverse finding in respect of the person; and
    - (ii) the details of the adverse finding; and
  - (b) allow the person at least 10 working days to make representations to the Commissioner in respect of the adverse finding before the report is finalised.
- (5) If the report of the Commissioner makes an adverse finding in respect of a person, the rules of procedural fairness apply in respect of that person and that finding.
- (6) The report of the Commissioner is not admissible in legal proceedings to prove a fact found by the Commissioner.

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***Subdivision 2 – Private sessions***

**28. Private sessions**

- (1) The Commissioner may hold a private session to obtain information in respect of any matter into which the Commissioner is inquiring.
- (2) The Commissioner may engage counsel or any other person to help the Commissioner hold a private session.
- (3) A private session under subsection (1) –
  - (a) is not a hearing of an inquiry; and
  - (b) must be held in private; and
  - (c) subject to this Act, may be held as determined by the Commissioner.
- (4) A person who appears at a private session under subsection (1) –
  - (a) is not a witness before the Commissioner; and
  - (b) does not give evidence to the Commissioner.
- (5) Despite subsection (4)(a), section 37 applies to a person who appears at a private session under subsection (1) as if that person had been a witness to an inquiry.
- (6) Information that relates to an individual, that has been given to the Commissioner solely for the

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purposes of a private session or proposed private session, may be included in a report or recommendation of the Commissioner only if the information –

- (a) is also given in evidence to the Commissioner other than at a private session; or
- (b) does not disclose the identity of, or lead to the identification of, the individual.

**29. Legal effect of private sessions**

- (1) The following are not admissible in evidence against a person in any civil or criminal proceedings, other than proceedings for an offence against section 30, in any court:
  - (a) a statement or disclosure made by the person –
    - (i) at a private session; or
    - (ii) to the Commissioner solely for the purposes of a private session or proposed private session;
  - (b) the production of a document or other thing by the person at a private session.
- (2) A person who appears, or is authorised to be, at a private session has the same protection and immunity, and is subject to the same liabilities in respect of any civil or criminal proceedings, as a witness has in a case tried in the Supreme Court.

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- (3) Counsel who appears on behalf of another person at a private session or is engaged to help the Commissioner conduct a private session has the same protection and immunity as counsel appearing for a party in proceedings in the Supreme Court.
- (4) The Commissioner has, in conducting a private session, the same protection and immunity as a judge of the Supreme Court.

**30. Offences relating to private sessions**

- (1) A person must not make a record of, use or disclose information that –
  - (a) was obtained by the person at a private session; or
  - (b) was given at a private session and obtained by the person before, or after, the information was so given; or
  - (c) was given to the Commissioner for the purposes of a private session or proposed private session.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years.

- (2) Subsection (1) does not apply if –
  - (a) the disclosure of the information was required or authorised under this Act, or any other Act, in order to ensure the safety and welfare of an animal, class of

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- animals, a person or a class of persons;  
or
- (b) the record, use or disclosure of the information was for the purposes of performing functions, or exercising powers, under this Act by the Commissioner; or
  - (c) the person is authorised under this Act to make the record of, or to use or disclose, the information and only records, uses or discloses the information in accordance with this Act; or
  - (d) the information is recorded, used or disclosed with the consent of –
    - (i) in relation to information referred to in subsection (1)(a) or (b), the person who gave the information at the private session and each person referred to in the information; and
    - (ii) in relation to information referred to in subsection (1)(c), the person who gave the information to the Commissioner; or
  - (e) the information that is recorded, or used or disclosed, does not disclose the identity of, or lead to the identification of, a person who has not given consent to the recording, use or disclosure of that information.



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- (3) Except as provided in subsection (2), nothing in this Act, or any other Act, authorises the making of a record, or the use or disclosure, of information provided at a private session or for the purposes of a private session or proposed private session.
  - (4) Section 50 applies in relation to a person who gives information at, or produces a document or thing to, a private session as if –
    - (a) a reference to a witness in section 50(1) were a reference to a person who attends a private session under this Subdivision; and
    - (b) a reference to a person giving evidence, or producing or surrendering a document or thing, in section 50(2) or (3) were a reference to a person attending, or producing or surrendering a document or thing to, a private session under this Subdivision.

***Subdivision 3 – Evidence and witnesses***

**31. Rules of evidence**

- (1) The Commissioner is not bound by any rule of law which relates to evidence in judicial proceedings.
- (2) Subject to section 26(5), the Commissioner may refuse to receive any evidence.

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**32. Admissibility of evidence in other proceedings**

Evidence given by a person before an inquiry is not admissible in subsequent legal proceedings other than proceedings against that person under this Act.

**33. Notices to witnesses**

- (1) The Commissioner may, by notice served on a person, require that person to appear before an inquiry to do either or both of the following:
  - (a) give evidence;
  - (b) produce to the Commissioner, or a person designated by the Commissioner, any document or thing in that person's possession or control which the Commissioner considers relevant to an inquiry.
- (2) The Commissioner must not require a person to give evidence about a matter if that person has been charged with an offence in respect of that matter.
- (3) Subsection (2) does not apply if the charge has been finally disposed of.
- (4) If the Commissioner considers it expedient to do so because of the distance a person resides from the place at which the Commissioner would otherwise require that person to attend to give evidence, or because of any other consideration, the Commissioner may appoint another person to

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take the evidence of that person and report that evidence to the Commissioner.

- (5) If a person required or directed to give evidence to the Commissioner is –
- (a) a prisoner or detainee under the *Corrections Act 1997* or the *Youth Justice Act 1997*; or
  - (b) a patient detained in an approved hospital under the *Mental Health Act 2013*; or
  - (c) a person who is subject to a restriction under the *Criminal Justice (Mental Impairment) Act 1999* –

the notice requiring or directing the person to provide any information or explanation authorises and requires the Director of Corrective Services, the Secretary within the meaning of the *Youth Justice Act 1997*, the controlling authority of the approved hospital or the responsible medical officer, within the meaning of the *Criminal Justice (Mental Impairment) Act 1999*, to allow the person to provide that information or explanation to the Commissioner in accordance with the notice.

- (6) A person who has been required by the Commissioner to appear before an inquiry must continue to attend the inquiry from day to day until the Commissioner excuses that person from so attending.

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**34. Notice to produce document or statement**

- (1) The Commissioner may, by notice served on a person, require the person to –
  - (a) prepare a document for or statement to the Commissioner, or a person designated by the Commissioner, containing the information known by the person in respect of the matter specified in the notice; and
  - (b) give the document or statement so prepared to a person by the time, and at the place or in the manner, specified in the notice.
- (2) The Commissioner must not require a person to prepare a document or statement under subsection (1) if that person has been charged with an offence in respect of the matter to which the document or statement relates.
- (3) Subsection (2) does not apply if the charge has been finally disposed of.
- (4) A notice under this section served by the Commissioner on a person may form, but is not required to form, part of a notice served under section 33 by the Commissioner on that person.

**35. Privilege does not apply in certain circumstances**

If a person refuses to prepare or produce a document or statement as required under section 33 or 34 on the grounds that the

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document or statement, or the information contained in the document or statement, is protected by privilege –

- (a) the Commissioner may require the production of the document or statement to assess whether privilege so applies; and
- (b) the production of the document or statement to the Commissioner, or the use of the document or statement by the Commissioner, does not affect whether the document or statement is protected by privilege in any other circumstances.

**36. Powers in relation to witnesses**

If the Commissioner is satisfied that it is necessary in the circumstances, the Commissioner may do one or more of the following in respect of a person giving evidence to the Commissioner:

- (a) permit the person to give evidence anonymously or under a pseudonym;
- (b) use any means that the Commissioner considers appropriate to prevent the direct, or indirect, identification of the person;
- (c) identify the person as potentially vulnerable and apply any special evidentiary procedures, or measures, that may be appropriate, including but not

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limited to measures under the *Evidence (Children and Special Witnesses) Act 2001* whether or not the prerequisites under that Act for those measures are met.

**37. Compensation for witnesses**

A person who is required by the Commissioner to attend the hearing of an inquiry is entitled to be paid such allowances and expenses as are prescribed or, if not prescribed, as the Commissioner determines.

***Subdivision 4 – Obtaining evidence***

**38. Interpretation of Subdivision**

In this Subdivision –

***reasonable excuse***, in relation to an act by a person, means –

- (a) if the person is a witness, or is providing information to the Commissioner, an excuse that would excuse the act by a witness in proceedings of a similar nature in a court of law; or
- (b) if the person is the subject of a notice, or warrant, in relation to the Commissioner, an excuse that would excuse the act by a person summoned before a court of law

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in proceedings of a similar nature  
in the court; or

- (c) in any case, an excuse that the Commissioner considers reasonable in the circumstances in relation to the act by the person.

**39. Power of entry, search and seizure**

- (1) If the Commissioner believes on reasonable grounds that a document or thing that the Commissioner considers relevant to an inquiry is in any place, building or vehicle, the Commissioner may apply to a magistrate for a warrant.
- (2) A magistrate to whom an application under subsection (1) is made may issue a warrant if satisfied that –
  - (a) the document or thing referred to in the application is relevant to the inquiry; and
  - (b) there are reasonable grounds to suspect that the document or thing is in the place, building or vehicle referred to in the application.
- (3) A warrant issued under this section authorises the person named in the warrant, together with any police officer on whom that person calls for assistance, to –

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- (a) enter and search the place, building or vehicle specified in the warrant, using such force as is reasonably necessary; and
  - (b) take possession on behalf of the Commissioner of the document or thing in respect of which the warrant has been issued.
- (4) A warrant issued under this section may be made subject to any conditions that the magistrate considers appropriate.
- (5) If the Commissioner obtains possession of a document or thing as a result of a search conducted pursuant to a warrant issued under this section, the Commissioner –
  - (a) may retain the document or thing until the conclusion of the inquiry or until the document or thing is no longer required by the Commissioner; and
  - (b) must then return the document or thing to a person from whose possession or custody it was taken.

**40. Power to examine under oath**

The Commissioner may –

- (a) administer an oath to a person appearing before an inquiry to give evidence; and
- (b) examine a person under oath.



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**41. Self-incrimination**

A person is not excused from answering a question asked by the Commissioner at an inquiry, or from producing a document or thing to the Commissioner, on the ground that the answer to the question or the production of the document or thing might incriminate or tend to incriminate that person.

**42. Failure to give or produce evidence is contempt**

- (1) A person who has been served with a notice under section 33(1) and who fails, without reasonable excuse, to appear before an inquiry or produce the document or thing specified in the notice is guilty of contempt.
- (2) Punishment for contempt, or liability to be so punished, does not excuse a person referred to in subsection (1) from complying with the requirement to appear before an inquiry or to produce a document or thing to the Commissioner.
- (3) The Commissioner may apply to a magistrate for a warrant to have a person referred to in subsection (1) apprehended and brought before the Commissioner.
- (4) A magistrate to whom an application under subsection (3) is made may issue a warrant if satisfied that the person who is the subject of the application –

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- (a) has been served with a notice under section 33(1); and
  - (b) has failed, without reasonable excuse, to appear before an inquiry or produce the document or thing specified in the notice.
- (5) A warrant issued under this section authorises any police officer to –
  - (a) apprehend the person named in the warrant and bring that person before the Commissioner; and
  - (b) detain that person in custody to secure the person's attendance before the Commissioner.
- (6) A police officer executing a warrant issued under this section is, for that purpose, authorised to enter and search any place, building or vehicle, using such force as is reasonably necessary.
- (7) A person who is apprehended and detained in custody pursuant to a warrant issued under this section may apply to a judge of the Supreme Court to be released from custody.
- (8) The release of a person from custody under this section may be made subject to any conditions that the judge considers appropriate.

**43. Other contempts**

A person is guilty of contempt if that person –

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- (a) being called on or examined as a witness before an inquiry, without reasonable excuse –
    - (i) refuses to be sworn or make an affirmation; or
    - (ii) refuses or otherwise fails to answer a question put to that person by the Commissioner in respect of the matter into which the Commissioner is inquiring; or
    - (iii) refuses to answer a question properly put by a witness or counsel authorised to appear for a witness; or
  - (b) having appeared before an inquiry as a witness, fails to continue to attend at an inquiry from day to day without having been excused from doing so by the Commissioner; or
  - (c) does any act which, if the Commissioner were a court of law having power to commit for contempt, would be in contempt of that court.

***Subdivision 5 – Dealing with contempt***

**44. Show cause procedure**

- (1) If the Commissioner considers that a person has or may have done an act so as to be guilty of contempt, the Commissioner may, by notice

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served on that person, call on that person to show cause why the Commissioner should not certify the contempt to the Supreme Court under section 46.

- (2) A person on whom a notice to show cause is served may do all or any of the following in support of the person's case:
  - (a) make oral or written submissions to the Commissioner;
  - (b) give evidence to the Commissioner, including the giving of oral evidence under examination by the person's counsel;
  - (c) call witnesses.
- (3) For the purposes of subsection (2), the person called on to show cause may be represented by counsel as of right.

**45. Review of decision to certify contempt**

- (1) A person who is aggrieved by a decision of the Commissioner to certify a contempt by that person to the Supreme Court may move that court to review that decision.
- (2) Section 107 of the *Justices Act 1959* applies to a review of a decision of the Commissioner referred to in subsection (1) as if –
  - (a) the decision were an order of justices;  
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- (b) the reference in section 107(3)(b)(ii) of that Act to the clerk to the justices were a reference to the Commissioner; and
- (c) the reference in section 107(4) of that Act to the justices were a reference to the Commissioner.

**46. Punishment for contempt**

- (1) Subject to section 44, the Commissioner may certify a contempt to the Supreme Court.
- (2) If a contempt is certified to the Supreme Court –
  - (a) the Supreme Court must inquire into the matter; and
  - (b) having regard to the evidence produced against and by or on behalf of the person named in the Commissioner’s certificate, the Supreme Court may, if satisfied that the person is guilty of the contempt, punish the person in the same manner and to the same extent as would be the case if the person had committed the contempt in relation to the Supreme Court.
- (3) The Rules of Court of the Supreme Court apply, with any necessary modification, to the Supreme Court’s consideration and punishment of a contempt in relation to the Commissioner.

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**47. Fines for contempt**

If the Supreme Court imposes a fine on a person for contempt of the Commissioner, Part 4 of the *Monetary Penalties Enforcement Act 2005* applies in relation to the payment of that fine as if it were a fine imposed under section 7 of the *Sentencing Act 1997*.

***Subdivision 6 – Miscellaneous***

**48. Representation**

- (1) A natural person, corporation, club, association or other body of persons appearing before the Commissioner may be represented by counsel or any other person.
- (2) The Commissioner may engage counsel or any other person to help the Commissioner hold an inquiry.
- (3) The Commissioner has, in holding an inquiry, the same protection and immunity as a judge of the Supreme Court.
- (4) A counsel or other person who –
  - (a) appears before or makes representations to the Commissioner on behalf of a party to an inquiry, a witness at an inquiry or a person whose conduct is an issue in an inquiry; or
  - (b) is engaged to help the Commissioner hold an inquiry –

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has, in that capacity, the same protection and immunity as counsel appearing for a party in proceedings in the Supreme Court.

- (5) A witness who appears before an inquiry has the same protection and immunity as a witness appearing before the Supreme Court.

**49. Evidentiary provisions**

Section 181 has the same application to inquiry proceedings as it has to proceedings on the hearing of a charge for an offence against this Act.

**50. Offences**

- (1) A person must not intentionally prevent, or intentionally try to prevent, a person who is required by the Commissioner to appear before the Commissioner from attending as a witness or producing any document or thing to the Commissioner for the purposes of an inquiry.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years.

- (2) A person must not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage to another person for or on account of –
- (a) that other person having given evidence before an inquiry or produced or surrendered any document or thing to the

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Commissioner for the purposes of an inquiry; or

- (b) any evidence given by that other person before an inquiry or any document or thing produced or surrendered by that other person to the Commissioner for the purposes of an inquiry.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years.

- (3) An employer must not dismiss an employee from employment, or prejudice an employee in employment, for or on account of –

- (a) that employee having given evidence before an inquiry or produced or surrendered any document or thing to the Commissioner for the purposes of an inquiry; or
- (b) any evidence given by that employee before an inquiry or any document or thing produced or surrendered by that employee to the Commissioner for the purposes of an inquiry.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years.

- (4) In any proceedings for an offence under subsection (3), it lies on the employer to prove, on the balance of probabilities, that the employee shown to have been dismissed from or



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prejudiced in employment was so dismissed or prejudiced for some reason other than a reason specified in subsection (3).

***Division 5 – Reporting***

**51. Annual report by Commissioner**

- (1) Within 3 months after the end of each financial year, the Commissioner must provide to the Minister an annual report on the performance of the functions, and the exercise of the powers, of the Commissioner during the previous financial year.
- (2) Without limiting the generality of subsection (1), the Commissioner must include in the Commissioner's annual report the following in respect of the previous financial year –
  - (a) any recommendation made by the Commissioner under this Act;
  - (b) any direction given by the Commissioner under this Act;
  - (c) any non-compliance with recommendations made or directions given by the Commissioner under this Act;
  - (d) any matter referred to the Commissioner by the Minister under section 21;
  - (e) any report made by the Commissioner under section 27(1);

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- (f) any request made by the Minister to the Commissioner under section 54;
  - (g) any recommendation made in relation to a plan, or the amendment of a plan, under section 61.
- (3) For the avoidance of doubt, the Commissioner must not disclose any information under subsection (2)(a) in an annual report if the Commissioner did not include that information in a recommendation under section 12 because of the operation of section 19(2).
- (4) Before 30 November in each year, the Minister must cause a copy of the annual report for the preceding financial year to be laid before each House of Parliament.
- (5) If the Minister is unable to comply with subsection (4) for any reason other than that a House of Parliament is not sitting, the Minister must cause to be laid before each House of Parliament a statement specifying –
  - (a) the reasons for the failure to comply with that subsection; and
  - (b) an estimate of the day by which a copy of the annual report will be ready to be laid before each House of Parliament.
- (6) If the Minister is unable to comply with subsection (4) because a House of Parliament is not sitting, the Commissioner must –

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- (a) forward a copy of the annual report to the Clerk of that House; and
- (b) within the next 7 sitting-days of that House, cause a copy of the annual report to be laid before that House.

**52. Report to Minister on failure by Tasracing to comply with requirements**

- (1) The Commissioner may advise the Minister of a failure by Tasracing to do any of the following:
  - (a) submit a plan under section 61;
  - (b) comply with a recommendation of the Commissioner under this Act;
  - (c) comply with a direction of the Commissioner under section 13.
- (2) Before advising the Minister under subsection (1), the Commissioner must –
  - (a) give Tasracing written notification of its intention to advise the Minister; and
  - (b) give Tasracing 14 days to provide a written response to the notification under paragraph (a) before advising the Minister of the failure.
- (3) If Tasracing provides a written response to a notification under subsection (2)(a) in relation to a failure, the Commissioner must give a copy of that response to the Minister with the advice of the failure.

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***Division 6 – Integrity and Animal Welfare Standards***

**53. Integrity and Animal Welfare Standards**

- (1) The Commissioner may, on the Commissioner's own motion or at the request of the Minister under section 54, prepare and issue Standards.
- (2) The Standards may provide for any matter relating or incidental to the conduct of racing.
- (3) Without limiting subsection (2), the Standards may make provision with respect to the following matters:
  - (a) the welfare of animals that are or have been involved in racing;
  - (b) integrity in racing, including but not limited to, the setting of licence and registration standards and criteria;
  - (c) the number of stewards required to –
    - (i) officiate at race meetings; and
    - (ii) officiate at race trials; and
    - (iii) perform any other functions pursuant to the Rules of Racing;
  - (d) animal welfare operations, including stable and kennel inspections;
  - (e) the testing (including swabbing) of animals and humans in racing, both in competition and out of competition;

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- (f) the keeping, treatment, handling and care of greyhounds and horses;
  - (g) the facilities, equipment and conditions at premises where greyhounds and horses are kept, trialled, trained or raced;
  - (h) the procedures and practices to be adopted in relation to the keeping, trialling, training and racing of greyhounds and horses;
  - (i) the lifetime traceability of greyhounds and horses;
  - (j) the qualifications, attributes or other criteria for persons applying for licences or registration;
  - (k) minimum training required to be completed by persons employed by or engaged in the racing industry;
  - (l) the administration, licensing, registering and regulation of bookmakers and bookmaker's agents;
  - (m) the conditions on, and requirements relating to, the conduct of bookmaking and betting in the racing industry, including conditions and requirements to ensure integrity;
  - (n) the publication of race field information;
  - (o) the imposition of licence and registration fees;

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- (p) the issuing of warning-off notices and exclusion notices under section 124;
  - (q) such other matters as may be prescribed.
- (4) In making any Standards under this section, the Commissioner is to have regard to the following:
  - (a) any animal welfare standards or animal welfare guidelines issued under the *Animal Welfare Act 1993* that are applicable to racehorses and racing greyhounds;
  - (b) the functions and powers of Tasracing.
- (5) The Commissioner may –
  - (a) amend the Standards issued under subsection (1); or
  - (b) revoke the Standards issued under subsection (1) and substitute new Standards in accordance with that subsection.
- (6) The Commissioner, before making, amending or revoking any Standards –
  - (a) is to consult with the Advisory Committee; and
  - (b) is to consult with Tasracing; and
  - (c) may consult with such other persons as the Commissioner thinks fit.
- (7) The Standards –

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- (a) must specify the day on which the Standards are, or the amendment is, to take effect; and
    - (b) may be made so as to apply differently according to such factors as are specified in the Standards; and
    - (c) may adopt, either wholly or in part and with or without modification, either specifically or by reference, any standards, rules, codes, guidelines or other documents.
  - (8) A standard, rule, code, guideline or other document, adopted under subsection (7)(c) may be adopted –
    - (a) as in force at the time of the adoption; or
    - (b) as amended from time to time after it is adopted.
  - (9) The Standards must be consistent with this Act and the public interest.
  - (10) If there is an inconsistency between the Standards and this Act, the Standards are invalid to the extent of the inconsistency.
  - (11) The Commissioner is to ensure that the Standards, as in force, are published on a website operated by, or on behalf of, the Commissioner.
  - (12) The *Acts Interpretation Act 1931* applies to the interpretation of the Standards as if the Standards were by-laws.

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- (13) The Standards are not –
  - (a) statutory rules; or
  - (b) subordinate legislation for the purposes of the *Subordinate Legislation Act 1992*.
- (14) All courts, judges and persons acting judicially are to –
  - (a) take judicial notice of the Standards as amended from time to time; and
  - (b) admit as evidence a copy of those Standards, as amended from time to time, if the copy is certified as a true copy by the Commissioner.

**54. Request by Minister to prepare Standards**

- (1) The Minister may make a written request that the Commissioner develop and issue Standards for such matters relating to racing as are specified in the request.
- (2) Before making a request under subsection (1), the Minister –
  - (a) must consult with the Commissioner; and
  - (b) may consult with the Treasurer.
- (3) In making a request under this section, the Minister is to have regard to the functions and powers of Tasracing.



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- (4) If the Commissioner decides not to comply with a request of the Minister under this section, the Commissioner must provide the Minister with written reasons for that decision.

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Part 3 – Integrity and Animal Welfare Advisory Committee

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**PART 3 – INTEGRITY AND ANIMAL WELFARE  
ADVISORY COMMITTEE**

**55. Integrity and Animal Welfare Advisory Committee**

- (1) There is established an Integrity and Animal Welfare Advisory Committee.
- (2) The Integrity and Animal Welfare Advisory Committee consists of the following persons:
  - (a) the Commissioner;
  - (b) a person nominated by Tasracing;
  - (c) a person from the department responsible for the administration of the *Biosecurity Act 2019*, nominated by the Secretary of that department;
  - (d) a person from the department responsible for the administration of the *Animal Welfare Act 1993*, nominated by the Secretary of that department;
  - (e) a person nominated by the RSPCA;
  - (f) such other persons as are nominated by the Commissioner.
- (3) The members of the Integrity and Animal Welfare Advisory Committee are to be appointed by the Minister on such terms and conditions as determined by the Minister.
- (4) The Advisory Committee is to consist of no more than 7 members.

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- (5) A member of the Advisory Committee may, with the approval of the Minister, appoint a person nominated, by the organisation or department which the member represents, as the member's deputy.
  - (6) If a nomination under subsection (2) is not made within 30 days after the date on which that nomination is required by the Minister to be made, the Minister may appoint a suitably qualified person for appointment under that subsection.
  - (7) The Advisory Committee must meet –
    - (a) at least twice every year; and
    - (b) at any reasonable time at the request of at least half of the members of the committee.
  - (8) The Minister, on the recommendation of the Commissioner, is to appoint a person as chairperson of the Advisory Committee.
  - (9) Schedule 2 has effect with respect to members and meetings of the Advisory Committee.

**56. Functions and powers of Advisory Committee**

- (1) The Advisory Committee has the following functions:
  - (a) to advise the Commissioner on any matter relating to –

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- (i) the welfare of animals involved in racing; and
    - (ii) biosecurity matters relating to racing; and
    - (iii) integrity in racing;
  - (b) to advise the Commissioner on any matters referred to it by the Commissioner;
  - (c) to provide a forum for consultation on policy matters relating to integrity in racing and animal welfare;
  - (d) such other functions as are prescribed.
- (2) The Advisory Committee has such other functions as are conferred or imposed on it by or under this or any other Act.
- (3) The Advisory Committee may do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions or the exercise of its powers.

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Part 4 – Racing Integrity Committee

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**PART 4 – RACING INTEGRITY COMMITTEE**

**57. Racing Integrity Committee**

- (1) There is established a Racing Integrity Committee.
- (2) The Racing Integrity Committee consists of the following persons:
  - (a) 2 persons appointed by the Minister, one of whom is to be appointed by the Minister as the Chairperson;
  - (b) 2 persons who are on the Board.
- (3) The following persons are not eligible to be appointed as a member of the Racing Integrity Committee under subsection (2)(a):
  - (a) the Commissioner;
  - (b) a person who is an employee, officer, director, Board member or member of Tasracing, a racing club or a racing industry association;
  - (c) a person who is a State Service officer or State Service employee;
  - (d) an owner or breeder of greyhounds or horses;
  - (e) any person who has or obtains a financial or proprietary interest in a greyhound or a horse, other than a greyhound or horse that has retired from racing;

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- (f) a person who is registered or licensed by Tasracing under the Rules of Racing;
  - (g) a bookmaker or a bookmaker's agent.
- (4) A person is not eligible to be a member of the Racing Integrity Committee if that person holds one of the following positions in Tasracing or a position similar in nature to one of the following positions in Tasracing:
  - (a) chief financial officer;
  - (b) chief operating officer;
  - (c) chief executive officer.
- (5) The members of the Racing Integrity Committee are to be appointed by the Minister on such terms and conditions as determined by the Minister.
- (6) The Minister may only appoint a person to the Racing Integrity Committee if the Minister is satisfied that the person has the skills, experience and knowledge in matters that are relevant to the functions of the Racing Integrity Committee.
- (7) A person who is a member of the Racing Integrity Committee is not, by virtue of being such a member, to be regarded as being a State Service officer or State Service employee.
- (8) Schedule 3 has effect with respect to membership and meetings of the Racing Integrity Committee.

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**58. Functions of Racing Integrity Committee**

- (1) The functions of the Racing Integrity Committee are –
- (a) to give advice and make recommendations to Tasracing in relation to the administration and regulation of the racing industry; and
  - (b) to give advice and make recommendations to Tasracing in relation to the administration, registration and regulation of the operations of bookmakers; and
  - (c) to give advice and make recommendations to Tasracing in relation to the implementation of, and compliance with, the Standards by Tasracing; and
  - (d) to review any applications and other matters relating to licences and registration referred to the Committee by Tasracing and to give advice and make recommendations in respect of those applications and matters; and
  - (e) to give advice and make recommendations in relation to policies, procedures and guidelines of Tasracing that relate to its functions under this Act (having regard in particular to integrity in racing and animal welfare); and
  - (f) to give advice and make recommendations to Tasracing in relation

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to the annual integrity plan prepared by Tasracing under section 61; and

- (g) to give advice and make recommendations to Tasracing in relation to the responsibilities and operations of the Tasracing Integrity Unit; and
  - (h) to give advice and make recommendations to Tasracing in relation to the appointment and dismissal of stewards and other racing officials; and
  - (i) to give advice and make recommendations in relation to the appointment and dismissal of the Chief Racing Integrity Officer; and
  - (j) such other functions as are prescribed.
- (2) The Racing Integrity Committee has such other functions as are conferred or imposed on it by or under this or any other Act.
- (3) The Racing Integrity Committee may do anything necessary or convenient to perform its functions under this or any other Act.



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**PART 5 – TASRACING**

***Division 1 – General provisions***

**59. General functions and powers of Tasracing**

- (1) Tasracing is, with respect to racing in Tasmania, responsible for –
- (a) developing a vision for the racing industry; and
  - (b) promoting Tasmanian racing locally, nationally and internationally; and
  - (c) promoting the development of an efficient and effective racing industry; and
  - (d) promoting the development of an efficient and effective horse and greyhound breeding industry; and
  - (e) corporate governance, strategic direction and funding; and
  - (f) providing advice to the Minister and making appropriate policy recommendations for the development of racing; and
  - (g) attracting sponsorship income; and
  - (h) allocating race dates; and
  - (i) race programming; and

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- (j) developing and maintaining racing and training venues under its control; and
- (k) providing training to people employed or otherwise engaged in the racing industry having regard to the Standards; and
- (l) representing the Tasmanian racing industry on national and international controlling bodies and in national and international forums; and
- (m) publishing racing industry journals; and
- (n) approving, in a manner not inconsistent with the Corporations Act, the operating budgets of racing clubs; and
- (o) assisting racing clubs with the promotion and marketing of major race meetings and race carnivals; and
- (p) determining, in consultation with the relevant racing clubs for each code of racing, a fee or series of fees for a race field information publication approval for each code of racing; and
- (q) negotiating, with broadcast providers, scheduling and revenue-sharing arrangements for the broadcast of Tasmanian racing, both nationally and internationally; and
- (r) representing the State and the local industry on national bodies and in national forums generally concerned with

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integrity in racing and related matters;  
and

(s) such other functions as are prescribed.

(2) Tasracing is also responsible for –

- (a) developing policies, procedures and guidelines, in respect of its functions, that are conducive to integrity, and animal welfare, in racing; and
- (b) reviewing and assessing the integrity of practices and participants, and animal welfare, for all codes of racing; and
- (c) advising the Racing Integrity Committee about the performance of its functions, and the exercise of its powers, under this subsection; and
- (d) implementing, coordinating and monitoring compliance with the Standards for all codes of racing; and
- (e) controlling race nominations, acceptances, field selections, handicapping, barrier draws and scratchings in thoroughbred racing; and
- (f) controlling race nominations, acceptances, field selections, handicapping, barrier draws and scratchings in harness racing; and

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- (g) controlling race nominations, gradings, field selections, box draws and scratchings in greyhound racing; and
- (h) ensuring that the Rules of Racing for all codes of racing are properly enforced by stewards; and
- (i) the administration and registration of racing clubs; and
- (j) approving registrations under the Rules of Racing; and
- (k) granting licences under the Rules of Racing; and
- (l) the administration and registration of bookmakers and bookmaker's agents; and
- (m) making (by drawing up its own local rules and by adopting Australian Rules of Racing) the Rules of Racing, having regard to any advice and recommendations of the Commissioner; and
- (n) developing a code of conduct to be complied with by persons registered, and persons licensed, under the Rules of Racing; and
- (o) determining, in consultation with the Commissioner, the licence and registration fees payable pursuant to the Rules of Racing.

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- (3) Tasracing has such other functions as are conferred or imposed on it by or under this or any other Act.
  - (4) Subject to subsection (5), Tasracing has power to do such things as it considers necessary or convenient for, or in connection with, the exercise or performance of any power or function conferred or imposed on it by this or any other Act.
  - (5) Tasracing must perform its functions and exercise its powers in accordance with the Rules of Racing.
  - (6) In the performance of its functions and exercise of its powers under this Act, Tasracing or a representative of Tasracing is to meet with the Commissioner, racing clubs and racing industry associations at least once every 3 months and report to the Commissioner, racing clubs and racing industry associations the outcomes of those meetings.
  - (7) Tasracing must seek and consider the advice of the Racing Integrity Committee before making any policies, procedures and guidelines in relation to integrity in racing and animal welfare.
  - (8) Tasracing must advise, and consider the advice of, the Racing Integrity Committee in relation to the preparation and implementation of the annual integrity plan prepared under section 61.

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**60. Decisions in respect of licences and registration under the Rules of Racing**

(1) In this section –

*specified matter* means any of the following:

- (a) an application for a licence, or for the renewal of a licence, under the Rules of Racing;
- (b) the suspension or cancellation of a licence under the Rules of Racing;
- (c) an application for registration, or re-registration, under the Rules of Racing;
- (d) the suspension or cancellation of a registration under the Rules of Racing.

(2) Tasracing may only approve the following applications under the Rules of Racing:

- (a) an application for a licence or for the renewal of a licence;
- (b) an application for registration or re-registration –

if satisfied that the applicant is fit and proper to hold such a licence or registration.

(3) Before making a decision in relation to a specified matter, Tasracing may refer the matter and any supporting documentation to the Racing

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Integrity Committee for consideration by the Committee.

- (4) The Racing Integrity Committee is to consider any specified matter referred to the Committee under subsection (3) and may make such recommendations in relation to that matter as the Committee thinks fit.
- (5) Tasracing is to have regard to any recommendations made by the Racing Integrity Committee under subsection (4) when making a decision in relation to a specified matter referred to the Committee under subsection (3).
- (6) Any fees payable under the Rules of Racing in respect of licences and registration are payable to Tasracing, for and on behalf of the Crown.
- (7) This section has effect despite anything to the contrary that may be contained in the Rules of Racing.

**61. Tasracing to prepare and submit annual integrity plan to Commissioner for endorsement**

- (1) Tasracing must prepare a plan for each financial year in respect of integrity and welfare in racing, including, but not limited to, animal welfare.
- (2) A plan under subsection (1) must be made –
  - (a) in respect of each code of racing; and
  - (b) include information relating to resourcing and budgets in respect of the matters referred to in subsection (1).

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- (3) A draft of the plan prepared under subsection (1) for a financial year must be submitted to the Commissioner for endorsement at least 2 months before the commencement of that financial year.
- (4) The Commissioner may –
  - (a) endorse the draft plan as submitted if satisfied that the plan is in the best interests of the industry; or
  - (b) give advice and make recommendations to Tasracing in relation to the amendment of the draft plan and request that Tasracing resubmit it for endorsement; or
  - (c) decide not to endorse the draft plan and may advise the Minister of that decision.
- (5) For the avoidance of doubt, the Commissioner’s power under subsection (4)(b) may be exercised more than once.
- (6) The Commissioner may require Tasracing to provide further information regarding a plan submitted under subsection (3).
- (7) Any advice given and amendments recommended by the Commissioner under subsection (4)(b) must be consistent with any relevant Standards.



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***Division 2 – Rules***

**62. Rules of Racing**

- (1) Tasracing must make Rules of Racing for the good management of the codes of racing.
- (2) Before making, amending or revoking any Rules of Racing, Tasracing must –
  - (a) notify the Commissioner of the proposed making, amendment or revocation of those rules; and
  - (b) allow the Commissioner at least 21 days to give advice and make recommendations under subsection (3) in relation to the proposed making, amendment or revocation of those rules.
- (3) The Commissioner may give such advice and make such recommendations to Tasracing in relation to the proposed making, amendment or revocation of Rules of Racing as the Commissioner thinks fit.
- (4) Rules of Racing may –
  - (a) be made so as to apply differently according to such factors as are specified in the rules; and
  - (b) authorise any matter to be determined from time to time by Tasracing, the TRAB, a racing club, steward or other person or body specified in the rules; and

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- (c) provide that a contravention of any of the rules is an offence; and
- (d) provide, in relation to the commission of any such offence, for any, or any combination, of the following:
  - (i) the imposition on the offender of a fine not exceeding 750 penalty units;
  - (ii) disqualification of the offender;
  - (iii) disqualification of the horse or greyhound in respect of which the offence was committed;
  - (iv) the suspension of any registration or licence held under the rules by the offender;
  - (v) the suspension of any registration held under the rules by the horse or greyhound in respect of which the offence was committed.
- (5) Fines payable under any Rules of Racing are payable to Tasracing, for and on behalf of the Crown and, if not paid, may be recovered as a debt due to the Crown.
- (6) Tasracing—
  - (a) must publish any new Rules of Racing as soon as practicable after making those rules; and

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- (b) must publish particulars of any amendment or rescission of the Rules of Racing as soon as practicable after making that amendment or effecting that rescission; and
  - (c) may publish the Rules of Racing from time to time in consolidated form.
- (7) For the purposes of subsection (6), publication may be publication on a website operated by, or on behalf of, Tasracing.

**63. Tasracing may require attendance at inquiry by stewards under Rules of Racing**

- (1) Tasracing may, by summons to a person, require the person to –
  - (a) produce documents, specified in the summons, for the purposes of an investigation or inquiry conducted by stewards under the Rules of Racing; or
  - (b) appear to give evidence at a hearing being conducted, or to be conducted, in relation to an investigation or inquiry conducted by stewards under the Rules of Racing –

if Tasracing is of the opinion, on reasonable grounds, that the production of the document, or the giving of the evidence, as the case may be, is necessary or desirable for the purposes of the inquiry, or in relation to the matter in respect of

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which the inquiry by stewards is being conducted.

- (2) A person served with a summons to produce any document or appear before an inquiry conducted by stewards under the Rules of Racing must not, without reasonable excuse –
  - (a) fail to produce the document or attend as required by the summons; or
  - (b) fail to appear from time to time in the course of the inquiry by stewards as required by Tasracing.

Penalty: Fine not exceeding 20 penalty units.

**64. Miscellaneous**

- (1) Rules of Racing made under this Division are not –
  - (a) statutory rules; or
  - (b) subject to section 47(3), (3A), (10) or (11) of the *Acts Interpretation Act 1931*; or
  - (c) subordinate legislation for the purposes of the *Subordinate Legislation Act 1992*.
- (2) A court or person acting judicially is to –
  - (a) take judicial notice of rules made under this Division as amended from time to time; and

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- (b) admit as evidence a copy of any rules made under this Division as amended from time to time, if the copy is certified by Tasracing.

***Division 3 – Directions***

**65. Directions by Tasracing**

- (1) In exercising a power, or performing a function, under this Act, Tasracing may give directions to the following persons:
  - (a) registered clubs, either individually or collectively;
  - (b) registered bookmakers, either individually or collectively, including directions about how they may advertise;
  - (c) bookmakers' agents and other persons involved in the racing industry, either individually or collectively.
- (2) The Commissioner may make a recommendation to Tasracing for a direction to be given under subsection (1).
- (3) Tasracing may give a direction under subsection (1) on its own initiative or after considering a recommendation from the Commissioner.

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***Division 4 – Tasracing Integrity Unit***

**66. Tasracing Integrity Unit**

- (1) Tasracing is to establish a unit within it whose responsibilities include, but are not limited to –
  - (a) the performance of the responsibilities of Tasracing specified in section 59(2); and
  - (b) the management of persons appointed by Tasracing under section 68.
- (2) The Chief Racing Integrity Officer is to be responsible for the operation of the Tasracing Integrity Unit.

**67. Appointment of Chief Racing Integrity Officer**

- (1) Tasracing is to appoint a suitably qualified person as the Chief Racing Integrity Officer.
- (2) The appointment of the Chief Racing Integrity Officer under subsection (1) is subject to the approval of the Racing Integrity Committee.
- (3) Tasracing may only dismiss the Chief Racing Integrity Officer with the approval of the Racing Integrity Committee.
- (4) If the Racing Integrity Committee or the Commissioner reasonably believes that the Chief Racing Integrity Officer is not a fit and proper person to remain as the Chief Racing Integrity Officer, the Racing Integrity Committee or the

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Commissioner may recommend to Tasracing that it dismiss the Chief Racing Integrity Officer.

- (5) No action lies against the Racing Integrity Committee or Tasracing for or in respect of any damage or loss sustained or alleged to have been sustained by a person by reason of the refusal of the Racing Integrity Committee to approve the appointment of that person as the Chief Racing Integrity Officer.
- (6) No action lies against the Racing Integrity Committee or the Commissioner for or in respect of any damage or loss sustained or alleged to have been sustained by a person by reason of –
  - (a) the recommendation of the Racing Integrity Committee or the Commissioner that Tasracing dismiss that person as the Chief Racing Integrity Officer; or
  - (b) the approval of the Racing Integrity Committee to the dismissal of that person as the Chief Racing Integrity Officer.

**68. Appointment of stewards and other racing officials**

- (1) Tasracing is to, in accordance with this section, appoint –
  - (a) stipendiary stewards to enforce the Rules of Racing of one or more codes of racing; and

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- (b) betting supervisors to assist it in supervising betting; and
  - (c) veterinarians to assist it; and
  - (d) branding officers to conduct the branding of animals for one or more codes of racing; and
  - (e) handicappers to determine field selections and handicaps in harness races; and
  - (f) graders to determine field selections and grading in greyhound races; and
  - (g) such other persons as are necessary to support its functions and powers in relation to integrity in racing and animal welfare.
- (2) The appointment of a stipendiary steward under subsection (1)(a) is subject to the approval of the Racing Integrity Committee.
- (3) An appointment under subsection (1) is to be on such conditions as Tasracing determines.
- (4) No action lies against Tasracing or the Racing Integrity Committee for or in respect of any damage or loss sustained or alleged to have been sustained by a person by reason of the refusal of the Racing Integrity Committee to approve the appointment of that person as a stipendiary steward under this section.



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- (5) A person holding an appointment under this section may only be dismissed or suspended from office by Tasracing with the approval of the Racing Integrity Committee.
- (6) Despite any law or Rules of Racing to the contrary, a registered club is not capable of –
- (a) appointing or dismissing a person as a stipendiary steward or other racing official; or
  - (b) authorising or requiring a person to perform, or not perform, the functions of a stipendiary steward or other racing official; or
  - (c) performing the functions of a stipendiary steward or other racing official in its own right.
- (7) Tasracing must not –
- (a) appoint or dismiss a person as a stipendiary steward or other racing official except in accordance with this section; or
  - (b) authorise or require a person to perform, or not perform, the functions of a stipendiary steward or other racing official except in accordance with this section.
- (8) Any purported appointment, dismissal or authorisation contrary to this section is void.

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- (9) Any purported performance of functions contrary to subsection (6)(c) is void.
- (10) A registered club must provide stipendiary stewards with such reasonable accommodation and facilities as will enable them to perform their functions in a secure and effective manner.

**69. Effect of appointment under this Division**

For the avoidance of doubt, the *State Service Act 2000* does not apply to a person appointed under this Division.

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**PART 6 – TASMANIAN RACING APPEAL BOARD**

***Division 1 – Preliminary***

**70. Interpretation of Part**

In this Part –

*chairperson* means the chairperson of the TRAB;

*deputy chairperson* means the deputy of the chairperson.

***Division 2 – Establishment and operation***

**71. Tasmanian Racing Appeal Board (TRAB)**

- (1) The Tasmanian Racing Appeal Board constituted under section 25(1) of the *Racing Act 1983* and continued under section 23(1) of the *Racing Regulation Act 2004* continues.
- (2) The TRAB consists of 6 members.
- (3) At least 3 of the members are to be Australian legal practitioners of at least 5 years' standing and one such member is to be appointed as chairperson and the other 2 or more such members are to be appointed as deputy chairpersons.
- (4) The members, and the chairperson and deputy chairpersons, are appointed by the Governor.
- (5) Persons with experience in each code of racing are to be appointed by the Governor to attend

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hearings of the TRAB, when requested by the TRAB, to give advice on racing matters.

- (6) The persons appointed under subsection (5) are not members of the TRAB.
- (7) The persons appointed under subsection (5) are to be appointed for a term not exceeding 3 years and, if eligible, may be reappointed for further terms.
- (8) A member is to be appointed for a term not exceeding 3 years and, if eligible, may be reappointed for further terms.
- (9) Schedule 4 has effect in relation to the membership of the TRAB.
- (10) A person is not eligible to be a member of the TRAB if the person is –
  - (a) registered as a bookmaker or a bookmaker's agent; or
  - (b) the trainer, owner or lessee of a horse or greyhound used for racing; or
  - (c) the rider or driver of a horse used for racing; or
  - (d) a director, officer or employee of Tasracing; or
  - (e) a member of the Racing Integrity Committee; or
  - (f) a member of the Advisory Committee; or

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- (g) a member of a racing club committee; or
  - (h) an employee of a racing club; or
  - (i) a member of a racing industry association committee; or
  - (j) appointed as the Commissioner.
- (11) A member of the TRAB must not wager on a Tasmanian race meeting or with a Tasmanian registered bookmaker.

**72. Delegation by chairperson**

The chairperson of the TRAB may delegate any of the chairperson's functions or powers under this or any other Act, other than this power of delegation, to a deputy chairperson.

**73. Role of deputy chairperson**

- (1) A deputy chairperson of the TRAB assists the chairperson in the performance of the chairperson's functions.
- (2) If the chairperson is absent, a deputy chairperson nominated by the chairperson is to act as chairperson during that absence and, where so acting, may perform the functions and exercise the powers of the chairperson as fully and effectively as the chairperson.
- (3) If the office of chairperson is vacant, a deputy chairperson nominated by the Minister is to act as chairperson during the vacancy and, while so

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acting, may perform the functions and exercise the powers of the chairperson as fully and effectively as the chairperson.

**74. TRAB secretary**

The Secretary of the Department may appoint a State Service officer or State Service employee employed in the Department to be secretary to the TRAB and that officer or employee may hold that office in conjunction with State Service employment.

**75. Consultation with racing industry**

The chairperson and deputy chairpersons are to consult with the following persons on at least 2 occasions in a year:

- (a) the chairpersons of racing industry associations and racing clubs;
- (b) the Chief Racing Integrity Officer;
- (c) the Commissioner;
- (d) a representative of the stewards in respect of each code of racing.

***Division 3 – Institution of appeals to TRAB***

**76. Persons may appeal to TRAB about certain matters**

- (1) A person may appeal to the TRAB if the person is –

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- (a) aggrieved by the decision of Tasracing or a registered club to issue the person with a warning-off notice, or an exclusion notice, under section 124; or
    - (b) aggrieved by the decision of the stewards to –
      - (i) impose a fine on the person; or
      - (ii) impose a suspension or disqualification on the person or on a horse or greyhound owned, leased or trained by the person.
  - (2) An appeal does not lie to the TRAB under subsection (1)(b)(ii) if the decision alters the result of a horse race or greyhound race and the decision was made before the declaration of “correct weight” or “all clear”.
  - (3) If a person has a right of appeal under this section against a decision of Tasracing or a registered club, no appeal against that decision lies to Tasracing or that club, as the case may be.
  - (4) If a person has a right of appeal under this section against a stewards’ decision, no appeal against that decision lies to Tasracing or a registered club.
  - (5) If a person has a right of appeal under this section against a decision, no appeal against that decision lies to the Commissioner.
  - (6) This section has effect notwithstanding anything to the contrary that may be contained in –

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- (a) the Rules of Racing; or
- (b) the constitution, rules or articles of the registered club; or
- (c) the constitution of Tasracing.

**77. Other rights of appeal to TRAB**

- (1) A person may appeal to the TRAB if the person is aggrieved by a decision of Tasracing to –
  - (a) refuse to grant a licence, or approve a registration, under the Rules of Racing, of the person or a horse or greyhound owned, leased or trained by the person; or
  - (b) cancel or suspend a licence or registration under the Rules of Racing of the person or a horse or greyhound owned, leased or trained by the person; or
  - (c) refuse to register the person as a bookmaker or bookmaker's agent; or
  - (d) cancel or suspend the person's registration as a bookmaker or bookmaker's agent; or
  - (e) refuse to endorse the person's certificate of registration as a bookmaker with an on-course telephone betting endorsement, an off-course telephone betting endorsement or an off-course function betting endorsement; or



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- (f) cancel or suspend the person's on-course telephone betting endorsement, off-course telephone betting endorsement or off-course function betting endorsement; or
  - (g) refuse under section 155(4)(b) to issue to the person an off-course function approval; or
  - (h) cancel under section 141(1) and (2) or section 156(1) an off-course function approval issued to the person; or
  - (i) refuse to register a club of which the person is a member; or
  - (j) cancel or suspend the registration of a club of which the person is a member; or
  - (k) impose conditions on the person's licence, or registration, granted or approved under the Rules of Racing; or
  - (l) impose conditions on the person's registration as a bookmaker or bookmaker's agent; or
  - (m) impose conditions on the person's on-course telephone betting endorsement, off-course telephone betting endorsement or off-course function betting endorsement; or
  - (n) impose conditions on an off-course function approval; or

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- (o) impose conditions on the registration of a club of which the person is a member; or
  - (p) impose a fine on the person.
- (2) A wagering operator may appeal to the TRAB if the wagering operator is aggrieved by a decision of Tasracing to –
  - (a) refuse to grant approval to the wagering operator to publish Tasmanian race field information; or
  - (b) impose conditions, other than conditions referred to in section 128(4)(a) in respect of a race field information publication approval; or
  - (c) cancel a race field information publication approval; or
  - (d) vary the conditions, other than conditions referred to in section 128(4)(a), in respect of a race field information publication approval.
- (3) A person may also appeal to the TRAB if the person is –
  - (a) in dispute with a bookmaker regarding the placement, acceptance, payment, non-payment or amount of a bet; or
  - (b) aggrieved, as a registered bookmaker or bookmaker's agent, by the decision of a registered club to withdraw its permission for the person to engage in

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bookmaking on a racecourse under its control.

- (4) If a person has a right of appeal under this section against a decision of Tasracing or a registered club, no appeal against that decision lies to Tasracing or that club, as the case may be.
- (5) If a person has a right of appeal under subsection (1)(a), (b), (c) or (d) against a decision of Tasracing, no appeal against that decision lies to the Commissioner.
- (6) This section has effect despite anything to the contrary that may be contained in –
  - (a) the Rules of Racing; or
  - (b) the constitution, rules or articles of the registered club; or
  - (c) the constitution of Tasracing.

**78. How and when should persons appeal?**

- (1) An appeal is instituted by lodging a notice of appeal with the secretary to the TRAB.
- (2) The notice of appeal –
  - (a) is to be in a form approved by the TRAB; and
  - (b) must specify –

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- (i) the parties to the appeal, the relevant decision and the grounds of appeal; or
  - (ii) if section 77(3)(a) applies, the parties in dispute and the nature of the dispute.
- (3) The notice of appeal must be lodged with the secretary to the TRAB within –
  - (a) in the case of a minor appeal, 7 days after the making of the relevant decision; or
  - (b) in the case of a major appeal or an appeal under section 77(2) or section 77(3)(b), 14 days after the making of the relevant decision; or
  - (c) if section 76(1)(a) applies, 14 days after the day on which the person is issued with the warning-off notice or exclusion notice; or
  - (d) if section 77(1) applies, 14 days after the making of the relevant decision by Tasracing; or
  - (e) if section 77(3)(a) applies, 60 days after the conclusion of the event to which the disputed bet relates.

**79. Procedure on appeals**

- (1) On the lodgment of an appeal, the secretary to the TRAB is to –

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- (a) request the chairperson to fix a time and place, as soon as practicable, for the hearing of the appeal; and
  - (b) give the parties to the appeal notice of that time and place; and
  - (c) give the respondent a copy of the notice of appeal; and
  - (d) give the parties to the appeal, as soon as practicable, a copy of the transcript, if any, of the proceedings at which the decision that is the object of the appeal was made; and
  - (e) in the case of an appeal under section 76(1)(b), give the appellant, as soon as practicable, a copy of the race patrol film relating to the matter that is the object of the appeal.
- (2) For the purposes of subsection (1), the chairperson is to make every endeavour to ensure that –
- (a) a minor appeal is heard within 14 days of lodgment of the appeal; and
  - (b) a major appeal or an appeal under section 77 is heard within 28 days of the lodgment of the appeal.
- (3) Before an appeal is heard or consideration is given under section 85 to suspending the operation of a penalty, the appellant must pay

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the prescribed deposit, if any, to the secretary to the TRAB.

- (4) An appeal is not capable of being withdrawn or abandoned except by leave of the chairperson.
- (5) An application for leave to withdraw or abandon an appeal is to be –
  - (a) in a form approved by the TRAB; and
  - (b) lodged with the secretary to the TRAB.
- (6) At the hearing of an appeal, the TRAB may allow the appellant to amend the grounds of appeal if satisfied in the circumstances of the case that it would be just to do so.
- (7) In this section –

*race patrol film* means a visual recording of a horse race or greyhound race used by stewards in determining a matter under the Rules of Racing.

***Division 4 – Conduct of appeals before TRAB***

**80. Constitution of TRAB for appeals &c.**

- (1) For the purposes of hearing an appeal, the TRAB is properly constituted by –
  - (a) one, 2 or 3 members for a minor appeal; and
  - (b) 3 or more members for a major appeal; and

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- (c) 3 members for an appeal under section 77.
- (2) The chairperson is to choose the members who are to constitute the TRAB for an appeal, but –
- (a) for a minor appeal, the member chosen or, if applicable, one of the members chosen must be the chairperson or deputy chairperson; and
- (b) for a major appeal or an appeal under section 77, the chairperson or a deputy chairperson is to be chosen as such a member.
- (3) The chairperson is to preside at all hearings of the TRAB at which the chairperson is present.
- (4) If the chairperson is not present at a hearing of the TRAB, a deputy chairperson is to preside at the hearing.
- (5) The chairperson or other member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (6) If the members constituting the TRAB for any hearing do not agree on a matter, the decision of the majority is the decision of the TRAB.
- (7) In choosing the members who are to constitute the TRAB for an appeal by a person, the chairperson must consider all available members and give due consideration to the nature of the issues likely to be involved in the appeal and attempt, as far as practicable, to ensure that there

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is not a risk of a member chosen being biased or having a conflict of interest, or being perceived to be biased or to have a conflict of interest, in relation to the appeal, by virtue of having been a member of the TRAB, or the former IAB, constituted in respect of a previous appeal to the TRAB, or the former IAB, by the person.

- (8) The Commissioner may make recommendations to the TRAB on any matter relating to the management by the TRAB of conflicts of interest in the performance and exercise of the TRAB's functions and powers.

- (9) For the purposes of subsection (7) –

*former IAB* means the IAB, as established under the *Racing Regulation Act 2004* before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015*.

**81. Hearing of appeals**

- (1) On the hearing of an appeal, the TRAB –

- (a) is to proceed with as little formality and technicality, and with as much expedition, as a proper consideration of the appeal permits; and
- (b) is to act according to equity, good conscience and the substantial merits of the case; and



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- (c) must observe the rules of natural justice; and
    - (d) may adjourn the hearing from time to time or from place to place as it thinks fit; and
    - (e) except as provided by this Act, may otherwise regulate its own proceedings.
  - (2) Subject to section 82, at any appeal proceedings, the presiding member is to determine any question relating to –
    - (a) the jurisdiction of the TRAB; and
    - (b) the admissibility of evidence; and
    - (c) law or procedure.
  - (3) An appeal is to be heard and determined upon the evidence at the original hearing when the decision or finding appealed against was made, but, if the presiding member considers it to be proper, expert or other evidence may be required or admitted.
  - (4) The TRAB may appoint counsel or another person with appropriate expertise or skills to help it conduct an appeal.
  - (5) The appellant may request the TRAB to admit any expert or other evidence that the appellant considers necessary.
  - (6) The TRAB –

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- (a) is to make a full and thorough investigation in open court, without regard to the forms, requirements or solemnities that might have been appropriate in legal proceedings; and
  - (b) may inform itself on any matter in such manner as it thinks fit, and admit any evidence considered by the presiding member to be relevant, notwithstanding that that evidence would not be admissible in a court of law; and
  - (c) may take into account any matters relating to, or to the administration of, racing that are within the knowledge or experience of a member of the TRAB or which have arisen in or as a result of appeal proceedings before the TRAB.
- (7) Notwithstanding subsection (6)(a), the TRAB may hear evidence in camera.
- (8) If the TRAB intends to take or receive evidence at a hearing which is not open to the public, it must announce that intention during a previous hearing which is open to the public and state, in general terms, the reasons why it intends to hold a closed hearing.
- (9) A person, other than the appellant, who is required by the TRAB to attend the hearing of an appeal is entitled to be paid such allowances and expenses as are prescribed or, if not prescribed, as the TRAB determines.

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**82. Referral of questions of law**

- (1) The TRAB may refer a question of law arising in the course of an appeal to the Supreme Court for decision.
- (2) If the TRAB refers a question of law to the Supreme Court for decision, the TRAB may –
  - (a) conclude its appeal subject to the decision; or
  - (b) adjourn the appeal until the decision is given.
- (3) A question of law may be referred to the Supreme Court in the form of a special case drawn up by the parties to the appeal or, if there are no parties to the appeal or the parties cannot agree, by the TRAB.
- (4) The decision of the Supreme Court on a question of law referred to it under this section is final and is binding on the TRAB and the parties to the appeal.

**83. Control of proceedings**

- (1) The TRAB has power to –
  - (a) control its proceedings; and
  - (b) maintain order at any appeal proceedings before the TRAB.

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- (2) The TRAB may request the Commissioner of Police to assist it in maintaining order at any appeal proceedings before it.
- (3) The Commissioner of Police is authorised and required to accede to a request made under subsection (2).

**84. Control of public reporting**

- (1) The TRAB may, by order, prohibit or restrict the public reporting of appeal proceedings before the TRAB or the publishing of any evidence taken or received by the TRAB if it is satisfied that the public interest in the reporting of that proceeding or the publishing of that evidence is outweighed by any other consideration, including public security, privacy of personal or financial affairs and the right of any person to a fair trial.
- (2) An order under subsection (1) is to be made during a hearing which is open to the public and on making the order the TRAB must state, in general terms, the reasons for making the order.
- (3) A person must not fail to comply with an order of the TRAB made under subsection (1).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 000 penalty units;  
or
- (b) an individual, a fine not exceeding 100 penalty units or

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imprisonment for a term not  
exceeding 2 years.

**85. Suspension of penalties pending appeals**

- (1) The chairperson, on the request of the appellant, may, unconditionally or on such conditions as the chairperson thinks fit, suspend the operation of a penalty pending the hearing and determination of an appeal.
- (2) The chairperson must not suspend the operation of a penalty under subsection (1) in relation to a major or minor appeal if –
  - (a) the appeal is in relation to the penalty only; or
  - (b) the appeal is intended to be heard within 7 days of lodgment, unless the chairperson considers that extenuating circumstances require otherwise.

**86. Representation before TRAB**

A party to an appeal may be represented by counsel or any other person.

***Division 5 – Evidence and witnesses***

**87. Interpretation of Division**

In this Division –

***reasonable excuse***, in relation to an act by a  
person, means –

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- (a) if the person is a witness, or providing information, to the TRAB, an excuse that would excuse the act by a witness in proceedings of a similar nature in a court of law; or
- (b) if the person is the subject of a notice, or warrant in relation to the TRAB, an excuse that would excuse the act by a person summoned before a court of law in proceedings of a similar nature in the court; or
- (c) in any case, an excuse that the TRAB considers reasonable in the circumstances in relation to the act by the person.

**88. Rules of evidence**

- (1) The TRAB is not bound by any rule of law which relates to evidence in judicial proceedings.
- (2) The TRAB may refuse to receive any evidence.

**89. Notices to witnesses**

- (1) The TRAB may, by notice served on a person, require that person to appear before the TRAB to do either or both of the following:
  - (a) give evidence;

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- (b) produce to the TRAB, or a person designated by the TRAB, any document or thing in that person's possession or control which the TRAB considers relevant to an appeal.
  - (2) The TRAB must not require a person to give evidence about a matter if that person has been charged with an offence in respect of that matter.
  - (3) Subsection (2) does not apply if the charge has been finally disposed of.
  - (4) If the TRAB considers it expedient to do so because of the distance a person resides from the place at which the TRAB would otherwise require that person to attend to give evidence, or because of any other consideration, the TRAB may appoint another person to take the evidence of that person and report that evidence to the TRAB.
  - (5) If a person required or directed to give evidence to the TRAB is –
    - (a) a prisoner or detainee under the *Corrections Act 1997* or the *Youth Justice Act 1997*; or
    - (b) a patient detained in an approved hospital under the *Mental Health Act 2013*; or
    - (c) a person who is subject to a restriction under the *Criminal Justice (Mental Impairment) Act 1999* –

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the notice requiring or directing the person to provide any information or explanation authorises and requires the Director of Corrective Services, the Secretary within the meaning of the *Youth Justice Act 1997*, the controlling authority of the approved hospital or the responsible medical officer, within the meaning of the *Criminal Justice (Mental Impairment) Act 1999*, to allow the person to provide that information or explanation to the TRAB in accordance with the notice.

- (6) A person who has been required by the TRAB to appear at the hearing of an appeal must continue to attend the hearing from day to day until the TRAB excuses that person from so attending.
- (7) The TRAB may, by notice served on a person, require the person to –
  - (a) prepare a document for or statement to the TRAB, or a person designated by the TRAB, containing the information known by the person in respect of the matter specified in the notice; and
  - (b) give the document or statement so prepared to a person by the time, and at the place or in the manner, specified in the notice.
- (8) The TRAB must not require a person to prepare a document or statement under subsection (1) if that person has been charged with an offence in respect of the matter to which the document or statement relates.



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- (9) Subsection (2) does not apply if the charge has been finally disposed of.
  - (10) A notice under this section served by the TRAB on a person may form, but is not required to form, part of a notice served under section 90 by the TRAB on that person.

**90. Notice to produce document or statement**

- (1) The TRAB may, by notice served on a person, require the person to –
  - (a) prepare a document for or statement to the TRAB, or a person designated by the TRAB, containing the information known by the person in respect of the matter specified in the notice; and
  - (b) give the document or statement so prepared to a person by the time, and at the place or in the manner, specified in the notice.
- (2) The TRAB must not require a person to prepare a document or statement under subsection (1) if that person has been charged with an offence in respect of the matter to which the document or statement relates.
- (3) Subsection (2) does not apply if the charge has been finally disposed of.
- (4) A notice under this section served by the TRAB on a person may form, but is not required to

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form, part of a notice served under section 89 by the TRAB on that person.

**91. Privilege does not apply in certain circumstances**

If a person refuses to prepare or produce a document or statement as required under section 89 or 90 on the grounds that the document or statement, or the information contained in the document or statement, is protected by privilege –

- (a) the TRAB may require the production of the document or statement to assess whether privilege so applies; and
- (b) the production of the document or statement to the TRAB, or the use of the document or statement by the TRAB, does not affect whether the document or statement is protected by privilege in any other circumstances.

**92. Power to examine under oath**

The TRAB may –

- (a) administer an oath to a person appearing at the hearing of an appeal to give evidence; and
- (b) examine a person under oath.

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**93. Failure to give or produce evidence is contempt**

- (1) A person who has been served with a notice under section 89(1) and who fails, without reasonable excuse, to appear before the TRAB or produce the document or thing specified in the notice is guilty of contempt.
- (2) Punishment for contempt, or liability to be so punished, does not excuse a person referred to in subsection (1) from complying with the requirement to appear before the TRAB or to produce a document or thing to the TRAB.
- (3) The TRAB may apply to a magistrate for a warrant to have a person referred to in subsection (1) apprehended and brought before the TRAB.
- (4) A magistrate to whom an application under subsection (3) is made may issue a warrant if satisfied that the person who is the subject of the application –
  - (a) has been served with a notice under section 89(1); and
  - (b) has failed, without reasonable excuse, to appear before the TRAB or produce the document or thing specified in the notice.
- (5) A warrant issued under this section authorises any police officer to –
  - (a) apprehend the person named in the warrant and bring that person before the TRAB; and

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- (b) detain that person in custody to secure the person's attendance before the TRAB.
- (6) A police officer executing a warrant issued under this section is, for that purpose, authorised to enter and search any place, building or vehicle, using such force as is reasonably necessary.
- (7) A person who is apprehended and detained in custody pursuant to a warrant issued under this section may apply to a judge of the Supreme Court to be released from custody.
- (8) The release of a person from custody under this section may be made subject to any conditions that the judge considers appropriate.

**94. Other contempts**

A person is guilty of contempt if that person –

- (a) being called on or examined as a witness before the hearing of an appeal, without reasonable excuse –
  - (i) refuses to be sworn or make an affirmation; or
  - (ii) refuses or otherwise fails to answer a question put to that person by the TRAB in respect of the matter into which the TRAB is inquiring; or

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- (iii) refuses to answer a question properly put by an officer of the TRAB or by a witness or counsel authorised to appear for a witness; or
  - (b) having appeared before the hearing of an appeal as a witness, fails to continue to attend the hearing from day to day without having been excused from doing so by the TRAB; or
  - (c) does any act which, if the TRAB were a court of law having power to commit for contempt, would be in contempt of that court.

**95. Show cause procedure**

- (1) If the TRAB considers that a person has or may have done an act so as to be guilty of contempt, it may, by notice served on that person, call on that person to show cause why the TRAB should not certify the contempt to the Supreme Court under section 97.
- (2) A person on whom a notice to show cause is served may do all or any of the following in support of the person's case:
  - (a) make oral or written submissions to the TRAB;
  - (b) give evidence to the TRAB, including the giving of oral evidence under examination by the person's counsel;

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(c) call witnesses.

- (3) For the purposes of subsection (2), the person called on to show cause may be represented by counsel as of right.

**96. Review of decision to certify contempt**

- (1) A person who is aggrieved by a decision of the TRAB to certify a contempt by that person to the Supreme Court may move that court to review that decision.
- (2) Section 107 of the *Justices Act 1959* applies to a review of a decision of the TRAB referred to in subsection (1) as if –
- (a) the decision were an order of justices; and
  - (b) the reference in section 107(3)(b)(ii) of that Act to the clerk to the justices were a reference to the TRAB; and
  - (c) the reference in section 107(4) of that Act to the justices were a reference to the TRAB.

**97. Punishment for contempt**

- (1) Subject to section 95, the TRAB may certify a contempt to the Supreme Court.
- (2) If a contempt is certified to the Supreme Court –

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- (a) the Supreme Court must inquire into the matter; and
  - (b) having regard to the evidence produced against and by or on behalf of the person named in the TRAB's certificate, the Supreme Court may, if satisfied that the person is guilty of the contempt, punish the person in the same manner and to the same extent as would be the case if the person had committed the contempt in relation to the Supreme Court.
- (3) The Rules of Court of the Supreme Court apply, with any necessary modification, to the Supreme Court's consideration and punishment of a contempt in relation to the TRAB.

**98. Fines for contempt**

If the Supreme Court imposes a fine on a person for contempt of the TRAB, Part 4 of the *Monetary Penalties Enforcement Act 2005* applies in relation to the payment of that fine as if it were a fine imposed under section 7 of the *Sentencing Act 1997*.

***Division 6 – Determination of appeals***

**99. Determination of appeals**

- (1) After hearing an appeal, the TRAB –
  - (a) may affirm, vary or quash the decision that was the object of the appeal or, if section 77(3)(a) applies, make the orders

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in settlement of the dispute that it thinks fit; or

- (b) if the appeal is made under section 76(1)(b), may, if it considers it just to do so, refer the matter to the stewards for rehearing if the TRAB is satisfied that the appellant did not engage in the conduct that prompted the making of the decision but may have engaged in some other conduct that would have justified the respondent making another decision against the appellant.
- (2) Subject to subsection (3), if the decision that was the object of the appeal is affirmed or varied, the decision is to take effect immediately.
- (3) If the immediate implementation of the decision referred to in subsection (2) would have a detrimental effect in relation to the care and wellbeing of a horse or a greyhound, the TRAB may defer the implementation of the decision, or part of the decision, and any restrictions arising out of the decision or part of the decision for such period, not exceeding 5 days, as it thinks fit.
- (4) After hearing an appeal, or on the withdrawal or abandonment of an appeal, the TRAB must make an order regarding the disposal of the prescribed deposit, if any, lodged on appeal.
- (5) For the purposes of subsection (4), the TRAB must order that –



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- (a) if the decision that was the object of the appeal is affirmed, an amount of not less than 50% of the prescribed deposit is to be forfeited to the Secretary of the Department; or
  - (b) if an appeal is withdrawn or abandoned after consideration has been given under section 85 to suspending the operation of a penalty, an amount of not less than 50% of the prescribed deposit is to be forfeited to the Secretary of the Department; or
  - (c) if an appeal is withdrawn or abandoned and no consideration has been given under section 85 to suspending the operation of a penalty, the whole of the prescribed deposit is to be refunded to the appellant; or
  - (d) if the decision that was the object of the appeal is varied, an amount of not less than 25% of the prescribed deposit is to be forfeited to the Secretary of the Department; or
  - (e) if the decision that was the object of the appeal is quashed or referred to the stewards for rehearing under subsection (1)(b), the whole of the prescribed deposit is to be refunded to the appellant.
- (6) If the TRAB orders that an amount of more than 50% of the prescribed deposit is to be forfeited

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to the Secretary of the Department, it is to have regard to –

- (a) whether the appeal appears to the TRAB to have been made in good faith or vexatiously; and
  - (b) whether the grounds of appeal appear to the TRAB to have been serious or frivolous; and
  - (c) whether the appellant appears to the TRAB to have been seeking genuine redress or merely a delay in the implementation of the decision under appeal; and
  - (d) whether, in the reasonable opinion of the TRAB, the appellant pursued the appeal with due diligence or was obstructive; and
  - (e) such other matters as the TRAB thinks reasonable and fair in the circumstances.
- (7) Any part of a prescribed deposit not forfeited to the Secretary of the Department is to be refunded to the appellant.
- (8) If the TRAB affirms or varies the decision that was the object of the appeal, the TRAB must make an order requiring the appellant to pay to the Secretary of the Department a percentage of the cost incurred in the preparation of the transcript referred to in section 79(1)(d).

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- (9) For the purposes of subsection (8), the TRAB must order that –
- (a) if the decision that was the object of the appeal is affirmed, an amount of not less than 50% of the cost referred to in that subsection is to be paid to the Secretary of the Department; or
  - (b) if an appeal is withdrawn or abandoned, an amount of not less than 50% of the cost referred to in that subsection is to be paid to the Secretary of the Department; or
  - (c) if the decision that was the object of the appeal is varied, an amount of not less than 25% of the cost referred to in that subsection is to be paid to the Secretary of the Department.
- (10) If the TRAB orders that an amount of more than 50% of the cost referred to in subsection (8) is to be paid to the Secretary of the Department, it is to have regard to –
- (a) whether the appeal appears to the TRAB to have been made in good faith or vexatiously; and
  - (b) whether the grounds of appeal appear to the TRAB to have been serious or frivolous; and
  - (c) whether the appellant appears to the TRAB to have been seeking genuine redress or merely a delay in the

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implementation of the decision under appeal; and

- (d) whether, in the reasonable opinion of the TRAB, the appellant pursued the appeal with due diligence or was obstructive; and
- (e) such other matters as the TRAB thinks reasonable and fair in the circumstances.

(11) If, after hearing an appeal under section 77(1) against a decision, the TRAB is satisfied that the appellant did not engage in the conduct that prompted the making of the decision but may have engaged in some other conduct that would have justified the respondent making another decision against the appellant, the TRAB may, if it considers it just to do so, make any decision that could have been made by the respondent in relation to the other conduct.

(12) A registered bookmaker who, following the determination of an appeal under section 77(3)(a), is ordered by the TRAB to pay a bet must comply with that order.

Penalty: Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

(13) The TRAB is to give the parties to an appeal notice of its determination in relation to the appeal.

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- (14) A determination of the TRAB in relation to an appeal is final and, in the case of an appeal against a decision, is to be taken to be the decision of the respondent to which the determination relates.

**100. Recommendations of TRAB**

- (1) The TRAB may provide the Commissioner and Tasracing with recommendations in relation to the following:
- (a) the conduct of investigations and inquiries by stewards;
  - (b) the role of stewards in the appeal process under this Part;
  - (c) any other functions of stewards under the Rules of Racing.
- (2) The Commissioner may, following consideration of any recommendations made by the TRAB, make recommendations to Tasracing on any matters related to the conduct, role or functions of stewards and to the conduct of investigations and inquiries by stewards.

***Division 7 – Miscellaneous***

**101. Protection of TRAB members &c.**

- (1) A member of the TRAB has, in that capacity, the same protection and immunity as a judge of the Supreme Court.

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- (2) A counsel or other person who represents a party to an appeal or is engaged to help the TRAB conduct an appeal has, in that capacity, the same protection and immunity as counsel appearing for a party in proceedings in the Supreme Court.
- (3) A person who appears before or makes representations to the TRAB as counsel for a witness or a person whose conduct is in issue in the appeal has, in that capacity, the same protection and immunity as counsel appearing for a party in proceedings in the Supreme Court.
- (4) A witness who appears before the TRAB has the same protection and immunity as a witness appearing before the Supreme Court.

**102. Offences**

- (1) A person must not intentionally prevent, or intentionally try to prevent, a person who is required by the TRAB to appear before it from attending as a witness or producing any document or thing to the TRAB.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years.

- (2) A person must not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage to another person for or on account of –
  - (a) that other person having given evidence before the TRAB or produced or

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surrendered any document or thing to the TRAB; or

- (b) any evidence given by that other person before the TRAB or any document or thing produced or surrendered by that other person to the TRAB.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years.

- (3) An employer must not dismiss an employee from employment, or prejudice an employee in employment, for or on account of –

- (a) that employee having given evidence before the TRAB or produced or surrendered any document or thing to the TRAB; or

- (b) any evidence given by that employee before the TRAB or any document or thing produced or surrendered by that employee to the TRAB.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years.

- (4) In any proceedings for an offence under subsection (3), it lies on the employer to prove, on the balance of probabilities, that the employee shown to have been dismissed from or prejudiced in employment was so dismissed or prejudiced for some reason other than a reason specified in subsection (3).

**PART 7 – REGULATIONS OF RACING**

***Division 1 – Restrictions on holding race meetings***

**103. What is a race meeting?**

A race meeting is a meeting of people at which racing occurs and one or more of the following applies:

- (a) the meeting is open to the public, whether on payment of an admission fee or on other conditions or otherwise;
- (b) the person holding the meeting causes or allows images of any of the racing to be transmitted, electronically or otherwise, for display anywhere outside the venue used for the meeting;
- (c) the person holding the meeting causes or allows commentary on any of the racing, or related betting information, to be broadcast by radio or other means;
- (d) payment is made or demanded for a rider, driver or animal to take part in any of the racing.

**104. Who may hold race meetings?**

- (1) Race meetings may be held by –
  - (a) persons who are authorised to do so by a permit under section 106; or



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- (b) registered clubs; or
  - (c) Tasracing if authorised to do so under section 111.
- (2) Except as provided by subsection (1), a person must not hold a race meeting.

Penalty: Fine not exceeding 50 penalty units.

**105. Where may race meetings, &c., be held?**

- (1) In this section –

***registered racecourse*** means a racecourse specified in –

- (a) a permit issued, and in force, under section 106; or
  - (b) a certificate of registration issued, and in force, under section 108; or
  - (c) an authorisation issued, and in force, under section 111.
- (2) Race meetings and betting-only meetings may only be held on registered racecourses.
- (3) A person who holds a race meeting or betting-only meeting on a racecourse other than a registered racecourse is guilty of an offence.

Penalty: Fine not exceeding 50 penalty units.

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**106. Race meeting permits**

- (1) A person may apply to Tasracing for a permit to hold a race meeting for or on behalf of an association or other body of persons (other than a registered club).
- (2) The application –
  - (a) is to be in a form approved by Tasracing; and
  - (b) must be accompanied by the prescribed fee, if any; and
  - (c) must be supported by such information or evidence as Tasracing requires.
- (3) Subject to subsection (4), Tasracing may –
  - (a) grant the application; or
  - (b) refuse the application.
- (4) Tasracing must refuse the application if the association or other body of persons, for or on whose behalf the race meeting is proposed to be held, is a proprietary body.
- (5) In deciding whether to approve an application, Tasracing may consider such matters as it thinks fit, including –
  - (a) whether the venue for the proposed race meeting is suitable for use as a racecourse; and

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- (b) whether adequate first aid and veterinary facilities will be available at the proposed race meeting; and
    - (c) whether any necessary local government approvals have been obtained.
  - (6) If the application is refused, Tasracing is to give the applicant notice of the refusal, with reasons, and may refund all or any part of the application fee.
  - (7) If the application is refused, Tasracing's decision is not appealable to the TRAB.
  - (8) If the application is approved, Tasracing is to –
    - (a) give the applicant notice of the approval; and
    - (b) issue the applicant with the required permit.
  - (9) The permit may be issued unconditionally or on such conditions as Tasracing determines.
  - (10) Without limiting Tasracing's discretion, the permit may be issued on one or more of the following conditions:
    - (a) that no betting take place at or in respect of the proposed race meeting;
    - (b) that no images of any race of the proposed race meeting be transmitted, electronically or otherwise, for display anywhere outside the venue used for the race meeting;

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- (c) that no commentary of any race of the race meeting be broadcast by radio or other means.
- (11) A permit must –
  - (a) specify the conditions, if any, of the permit; and
  - (b) specify which racecourse is to be used for the proposed race meeting.
- (12) A permit is invalidated if any racecourse other than the one specified in the permit is used for the proposed race meeting.
- (13) A permit may, by notice to Tasracing, be surrendered at any time but it has no surrender value.
- (14) A permit is not renewable or transferable and, if any attempt is made to transfer the benefit of the permit, it is taken to have been cancelled on the date of the attempted transfer.
- (15) A person issued with a permit under this section must not –
  - (a) contravene a condition of the permit; or
  - (b) cause or allow another person to contravene a condition of the permit.

Penalty: Fine not exceeding 20 penalty units.

- (16) A person must not knowingly contravene a condition of a permit issued to another person under this section.

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Penalty: Fine not exceeding 20 penalty units.

***Division 2 – Clubs and racing by clubs***

**107. Provisions about clubs**

- (1) If a provision of this Act confers a power or imposes an obligation on a registered club then, unless the contrary intention appears –
  - (a) the capacity to exercise the power or the responsibility to comply with the obligation is taken to be conferred or imposed on the club committee; and
  - (b) the persons who constitute the club committee at the relevant time are jointly and severally liable for exercising the power or complying with the obligation.
- (2) If a club's failure to comply with an obligation constitutes an offence against this Act, each person who is a member of the club committee at the relevant time is taken to have committed, and may be convicted of, the offence unless the person shows that –
  - (a) the failure of compliance occurred without the person's knowledge and the person could not reasonably have acquired the knowledge; or
  - (b) the person was not in a position to influence the conduct of the club in relation to the obligation; or

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(c) although being in such a position of influence, the person used due diligence to try to prevent the failure of compliance.

(3) A person who is a member of a club committee may be charged with, and convicted of, an offence pursuant to this section whether or not any other members of the committee are charged with the offence either jointly or individually, or convicted of the offence.

**108. Applications for registration or renewal of registration of club**

(1) A club may apply to Tasracing for registration under this Act.

(2) A club may apply to Tasracing to renew its registration even if the registration is suspended, and Tasracing may consider the application.

(3) An application to register or renew the registration of a club –

(a) is to be in a form approved by Tasracing; and

(b) must be accompanied by the prescribed fee, if any, which is payable to Tasracing, for and on behalf of the Crown; and

(c) must be supported by such information or evidence as Tasracing requires.

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- (4) Tasracing, when considering an application under this section –
- (a) may call for submissions from and consult with such persons and organisations as it thinks fit; and
  - (b) is to refer the application and any supporting documentation to the Racing Integrity Committee for consideration by the Committee.
- (5) The Racing Integrity Committee is to consider any application referred to the Committee under subsection (4) and may give such advice and make such recommendations in relation to that application as the Committee thinks fit.
- (6) After considering an application under this section, Tasracing may –
- (a) grant the application; or
  - (b) refuse the application.
- (7) Tasracing must not grant an application under this section unless it –
- (a) is satisfied that the club –
    - (i) is incorporated; and
    - (ii) is not a proprietary club; and
    - (iii) comprises no fewer than the prescribed number of members; and

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- (iv) has, or is likely to have, an aggregate annual membership subscription of not less than the prescribed amount; and
    - (v) is, or within 12 months of lodging its application for registration is likely to be, the owner, lessee or licensee of a racecourse complying with the prescribed conditions, if any; and
    - (vi) is in a sound financial position; and
  - (b) has considered any advice given and recommendations made by the Racing Integrity Committee in relation to the granting of the application.
- (8) If an application is refused, Tasracing –
  - (a) is to give the applicant notice of the refusal, with reasons, and the applicant’s right of appeal; and
  - (b) may refund all or any part of the application fee.
- (9) If an application is granted, Tasracing is to –
  - (a) give the applicant notice of the granting of the application; and
  - (b) register the club and issue it with a certificate of registration or, in the case



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of a renewal, a new certificate of registration.

- (10) Tasracing must, within 14 days of making a decision in respect of an application under subsection (6), notify the Commissioner in writing of the decision and the reasons for the decision.
- (11) The certificate of registration must specify which racecourse the club is to use for the purposes of holding its race meetings.

**109. Features of club registration**

- (1) A club may be registered or reregistered unconditionally or on such conditions as Tasracing determines and specifies in its certificate of registration.
- (2) Without limiting Tasracing’s discretion, a club may be registered on conditions in relation to –
  - (a) the standard, safety and suitability of the racing venue used by the club; and
  - (b) the keeping, custody and inspection of membership and racing records; and
  - (c) the giving of information and returns to Tasracing.
- (3) Except as provided by this Division, a club’s registration comes into force on the day on which the club is issued with its certificate of registration and expires on the following 31 July.

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- (4) A club's registration is not transferable.
- (5) A club may, by notice to Tasracing accompanied by its certificate of registration, surrender its registration at any time, but such registration has no surrender value.

**110. Suspension and cancellation, &c., of registration**

- (1) Tasracing may suspend a club's registration for such period as it thinks fit, or cancel its registration, if satisfied that the club has –
  - (a) contravened this Act; or
  - (b) ceased to be compliant with section 108(7)(a); or
  - (c) contravened a condition of its registration; or
  - (d) contravened a direction that Tasracing has given the club under this Act; or
  - (e) held a race meeting on a racecourse not specified in its certificate of registration; or
  - (f) become insolvent; or
  - (g) contravened section 112.
- (2) If Tasracing decides to suspend a club's registration but its registration is already suspended, Tasracing may impose such further period of suspension as it thinks fit.

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- (3) As soon as practicable after taking a decision under subsection (1), Tasracing is to give the club notice of –
- (a) the decision; and
  - (b) the reasons for taking the decision; and
  - (c) the club’s right of appeal.
- (4) The decision takes effect when the club is given the notice.
- (5) A club that has its registration suspended under this section is, except for the purposes of applying for a renewal of the registration, taken not to be registered during the period of suspension.
- (6) The suspension or cancellation of a club’s registration under this section does not affect any penalty that might be imposed on the club or a member of the club committee under this Act.
- (7) If a club’s registration is cancelled, it must return its certificate of registration to Tasracing within 14 days of being given notice of the cancellation.
- Penalty: Fine not exceeding 5 penalty units.
- (8) Tasracing must, within 14 days of making a decision to suspend or cancel a club’s registration under subsection (1), notify the Commissioner in writing of the decision and the reasons for that decision.

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**111. Substitute race meetings on suspension, &c., of registration**

- (1) If a club's registration is suspended, cancelled or surrendered, the Commissioner may authorise Tasracing to hold a race meeting or betting-only meeting in substitution for any such meeting that the club could have otherwise held, whether allotted or not.
- (2) Any such authorisation –
  - (a) is to be in a form approved by the Commissioner (but must specify which racecourse is to be used for the substitute race meeting or betting-only meeting); and
  - (b) has effect for such period as the Commissioner determines and specifies in the authorisation; and
  - (c) may be rescinded before the expiration of that period if the Commissioner, having regard to any changed circumstances, thinks it appropriate to do so.
- (3) For the purposes of this Act –
  - (a) Tasracing is, in relation to a race meeting or betting-only meeting that it holds in the place of a registered club pursuant to an authorisation under subsection (1), taken to be the club committee of the club; and

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- (b) the records of Tasracing relating to such a meeting are taken to be the accounting records of the club.
- (4) An authorisation under subsection (1) does not confer on Tasracing any right to the use or occupation of a racecourse to which it would not otherwise be entitled.

**112. Purchase and improvement of racecourses**

- (1) In this section –

*allowed limit* means –

- (a) \$5 000; or
  - (b) if another amount is prescribed, that other amount.
- (2) A racing club must not, without the written approval of Tasracing –
- (a) buy a racecourse; or
  - (b) spend, in any one racing year, in excess of the allowed limit on improving a racecourse unless the amount of the excess is met from the club’s current funds exclusive of any additional borrowings relating, wholly or partly, to the carrying out of those improvements.

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**113. Allotment of racing days**

- (1) The racing days for racing clubs on which a totalizator is to be used are to be allotted in each racing year by Tasracing after consultation with each racing club.
- (2) Tasracing may, after consultation with the relevant racing club, specify the racing days on which certain races may be conducted.

**114. Betting-only meetings**

- (1) In this section –  

*region* means the northern region, north-western region or southern region.
- (2) Tasracing may authorise a racing club to hold one or more betting-only meetings in a racing year.
- (3) The betting-only meetings for racing clubs are to be authorised and allotted by Tasracing only after it has consulted each racing club that may be affected by the authorisation.
- (4) Tasracing is not to authorise a racing club to hold a betting-only meeting at a racecourse on a day on which a race meeting is scheduled to be held in the same region of the State as the region in which that racecourse is located.

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**115. Emergency conversion of race meetings to betting-only meetings**

Notwithstanding sections 113 and 114, Tasracing may authorise a racing club to convert a race meeting to a betting-only meeting if and only if –

- (a) the race meeting scheduled to be held by the club has been abandoned; and
- (b) Tasracing is satisfied in the circumstances that the club had good cause for abandoning the race meeting.

**116. Club returns, &c.**

- (1) Tasracing may direct a registered club to give it such periodic and special returns, and such membership lists and other information, as Tasracing considers necessary or convenient for the purpose of exercising or performing its powers or functions under this or any other Act.
- (2) A registered club must comply with a direction under subsection (1) within such time and in such manner as is specified in the direction.

Penalty: Fine not exceeding 25 penalty units.

**117. Accounting records, audit, &c.**

- (1) A registered club must keep accounting records that correctly record and explain its transactions and financial position and must do so in a manner that –

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- (a) allows true and fair accounts of the club to be prepared; and
  - (b) allows its accounts to be conveniently and properly audited or reviewed; and
  - (c) complies with the Australian Auditing and Assurance Standards, within the meaning of the *Audit Act 2008*, and any directions given to it by Tasracing.
- (2) A registered club must allow the accounting records to be inspected at any reasonable time, free of charge, by –
  - (a) Tasracing or any person who is authorised for the purpose by Tasracing; or
  - (b) any member of the club.
- (3) A person who is entitled to inspect a registered club's accounting records may make copies of, or take extracts from, all or any of those records free of charge.
- (4) Within 45 days after the end of each of its financial years, a registered club must –
  - (a) prepare, for that financial year, financial statements that include any information required by Tasracing; and
  - (b) give Tasracing copies of those financial statements; and



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- (c) have those financial statements, and its accounting records for the same financial year, audited as required by Tasracing.
  - (5) Tasracing may direct a registered club to have all or any of its accounts or records audited.
  - (6) For the avoidance of doubt, the cost of any audit required to be conducted under this section is to be borne by the registered club in respect of which the audit is being conducted.

**118. Winding-up of clubs**

- (1) Tasracing may wind up a registered club if satisfied that the club has –
  - (a) disbanded; or
  - (b) ceased to hold race meetings; or
  - (c) failed in any 12-month period to hold a race meeting.
- (2) Tasracing may not wind up a company unless the Racing Integrity Committee has considered and approved the winding-up.
- (3) If Tasracing decides to wind up a registered club, Tasracing must –
  - (a) cause a notice (a **winding-up notice**) to be published in the *Gazette* declaring that the club is to be wound up; and
  - (b) give the club notice of the decision as soon as practicable; and

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- (c) within 14 days of making the decision, notify the Commissioner in writing of the decision and the reasons for that decision.
- (4) A person must not, without obtaining the prior written permission of Tasracing –
  - (a) dispose of, or otherwise deal with, any of the assets of a registered club that is being wound up; or
  - (b) incur any liability on behalf of a registered club that is being wound up.
- Penalty: Fine not exceeding 50 penalty units.
- (5) Once a winding-up notice has been published in relation to a registered club –
  - (a) Tasracing may take possession of the club's assets and apply all or any part of those assets towards the discharge of any liabilities that the club had when the notice was published or arising in respect of any such assets; and
  - (b) if a residue of those assets remains after discharging those liabilities, Tasracing is, after recouping its costs in relation to the winding-up, to hold that residue and to apply it for the benefit of the racing industry.
- (6) If the assets of a registered club being wound up consist partly of an interest in land and it appears to Tasracing that the club's other assets will be

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sufficient to discharge its liabilities, Tasracing may transfer that interest in land to itself, free of consideration, to be held or applied for the benefit of the racing industry.

- (7) Notwithstanding subsection (6), an interest in land that is transferred to Tasracing under that subsection is to be transferred subject to any subsisting mortgage, trust, charge or other encumbrance.
- (8) In the exercise of a power under this Part in relation to a registered club that is being wound up, Tasracing may –
  - (a) exercise, in relation to any property forming part of the assets of the club, the powers that may be exercised by the persons in whom the property is vested or by any person who, but for this section, would have had power to dispose of or otherwise deal with the property; and
  - (b) recover any sums due to the club or to any person on behalf of, or for the purposes of, the club, and take any legal proceedings necessary for that purpose; and
  - (c) sell or otherwise realise any property forming part of the assets of the club, or transfer any such property to Tasracing or any other person; and
  - (d) do such other things as may be necessary or convenient for or in connection with

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the exercise of the powers conferred on  
Tasracing under this section.

- (9) Tasracing may direct a registered club that is being wound up to do either or both of the following within such reasonable time as Tasracing may allow:
  - (a) surrender, or cause to be surrendered, to Tasracing all the documents in the possession of, or available to, the club or any of its members or officers, that relate to the affairs of the club;
  - (b) cause the club's financial statements to be prepared in compliance with Australian Accounting Standards, audited and forwarded to Tasracing.
- (10) If a registered club fails to comply with a direction under subsection (9), each person whose name appears on the list of members last given to Tasracing under section 116, is guilty of an offence and severally liable to a fine not exceeding 25 penalty units unless the person establishes that –
  - (a) the failure of compliance occurred without the person's knowledge and the person could not reasonably have acquired that knowledge; or
  - (b) the person was not in a position to influence the conduct of the club in relation to the direction; or

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- (c) although being in such a position of influence, the person used due diligence to try to prevent the failure of compliance.
- (11) Notwithstanding anything in this section, Tasracing may –
- (a) retain any document or article that comes into its possession under this section that it considers to be of historical interest; and
- (b) deal with any such document or article in such manner as appears to it to be most appropriate for its preservation.
- (12) In this section –
- (a) a reference to a registered club that is being wound up is taken to be a reference to a registered club in respect of which a winding-up notice has been published; and
- (b) a reference to the assets of a registered club is taken to include a reference to any assets held on behalf, or for the purposes, of the registered club; and
- (c) a reference to the liabilities of a registered club is taken to include a reference to any liabilities that may be discharged out of its assets.
- (13) A winding-up notice is not a statutory rule.

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- (14) This section applies only to registered clubs that are incorporated under the *Associations Incorporation Act 1964*, not to those that are incorporated under the Corporations Act.

**119. Merger of clubs**

- (1) A registered club may, with the prior written permission of Tasracing, merge with –
- (a) any other registered club; or
  - (b) a new club being formed, whether by the merger of 2 or more registered clubs or otherwise.
- (2) Tasracing must not give permission under subsection (1) unless the Racing Integrity Committee has considered the proposed merger and approved the giving of permission for the merger.
- (3) Tasracing must, as soon as practicable after permitting a club merger, cause a notice (a ***merger notice***) to be published in the *Gazette* –
- (a) setting out particulars of the merger; and
  - (b) specifying the date on which the merger will take effect.
- (4) If Tasracing approves the merger of a club with any other club, all of the assets and liabilities of the former club are, on the date specified under subsection (3)(b), vested in and transferred to the latter club without further assurance.

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(5) A merger notice is not a statutory rule.

(6) In this section –

*assets*, of a club, includes any assets held on behalf, or for the purposes, of the club;

*liabilities*, of a club, includes any liabilities that may be discharged out of its assets.

**120. Prohibition of proprietary racing**

(1) The takings, receipts, profits or gains of a registered club, however derived, are not divisible, directly or indirectly, among the individual members of the club, or any of them.

(2) The takings, receipts, profits or gains of a registered club are to be applied only for –

(a) the benefit of racing in this State; or

(b) with the authorisation of Tasracing, a charitable, philanthropic or special purpose.

(3) Tasracing must not give an authorisation under subsection (2)(b) unless the Racing Integrity Committee has considered the proposed authorisation and approved the giving of the authorisation.

(4) The purpose referred to in subsection (2)(a) is taken to include –

(a) purchasing, maintaining or improving racecourses or racecourse facilities; and

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- (b) improving freehold property, the revenue from which is applied solely for the promotion of racing in this State; and
  - (c) improving the breed of horses or greyhounds in this State.
- (5) Nothing in this section prevents a registered club from –
  - (a) paying the principal and reasonable interest on a loan made to it by one of its members; or
  - (b) paying a reasonable rent for a racecourse leased by it from one of its members; or
  - (c) awarding advertised prizes or prize money for races held by it; or
  - (d) incurring reasonable expenditure for the purpose of providing entertainment for its members in common with other persons; or
  - (e) defraying the reasonable expenses of members who perform tasks for it.
- (6) Nothing in this section prevents a member of a registered club from receiving any payment or benefit that a club is authorised to make or award to that member under subsection (5).
- (7) In this section –
  - registered club* includes an association or other body of persons for or on whose



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behalf a person is issued with a permit under section 106.

***Division 3 – Officers***

**121. Appointment, &c., of club officers**

- (1) Despite any law or Rules of Racing to the contrary, the appointment or dismissal of a prescribed officer of a registered club is subject to the approval of Tasracing.
- (2) Where application is made to Tasracing to approve the appointment or dismissal of a person as a prescribed officer of a registered club, Tasracing, in its absolute discretion, may approve or refuse to approve the appointment or dismissal.
- (3) If Tasracing reasonably considers that a person is not a fit and proper person to remain as a prescribed officer of a registered club, Tasracing may direct the club to dismiss the person.
- (4) A registered club must comply with a direction under subsection (3) within such time as is specified in the direction.
- (5) No action lies against Tasracing or a registered club for or in respect of any damage or loss sustained or alleged to have been sustained by a person by reason of –
  - (a) the refusal of Tasracing to approve the appointment of that person as a

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prescribed officer of that registered club;  
or

- (b) the person's dismissal as a prescribed officer of that registered club in accordance with this section.
- (6) A registered club may pay its officers such remuneration, invest them with such powers and assign them such functions as the club considers appropriate.
- (7) A person holding an appointment as an officer of a registered club is not subject to the *State Service Act 2000*.
- (8) For the avoidance of doubt, this section does not apply to the appointment of stipendiary stewards or their dismissal.

***Division 4 – Miscellaneous***

**122. Stewards may regulate betting in certain cases**

If a horse or greyhound is withdrawn from a race after having been officially drawn in the field for the race, the stewards in charge of the race may decide the manner in which betting by and with bookmakers on the race is to proceed in consequence of the withdrawal.

**123. Effect of disqualification**

- (1) In this section –

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*disqualified* means disqualified, with or without limitation as to time, by a decision of stewards.

- (2) A person who is disqualified under the Rules of Racing for one code of racing is, during the period of the disqualification, disqualified for all codes of racing.

**124. Warning-off notices and exclusion notices**

- (1) In this section –

*specified*, for a notice, means specified in the notice.

- (2) Tasracing, on the recommendation of the Chief Racing Integrity Officer, may, if satisfied that there are grounds to do so, issue a person with a notice directing the person not to enter one or more of the following places on a specified day or during a specified period:
- (a) a specified racecourse;
  - (b) a specified training venue;
  - (c) racecourses generally;
  - (d) training venues generally.
- (3) A notice issued under subsection (2) is called a *warning-off notice*.
- (4) Tasracing may, if satisfied that there are grounds to do so, issue a person with a notice directing the person –

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- (a) not to enter, on a specified day or during a specified period, a specified racecourse or specified training venue that is under the control of Tasracing; or
  - (b) to leave a racecourse that it under the control of Tasracing where a race meeting or betting-only meeting is being, or is about to be, held.
- (5) A registered club may, if satisfied that there are grounds to do so, issue a person with a notice directing the person –
  - (a) not to enter, on a specified day or during a specified period, a specified racecourse or specified training venue that is under the control of the club; or
  - (b) to leave a racecourse that is under the control of the club where a race meeting or betting-only meeting is being, or is about to be, held.
- (6) A notice issued under subsection (4) or (5) is called an ***exclusion notice***.
- (7) For the purposes of any Rules of Racing –
  - (a) a reference to “warned off” or “warning off”, or to a similar term, does not include the issuing of an exclusion notice under subsection (4) or (5); and
  - (b) a reference to a person being “warned off” or being subject to a “warning off”, or to a similar expression, does not

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include a person who has been issued with an exclusion notice under subsection (4) or (5).

- (8) Without limiting their discretion under subsection (2), (4) or (5), Tasracing has grounds for issuing a person with a warning-off notice or an exclusion notice, and a registered club has grounds for issuing a person with an exclusion notice, if Tasracing or the club knows or reasonably suspects that the person –
  - (a) is engaging in bookmaking without being registered as a bookmaker or bookmaker’s agent; or
  - (b) habitually engages in unauthorised betting.
- (9) A notice issued under this section must be served personally.
- (10) Within 5 days after issuing a person with an exclusion notice under subsection (5), a registered club is to forward a copy of the notice to Tasracing.
- (11) As soon as practicable after issuing a notice under subsection (2) or (4), Tasracing is to forward a copy of it to –
  - (a) in the case of a notice that relates to a specified racecourse, each club holding race meetings at the racecourse on or during the specified day or period; or

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- (b) in the case of a notice that relates to a specified training venue, each club that uses that training venue; or
  - (c) in the case of a notice that applies to racecourses, or training venues, generally, every club.
- (12) A person who is issued with a notice under this section must comply with the notice and, if the notice directs the person to leave a racecourse or a training venue, the compliance must be immediate.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
  - (b) a subsequent offence, a fine not exceeding 30 penalty units or imprisonment for a term not exceeding one month.
- (13) A person who is issued with a notice under this section directing the person to leave a racecourse or a training venue must not, after leaving or being removed from the racecourse or training venue pursuant to the notice, enter or attempt to re-enter the racecourse or training venue on the same day.

Penalty: In the case of –

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- (a) a first offence, a fine not exceeding 20 penalty units; and
    - (b) a subsequent offence, a fine not exceeding 30 penalty units or imprisonment for a term not exceeding one month.
  - (14) If a person contravenes subsection (12) or (13) –
    - (a) a police officer or an employee or agent of the club that issued the notice, using such reasonable force as may be necessary, may, depending on the offence, evict the person from the racecourse or training venue or prevent the person from re-entering the racecourse or training venue; and
    - (b) a police officer may arrest the person without warrant.
  - (15) The issuer of a notice under this section may, by a further notice, rescind the notice at any time if satisfied that there is no reason for it to remain in force.
  - (16) In their application to Tasracing or a registered club, the provisions of this section –
    - (a) extend to every racecourse and training venue of which Tasracing or the club has control at the relevant time, whether or not the racecourse or training venue is owned by Tasracing or the club or is at

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any other time subject to a right of public  
use or entry; and

- (b) are in addition to and not in derogation of  
any other powers that Tasracing or the  
club may have.

(17) Nothing in this section limits the right of  
Tasracing or a registered club to do, by means  
other than a notice under this section, either of  
the following:

- (a) refuse its permission for a person to enter  
a racecourse or training venue under its  
control;
- (b) withdraw its permission for a person to  
remain on a racecourse or training venue  
under its control.



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**PART 8 – REGULATION OF PUBLICATION OF RACE  
FIELD INFORMATION**

**125. Interpretation – publishing of Tasmanian race field  
information**

For the purposes of this Part, a wagering operator publishes Tasmanian race field information only if the wagering operator, whether in Australia or elsewhere –

- (a) communicates any Tasmanian race field information to a person (regardless of whether the person already knew the information); or
- (b) acknowledges or confirms any Tasmanian race field information to a person (including acknowledging or confirming the information by accepting, or facilitating the making of, a bet); or
- (c) makes a written or electronic record (such as a betting ticket, statement of account or notice) that contains or refers to any Tasmanian race field information (regardless of whether the record is communicated to any person); or
- (d) uses any Tasmanian race field information in a manner prescribed by the regulations; or
- (e) causes any of the activities referred to in paragraphs (a), (b), (c) or (d) to occur.

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Part 8 – Regulation of Publication of Race Field Information

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**126. Publication of Tasmanian race field information restricted**

- (1) A wagering operator must not, whether in Tasmania or elsewhere, publish Tasmanian race field information unless the wagering operator –
  - (a) is authorised to do so by a race field information publication approval and complies with the conditions (if any) to which the approval is subject; or
  - (b) is authorised to do so by or under the regulations.
- (2) A wagering operator who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to –
  - (a) in the case of a body corporate, a fine not exceeding 500 penalty units; or
  - (b) in any other case –
    - (i) for a first offence, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both; and
    - (ii) for a subsequent offence, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

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**127. Determination relating to publication of race field information**

- (1) Tasracing is to make a determination in relation to the publication of race field information.
- (2) A determination under subsection (1) –
  - (a) must specify –
    - (i) the fee or series of fees payable in respect of a race field information publication approval; and
    - (ii) the period for which that fee or that series of fees are payable in respect of a race (or class of races) covered by the race field information publication approval; and
  - (b) is of no effect unless the Minister approves, before the determination takes effect, the fee or series of fees specified in the determination.
- (3) A fee or series of fees specified in a determination under subsection (1) may be expressed by reference to a rate, percentage, average or other calculation.
- (4) Before making a determination under subsection (1), Tasracing is to conduct a review of the fee or series of fees payable in respect of a race field information publication approval, in consultation with the relevant racing clubs for each code of racing.

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- (5) After the Minister has approved the fee or series of fees specified in a determination under subsection (1), Tasracing is to –
- (a) publish the following information on a website operated by, or on behalf of, Tasracing:
    - (i) the fee or series of fees so approved by the Minister;
    - (ii) the period specified in the determination as the period for which that fee or that series of fees are payable; and
  - (b) ensure that the information specified in paragraph (a) –
    - (i) is published in accordance with that paragraph at least 14 days before the determination is to take effect; and
    - (ii) remains so published while the determination has effect.

**128. Tasracing may grant race field information publication approvals**

- (1) In this section –

***approval holder*** means a wagering operator who holds a race field information publication approval;

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***approval period*** means the period determined from time to time by Tasracing in accordance with section 127.

- (2) A wagering operator who wishes to publish Tasmanian race field information, in respect of a race (or class of races) intended to be held at any race meeting in Tasmania, must apply to Tasracing for a race field information publication approval in respect of that race (or class of races).
- (3) On receipt of an application under subsection (2), Tasracing may grant a race field information publication approval to the wagering operator in respect of the race (or class of races) referred to in the application.
- (4) In granting a race field information publication approval under subsection (3), Tasracing –
  - (a) must impose any conditions that are prescribed as integrity conditions for the purposes of this subsection; and
  - (b) may impose any conditions it thinks fit, relating to the publication of race field information, having regard to the Standards; and
  - (c) may impose –
    - (i) a condition that the approval holder pay, in the manner specified in the approval, in respect of the approval period that relates to the race (or class of

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races) covered by the approval, the fee or series of fees determined by Tasracing under section 127 for the approval period; and

(ii) such other conditions as it may determine; and

(d) is to provide the approval holder with a written copy of –

(i) any conditions imposed under paragraphs (a), (b), or (c) in respect of the approval; and

(ii) if a requirement to pay a fee or series of fees is imposed under paragraph (c)(i) –

(A) the fee or series of fees so payable; and

(B) the approval period that relates to the race (or class of races) covered by the approval.

(5) In addition to the requirements in subsection (4)(d), Tasracing is to publish a copy of any conditions imposed under subsection (4)(a), (b) or (c) on a website operated by, or on behalf of, it.

(6) Any fee or series of fees that is payable under a race field information publication approval is a debt due to Tasracing and is recoverable as such

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in a court of competent jurisdiction and payable to Tasracing.

- (7) Tasracing, at any time, may, by notice to an approval holder –
  - (a) cancel the race field information publication approval; or
  - (b) vary the conditions of the approval, other than the conditions referred to in subsection (4)(a).
- (8) If Tasracing cancels or varies a race field information publication approval, it must provide the approval holder with written reasons indicating why the approval was cancelled or varied (as the case may be).

**129. Applications for race field information publication approvals**

- (1) An application for a race field information publication approval referred to in section 128(2) must be –
  - (a) made in the manner and in the time determined by Tasracing from time to time; and
  - (b) accompanied by such information as may be required by Tasracing.
- (2) If Tasracing determines that a race field information publication approval should not be granted to the applicant (or should be granted subject to any conditions imposed under

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section 128(4)), Tasracing must provide the applicant with written reasons indicating why the application was rejected or the conditions were imposed (as the case may be).

**130. Effect of race field information publication approval limited**

For the avoidance of doubt, the granting of a race field information publication approval does not operate to authorise the holder of the approval to do (or omit to do) anything in relation to a race to be held at any race meeting in Tasmania other than to publish the Tasmanian race field information to which the approval relates in accordance with the terms of the approval.



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**PART 9 – REGULATION OF BOOKMAKING**

***Division 1 – Restrictions on engaging in bookmaking***

**131. What is bookmaking?**

A person engages in bookmaking if the person accepts bets, and engages in activities connected with the acceptance of bets, on –

- (a) contingencies relating to horse races or greyhound races; or
- (b) contingencies relating to approved sports events.

**132. Bookmakers must be registered**

- (1) A person must not engage in bookmaking on the person's own behalf unless the person is registered as a bookmaker.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 months, or both; and
- (b) a second offence, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 6 months, or both; and

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- (c) a subsequent offence, a fine not exceeding 400 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (2) A person who is not registered as a bookmaker must not, by any means, induce another person to believe that the first-mentioned person is –
  - (a) registered as a bookmaker; or
  - (b) in any way authorised to engage in bookmaking on the person’s own behalf in Tasmania.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

**133. Bookmakers’ agents must be registered**

- (1) A person must not engage in bookmaking for or on behalf of another person unless –
  - (a) the person engaging in the bookmaking is registered as a bookmaker’s agent; and
  - (b) the other person is –
    - (i) registered as a bookmaker; and

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- (ii) named as the principal in the certificate of registration issued under section 134 to the person engaging in the bookmaking.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and
  - (b) a subsequent offence, a fine not exceeding 40 penalty units.
- (2) A registered bookmaker must not cause or allow another person to engage in bookmaking on the bookmaker's behalf unless –
- (a) the person is registered as a bookmaker's agent; and
  - (b) the bookmaker is named as the person's principal in the certificate of registration issued to the person under section 134.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and
  - (b) a subsequent offence, a fine not exceeding 40 penalty units.
- (3) This section does not apply to a person who, by virtue of the person's employment and under direction, merely assists a bookmaker or

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bookmaker's agent to engage in bookmaking but  
does not independently accept bets.

***Division 2 – Registration***

**134. Applications for registration**

- (1) A person may apply to Tasracing to be registered as a bookmaker or bookmaker's agent.
- (2) An application –
  - (a) is to be in a form approved by Tasracing; and
  - (b) must be accompanied by the prescribed fee, if any, which is payable to Tasracing, for and on behalf of the Crown; and
  - (c) is to be lodged with Tasracing; and
  - (d) must be supported by such information or evidence as Tasracing requires; and
  - (e) must, in the case of an application for registration as a bookmaker's agent –
    - (i) nominate one registered bookmaker as the applicant's principal; and
    - (ii) be endorsed by that registered bookmaker.
- (3) Tasracing, when considering an application under this section –

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- 
- (a) must, in the case of an application to be registered as a bookmaker, refer the application to the Racing Integrity Committee; and
    - (b) may, in the case an application to be registered as a bookmaker's agent, refer the application to the Racing Integrity Committee.
  - (4) The Racing Integrity Committee is to consider any application referred to the Committee under subsection (3) and may give such advice and make such recommendations in relation to that application as the Committee thinks fit.
  - (5) After considering an application under this section, Tasracing may—
    - (a) grant the application; or
    - (b) refuse the application.
  - (6) In deciding whether to grant an application, Tasracing –
    - (a) must have regard to the Standards and to any relevant advice and recommendations made by the Commissioner to it under this Act; and
    - (b) must have regard to any advice given and recommendations made under subsection (4) by the Racing Integrity Committee in relation to the granting of the application; and

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- (c) may consider such other matters as it thinks fit, including whether, in the case of an application for registration as a bookmaker, the applicant has sufficient assets to carry on business as a bookmaker.
- (7) Tasracing may only grant an application under this section if satisfied that the applicant is fit and proper to be registered as a bookmaker or bookmaker's agent.
- (8) If an application is refused under this section, Tasracing –
  - (a) is to give the applicant notice of the refusal, with reasons, and the applicant's right of appeal; and
  - (b) may refund all or any part of the application fee.
- (9) If the application is approved, Tasracing is to –
  - (a) give the applicant notice of the approval; and
  - (b) subject to section 135, register the applicant and issue the applicant with a certificate of registration.
- (10) The certificate of registration is to be in a form approved by Tasracing but, in the case of registration as a bookmaker's agent, it must specify the name of the agent's principal.

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**135. Security for bookmaker registration**

- (1) Notwithstanding section 134, an applicant is not entitled to be registered as a bookmaker unless the applicant has given Tasracing a bond of indemnity, or such other form of security as Tasracing may approve, to secure proper observance by the applicant of the provisions of this Act.
- (2) The bond of indemnity or other form of security is to be to the value of \$6 000 or, if another value is prescribed, to the prescribed value.
- (3) Without limiting Tasracing's discretion, the security to be given under this section may comprise any, or any combination, of the following:
  - (a) cash;
  - (b) money on fixed deposit with an authorised deposit-taking institution carrying on business in this State;
  - (c) a bond or guarantee, in a form approved by Tasracing, of a corporation or authorised deposit-taking institution approved by Tasracing;
  - (d) a State or Commonwealth government security;
  - (e) a prescribed security.

**136. Features of registration**

- (1) A bookmaker or bookmaker's agent may be registered unconditionally or on such conditions as Tasracing specifies in the certificate of registration issued to the bookmaker or bookmaker's agent.
- (2) Registration as a bookmaker or bookmaker's agent comes into force on the day on which the bookmaker or bookmaker's agent is issued with a certificate of registration and expires on the following 30 June, unless it is expressed to continue in force only until an earlier date, in which case it expires on that earlier date.
- (3) Except as provided by section 138, registration as a bookmaker or bookmaker's agent is not transferable.
- (4) A bookmaker or bookmaker's agent may, by notice to Tasracing accompanied by the bookmaker or bookmaker's agent certificate of registration, surrender that registration at any time but such registration has no surrender value.

**137. What does registration authorise?**

- (1) Registration as a bookmaker, while in force, authorises the person so registered to engage in bookmaking on a racecourse on the person's own behalf subject to –
  - (a) the conditions, if any, that Tasracing specifies in the person's certificate of registration under section 136(1); and



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- (b) the directions, if any, that Tasracing gives to the bookmaker; and
    - (c) the provisions of this Act.
  - (2) Registration as a bookmaker's agent, while in force, authorises the person so registered to engage in bookmaking on a racecourse for or on behalf of the person's principal, subject to –
    - (a) the conditions, if any, that Tasracing specifies in the person's certificate of registration under section 136(1); and
    - (b) the directions, if any, that Tasracing gives to the bookmaker's agent or to the bookmaker's agent's principal; and
    - (c) the provisions of this Act.
  - (3) A bookmaker's agent may, with the written approval of Tasracing, change the bookmaker's agent's principal but the bookmaker's agent is not entitled to have more than one principal at any one time.
  - (4) For the purposes of this section, a bookmaker or bookmaker's agent engages in bookmaking on a racecourse if –
    - (a) while a lawful race meeting is being held on the racecourse, the bookmaker or bookmaker's agent accepts a bet on –
      - (i) a contingency relating to any racing being held on the racecourse or elsewhere; or

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- (ii) a contingency relating to an approved sports event; or
  - (b) while a lawful betting-only meeting is being held on the racecourse, the bookmaker or bookmaker's agent accepts a bet on –
    - (i) a contingency relating to any racing being held elsewhere; or
    - (ii) a contingency relating to an approved sports event; or
  - (c) following the abandonment of a lawful race meeting begun on the racecourse, the bookmaker or bookmaker's agent continues to accept bets on –
    - (i) a contingency relating to any racing being held elsewhere; or
    - (ii) a contingency relating to an approved sports event.
- (5) For the purposes of subsection (4)(c), a race meeting is taken to have begun if it is not abandoned before 6 a.m. on the advertised day of the meeting.
- (6) Nothing in this section –
  - (a) authorises a registered bookmaker or bookmaker's agent to engage in bookmaking on a racecourse without the permission of its controlling club; or

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- (b) authorises Tasracing to direct a registered bookmaker or bookmaker's agent to engage in bookmaking on a racecourse without the permission of its controlling club; or
  - (c) affects the right of a registered club to withdraw its permission for a registered bookmaker or bookmaker's agent to engage in bookmaking on a racecourse under its control.

**138. Substitute certificates of registration**

- (1) If Tasracing is satisfied that a registered bookmaker is temporarily incapable of carrying on business because of illness or some other unavoidable or reasonable cause, Tasracing may, at its absolute discretion, issue a substitute certificate of registration to a nominee of that bookmaker.
- (2) The nominee must be a registered bookmaker's agent.
- (3) A substitute certificate of registration authorises the person to whom it is issued to carry on the bookmaking business of the incapacitated bookmaker, on that bookmaker's behalf, during the period specified in the certificate.
- (4) A person to whom a substitute certificate is issued is subject to the same liability in all respects as if the person were registered as a bookmaker.

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- (5) A bookmaker is responsible for all the acts of a person who acts, or purports to act, on the bookmaker's behalf as the holder of a substitute certificate of registration.

**139. Replacement certificates of registration**

- (1) Tasracing may issue a registered club, a registered bookmaker or a registered bookmaker's agent with a replacement certificate of registration at any time if it is satisfied that –
- (a) the original certificate has been lost, stolen, destroyed or damaged; or
  - (b) the particulars on the original certificate have changed; or
  - (c) there are other reasonable grounds to do so.
- (2) Without limiting the generality of subsection (1), Tasracing may issue a replacement certificate of registration to a bookmaker's agent who changes their principal.
- (3) Tasracing, in its discretion, may charge a fee to recover the reasonable costs of issuing the replacement certificate.

**140. Cancellation, &c., of registration for certain convictions**

- (1) In this section –

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***conviction***, in relation to an offence, includes  
a finding of guilt without the recording of  
a conviction for the offence.

- (2) The registration of a bookmaker or bookmaker's agent is taken to have been cancelled immediately if the bookmaker or bookmaker's agent is convicted of an offence against section 144, 145, 146, 172, 173, 174 or 175.
- (3) If a registered bookmaker or bookmaker's agent is charged with an offence referred to in subsection (2) and the court records a conviction on the charge, Tasracing may, whether or not any appeal or other proceedings may be taken in relation to the matter, suspend the bookmaker's or agent's registration until the conclusion of the proceedings on the charge.

**141. Suspension or cancellation, &c., of registration for misconduct**

- (1) Tasracing may suspend the registration of a bookmaker or bookmaker's agent for such period as it thinks fit or cancel the registration or impose on the bookmaker or bookmaker's agent a fine not exceeding 20 penalty units, if satisfied that the bookmaker or bookmaker's agent has –
  - (a) contravened this Act; or
  - (b) contravened another Act, being a contravention of a kind that calls into question the professional probity of the bookmaker or bookmaker's agent; or

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- (c) engaged in bookmaking at a time or place or in a way not authorised under this Act; or
  - (d) contravened a condition of the bookmaker's or bookmaker's agent's certificate of registration; or
  - (e) contravened a condition of an on-course telephone betting endorsement, an off-course telephone betting endorsement, an off-course function betting endorsement or an off-course function approval; or
  - (f) contravened any Rules of Racing; or
  - (g) defaulted in payment of any bet; or
  - (h) been guilty of misconduct or incompetence when engaging in bookmaking; or
  - (i) ignored or contravened a direction that Tasracing has given to that particular bookmaker or bookmaker's agent; or
  - (j) ignored or contravened a direction that Tasracing has given to bookmakers or bookmakers' agents generally.
- (2) If subsection (1)(e) applies in relation to an on-course telephone betting endorsement, an off-course telephone betting endorsement, an off-course function betting endorsement or an off-course function approval, Tasracing may, instead of taking action under that subsection, do either or both of the following:

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- (a) cancel the endorsement or approval, or both, or suspend the endorsement for such period as it thinks fit;
    - (b) impose on the bookmaker or bookmaker's agent a fine not exceeding 20 penalty units.
  - (3) Notwithstanding subsections (1) and (2), Tasracing's power to impose a fine under those subsections is not capable of being exercised in respect of an offence with which a person has been charged unless the charge has been withdrawn.
  - (4) If, under this section, Tasracing decides to suspend or cancel a person's registration, suspend or cancel a person's on-course telephone betting endorsement, off-course telephone betting endorsement or off-course function betting endorsement, or an off-course function approval issued to the person, or impose a fine, Tasracing must give the person notice of –
    - (a) the decision; and
    - (b) the reasons for taking the decision; and
    - (c) the person's right of appeal.
  - (5) Tasracing's decision takes effect when the person is given the notice.
  - (6) Any fine imposed on a person under this section is payable to Tasracing, for and on behalf of the

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Crown, and, if not paid, may be recovered as a debt due to the Crown.

**142. Effect of suspension of registration**

A bookmaker or bookmaker's agent whose registration has been suspended is taken, during the period of the suspension, not to be registered for any purpose.

**143. Return of cancelled certificates**

A bookmaker or bookmaker's agent whose registration has been cancelled under this Part must return that bookmaker's or bookmaker's agent's certificate of registration to Tasracing within 14 days after being given notice of the cancellation.

Penalty: Fine not exceeding 5 penalty units.

***Division 3 – Business and betting***

***Subdivision 1 – General controls and conduct***

**144. Bookmakers and their agents may only field on racecourses, &c.**

- (1) A registered bookmaker must not engage in bookmaking except in accordance with any of the following paragraphs:
  - (a) on a racecourse;
  - (b) if the bookmaker's registration is endorsed with an off-course telephone



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betting endorsement – at the premises specified, in accordance with section 150(1)(a), in the endorsement;

- (c) if the bookmaker's registration is endorsed with an off-course function betting endorsement – at a function to which relates an off-course function approval issued to the bookmaker.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and  
(b) a subsequent offence, a fine not exceeding 40 penalty units.

- (2) A bookmaker's agent must not engage in bookmaking except on a racecourse.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and  
(b) a subsequent offence, a fine not exceeding 40 penalty units.

- (3) A registered bookmaker or bookmaker's agent must not engage in bookmaking on a racecourse except on such parts of the racecourse as are set apart for the purpose by its controlling club.

Penalty: In the case of –

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- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

**145. Bookmakers and their agents must not engage in improper procurement**

A registered bookmaker or bookmaker's agent must not procure a person to accept or place, on the bookmaker's or agent's behalf, a bet that would contravene this Act if accepted or placed by the bookmaker or bookmaker's agent personally.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

**146. Bookmakers' agents may only field if their principals field on the same day**

- (1) A registered bookmaker's agent must not engage in bookmaking on any day on which the registered bookmaker's agent's principal does not also engage in bookmaking.

Penalty: In the case of –

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- 
- (a) a first offence, a fine not exceeding 20 penalty units; and
    - (b) a subsequent offence, a fine not exceeding 40 penalty units.
  - (2) It is a defence in proceedings for an offence under subsection (1) if the defendant establishes that, on the day of the alleged offence, the defendant's principal –
    - (a) attended, with the intention of engaging in bookmaking, a Tasmanian racecourse where a lawful race meeting was scheduled to be held; but
    - (b) was prevented from engaging in bookmaking by the postponement or abandonment of that race meeting.

**147. Restrictions on power of clubs to control or charge bookmakers**

Nothing in this Act authorises a registered club to –

- (a) impose conditions on registered bookmakers or bookmakers' agents who lawfully engage in bookmaking on a racecourse under its control, other than conditions as to the places or positions they may occupy and the allocation of those places between such persons; or

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- (b) impose, without the prior written permission of Tasracing, a fee or charge for allowing a registered bookmaker or bookmaker's agent to engage in lawful bookmaking on a racecourse under its control; or
- (c) if such permission is given, demand or receive a fee or charge in excess of that authorised by Tasracing.

***Subdivision 2 – Endorsements***

**148. Control of telephone betting and off-course betting**

- (1) A registered bookmaker must not accept a bet from a person who is not physically present at the place where the bet is accepted and recorded unless the bet is –
  - (a) an on-course telephone bet in relation to the registered bookmaker; or
  - (b) an off-course telephone bet in relation to the registered bookmaker.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

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- (2) For the purposes of subsection (1)(a), a bet is an on-course telephone bet in relation to a registered bookmaker if –
- (a) the registered bookmaker’s certificate of registration is endorsed with an on-course telephone betting endorsement; and
  - (b) the registered bookmaker is on a racecourse and carrying on business as a bookmaker when the bet is accepted; and
  - (c) the bet is placed and accepted in accordance with the conditions of the on-course telephone betting endorsement.
- (3) For the purposes of subsection (1)(b), a bet is an off-course telephone bet in relation to a registered bookmaker if –
- (a) the registered bookmaker’s certificate of registration is endorsed with an off-course telephone betting endorsement; and
  - (b) the bookmaker is at the premises specified, in accordance with section 150(1)(a), in the endorsement and carrying on business as a bookmaker when the bet is accepted; and
  - (c) the bet is placed and accepted in accordance with the conditions of the off-course telephone betting endorsement.

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- (4) A registered bookmaker's agent must not accept a bet from a person who is not physically present at the place where the bet is accepted and recorded.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

**149. Applications for endorsements**

- (1) A registered bookmaker may apply to Tasracing to have the registered bookmaker's certificate of registration endorsed with –
- (a) an on-course telephone betting endorsement; or
  - (b) an off-course telephone betting endorsement; or
  - (c) an off-course function betting endorsement.
- (2) The application –
- (a) is to be in a form approved by Tasracing;  
and
  - (b) must be accompanied by the prescribed fee, if any, which is payable to

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Tasracing, for and on behalf of the  
Crown; and

- (c) must be supported by such information or evidence as Tasracing requires.
- (3) Tasracing, when considering an application under this section is to refer the application and any supporting documentation to the Racing Integrity Committee for consideration by the Committee.
- (4) The Racing Integrity Committee is to consider any application referred to the Committee under subsection (3) and may give such advice and make such recommendations in relation to that application as the Committee thinks fit.
- (5) Tasracing may –
  - (a) approve the application; or
  - (b) refuse the application.
- (6) Tasracing must not approve an application under this section unless it has considered any advice given and recommendations made by the Racing Integrity Committee in relation to the granting of the application.
- (7) Tasracing may only approve an application from a registered bookmaker to have the bookmaker's certificate of registration endorsed with –
  - (a) an off-course telephone betting endorsement; or

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(b) an off-course function betting endorsement –

if the registered bookmaker has been a registered bookmaker for a period of not less than 2 years before the application is made.

(8) If the application is refused, Tasracing –

(a) is to give the applicant notice of the refusal, with reasons, and the applicant's right of appeal; and

(b) may refund all or any part of the application fee.

(9) If the application is approved, Tasracing is to –

(a) give the applicant notice of the approval; and

(b) endorse the applicant's certificate of registration with an on-course telephone betting endorsement, an off-course telephone betting endorsement, or an off-course function betting endorsement, as specified in the application.

**150. Particular specifications on off-course telephone betting endorsements**

(1) Tasracing must specify in an off-course telephone betting endorsement endorsed on the certificate of registration of a registered bookmaker –



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- 
- (a) the premises from which the registered bookmaker is authorised to engage in off-course telephone betting; and
    - (b) the days, other than a Wednesday, a Saturday or a statutory holiday, within the meaning of the *Statutory Holidays Act 2000*, on which the registered bookmaker is authorised to engage in off-course telephone betting.
  - (2) Tasracing may not, in accordance with subsection (1)(b), specify in an off-course telephone betting endorsement more than 10 days on which the registered bookmaker is authorised to engage in off-course telephone betting.

**151. Security for endorsements**

- (1) Notwithstanding section 149, a bookmaker is not entitled to have the bookmaker's certificate of registration endorsed with an on-course telephone betting endorsement, an off-course telephone betting endorsement or an off-course function betting endorsement unless the bookmaker has given Tasracing a bond of indemnity, or such other form of security as Tasracing may approve, to secure proper observance by the bookmaker of the provisions of this Division.
- (2) The bond of indemnity or other form of security is to be to the value of \$15 000 or, if another value is prescribed, to the prescribed value.

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- (3) Without limiting Tasracing’s discretion, the security to be given under this section may comprise any, or any combination, of the following:
- (a) cash;
  - (b) money on fixed deposit with an authorised deposit-taking institution carrying on business in this State;
  - (c) a bond or guarantee, in a form approved by Tasracing, of a corporation or authorised deposit-taking institution approved by Tasracing;
  - (d) a State or Commonwealth government security;
  - (e) a prescribed security.

**152. Conditions of on-course telephone betting endorsements**

- (1) The conditions on which a registered bookmaker may engage in on-course telephone betting under an on-course telephone betting endorsement are as determined by Tasracing and specified in the endorsement.
- (2) Without limiting Tasracing’s discretion, an on-course telephone betting endorsement may include any one or more of the following conditions:
- (a) that the registered bookmaker’s telephone unit must be of a type

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approved by Tasracing and adapted and tested as required by Tasracing to ensure that outgoing calls cannot be made on the telephone unit;

- (b) that the registered bookmaker must, on demand, allow a person, authorised for the purpose by Tasracing, to inspect and test a telephone unit being used by the bookmaker on a racecourse;
  - (c) that the registered bookmaker must allow a person authorised by Tasracing to monitor, including by electronic means, any bets accepted by the bookmaker by telephone;
  - (d) that the registered bookmaker must pay such annual fee, in respect of the reasonable costs incurred by Tasracing in administering, auditing and monitoring the bookmaker's on-course telephone betting endorsement, as is specified in the endorsement.
- (3) In imposing any conditions under this section, Tasracing is to consider any advice given and recommendations made by the Racing Integrity Committee in relation to the endorsement under section 149(4).

**153. Conditions of off-course telephone betting endorsement**

- (1) The following are the conditions on which a registered bookmaker may engage in off-course

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telephone betting under an off-course telephone betting endorsement:

- (a) the bookmaker must not engage in off-course telephone betting except at the premises specified, in accordance with section 150(1)(a), in the endorsement;
- (b) there is not, on the premises specified, in accordance with section 150(1)(a), in the endorsement, a minor or a member of the public at any time when the registered bookmaker is engaging in off-course telephone betting;
- (c) the bookmaker must not engage in off-course telephone betting except on –
  - (i) a Wednesday, a Saturday or a statutory holiday, within the meaning of the *Statutory Holidays Act 2000*; or
  - (ii) another day that is specified, in accordance with section 150(1)(b), in the endorsement;
- (d) the bookmaker must engage in bookmaking on a racecourse for at least 10 race meetings in each racing year during which the endorsement is in force;
- (e) the registered bookmaker must only use a single telephone unit to conduct betting under the endorsement;

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- 
- (f) the registered bookmaker's telephone unit must be of a type approved by Tasracing and adapted and tested as required by Tasracing to ensure that outgoing calls cannot be made on the telephone unit;
  - (g) the registered bookmaker must, on demand, allow a person authorised for the purpose by Tasracing to inspect and test a telephone unit being used by the bookmaker at premises specified, in accordance with section 150(1)(a), in the endorsement;
  - (h) the registered bookmaker must allow a person authorised by Tasracing to monitor, including by electronic means, any bets accepted by the bookmaker by telephone;
  - (i) the registered bookmaker must pay such annual fee, in respect of the reasonable costs incurred by Tasracing in administering, auditing and monitoring the endorsement, as is specified in the endorsement;
  - (j) any other condition determined by Tasracing and specified in the endorsement under subsection (2).
- (2) Tasracing may determine and specify in an off-course telephone betting endorsement the conditions, not inconsistent with the conditions specified in subsection (1), that it thinks fit.

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- (3) In imposing any conditions under this section, Tasracing is to consider any recommendations made by the Racing Integrity Committee in relation to the endorsement under section 149(4).

**154. Conditions of off-course function betting endorsement**

- (1) The following are the conditions on which a registered bookmaker may engage in off-course function betting under an off-course function betting endorsement:
- (a) the bookmaker must not engage in off-course function betting except in person at a function, in relation to a bet made with a person who is at a function, to which relates an off-course function approval issued to the registered bookmaker;
  - (b) at any time when the registered bookmaker is engaging in off-course function betting at a function to which relates an off-course function approval issued to the registered bookmaker –
    - (i) there is not on the premises at which the function is taking place a minor, other than a minor who is accompanied by a parent or guardian or a person authorised by the parent or guardian of the minor to be with the minor at the function; and

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- 
- (ii) the premises must be premises to which a person may be refused entry, or from which a person may be ejected, by the occupier of the premises or an agent of the occupier of the premises;
    - (c) any other condition determined by Tasracing and specified in the endorsement under subsection (2).
  - (2) Tasracing may determine and specify in an off-course function betting endorsement the conditions, not inconsistent with the conditions specified in subsection (1), that it thinks fit.
  - (3) In imposing any conditions under this section, Tasracing is to consider any advice given and recommendations made by the Racing Integrity Committee in relation to the endorsement under section 149(4).

**155. Off-course function approvals**

- (1) A registered bookmaker whose certificate of registration is endorsed with an off-course function betting endorsement may apply to Tasracing for an approval of a function specified in the application.
- (2) An application for an approval –
  - (a) is to be in a form approved by Tasracing;  
and

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- (b) must be accompanied by the prescribed fee, if any, which is payable to Tasracing, for and on behalf of the Crown; and
  - (c) is to be lodged with Tasracing; and
  - (d) must be supported by the information or evidence that Tasracing requires; and
  - (e) must specify –
    - (i) the purpose of the function, or the name of the function, to which the application relates; and
    - (ii) the premises at which the function is to occur; and
    - (iii) the date on which the function is to occur; and
    - (iv) the hours on that date during which the function is to occur; and
    - (v) any other details that Tasracing requires.
- (3) An application for an approval of a function is to be made under subsection (1) at least 28 days before the date on which the function is to occur.
- (4) Tasracing, within 14 days after receiving from a registered bookmaker an application under subsection (1) in relation to a function, must –



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- 
- (a) issue to the bookmaker an approval (an *off-course function approval*) in relation to the function; or
    - (b) refuse to issue an off-course function approval in relation to the function.
  - (5) Tasracing may determine and specify in an off-course function approval the conditions that it thinks fit.
  - (6) An off-course function approval in relation to a function is to specify –
    - (a) the purpose of the function or the name of the function; and
    - (b) the premises at which the function is to occur; and
    - (c) the date on which the function is to occur; and
    - (d) the hours on that date during which the function is to occur; and
    - (e) any other details as Tasracing thinks fit; and
    - (f) the conditions, if any, that Tasracing determines under subsection (5).
  - (7) Tasracing may not issue to a registered bookmaker more than 3 off-course function approvals in respect of any racing year.

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- (8) Tasracing is to give to a registered bookmaker a copy of an off-course function approval issued to the bookmaker.
- (9) If Tasracing refuses to issue an off-course function approval to a registered bookmaker, Tasracing –
  - (a) is to give the bookmaker notice of the refusal, with reasons, and of the bookmaker's right of appeal; and
  - (b) may refund all or part of the fee that accompanied the application for the approval.

**156. Cancellation of off-course function approval**

- (1) Tasracing may cancel an off-course function approval issued to a registered bookmaker in relation to a function, if it is satisfied –
  - (a) that there is information in relation to the function that was not available to Tasracing at the time at which the approval was issued such that, if Tasracing had been aware of the information at that time, Tasracing would have refused to issue the approval; or
  - (b) that the bookmaker has contravened a condition of the off-course function approval.
- (2) If, under subsection (1), Tasracing decides to cancel an off-course function approval issued to

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a registered bookmaker, it must give to the registered bookmaker notice of –

- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) the registered bookmaker’s right of appeal.
- (3) A decision under subsection (1) in relation to a registered bookmaker takes effect when the notice under subsection (2) is given to the bookmaker.

**157. Features of endorsements**

- (1) A registered bookmaker’s on-course telephone betting endorsement, off-course telephone betting endorsement or off-course function betting endorsement comes into force as soon as the endorsement is made under section 149(9)(b) and expires when the bookmaker’s certificate of registration expires or is cancelled or surrendered, whichever first occurs.
- (2) A registered bookmaker’s on-course telephone betting endorsement does not authorise the bookmaker to engage in on-course telephone betting during any period when the bookmaker’s registration is suspended.
- (3) A registered bookmaker’s off-course telephone betting endorsement does not authorise the bookmaker to engage in off-course telephone

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betting during any period when the bookmaker's registration is suspended.

- (4) A registered bookmaker's off-course function betting endorsement does not authorise the bookmaker to engage in off-course function betting during any period when the bookmaker's registration is suspended.
- (5) An on-course telephone betting endorsement, an off-course telephone betting endorsement or an off-course function betting endorsement is not transferable.
- (6) A bookmaker whose certificate of registration is endorsed with an on-course telephone betting endorsement, an off-course telephone betting endorsement or an off-course function betting endorsement may surrender the endorsement at any time by requesting Tasracing to cancel the endorsement, but it has no surrender value.

**158. What does an endorsement authorise?**

- (1) An on-course telephone betting endorsement, an off-course telephone betting endorsement, or an off-course function betting endorsement, while the endorsement is in force, authorises the bookmaker on whose certificate of registration the endorsement is endorsed to, on the bookmaker's own behalf, engage in on-course telephone betting, off-course telephone betting or off-course function betting, respectively, subject to –

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- 
- (a) the conditions, if any, of the endorsement and, in the case of an off-course function betting endorsement, the conditions of an off-course function approval under which the off-course betting occurs; and
    - (b) the directions, if any, that Tasracing gives to the bookmaker; and
    - (c) the provisions of this Act.
  - (2) An on-course telephone betting endorsement endorsed on a registered bookmaker's certificate of registration authorises, while the endorsement is in force, a bookmaker's agent to, on behalf of the bookmaker, engage in on-course telephone betting, subject to –
    - (a) the conditions, if any, of the endorsement; and
    - (b) the directions, if any, that Tasracing gives to the bookmaker's agent or the bookmaker; and
    - (c) the provisions of this Act.

***Subdivision 3 – Betting tickets and records***

**159. Bookmakers and agents must issue tickets and record bets**

- (1) A registered bookmaker or bookmaker's agent must, immediately after accepting a bet –
  - (a) issue a betting ticket for the bet in a form approved by Tasracing, unless the bet is

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placed and accepted by telephone in accordance with the bookmaker's on-course telephone betting endorsement or off-course telephone betting endorsement; and

- (b) record the bet in the record required to be kept under section 160.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
  - (b) a subsequent offence, a fine not exceeding 40 penalty units.
- (2) A registered bookmaker who issues a betting ticket as required by subsection (1) must, unless the bet was placed and accepted by telephone, give the betting ticket directly to the bettor.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
  - (b) a subsequent offence, a fine not exceeding 40 penalty units.
- (3) A registered bookmaker's agent who issues a betting ticket as required by subsection (1) must give the betting ticket directly to the bettor.

Penalty: In the case of –

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- 
- (a) a first offence, a fine not exceeding 20 penalty units;  
and
    - (b) a subsequent offence, a fine not exceeding 40 penalty units.
  - (4) A registered bookmaker or bookmaker's agent must not make a written record or note of an accepted bet until the bet has been recorded as required, if at all, by subsection (1)(b).

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 10 penalty units;  
and
  - (b) a subsequent offence, a fine not exceeding 20 penalty units.
- (5) A registered bookmaker or bookmaker's agent must not issue a betting ticket that has been previously used for another bet.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and
  - (b) a subsequent offence, a fine not exceeding 40 penalty units.
- (6) Except as may be authorised by an on-course telephone betting endorsement or an off-course telephone betting endorsement, a registered bookmaker or bookmaker's agent must not have

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in the bookmaker's or agent's possession, for longer than is necessary to enable it to be destroyed, a betting ticket that has been used and issued to a bettor.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

**160. Bookmakers must keep betting records**

- (1) A registered bookmaker must keep, in the form and manner required by Tasracing, a record of all bets accepted by the bookmaker.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and
  - (b) a subsequent offence, a fine not exceeding 40 penalty units.
- (2) A bet that is accepted under section 137(4)(a)(i) on the outcome of more than one race is taken, for the purposes of a record under subsection (1), to relate only to the club on the racecourse where the first of those races is held.
  - (3) A bet that is accepted under section 137(4)(a)(ii) on the sporting contingency of more than one



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approved sports event is taken, for the purposes of a record under subsection (1), to relate only to the club on the racecourse where bets are accepted on the first of those approved sports events.

- (4) If a bet is accepted in respect of a race or approved sports event that is abandoned, or if the competent authority has declared a bet off, the bet need not be included in a record under this section.
- (5) Except as may be provided by the conditions of an on-course telephone betting endorsement or an off-course telephone betting endorsement, it is not necessary to include in a record under this section the name of the person who places a bet.

**161. Bookmakers must keep books of account**

- (1) A registered bookmaker must –
  - (a) keep, in the form and manner required by Tasracing, complete and proper books of account in respect of the bookmaker's bookmaking business; and
  - (b) enter and record in those books of account a full and accurate account of all betting transactions entered into by the bookmaker and registered agents of the bookmaker; and
  - (c) keep those books of account available at all times, and produce them on demand at any reasonable time for inspection by

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Tasracing or any person authorised for the purpose by Tasracing; and

- (d) if Tasracing so directs, have those books of account audited within such time and in such manner as is specified in the direction.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

- (2) A registered bookmaker must not –

- (a) bribe or attempt to bribe; or
- (b) threaten; or
- (c) attempt to intimidate or influence; or
- (d) hinder or obstruct or attempt to hinder or obstruct –

a person who is carrying out an inspection or audit, or conducting any monitoring, that the person is authorised to carry out under this Act in relation to the registered bookmaker's bookmaking business.

Penalty: In the case of –

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- (a) a first offence, a fine not exceeding 20 penalty units;  
and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

**162. Bookmakers must give certain returns to Tasracing**

- (1) Tasracing may direct a registered bookmaker to give it such periodic and special returns in relation to the bookmaker's bookmaking business as it considers necessary or convenient for the purpose of exercising or performing its powers or functions under this or any other Act.
- (2) A registered bookmaker must comply with a direction under subsection (1) within such time and in such manner as is specified in the direction.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

***Subdivision 4 – Unclaimed winnings and commissions***

**163. Unclaimed winnings and their disposal**

- (1) A registered bookmaker must, as and when directed –

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- (a) give Tasracing a return of all of the money that, as at the date of the return, is owed by the bookmaker to bettors and has remained unclaimed for a period of more than one month; and
- (b) at the same time, pay that money to Tasracing.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 40 penalty units.

(2) Tasracing –

- (a) may, at any time in the 6-month period after the date of the return, pay any winnings that it is satisfied the holder of a betting ticket to which the return relates is entitled to; and
- (b) when the 6-month period expires, is to retain (or, if the Minister so directs, pay into the Public Account) a sum equal to the total of the unclaimed money received from the bookmaker in conjunction with the return, less any amount paid under paragraph (a).

(3) After the 6-month period referred to in subsection (2) expires, the right of a person holding a betting ticket to which the return

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relates (or a person claiming through that person) to recover any winnings to which, but for this subsection, the betting ticket would entitle the person, is barred, and no action lies for the recovery of those winnings.

**164. Payment of commission to Tasracing**

- (1) Subject to section 166, a registered bookmaker must, in respect of each month, pay to Tasracing an amount by way of commission equal to the sum of –
  - (a) an amount equal to 0.5% of all money paid or payable in respect of all bets, other than bets in relation to racing, placed with the bookmaker during that month in relation to amounts bet by persons betting in Australia or New Zealand; and
  - (b) an amount equal to 0.25% of all money paid or payable in respect of all bets, other than bets in relation to racing, placed with the bookmaker during that month in relation to amounts bet by persons betting outside Australia and New Zealand.
- (2) A registered bookmaker must pay the commission payable under subsection (1) in relation to a month not later than 7 days after the end of that month.
- (3) The omission of a bet that should have been included in a record under section 160 or a

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return under section 162 does not relieve the registered bookmaker of liability to pay commission in respect of that bet.

- (4) If a registered bookmaker fails to pay the whole or any part of the commission that the bookmaker is required to pay under this section, the amount of the unpaid commission may be recovered from the bookmaker as a debt due to Tasracing.
- (5) For the avoidance of doubt, a reference in this section to the bets placed with a registered bookmaker is taken to include the bets, if any, placed with registered agents of the bookmaker.

**165. Payment of commission to clubs**

Within 7 days after receiving a payment of commission under section 164(1), Tasracing is to pay the commission to each registered club in respect of all bets placed at any race meeting or betting-only meeting held by that club in relation to an approved sports event.

**166. Set-off for GST**

- (1) In any month, a registered bookmaker may set off against the commission payable under section 164 any GST paid during the relevant month arising in respect of all bets referred to in section 164(1)(a) and (b) accepted by the bookmaker.

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- (2) If, in any month, the amount of GST paid in respect of the bets referred to in section 164(1)(a) and (b) accepted by the registered bookmaker exceeds the amount of commission payable under section 164 in respect of those bets, that excess may be set off in any subsequent month in the same financial year against the commission payable under that section.
- (3) The amount of any credit given to a registered bookmaker for GST paid in a financial year is limited to the commission payable under section 164 for the financial year.
- (4) Within 21 days after the end of a financial year, a registered bookmaker must give Tasracing a return stating –
- (a) the amount of commission payable under section 164 in respect of bets accepted by the bookmaker for that financial year; and
  - (b) the amount of GST paid by the bookmaker in that financial year in respect of those bets; and
  - (c) the amount of credit given for the amount of commission payable under section 164 in respect of bets accepted in that financial year.
- (5) Subject to subsection (3) –
- (a) if the amount of GST paid in respect of bets accepted by a registered bookmaker

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for a financial year exceeds the amount of credit given in respect of those bets for that financial year, the difference between those amounts is to be credited to the bookmaker at the time of the next payment of commission required under this Act; and

- (b) if the amount of GST paid in respect of bets accepted by a registered bookmaker for a financial year is less than the amount of credit given in respect of those bets for that financial year, the difference between those amounts is to be paid by the bookmaker at the time of the next payment of commission required under this Act.
- (6) The provisions of the *Taxation Administration Act 1997* apply to this section and, for that purpose, this section is taken to be a taxation law within the meaning of that Act.
- (7) For the avoidance of doubt, a reference in this section to the bets accepted by a registered bookmaker is taken to include the bets, if any, accepted by registered agents of the bookmaker.
- (8) In this section –  
  

***GST*** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.



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**PART 10 – OFFENCES**

**167. Authorised betting and unauthorised betting, &c.**

- (1) Except as otherwise provided by this Act, it is lawful for a person to engage in authorised betting and the placement or acceptance of an authorised bet does not, in itself, constitute an offence.
- (2) For the purposes of this Act, *authorised betting* is –
  - (a) betting conducted in person by or with a registered bookmaker or bookmaker’s agent who is engaging in bookmaking on a racecourse in accordance with Part 9; or
  - (b) on-course telephone betting conducted in accordance with the requirements of Subdivision 2 of Division 3 of Part 9 that apply to on-course telephone betting, by or with a registered bookmaker whose certificate of registration is endorsed with an on-course telephone betting endorsement; or
  - (c) off-course telephone betting conducted in accordance with the requirements of Subdivision 2 of Division 3 of Part 9 that apply to off-course telephone betting, by or with a registered bookmaker whose certificate of registration is endorsed with an off-course telephone betting endorsement; or

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- (d) off-course function betting conducted in accordance with the requirements of Subdivision 2 of Division 3 of Part 9 that apply to off-course function betting, by or with a registered bookmaker whose certificate of registration is endorsed with an off-course function betting endorsement and who is conducting betting at a function to which an off-course function approval issued to the bookmaker relates; or
  - (e) betting in a totalizator conducted by or on behalf of a registered club at a race meeting or betting-only meeting under its control; or
  - (f) such other kind of betting as may be prescribed.
- (3) Any betting that is not authorised betting by virtue of subsection (2) is, for the purposes of this Act, unauthorised betting.

**168. Offences by bettors**

- (1) A person who places a bet with a registered bookmaker must not, with intent to evade the provisions of this Act, fail to demand or obtain from the bookmaker, or from a bookmaker's agent who is registered in relation to the bookmaker, a betting ticket for the bet, unless the bet is placed and accepted by telephone in accordance with an off-course telephone betting endorsement or an on-course telephone betting endorsement.

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Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
  - (b) a subsequent offence, a fine not exceeding 30 penalty units.
- (2) A person must not place a bet with a registered bookmaker or bookmaker's agent if the person knows that –
  - (a) the bookmaker or bookmaker's agent is not authorised under this Act to engage in bookmaking at the time when, and place where, the bet is placed; or
  - (b) the way in which the bet is being accepted is contrary to the way in which the bookmaker or bookmaker's agent is authorised to engage in bookmaking under this Act.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
  - (b) a subsequent offence, a fine not exceeding 30 penalty units.
- (3) In any proceedings for an offence under this section, the defendant is taken to have the intent required to constitute the offence if –

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- (a) it is proved that the defendant habitually attends race meetings or bets with bookmakers; and
- (b) the defendant is unable to show that the defendant's conduct was due to accident or excusable inadvertence.

**169. Betting with and by minors**

- (1) A registered bookmaker or bookmaker's agent must not accept, or offer to accept, a bet from a minor.

Penalty: Fine not exceeding 25 penalty units.

- (2) A person must not –
  - (a) place, or offer to place, a bet with a bookmaker for or on behalf of a minor; or
  - (b) cause or allow a minor to place a bet with a bookmaker; or
  - (c) by actions or words, however conveyed, invite or encourage a minor to –
    - (i) place a bet with a bookmaker; or
    - (ii) enter into or take a share or an interest in a betting transaction involving a bookmaker; or
    - (iii) seek information or advice for the purpose of placing a bet with a bookmaker.

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Penalty: Fine not exceeding 25 penalty units.

- (3) It is a defence in proceedings for an offence under subsection (1) or (2) if the defendant establishes that, at the relevant time, the defendant reasonably believed that the person in relation to whom the offence was allegedly committed was not a minor.
- (4) A minor must not –
  - (a) place a bet with a bookmaker; or
  - (b) cause or allow another person to place a bet with a bookmaker for or on behalf of the minor.

Penalty: Fine not exceeding –

- (a) 2 penalty units if the minor has not attained the age of 15 years; or
  - (b) 5 penalty units if the minor has attained the age of 15 or 16 years; or
  - (c) 10 penalty units if the minor has attained the age of 17 years.
- (5) A police officer or steward who reasonably believes that a person is a minor who has been betting with a bookmaker may demand that the person deliver up all of the betting tickets in the person's possession.

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- (6) A person must comply with a demand under subsection (5) immediately.

Penalty: Fine not exceeding 10 penalty units.

- (7) A minor who, by the production of documents or other means, falsely represents to any person that they are not a minor in order to engage in betting activities, or to induce others to engage in betting activities for or on behalf of that minor, is guilty of an offence.

Penalty: Fine not exceeding –

- (a) 2 penalty units if the minor has not attained the age of 15 years; or
- (b) 5 penalty units if the minor has attained the age of 15 or 16 years; or
- (c) 10 penalty units if the minor has attained the age of 17 years.

**170. Betting with unregistered bookmakers**

- (1) A person must not place a bet with another person who is engaging in bookmaking if that other person is not registered as a bookmaker or bookmaker's agent.

Penalty: Fine not exceeding 25 penalty units.

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- (2) It is a defence in proceedings for an offence under subsection (1) if the defendant establishes –
- (a) that, at the relevant time, the defendant reasonably believed that the person in respect of whom the offence is alleged to have been committed was registered as a bookmaker or bookmaker’s agent; or
  - (b) that the transaction to which the charge relates was conducted pursuant to an agreement with another person to place a bet with a registered bookmaker lawfully engaged in bookmaking, or in a totalizator being lawfully conducted by a registered club, and that neither the defendant nor the other person was to receive any fee, commission or reward for placing the bet.

**171. Clubs must not allow unregistered persons to field**

A registered club must not allow a person to engage in bookmaking at a race meeting or betting-only meeting held by the club or under its control if the person is not registered as a bookmaker or bookmaker’s agent.

Penalty: Fine not exceeding 25 penalty units.

**172. Betting in public places**

- (1) Except as authorised by this Act, a person must not, either personally or by means of an agent –

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- (a) bet in a public place; or
- (b) frequent, loiter in, use or be in a public place for the purpose of betting.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 months, or both; and
  - (b) a second offence, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 6 months, or both; and
  - (c) a subsequent offence, a fine not exceeding 400 penalty units or imprisonment for a term not exceeding 12 months, or both.
- (2) It is a defence in proceedings for an offence under subsection (1)(a) if the defendant establishes that –
- (a) the transaction to which the charge relates was conducted pursuant to an agreement with another person to place a bet with a registered bookmaker lawfully engaged in bookmaking, or in a totalizator being lawfully conducted by a registered club; and



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- (b) neither the defendant nor the other person was to receive any fee, commission or reward for placing the bet.

**173. Unlawful betting-places**

(1) A person must not –

- (a) open, keep or use an unlawful betting-place; or
- (b) allow any place occupied by that person to be opened, kept or used as an unlawful betting-place; or
- (c) assist in conducting the business of an unlawful betting-place; or
- (d) publish or disseminate, by any means, betting information in respect of an unlawful betting-place; or
- (e) advertise, by any means, an unlawful betting-place; or
- (f) invite, by any means, a person to attend or contact an unlawful betting-place for the purposes of betting; or
- (g) receive at an unlawful betting-place money or things of value as deposits, security or consideration in connection with betting; or

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- (h) place or accept a bet, by any means, with or from any person at an unlawful betting-place; or
- (i) cause or allow another person to do a thing referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h).

Penalty: Fine not exceeding 35 penalty units or imprisonment for a term not exceeding 6 months.

(2) In this section –

*unlawful betting-place* means –

- (a) a place at or from which unauthorised betting takes place; or
- (b) a place at which activities connected with unauthorised betting take place.

**174. False or misleading statements**

A person must not, in giving any information under this Act –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading; or

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- (c) provide a document that the person knows to be false or misleading without informing the person to whom the document is provided of that knowledge.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units;  
and
- (b) a subsequent offence, a fine not exceeding 30 penalty units.

**175. Bribery of stewards and other racing officials, &c.**

(1) A person must not –

- (a) bribe or attempt to bribe; or
- (b) threaten; or
- (c) attempt to intimidate or influence; or
- (d) hinder or obstruct or attempt to hinder or obstruct –

the Commissioner, a member of the Racing Integrity Committee or a racing official in the performance of their functions under this Act.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 50 penalty units or imprisonment for a term not

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exceeding one month, or both;  
and

- (b) a subsequent offence, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 months, or both.

- (2) The Commissioner, a member of the Racing Integrity Committee or a racing official must not –

- (a) accept a bribe; or
- (b) collude with any person in the performance of their functions under this Act.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding one month, or both; and
- (b) a subsequent offence, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 months, or both.

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**PART 11 – ENFORCEMENT**

**176. Authorised persons and police officers have right to enter racecourses**

- (1) A person who is authorised in writing for the purpose by the Commissioner or by Tasracing is, on production of that authorisation, entitled to enter a racecourse or training venue free of charge at any time and to remain on the racecourse or training venue.
- (2) A person must not prevent another person from exercising a right that the other person is entitled to exercise by virtue of an authorisation under subsection (1).

Penalty: Fine not exceeding 10 penalty units.

- (3) A police officer acting in the course of the police officer's duty is entitled to enter a racecourse or training venue free of charge at any time and to remain on the racecourse or training venue.

**177. Power of police and stewards to require personal information**

- (1) A police officer or steward who reasonably believes that a person has committed, is committing or is about to commit an offence against this Act may require the person to state the person's name and address.
- (2) A person who is required to state the person's name and address under subsection (1) must not –

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- (a) refuse or fail to comply with the requirement; or
- (b) state a false name or address.

Penalty: Fine not exceeding 25 penalty units.

- (3) A police officer who requires a person to state the person's name and address under subsection (1) may arrest the person without warrant if –
  - (a) the person refuses or fails to comply with the requirement; or
  - (b) the police officer reasonably believes that the name or address stated by the person is false.

**178. Power of police to arrest, &c., in public places**

- (1) A police officer who reasonably believes that a person is or has recently been engaging in unauthorised betting in a public place, or is in a public place for the purpose of engaging in unauthorised betting in that public place, may –
  - (a) arrest the person without warrant; and
  - (b) search the person following the arrest; and
  - (c) retain any money, document or other thing found on or in the care, charge or control of the person at the time of arrest or search that, in the reasonable opinion

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of the police officer, constitutes evidence  
of the unauthorised betting.

- (2) Any money, document or other thing retained on the arrest or search of a person under this section may be used in evidence in any proceedings that may be taken against the person for an offence alleged to have been committed by the person at, or immediately before, the time of arrest.

**179. Forfeiture and disposal of things, &c., used for unauthorised betting**

- (1) A court that convicts a person of an offence against this Act may, in addition to any other penalty it may impose, order that any money, document or other thing seized by a police officer in connection with the offence is forfeited to the Crown.
- (2) Any money forfeited to the Crown under this section is to be paid into the Public Account and any document or other thing so forfeited is to be disposed of as the Minister thinks fit.

**180. Vicarious liability of bookmakers**

- (1) If a registered bookmaker's agent or other person acting or purportedly acting for or on behalf of a registered bookmaker commits an act that would constitute an offence against this Act if committed by the bookmaker –
  - (a) the bookmaker is taken to have also committed the act; and

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- (b) the bookmaker may be charged with and convicted of the offence unless the bookmaker proves that the act was committed without the bookmaker's knowledge or consent.
- (2) Subsection (1) has effect whether or not the registered bookmaker's agent or other person acting or purportedly acting for the registered bookmaker is charged with or convicted of the offence.

**181. Evidentiary provisions**

- (1) In any proceedings for an offence against this Act, proof that at a particular time a place was opened, kept or used for the purpose of unauthorised betting is evidence that it was so opened, kept or used with the permission of its occupier.
- (2) In any proceedings for an offence against this Act, an allegation in the complaint that at a particular time –
  - (a) a person was or was not registered as a bookmaker or bookmaker's agent; or
  - (b) a club was or was not registered as a club; or
  - (c) a place was a public place within the meaning of this Act; or
  - (d) a particular person is or was the occupier of a place mentioned in the complaint; or



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- (e) the defendant had or had not attained a specified age –

is evidence of that fact.

- (3) In any proceedings for an offence against this Act, an allegation in the complaint that on a particular day –

- (a) a race meeting took place, or was appointed to take place, at a specified place; or
- (b) a horse or greyhound, known by any specified name, competed in, or had been entered to compete in, a race at a race meeting –

is evidence of that fact.

**182. Unauthorised betting agreements, &c., are void**

- (1) Subject to subsection (2) –

- (a) all agreements, whether by parole or in writing, by way of betting are void; and
- (b) all claims for money lent or advanced for the purpose of betting are void; and
- (c) no action is to be brought or allowed by or in favour of any person in any court for recovering a sum of money or valuable thing that is alleged to have been won on a bet or deposited with a person to abide the event on which a bet is made.

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- (2) This section does not apply to authorised betting or betting that is lawful by virtue of any other Act.

**183. Proceedings**

Despite the *Justices Act 1959*, proceedings in respect of an offence against this Act may be commenced at any time within 2 years after the cause of complaint arises.

**184. Infringement notices**

- (1) In this section –

*infringement offence* means an offence against this Act or the regulations that is prescribed by the regulations to be an infringement offence.

- (2) Tasracing may issue and serve an infringement notice on a person if it reasonably believes that the person has committed an infringement offence.
- (3) An infringement notice –
- (a) may not be served on an individual who has not attained the age of 18 years; and
  - (b) is not to relate to more than 3 offences.
- (4) An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.

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- (5) Any payment made in respect of an infringement notice is payable to Tasracing, for and on behalf of the Crown and, if not paid, may be recovered as a debt due to the Crown.
- (6) The regulations –
  - (a) may prescribe, for infringement offences, the penalties payable under infringement notices; and
  - (b) may prescribe different penalties for bodies corporate and individuals.
- (7) The penalty prescribed for an infringement offence is not to exceed 20% of the maximum penalty that could be imposed on an individual by a court in respect of the offence.

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**PART 12 – MISCELLANEOUS**

**185. Immunity from personal liability**

- (1) The following persons are not personally liable for an act done, or omission made, in good faith in the exercise or purported exercise of a power or the performance or purported performance of a function under this Act:
  - (a) the Commissioner;
  - (b) a member of the Advisory Committee;
  - (c) a member of the Racing Integrity Committee;
  - (d) Tasracing;
  - (e) a member of the Board or an employee of Tasracing;
  - (f) a racing official;
  - (g) a person authorised to enter a race course or a training venue under section 176;
  - (h) a person acting under the direction of a person referred to in paragraph (a), (b), (c), (d), (e), (f) or (g).
- (2) No civil proceedings lie against a person for loss, damage or injury of any kind suffered by another person by the providing of any information or the making of any statement in good faith to any of the following persons for the purposes of this Act:

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- (a) the Commissioner;
  - (b) a member of the Advisory Committee;
  - (c) a member of the Racing Integrity Committee;
  - (d) Tasracing;
  - (e) a member of the Board or an employee of Tasracing;
  - (f) a racing official;
  - (g) a person authorised to enter a race course or a training venue under section 176;
  - (h) a person acting under the direction of a person referred to in paragraph (a), (b), (c), (d), (e), (f) or (g).

**186. Application of Corporations Act**

To the extent that a provision of this Act is incapable of concurrent operation with the Corporations Act, that provision is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act.

**187. Information and documents**

- (1) In this section –

*regulatory body* means the following:

- (a) the Commissioner;

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(b) Tasracing.

- (2) The Commissioner may require any person to provide specified information or produce specified documents that the Commissioner believes are necessary to enable the Commissioner to perform the Commissioner's functions under this Act.
- (3) Tasracing may require any person to provide specified information or produce specified documents that it believes are necessary to enable it to perform its functions –
  - (a) under section 59(2); or
  - (b) such other section of this Act as may be prescribed.
- (4) For the avoidance of doubt, a regulatory body may exercise a power under this section in respect of a person, regardless of whether –
  - (a) the person is in Tasmania or elsewhere; or
  - (b) compliance with a requirement under this section requires information, or documents, that are in Tasmania or elsewhere.
- (5) A requirement under this section is to be –
  - (a) in writing; and
  - (b) served on the relevant person.

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- (6) A person, without reasonable excuse, must not fail to provide any information or produce any document required under subsection (2) or (3).

Penalty: Fine not exceeding 20 penalty units.

- (7) A regulatory body may take and retain possession, or take copies, of any document produced under subsection (2) or (3).

- (8) A person complying with a requirement of a regulatory body under this section cannot, by virtue of complying with that requirement –

- (a) be held to have breached any code of professional etiquette or ethics; or
- (b) be taken to have departed from acceptable standards of professional conduct; or
- (c) be taken to have contravened any confidentiality requirements of any Act.

**188. Certain notices to be confidential documents**

- (1) In this section –

***confidential document*** means the following documents:

- (a) a notice given by the Commissioner under section 17(1) if the notice provides that it is a confidential notice;

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- (b) a notice given by the Commissioner under section 18(1), if the notice provides that it is a confidential notice;
  - (c) such other document, or class of documents, as may be prescribed.
- (2) A person who is given a confidential document under this Act must not, without reasonable excuse, disclose to another person –
  - (a) the existence of the document; or
  - (b) the contents of the document; or
  - (c) any matters relating to or arising from the document.

Penalty: Fine not exceeding 100 penalty units.

- (3) A person to whom the existence of a confidential document was disclosed must not, without reasonable excuse, disclose to another person –
  - (a) the existence of that document; or
  - (b) the contents of the document; or
  - (c) any matters relating to or arising from the document.

Penalty: Fine not exceeding 100 penalty units.

- (4) For the purposes of subsections (2) and (3), matters relating to or arising from a confidential



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document include, but are not limited to, the following:

- (a) obligations or duties imposed on any person by the document;
  - (b) any record, information, material, or thing, provided or produced to the Commissioner;
  - (c) the contents of any document, record, material, or thing, seized;
  - (d) any information that might enable a person who is the subject of an investigation or inquiry to be identified or located;
  - (e) the fact that any person has been required or directed by the Commissioner to provide information, appear before an inquiry, give evidence or produce anything;
  - (f) any other matters that may be prescribed.
- (5) It is a reasonable excuse for a person to disclose the existence of a confidential document if –
- (a) the disclosure is made for the purpose of –
    - (i) seeking legal advice in relation to the document or an offence against subsection (2) or (3); or
    - (ii) obtaining any record, information, material, or thing, in

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- order to comply with the document; or
- (iii) the administration of this Act; or
- (iv) any other purpose that may be prescribed; and
- (b) the person informs the person to whom the disclosure is made that it is an offence to disclose the existence of the document to another person without reasonable excuse.
- (6) The Commissioner may advise a person to whom a confidential document is given under this Act that the document is no longer confidential.
- (7) If the Commissioner advises a person referred to in subsection (6) that a confidential document is no longer confidential, subsections (2) and (3) do not apply to that person in respect of that document.

**189. Service of notices**

- (1) For the purposes of this Act, an application, direction or other document may be lodged with, served on or given to a person by –
  - (a) in the case of an individual –
    - (i) handing it to the person; or
    - (ii) leaving it at, or sending it by post to, the person's postal or

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residential address or place or  
address of business or  
employment last known to the  
person seeking to lodge, serve or  
give the document; or

(iii) faxing it to the person's facsimile  
number; or

(iv) emailing it to the person's email  
address; and

(b) in the case of any other person –

(i) leaving it at, or sending it by post  
to, the person's principal or  
registered office or one of the  
person's places of business; or

(ii) faxing it to the person's facsimile  
number; or

(iii) emailing it to the person's email  
address.

(2) For the purposes of this Act, a document is taken  
to have been lodged with, served on or given to a  
club or any other body of persons if the  
document is lodged with, served on or given to –

(a) the club or body; or

(b) the secretary of the club or body.

(3) A document that is sent to a person by post is not  
taken to have been lodged with, served on or  
given to the person until the time when it would

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have been delivered in the ordinary course of post.

**190. Information sharing**

A person who is a personal information custodian within the meaning of the *Personal Information Protection Act 2004*, acting in good faith, does not commit a breach of that Act by reason only of collecting, using, disclosing, or otherwise dealing with, personal information, for the purposes of this Act.

**191. Exemption from *Right to Information Act 2009***

The *Right to Information Act 2009* does not apply to information, as defined in that Act, in the possession of the Commissioner or a person assisting the Commissioner, if the information relates to an inquiry, investigation, recommendation or direction made under this or any other Act.

**192. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), regulations may be made under that subsection for or in relation to all or any of the following matters:

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- (a) further procedural or other requirements in connection with registrations and applications;
  - (b) the control and enforcement and, if relevant, the disbursement of bonds of indemnity or other forms of security given in respect of any matter;
  - (c) the business arrangements and conduct of bookmakers and bookmakers' agents;
  - (d) the control and regulation of betting by and with bookmakers, including, but not limited to, the following:
    - (i) betting tickets and betting sheets;
    - (ii) the laying and displaying of odds;
    - (iii) winning, losing, void and disputed bets;
    - (iv) types of bets and the conditions applicable to each type of bet;
    - (v) the settlement of bets;
  - (e) the control and regulation of on-course telephone betting endorsements, off-course telephone betting endorsements or off-course function betting endorsements and the issue of off-course function approvals;
  - (f) the keeping of records and accounts on any matter by clubs or bookmakers or other persons, and the consequences of

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the loss or destruction of such records or accounts;

- (g) the provision, to Tasracing, of information or returns on any matter by clubs or bookmakers or other persons involved in the racing industry;
- (h) stipendiary stewards and other racing officials, including their functions and the nature and enforcement of their powers;
- (i) the regulation of the publication of Tasmanian race field information by wagering operators, including, but not limited to, conditions in respect of race field information publication approvals.

(3) The regulations may –

- (a) be made so as to apply differently according to such factors as are specified in the regulations; and
- (b) authorise any matter to be from time to time determined, applied or regulated by the Commissioner; and
- (c) authorise any matter relating to the functions or powers of Tasracing to be determined, applied or regulated by Tasracing; and
- (d) authorise any matter relating to the functions or powers of the TRAB to be

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determined, applied or regulated by the  
TRAB or its chairperson.

- (4) The regulations may –
- (a) provide that a contravention of any of the regulations is an offence; and
  - (b) provide, in relation to any such offence, for the imposition of a fine not exceeding 25 penalty units and, in the case of a continuing offence, a further fine not exceeding 2.5 penalty units for each day during which the offence continues.
- (5) Without limiting the application of subsection (3), regulations of the kind referred to in subsection (2)(d) may –
- (a) provide for any matter in respect of betting on contingencies relating to horse races or greyhound races to be determined by stewards or other racing officials, or in accordance with the Rules of Racing; and
  - (b) contain notes and examples; and
  - (c) stipulate that such notes and examples, or any of them, form or do not form part of the regulations.
- (6) The regulations may –
- (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and

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- (b) provide for any of those savings or transitional matters to take effect when this section commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

**193. Further amendment of regulations not prevented**

If an Act amending this Act also amends a provision of any regulations made under this Act, the amendment of the provision of the regulations does not prevent that provision or any other provision of the regulations from being amended or rescinded by a subsequent regulation.

**194. Savings and transitional provisions**

The savings and transitional provisions specified in Schedule 5 have effect.

**195. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Racing; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Natural Resources and Environment Tasmania.



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**196. Legislation repealed**

The legislation specified in Schedule 6 is repealed.

**197. Legislation rescinded**

The legislation specified in Schedule 7 is rescinded.

**SCHEDULE 1 – TERMS OF APPOINTMENT OF  
COMMISSIONER**

Section 7

**1. Duration of appointment**

- (1) The Commissioner holds office for such term, not exceeding 5 years, as is specified in the instrument of appointment for that person.
- (2) A person who has been appointed as the Commissioner may from time to time be reappointed for a single further term, not exceeding 5 years, as may be specified in the instrument of appointment for that person.

**2. Terms of appointment**

- (1) The Commissioner holds office on such conditions relating to matters not provided for by this Act as are specified in the Commissioner's instrument of appointment.
- (2) The Commissioner must not, except in so far as authorised to do so by the Governor –
  - (a) hold any office of profit, or trust, other than the office of Commissioner; or
  - (b) engage in paid employment outside the duties of the office of Commissioner.
- (3) Subject to subclause (2), if the holder of an office under an Act is required, by or under that Act, to devote the whole of the office holder's

time to the duties of that office, that requirement does not prevent the holder from holding that office in conjunction with the office of Commissioner.

- (4) The *State Service Act 2000* does not apply in relation to a person in the person's capacity as Commissioner.

### **3. Remuneration**

- (1) The remuneration and allowances payable to the Commissioner are to be specified in the Commissioner's instrument of appointment or as otherwise determined by the Governor.
- (2) The Commissioner is an employee for the purposes of the *Public Sector Superannuation Reform Act 2016*.

### **4. Vacation of office**

- (1) A person appointed as Commissioner is taken to vacate the office of Commissioner if the person –
- (a) dies; or
  - (b) resigns the office by notice to the Governor; or
  - (c) is removed from office under subclause (2).

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- (2) The Governor, by notice to the Commissioner, may remove the Commissioner from office if the Commissioner –
- (a) is, without good reason, absent from the office of Commissioner for an extended period of time; or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the Commissioner's creditors, or makes an assignment of the Commissioner's remuneration or estate for their benefit; or
  - (c) is convicted –
    - (i) in Tasmania of any crime or offence punishable by imprisonment for a term of 12 months or longer; or
    - (ii) elsewhere of any crime or offence which, if committed in Tasmania, would be punishable by imprisonment for a term of 12 months or longer; or
    - (iii) of an offence against this Act; or
  - (d) is unable to perform adequately, or competently, the duties of the office; or
  - (e) has neglected to perform the duties of the office; or

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- (f) is guilty of misconduct of such a nature that the Governor feels the Commissioner is unsuitable to continue to hold the office.

**5. Defect does not invalidate appointment**

An appointment of a person as Commissioner is not invalid merely because of a defect or irregularity in relation to that appointment.

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**SCHEDULE 2 – PROVISIONS WITH RESPECT TO  
MEMBERS AND MEETINGS OF ADVISORY  
COMMITTEE**

Section 55

**PART 1 – PRELIMINARY**

**1. Interpretation**

In this Schedule –

*member* means a member of the Advisory Committee or the deputy of a member;

*State servant* means a State Service officer or State Service employee.

**PART 2 – MEMBERS**

**1. Holding other office**

The holder of an office who is required under any Act to devote the whole of the holder's time to the duties of that office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

**2. State servants may be members**

- (1) The *State Service Act 2000* does not apply in relation to members in their capacity as members.
- (2) A State servant may hold the office of a member in conjunction with State Service employment.

**3. Remuneration and allowances**

- (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.
- (2) A member who is a State servant is not entitled to receive remuneration or allowances under this clause, except with the approval of the Minister administering the *State Service Act 2000*.

**4. Change of name, &c.**

- (1) If a body referred to in section 55(2) changes its name, the Governor may, by order, amend that subsection by substituting the body's new name.
- (2) If a body referred to in section 55(2) ceases to exist, the Governor, on the recommendation of the Advisory Committee, may, by order, amend that subsection by substituting the name of a body which the Governor is satisfied substantially represents the interests represented by the first-mentioned body.

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**5. Vacation of office**

- (1) A member vacates office if the member—
  - (a) dies; or
  - (b) resigns; or
  - (c) is removed from office under subclause (2), (3) or (4).
- (2) The Minister may remove a member from office if the member —
  - (a) is absent from 2 consecutive meetings of the Advisory Committee without the permission of the other members; or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
  - (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for a term of 12 months or longer; or
  - (d) is convicted of an offence against this Act or another Act that relates to integrity in racing or animal welfare.
- (3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.



- (4) The Minister may remove a member from office if –
  - (a) satisfied, having regard to the information supplied by the body which nominated that member, that the member is no longer qualified to be a member of the Advisory Committee; or
  - (b) that body recommends the removal of that member.
- (5) The appointment of any deputy of a member terminates if that member is removed from office pursuant to subclause (4).

### **PART 3 – MEETINGS**

#### **1. Procedure at meetings of Advisory Committee**

- (1) The quorum at any duly convened meeting of the Advisory Committee is half the number of the total members plus one member.
- (2) Any duly convened meeting of the Advisory Committee at which a quorum is present is competent to transact any business of the Advisory Committee.
- (3) Questions arising at a meeting of the Advisory Committee are to be determined by a majority of votes of the members present and voting.
- (4) The chairperson or other member presiding at a meeting of the Advisory Committee has a

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deliberative vote and, in the event of an equality of votes, also has a casting vote.

**2. Chairperson**

If the chairperson of the Advisory Committee is not present at a meeting of the Advisory Committee a member elected by the members present is to preside at that meeting.

**3. Minutes**

The Advisory Committee is to cause full and accurate minutes to be kept of its proceedings at meetings and must submit to the Commissioner a copy of the minutes of each meeting within 30 days after the date on which the meeting is held.

**4. Conduct of meetings**

Subject to this Act, the Advisory Committee may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.

**5. Expert Advice**

Subject to this Act, the Advisory Committee may –

- (a) advise itself on any relevant matter in any way it thinks fit; and

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- (b) seek expert advice from any person or body that is relevant to the matter to which the advice relates.

**SCHEDULE 3 – PROVISIONS WITH RESPECT TO  
MEMBERS AND MEETINGS OF RACING INTEGRITY  
COMMITTEE**

Section 57

**PART 1 – PRELIMINARY**

**1. Interpretation**

In this Schedule –

*member* means a member of the Racing Integrity Committee or the deputy of a member.

**PART 2 – MEMBERSHIP**

**1. Term of office**

- (1) A member appointed under section 57(2)(a) is appointed for such period, not exceeding 3 years, as is specified in the member's instrument of appointment and, if eligible, may be reappointed.
- (2) A member appointed under section 57(2)(a) may serve any number of terms but not more than 3 terms, of whatever duration, in succession.
- (3) A person on the Board appointed to the Racing Integrity Committee under section 57(2)(b) holds that appointment until –
  - (a) the person's appointment to the Racing Integrity Committee is revoked by the Minister; or

- (b) the person is no longer on the Board.

## **2. Remuneration and allowances**

A member is entitled to be paid such remuneration and allowances as are specified in the member's instrument of appointment.

## **3. Vacation of office**

- (1) A member vacates office if the member—
  - (a) dies; or
  - (b) resigns; or
  - (c) is removed from office under subclause (2), (3) or (4).
- (2) The Minister may remove a member from office if the member —
  - (a) is absent from 3 consecutive meetings of the Racing Integrity Committee without the permission of the other members; or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
  - (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by

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imprisonment for a term of 12 months or longer; or

(d) is convicted of an offence against this Act or another Act that relates to integrity in racing or animal welfare.

(3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

(4) If the office of a member becomes vacant, the Minister may appoint a person to the vacant office for the remainder of that member's term of office.

**PART 3 – MEETINGS**

**1. Procedure at meetings of Racing Integrity Committee**

(1) The quorum at any duly convened meeting of the Racing Integrity Committee is 3 members.

(2) Any duly convened meeting of the Racing Integrity Committee at which a quorum is present is competent to transact any business of the Racing Integrity Committee.

(3) A decision supported by a majority of votes cast at a meeting of the Racing Integrity Committee at which a quorum is present is the decision of the Committee if at least one of the majority of votes was cast by a person appointed to the Committee under section 57(2)(a).

- (4) The chairperson at a meeting of the Racing Integrity Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

## **2. Minutes**

The Racing Integrity Committee is to cause full and accurate minutes to be kept of its proceedings at meetings and must submit to the Commissioner and to Tasracing a copy of the minutes of each meeting within 30 days after the date on which the meeting is held.

## **3. Conduct of meetings**

Subject to this Act, the Racing Integrity Committee may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.

## **4. Expert Advice**

Subject to this Act, the Racing Integrity Committee may –

- (a) advise itself on any relevant matter in any way it thinks fit; and
- (b) seek expert advice from any person or body that is relevant to the matter to which the advice relates.

**SCHEDULE 4 – FURTHER PROVISIONS REGARDING  
MEMBERSHIP OF TRAB**

Section 71

**1. Interpretation**

In this Schedule –

*member* means a member of the TRAB;

*State servant* means a State Service officer or  
State Service employee.

**2. Holding other office**

The holder of an office who is required by the  
terms of the holder's employment to devote the  
whole of the holder's time to the duties of that  
office is not disqualified from –

- (a) holding that office and also the office of  
a member; or
- (b) accepting any remuneration payable to a  
member.

**3. State servants may be members**

- (1) The *State Service Act 2000* does not apply in  
relation to members in their capacity as  
members.
- (2) A State servant may hold the office of a member  
in conjunction with State Service employment.



**4. Remuneration of members and conditions of appointment**

- (1) A member is entitled to be paid such remuneration and allowances as the Governor may from time to time determine.
- (2) A member who is a State servant is not entitled to receive remuneration or allowances under this clause, except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A member holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

**5. Vacation of office**

- (1) A member vacates office if the member –
  - (a) dies before the end of the term for which the member has been appointed; or
  - (b) resigns by notice given to the Governor; or
  - (c) is removed from office under subclause (2) or (3).
- (2) The Governor may remove a member from office if the member –
  - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors

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- or makes an assignment of the member's remuneration or estate for their benefit; or
  - (b) under this Act, ceases to be eligible to hold the office; or
  - (c) fails to disclose a personal interest as required by clause 6(1); or
  - (d) is convicted, in Tasmania or elsewhere, of a crime or offence punishable by imprisonment or by a fine of 300 or more penalty units; or
  - (e) is convicted of an offence against this Act, another Act that relates to integrity in racing or animal welfare or the *Gaming Control Act 1993*; or
  - (f) ceases to hold a practising certificate, within the meaning of the *Legal Profession Act 2007*, or the member's name is removed from the roll of local lawyers kept by the Supreme Court.
- (3) The Governor may remove a member from office if satisfied that the member is unable to perform the duties of the office adequately or competently.
- (4) A member must not be removed from office otherwise than in accordance with this clause.

**6. Disclosure of interest**

- (1) A member of the TRAB who has a direct or indirect interest in a matter being considered, or about to be considered, by the TRAB must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest prior to the hearing of an appeal to which the direct or indirect interest relates.

Penalty: Fine not exceeding 50 penalty units or a term of imprisonment not exceeding 3 months, or both.

- (2) A member who discloses an interest in a matter under subclause (1) must not, unless the chairperson determines otherwise –
- (a) be present during any deliberations of the TRAB in relation to the matter; or
  - (b) take part in any decision of the TRAB in relation to the matter.

**7. Filling of vacancies**

If the office of a member of the TRAB becomes vacant, otherwise than by the expiration of the term for which the member was appointed, the Governor may appoint a person to the vacant office for the remainder of the member's term of office.

**8. Validity of proceedings, &c.**

- (1) An act or proceeding of the TRAB or of a person acting under a direction of the TRAB is not invalidated by reason only that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the TRAB.
- (2) All acts and proceedings of the TRAB or of a person acting under a direction of the TRAB are, despite the subsequent discovery of a defect in the appointment of a member or that any other person was disqualified from acting as, or incapable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the TRAB had been fully constituted.

**9. Presumptions**

In any proceedings by or against the TRAB, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the TRAB; or
- (b) any resolution of the TRAB; or
- (c) the appointment of any member of the TRAB.

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**SCHEDULE 5 – SAVINGS AND TRANSITIONAL**

Section 194

**PART 1 – PRELIMINARY**

**1. Interpretation**

In this Schedule –

*authorisation* means any permit, certificate, entitlement, approval, permission or other authorisation;

*commencement day* means the day on which section 194 commences;

*continued Rules of Racing* means the Rules of Racing that were made under the former Act and are continued in force after the commencement day under clause 1(1) of Part 3;

*determination* includes any determination, decision, order or direction;

*Director of Racing* means the person holding or acting in the office of Director of Racing under the former Act;

*former Act* means the *Racing Regulation Act 2004*, as in force immediately before the commencement day;

*former Board* means the Tasmanian Racing Appeal Board (TRAB) as constituted under Part 5 of the former Act;

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***new Board*** means the TRAB as constituted under Part 6 of this Act.

**PART 2 – OFFICES AND BODIES**

**1. Appointment of initial Chief Racing Integrity Officer**

- (1) This clause applies if –
  - (a) Tasracing intends to appoint a person as the first Chief Racing Integrity Officer under this Act; and
  - (b) the Racing Integrity Committee has not, at that time, been established under this Act.
- (2) Despite section 67(2) of this Act, the appointment of the first Chief Racing Integrity Officer under this Act –
  - (a) is not subject to the approval of the Racing Integrity Committee; and
  - (b) is subject to the approval in writing of the Minister and the Treasurer.
- (3) The Minister and the Treasurer must, in deciding whether to approve the appointment of the first Chief Racing Integrity Officer, consult with Tasracing regarding that decision.

**2. Tasmanian Racing Appeal Board (TRAB)**

- (1) In this clause –

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***ordinary member*** means a member of the TRAB other than the chairperson or deputy chairperson.

- (2) A person who, immediately before the commencement day, held an appointment as an ordinary member of the former Board continues in office as an ordinary member of the new Board under this Act until –
  - (a) the appointment expires; or
  - (b) the appointment is sooner terminated under this Act.
- (3) A person who, immediately before the commencement day, held the appointment of chairperson or deputy chairperson of the former Board continues in office as chairperson or deputy chairperson, as the case may be, of the TRAB under this Act until –
  - (a) the appointment expires; or
  - (b) the appointment is sooner terminated under this Act.

**3. Transfer of stipendiary stewards and betting supervisors**

- (1) In this clause –

***betting supervisor*** means a person who, immediately before the commencement day was appointed under section 51(1)(b) of the former Act as a betting supervisor;

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*former steward* means a person who, immediately before the commencement day, was appointed under the former Act as a steward within the meaning of that Act;

*transferred employee* means a person who is taken to be appointed as a steward or a betting supervisor under this Act by virtue of subclause (3).

- (2) On the commencement day, a person's appointment as a former steward or as a betting supervisor is terminated, regardless of whether the appointment was for a fixed term or otherwise.
- (3) A person whose appointment as a former steward or betting supervisor is terminated under subclause (2) is taken, on that termination, to be appointed as a steward or a betting supervisor by Tasracing under section 68 of this Act.
- (4) A transferred employee –
  - (a) is, subject to subclause (8), to be regarded for all purposes as having become an employee of Tasracing, on the same terms and conditions as applied to the transferred employee immediately before the commencement day; and
  - (b) retains all existing and accrued rights relating to leave as if service as an employee of Tasracing were a continuation of the transferred



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employee's service as an employee of the  
Department.

- (5) For the purposes of subclause (4)(a), terms and conditions applying to a transferred employee include any terms and conditions that relate to remuneration but do not include any terms and conditions that relate to the application of a code of conduct.
- (6) The employment of a transferred employee is taken to have been continuous for the purposes of calculating entitlements, recognition of years of service and similar purposes.
- (7) If the *Long Service Leave (State Employees) Act 1994* applied to a transferred employee immediately before the commencement day, that Act continues to apply to that employee unless –
  - (a) the employee gives notice to Tasracing that the employee elects that that Act not apply; or
  - (b) an award or industrial agreement provides otherwise.
- (8) Nothing in this clause prevents –
  - (a) any of the terms of appointment of a transferred employee from being altered by an award, industrial agreement or law after the person becomes an employee of Tasracing; and
  - (b) any of the terms of appointment of a transferred employee from being

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amended by Tasracing to include the application of a code of conduct to that employee.

- (9) For the avoidance of doubt, this Act applies to a person taken to be appointed as a steward or betting supervisor under subclause (3) as if the person were appointed under section 68 as a steward or betting supervisor.
- (10) The termination of a person's appointment as a steward or betting supervisor under this clause does not entitle the person to compensation, or another form of consideration or payment, solely due to the termination of appointment under this clause.
- (11) Nothing in this Act affects the superannuation entitlements of a transferred employee that were in existence immediately before the commencement day.

**4. Transfer of State Service employees**

- (1) In this clause –

*eligible employee* means a person who, before the commencement day, was a State Service employee employed by the Department for the purposes of the former Act;

*transfer day*, for an eligible employee, means the day on which the transfer notice for that employee takes effect under subclause (4);

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***transfer notice*** means a notice issued to an eligible employee under subclause (2);

***transferred employee*** means a person who becomes an employee of Tasracing by operation of subclause (5);

***written offer*** means an offer, in writing, given to an eligible employee offering that the eligible employee's employment be transferred from the Department to Tasracing.

- (2) The Secretary of the Department may make a written offer to an eligible employee if the Secretary is satisfied that the transfer of the person's employment is required to enable Tasracing to perform its functions under this Act.
- (3) The Secretary of the Department may issue a transfer notice to an eligible employee if the Secretary has given the eligible employee a written offer and the eligible employee has accepted, in writing, the written offer.
- (4) A transfer notice issued under subclause (3) takes effect on the day specified in the notice, being a day not earlier than the commencement day.
- (5) On the transfer day for an eligible employee, that eligible employee –
  - (a) ceases to be employed by the Department; and

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- (b) is employed by Tasracing on the same terms and conditions, including remuneration, as the eligible employee was employed immediately before the transfer day.
- (6) A transferred employee retains all existing and accrued rights relating to leave as if service as an employee of Tasracing were a continuation of the transferred employee's service as an employee of the Department.
- (7) The employment of a transferred employee is taken to have been continuous for the purposes of calculating entitlements, recognition of years of service and similar purposes.
- (8) If the *Long Service Leave (State Employees) Act 1994* applied to a transferred employee immediately before the commencement day, that Act continues to apply to that employee unless –
  - (a) the employee gives notice to Tasracing that the employee elects that that Act not apply; or
  - (b) an award or industrial agreement provides otherwise.
- (9) Nothing in this clause prevents any of the terms of employment of a transferred employee from being altered by an award, industrial agreement or law after the transferred employee becomes an employee of Tasracing.
- (10) The transfer of a person's employment under this clause does not entitle the person to

compensation, or another form of consideration or payment, solely due to the termination of appointment under this clause.

- (11) Nothing in this Act affects the superannuation entitlements of a transferred employee that were in existence immediately before the commencement day.
- (12) An eligible employee whose employment is transferred to Tasracing under this Part is an employee for the purposes of the *Public Sector Superannuation Reform Act 2016*.
- (13) For the avoidance of doubt, nothing in this Part prevents an employee of the Department from being seconded to Tasracing in accordance with the *State Service Act 2000*.
- (14) The Secretary of the Department must not issue a transfer notice to an eligible employee after the first anniversary of the day on which this clause commenced.

## **5. Certain service taken to be continuous employment**

The period for which a person serves as a Tasracing employee is taken to be continuous service as a State Service employee for the purpose of calculating leave, or other entitlements, if –

- (a) the person became an employee of Tasracing by operation of clause 4(5); and

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- (b) within 5 years after the person became so employed, the person is appointed or employed in a position that, in accordance with another Act or instrument, entitles, or provides for, the leave, or other entitlements, of the person to be calculated as if the person was a State Service employee; and
- (c) the person was continuously employed as a Tasracing employee under this Act for the period –
  - (i) commencing on the person's employment by Tasracing by operation of clause 4(5); and
  - (ii) ending on the person's appointment to the position referred to in paragraph (b).

**PART 3 – RULES OF RACING**

**1. Rules of Racing**

- (1) The *Rules of Racing* that were in force for a code of racing under the former Act immediately before the commencement day continue in force under this Act as the Rules of Racing for that code of racing on and after the commencement day.
- (2) On or after the commencement day, the continued Rules of Racing may at any time be amended, rescinded, or rescinded and replaced,

by new Rules of Racing, in accordance with this Act.

- (3) Any registration or licence in force under the continued Rules of Racing for a code of racing immediately before the commencement day continues in force on and after that day as a registration or licence under and subject to those Rules of Racing, as continued under and for the purposes of this Act.
- (4) An application for registration, or for a licence, under the continued Rules of Racing for a code of racing that had not been processed and finally determined immediately before the commencement day may continue to be processed and determined in all respects as if it were a valid application made under the continued Rules of Racing after the commencement day.

**2. Continuation of determinations, &c., under certain Rules of Racing**

- (1) A Rules of Racing determination in force under the continued Rules of Racing for a code of racing immediately before the commencement day continues in force on and after that day, according to its terms and conditions, as a determination under and for the purposes of those continued Rules of Racing, until whichever of the following first occurs:
  - (a) the determination is discharged or is exhausted or made redundant by events;

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- (b) the determination, if it has an express or implied expiry date, expires;
  - (c) the determination is revoked, modified or superseded by a determination made under the Rules of Racing.
- (2) An authorisation in force under the continued Rules of Racing for a code of racing immediately before the commencement day continues in force on and after that day, according to its terms and conditions, as an authorisation under and for the purposes of those continued Rules of Racing, until the authorisation expires or is sooner revoked or modified under the Rules of Racing.
- (3) For the avoidance of doubt, any inquiry being conducted by stewards immediately before the commencement day under the continued Rules of Racing may be continued on and after the commencement day under those rules.
- (4) In this clause –

***Rules of Racing determination*** means –

- (a) a handicapping, grading, race programming, field selection or similar determination; or
- (b) a determination (including a determination imposing or confirming any kind of suspension, disqualification or other penalty) in respect of any registration or licence –



made under and for the purposes of the  
*Rules of Racing* under the former Act  
before the commencement day.

## **PART 4 – REGISTRATION, PERMITS AND AUTHORISATIONS UNDER FORMER ACT**

### **1. Club registration, &c.**

- (1) A club that was registered as a club by the Director of Racing under the former Act is taken to be registered as a club by Tasracing under this Act.
- (2) Subclause (1) applies to a club even if its registration under the former Act was suspended, but nothing in this clause is to be taken as revoking, or reducing the period of, the suspension.
- (3) Any winding-up being executed under section 47 of the former Act (pursuant to the publication of a winding-up notice within the meaning of that section) may be continued and executed by Tasracing under section 118 of this Act.
- (4) Any assets of a registered club being wound up under the former Act that are held immediately before the commencement day by the Director of Racing, under section 47 of the former Act are on and after the commencement day to be held by Tasracing under section 118 of this Act.

**2. Bookmaker registration and telephone betting endorsements**

- (1) A person who was registered as a bookmaker under the former Act is taken to be registered as a bookmaker under this Act (on the same conditions, if any, as applied to the registration immediately before the commencement day) until –
  - (a) the period for which the person was registered under the former Act expires; or
  - (b) the registration is sooner cancelled or surrendered under this Act.
- (2) If the person's certificate of registration as a bookmaker under the former Act had a telephone betting endorsement, the endorsement also continues in force (on the same conditions, if any, as applied to the endorsement immediately before the commencement day) under this Act until –
  - (a) the period for which the person was registered under the former Act expires; or
  - (b) the registration is sooner cancelled or surrendered under this Act.
- (3) Subclauses (1) and (2) apply even if, immediately before the commencement day, the person's registration as a bookmaker under the former Act was suspended, but nothing in this

clause is to be taken as revoking, or reducing the period of, the suspension.

### **3. Applications for telephone betting endorsements**

- (1) An application for a telephone betting endorsement under the former Act that had not been processed and finally determined immediately before the commencement day is to be regarded by Tasracing and other persons as an application for a telephone betting endorsement under this Act and the application may continue to be processed and determined in all respects as if it were a valid application made under this Act.
- (2) The bond, indemnity or other form of security that is required to be given in relation to the application is the same as the bond, indemnity or other form of security that was required to be given under the former Act.

### **4. Race meeting permits**

A permit issued under section 38 of the former Act by the Director of Racing that is in force immediately before the commencement day, is taken, on and after that day, to be a permit under section 106 of this Act issued by Tasracing and in force on the same terms and conditions.

### **5. Substitute race meeting authorisation**

An authorisation issued under section 44 of the former Act by the Director of Racing to

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Tasracing that is in force immediately before the commencement day, is taken, on and after that day, to be an authorisation under section 111 of this Act issued by the Commissioner and in force on the same terms and conditions.

**6. Authorisations by Director of Racing**

- (1) Unless otherwise specified in this Schedule or the regulations, if an authorisation was given by the Director of Racing to a person under a provision of the former Act, and before the commencement day that authorisation was in force, that authorisation continues in force in accordance with its terms, as an authorisation given by Tasracing to that person under this Act.
- (2) The provisions of this Act apply in relation to an authorisation referred to in subclause (1) until the authorisation expires or is revoked or modified by Tasracing under this Act.

**7. Authorisations by Tasracing**

- (1) Unless otherwise specified in this Schedule or the regulations, if an authorisation was given by Tasracing to a person under the former Act, and before the commencement day that authorisation was in force, that authorisation continues in force in accordance with its terms, as an authorisation given by Tasracing to that person under this Act.
- (2) The provisions of this Act apply in relation to an authorisation referred to in subclause (1) until

the authorisation expires or is revoked or modified by Tasracing under this Act.

- (3) Unless otherwise specified in this Schedule or the regulations, an application for an authorisation under the former Act that had not been processed and finally determined immediately before the commencement day is to be regarded by Tasracing and other persons as an application for authorisation under this Act and the application may continue to be processed and determined in all respects as if it were a valid application made under this Act.

## **PART 5 – MISCELLANEOUS**

### **1. TRAB appeals**

- (1) If an appeal under Part 5 of the former Act had not been completed immediately before the commencement day, the TRAB may proceed to hear, or continue to hear, and determine the appeal as if this Act had not been enacted.
- (2) On the completion of the appeal, the TRAB may make such orders as it thinks fit to ensure that its findings and determinations on the appeal are translated to the scheme of, and have effect under, this Act.
- (3) An order of the TRAB made under subclause (2) has effect as an order of the TRAB for the purposes of this Act.

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- (4) For the purposes of this clause, an appeal under Part 5 of the former Act is to be taken to have been completed as soon as the TRAB announces its findings, whether or not the reasons for those findings are given at the same time or a later time.

**2. Warning-off notices, &c.**

- (1) Any notice issued by or on behalf of the Director under section 54 of the former Act that was in force immediately before the commencement day continues in force on and after that day, according to its terms, as a warning-off notice issued by Tasracing under section 124 of this Act.
- (2) Any notice issued by or on behalf of Tasracing under section 54 of the former Act that was in force immediately before the commencement day continues in force on and after that day, according to its terms, as a warning-off notice issued by Tasracing under section 124 of this Act.
- (3) Any notice issued by or on behalf of a registered club under section 54 of the former Act that was in force immediately before the commencement day continues in force on and after that day, according to its terms, as an exclusion notice issued by that club under section 124 of this Act.

### **3. Inquiries**

Any inquiry being held by the Director of Racing under the former Act may, at the Commissioner's discretion –

- (a) be continued as an inquiry by the Commissioner under this Act; or
- (b) be discontinued.

### **4. Determinations by Director of Racing**

- (1) Unless otherwise provided for in this Schedule or the regulations, a determination of the Director of Racing in force under a provision of the former Act immediately before the commencement day continues in force on and after that day, according to its terms and conditions, as a determination of Tasracing under this Act, until whichever of the following first occurs:
  - (a) the determination is discharged or is exhausted or made redundant by events;
  - (b) the determination, if it has an express or implied expiry date, expires;
  - (c) the determination is revoked, modified or superseded by a determination made by Tasracing under this Act.
- (2) A determination of the Director of Racing, in force under section 7(fa) and (fb) of the former Act immediately before the commencement day, continues in force on and after that day,

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according to its terms and conditions, as a Standard made by the Commissioner under section 53(1), until it expires or is revoked, modified or superseded by a Standard made by the Commissioner under this Act.

- (3) A determination of the Director of Racing, in force under section 7(fc) of the former Act immediately before the commencement day, continues in force on and after that day, according to its terms and conditions, as a determination of Tasracing under section 59(2)(o) of this Act, until the determination expires or is revoked, modified or superseded by a determination made by Tasracing under this Act.

**5. Sports Betting Rules**

- (1) In this clause –

***Sports Betting Rules*** means Sports Betting Rules within the meaning of the former Act.

- (2) Any Sports Betting Rules that were in force under the former Act immediately before the commencement day cease to be in force and effect on and after the commencement day.
- (3) Any determinations made under the Sports Betting Rules that are in effect immediately before the commencement day cease to have force and effect on and after the commencement day.



## **6. Determinations by Tasracing**

Unless otherwise provided for in this Schedule or the regulations, a determination of Tasracing, in force under the former Act immediately before the commencement day, continues in force on and after that day, according to its terms and conditions, as a determination of Tasracing under this Act, until whichever of the following first occurs:

- (a) the determination is discharged or is exhausted or made redundant by events;
- (b) the determination, if it has an express or implied expiry date, expires;
- (c) the determination is revoked, modified or superseded by a determination made by Tasracing under this Act.

## **7. References to Tasmanian Principal Clubs Board**

- (1) In construing, on or after the commencement day, an instrument that was in force before the 1985 changeover day, a reference to the Board is, unless the contrary intention appears in the instrument, to be read as a reference to the Tasmanian Thoroughbred Racing Council.
- (2) In this clause –

***Board*** means the Tasmanian Principal Clubs Board constituted under the former Racing Act as in force between 13

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February 1984 and the 1985 changeover day;

*instrument* means a document, other than an Act, that creates, evidences, modifies or extinguishes rights or obligations;

*1985 changeover day* means the day fixed by proclamation under section 2(2) of the *Racing Amendment Act (No. 2) 1985*.

**8. Fines and other moneys payable**

- (1) Any fines under the former Act that, immediately before the commencement day, were payable to, due to or recoverable by the Director of Racing are taken on and after the commencement day to be fines payable to, due to or recoverable by Tasracing, for and on behalf of the Crown.
- (2) Any money under section 83 of the former Act that, immediately before the commencement day, was payable to, due to or recoverable by the Director of Racing is taken on and after the commencement day to be money payable to Tasracing, for and on behalf of the Crown under section 164.

**9. Securities**

A bond of indemnity or other form of security given to the Director of Racing under section 59 or 74 of the former Act and held by the Director of Racing immediately before the

commencement day is, on and after that day, taken to be a bond of indemnity or other form of security given to Tasracing under section 135 or 151 respectively.

#### **10. Records**

Any records or other documents required to be kept or made under the former Act immediately before the commencement day are, on and after that day, taken to be records or documents required to be kept or made under this Act.

#### **11. Authorisations to enter racecourses**

An authorisation by the Director of Racing, to enter premises under section 96(1) of the former Act, in force immediately before the commencement day continues in force as an authorisation by Tasracing under section 176 of this Act.

#### **12. Savings and transitional regulations**

- (1) In addition to section 192, the Governor may also make regulations of a savings and transitional nature, consequent on the enactment of this Act, to effect, and facilitate, the transition from the former Act to this Act.
- (2) Without limiting the generality of subclause (1), regulations made under that subclause may –

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- (a) clarify, or amend, the status, entitlements or rights of the stewards transferred to this Act from the former Act; and
  - (b) provide for the preservation, continuation, variation or revocation of decisions or actions taken under the former Act; and
  - (c) provide for the preservation, continuation, variation or revocation of notices, instruments or other documents given or issued under the former Act; and
  - (d) deal with any other incidental, transitional or ancillary matter in respect of the former Act.
- (3) Regulations made under subclause (1) may –
- (a) take effect on the day on which section 194 of this Act commences or a later day as specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made; and
  - (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
  - (c) authorise any matter to be from time to time determined, applied or regulated by –

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- (i) the Secretary of the Department;  
or
  - (ii) the Commissioner.
- (4) Subject to subclause (5), nothing in this clause authorises regulations made under this Act to reduce or limit the entitlements and rights accrued by a steward as such an employee.
- (5) Subclause (4) does not apply in respect of a regulation that amends the entitlements and rights if the amendment is required for the entitlements and rights to be consistent with an award or agreement that applies, and is in force, in respect of a steward as such an employee.

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**SCHEDULE 6 – LEGISLATION REPEALED**

Section 196

*Racing Regulation Act 2004* (No. 62 of 2004)

*Racing Regulation (Transitional and Consequential  
Provisions) Act 2004* (No. 64 of 2004)

*Racing Regulation Amendment (Governance Reform)  
(Transitional and Consequential Provisions) Act 2008* (No.  
63 of 2008)

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**SCHEDULE 7 – LEGISLATION RESCINDED**

Section 197

*Racing (Bookmaker Betting) Regulations 2015* (No. 105 of 2015)

*Racing (Miscellaneous) Regulations 2015* (No. 106 of 2015)

*Racing (Race Fields) Regulations 2019* (No. 35 of 2019)