

CLAUSE NOTES

Racing Regulation and Integrity Bill 2024

- Clause 1** **Short title**
- Clause 2** **Commencement**
The Act commences on a day or days to be proclaimed.
- Clause 3** **Interpretation**
This clause provides definitions for the purpose of this Act.
- Clause 4** **Act binds Crown**
This clause provides that this Act binds the Crown.
- Clause 5** **Application of Act**
This clause makes it clear that the Act does not apply to or render unlawful the activities specified in paragraphs (a), (b) and (c) of this section and such other activities as prescribed.
- Clause 6** **Interpretation of Part**
This clause provides definitions for the purpose of this Part.
- Clause 7** **Tasmanian Racing Integrity Commissioner**
This clause provides for the appointment of a Tasmanian Racing Integrity Commissioner (the Commissioner) by the Governor and related matters. Schedule 1 provides for the terms and conditions of the appointment.
- Clause 8** **Staff and facilities**
This clause provides that the Commissioner may arrange with the Head of State Service Agency for the services of a State Service employee, facilities, and goods of the Agency to be made available to the Commissioner for the purposes of its functions.
- Clause 9** **Functions of Commissioner**
This clause specifies the functions and responsibilities of the Tasmanian Racing Integrity Commissioner.
- Clause 10** **General powers of Commissioner**
This clause provides the powers of the Tasmanian Racing Integrity Commissioner for the discharge of its functions under the Act.

- Clause 11** **Performance and exercise of Commissioner's functions and powers generally**
- This clause provides that, except as 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.
- Clause 12** **Recommendations by Commissioner**
- This clause provides that the Commissioner may make recommendations to such persons in relation to racing as the Commissioner considers appropriate.
- Clause 13** **Compliance with direction of Commissioner**
- This clause provides the circumstances in which the Commissioner may issue a direction to Tasracing or a racing club requiring compliance with a recommendation.
- Clause 14** **Delegation**
- This clause enables the Commissioner to delegate any of its powers or functions under this Act.
- Clause 15** **Investigations**
- This clause gives the Commissioner the power to investigate any matter relating to racing.
- Clause 16** **Refusal to conduct investigation**
- This clause outlines the circumstances in which the Commissioner may decide not to conduct an investigation. It also outlines the circumstances in which the Commissioner must not investigate a matter. If the Commissioner refuses to investigate a matter then, in certain circumstances, the Commissioner must notify the Tasmanian Racing Appeals Board.
- Clause 17** **Procedure on investigation**
- This clause outlines the procedure to apply to the Commissioner's investigations. It provides that, before commencing an investigation, the Commissioner may give notice of the intention to conduct an investigation to certain persons. It also provides the circumstances in which the Commissioner may refer matters for investigation to another.
- Clause 18** **Conduct of investigations**
- This clause gives the Commissioner certain powers for conducting investigations, including the power to direct a person to provide or produce certain things, and to use those things for the purposes of an investigation or any subsequent inquiry.

Clause 19

Procedure on completion of investigation

This clause provides that, on completion of an investigation, the Commissioner may make recommendations under this Act, proceed to an inquiry, make a report in relation to the matter to such person or body as the Commissioner considers appropriate, refer the matter to such person or body as the Commissioner considers appropriate with a recommendation as to actions that should be taken in relation to the matter, or determine that no further action is to be taken in respect of the matter. It also qualifies the information that the Commissioner can disclose.

Clause 20

Disclosure of information by Commissioner

This clause provides that the Commissioner may disclose information it has received or obtained to certain persons, including investigatory authorities, for their purposes.

Clause 21

Holding of inquiries

This clause provides the circumstances in which the Commissioner may or must hold an inquiry.

Clause 22

Conduct of inquiries

This clause outlines the procedure to apply to the Commissioner's inquiries. This clause also confers power upon the Commissioner to control its own proceedings, and to enlist the assistance of police officers for that purpose.

Clause 23

Hearings to be public

This clause creates a presumption that hearings of inquiries will be open to the public. It also provides that hearings may be conducted in private in certain circumstances provided that notice of the intention to hold a closed hearing is provided at a previous public hearing.

Clause 24

Control of public reporting

This clause confers a power on the Commissioner to prohibit or restrict the public reporting of hearings, or publishing of evidence, if the public interest is outweighed by considerations of public security, privacy of personal or financial affairs, or the right to a fair trial. Prior notice of that prohibition or restriction must be stated in a public hearing. An offence provision is created for failure to comply with reporting restrictions.

Clause 25

Referral of question of law

This clause sets out a procedure whereby disputed questions of law may be referred to the Supreme Court for a final and binding decision.

Clause 26 **Allegations of misconduct**

This clause imposes an obligation on the Commissioner to give notice of an allegation of misconduct to the person about whom it is made. That person must be given an opportunity to rebut the allegation by making submissions, giving evidence, cross-examining the person making the allegation, and calling relevant witnesses. The person must be given a reasonable time to prepare their case in reply, and are automatically entitled to be represented by counsel. No finding of misconduct may be made unless this procedure has been followed.

Clause 27 **Commissioner's findings**

This clause provides that the Commissioner, on completion of an inquiry, is to submit a report of the Commissioner's findings and recommendations to the Minister. It also limits the matters upon which the Commissioner may make findings. The Commissioner may not express a conclusion of law in respect of the legal liability of a person, nor is the Commissioner's report admissible to prove any finding of fact by the Commissioner. The principle underlying these provisions is that a Commissioner must not confuse his or her role with that of a court of law.

Clause 28 **Private sessions**

This clause provides for the conduct of private sessions by the Commissioner. It provides that a private session is not a hearing of an inquiry, must be conducted in private, and may be held as determined by the Commissioner. It provides that a person appearing in a private session is not a witness before the Commissioner and does not give evidence to the Commissioner. It provides that a person appearing in a private session is entitled to legal costs, allowances and compensation for loss of income under section 37. It also provides that information given to a Commissioner during a private session may be included in a report or recommendation of the Commissioner only if it is also given in evidence to the Commissioner other than during a private session, or where the information does not disclose the identity or lead to the identification of the individual.

Clause 29 **Legal effect of private sessions**

This clause provides that a statement or disclosure made in a private session or a document produced in a private session is not admissible in evidence against a person in any civil or criminal proceedings other than an offence under section 30. It provides that a person appearing in a private session has the same protection, immunity and liability to civil or criminal proceedings as a witness to a case tried in the Supreme Court. It provides that a legal practitioner appearing on behalf of a person appearing in a private session, or engaged to help the Commissioner conduct a private session, has the same immunity as a barrister

appearing in proceedings in the Supreme Court. It also provides that the Commissioner has, in conducting a private session, the same protection and immunity as a judge of the Supreme Court.

Clause 30 **Offences relating to private sessions**

This clause provides that a person must not make a record of, use or disclose information obtained during a private session. It provides a penalty for failing to comply with those obligations. It provides that a person may make a record of, use or disclose information obtained during a private session if: otherwise required or authorised under the Principal Act, or any other Act, including to ensure the safety or welfare of an animal or class of animal, a person, or a class of persons; for the purposes of performing the functions or exercising the powers of the Commissioner; with the consent of the person appearing in the private session or giving the information to the Commissioner; or if the information does not disclose the identity of a person who has not given consent. It also provides that the offences in Section 50 apply to a person appearing in a private session or producing a document or thing to a private session.

Clause 31 **Rules of evidence**

This clause provides that, in its inquiries, the Commissioner is not bound by the rules of evidence. This will prevent inquiry proceedings becoming overly legalistic.

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

This clause provides that evidence given before an inquiry is not admissible in any subsequent legal proceedings other than proceedings against that person for a breach of the Act.

Clause 33 **Notices to witnesses**

This clause contains the Commissioner's powers to summon witnesses, and order the production of any relevant document or thing. There is an immunity from such summonses if the person is the subject of criminal proceedings in respect of the matter which have not been finalised. It also allows another person to take and report the evidence of a person who is unable to attend if certain requirements are met.

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

This clause contains the Commissioner's powers to require the preparation of a document or statement. There is an immunity from such requirements if the person is the subject of criminal proceedings, in respect of the matter to which the document or statement relates, which have not been finalised.

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

This clause provides that the Commissioner may require the production of a document required under Section 33 or 34 for the purposes of assessing a claim of privilege.

Clause 36 **Powers in relation to witnesses**

This clause provides that the Commissioner may permit a person giving evidence to do so anonymously or under a pseudonym; use measures to prevent the direct or indirect identification of the person; and apply any special evidentiary procedures that may be appropriate including but not limited to measures in the Evidence (*Children and Special Witnesses*) Act 2001.

Clause 37 **Compensation for witnesses**

This clause provides for witnesses to be paid such allowances and expenses as are prescribed or, as the Commissioner determines.

Clause 38 **Interpretation of Subdivision**

This clause defines the term *reasonable excuse* for the purposes of this Subdivision.

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

This clause introduces a power for evidence to be obtained by means of a search warrant. In order for the Commissioner to achieve the objective of ascertaining the truth of any particular matter, it may be necessary for persons delegated by the Commissioner to enter premises for the purpose of searching and seizing evidence. Such powers would generally only be exercised if the evidence was not produced in answer to a summons. It may be that the evidence may be destroyed unless prompt action is taken by execution of a warrant. There are appropriate checks and balances in place to ensure that the power is not exercised arbitrarily: the warrant can only be issued by a magistrate if the magistrate is satisfied of certain matters.

Clause 40 **Power to examine under oath**

This clause provides that the Commissioner may administer and examine a person under oath. The giving of sworn evidence on oath is fundamental to the purpose of ascertaining the truth of a matter. The offence of perjury is available to prosecute those who knowingly give false evidence.

Clause 41 **Self-incrimination**

This clause displaces the general privilege against self-incrimination. A witness can be compelled to give evidence, even if it is self-incriminating.

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

This clause provides that a failure to give evidence or produce a document or thing is a contempt of the Commissioner. Punishment for contempt is by the Supreme Court and is dealt with in clauses 44 to 47. Notwithstanding those sanctions, a person cannot frustrate the purposes of a Commissioner's inquiry by refusal to testify or produce evidence. The Commissioner may apply to a magistrate for the issue of a warrant for the arrest and detention of a witness in contempt.

Clause 43 **Other contempts**

This clause lists further acts which constitute a contempt of the Commissioner, such as refusal to take an oath or affirmation, refusal to answer questions, and related matters.

Clause 44 **Show cause procedure**

This clause prescribes a preliminary procedure before the Commissioner can refer a contempt action to the Supreme Court. The Commissioner must give that person an opportunity to be heard as to why the matter should not be referred to the Supreme Court.

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

This clause provides for appeals to the Supreme Court against decisions by the Commissioner to certify a contempt to the court for determination.

Clause 46 **Punishment for contempt**

This clause sets out the procedure for the Supreme Court to hear and determine an allegation of contempt of the Commissioner and related matters.

Clause 47 **Fines for contempt**

This clause provides that Part 4 of the *Monetary Penalties Enforcement Act 2005* applies in relation to the payment of a fine imposed by the Supreme Court for contempt of the Commissioner.

Clause 48 **Representation**

This clause entitles a party to an inquiry to be represented by a legal practitioner or other person. It also provides that the Commissioner may engage a legal practitioner or other person to help to hold an inquiry. It also provides the same protection and immunity for the Commissioner and legal practitioners, in an inquiry, which exist in the Supreme Court for judges and legal practitioners respectively. It provides that a witness who appears before an inquiry has the

same protection and immunity as a witness appearing before the Supreme Court.

Clause 49 Evidentiary provisions

This clause provides that section 183 has the same application to inquiry proceedings as it has to proceedings on the hearing of a charge for an offence against this Act.

Clause 50 Offences

This clause sets out a number of offences against provisions of the Act, and related matters. The offences are intended to protect witnesses' interests from subtle and indirect influence by persons having an interest in preventing the witness from giving evidence to the Commissioner.

Clause 51 Annual report by Commissioner

This clause provides that, within 3 months after the end of each financial year, the Commissioner must provide an annual report on the performance of its functions and the exercise of its powers during the previous financial year. It identifies what must be in the report. It also provides for a copy of the annual report to be laid before each House of Parliament.

Clause 52 Report to Minister on failure by Tasracing to comply with requirements

This clause provides that the Commissioner may advise the Minister of failures by Tasracing, including failures to comply with a recommendation or direction of the Commissioner.

Clause 53 Integrity and Animal Welfare Standards

This clause gives the Commissioner the power to make, amend, and revoke standards for any matter relating or incidental to the conduct of racing, and matters to which the Commissioner is to have regard when making any standards. It also provides that, before making the standards, the Commissioner must consult with the Integrity and Animal Welfare Advisory Committee and Tasracing. It also provides that the standards are not statutory rules or subordinate legislation, and for related matters. It allows a court or person acting judicially to take judicial notice of the standards and admit them as evidence in certain circumstances.

Clause 54 Request by Minister to prepare Standards

This clause empowers the Minister to make a written request to the Commissioner to develop and issue standards for such matters relating to racing as specified in the request, and related matters. If the Commissioner decides not

to comply with a request, then the Commissioner must provide the Minister with written reasons why.

Clause 55 Integrity and Animal Welfare Advisory Committee

This clause establishes an Integrity and Animal Welfare Advisory Committee and specifies the members it comprises. Schedule 2 provides for the terms and conditions of their appointment.

Clause 56 Functions and powers of Advisory Committee

This clause provides the functions and powers of the Integrity and Animal Welfare Advisory Committee, including its function of advising the Commissioner on any matter relating to integrity in racing, the welfare of animals involved in racing, and biosecurity matters relating to racing.

Clause 57 Racing Integrity Committee

This clause establishes a Racing Integrity Committee and specifies the members it comprises. Schedule 3 provides for the terms and conditions of the appointment.

Clause 58 Functions of Racing Integrity Committee

This clause provides the functions and powers of the Racing Integrity Committee, including its function of reviewing applications for licences and registrations in racing and giving advice and making recommendations to Tasracing about specified matters.

Clause 59 General functions and powers of Tasracing

This clause specifies the general functions and establishes the powers of Tasracing.

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

This clause provides the circumstances in which Tasracing can approve an application for a licence or registration in racing and related matters.

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

This clause requires Tasracing to prepare a plan for each financial year in respect of integrity and welfare in racing. The plan must be in respect of each code of racing and include information relating to resourcing and budgets in respect of integrity and welfare in racing. The clause also provides that the Commissioner may endorse a draft plan, give advice and make recommendations in relation to its amendment and request that Tasracing resubmit it for endorsement, or decide not to endorse the draft plan and related matters.

- Clause 62 Rules of Racing**
This clause requires Tasracing to make Rules of Racing for the good management of the codes of racing. It also requires Tasracing to give the Commissioner at least 21 days to provide advice and recommendations in respect of a proposed making, amendment, or revocation of the rules.
- Clause 63 Tasracing may require attendance at inquiry by stewards under Rules of Racing**
This clause provides Tasracing the power to require a person to attend or produce documents at an inquiry by stewards under the Rules of Racing.
- Clause 64 Miscellaneous**
This clause provides that Rules of Racing are not statutory rules or subordinate legislation, and related matters. It also allows a court or person acting judicially to take judicial notice of the rules and admit them as evidence in certain circumstances.
- Clause 65 Directions by Tasracing**
This clause provides that, in exercising a power or performing a function, Tasracing may give directions to certain persons. It also provides that the Commissioner may make a recommendation to Tasracing that a direction be given.
- Clause 66 Tasracing Integrity Unit**
This clause provides that Tasracing is to establish a unit with certain responsibilities for pre-race day and race day management, including stewards and racing officials.
- Clause 67 Appointment of Chief Racing Integrity Officer**
This clause provides for the appointment by Tasracing of a suitably qualified person as the Chief Racing Integrity Officer and related matters.
- Clause 68 Appointment of stewards and other racing officials**
This clause provides for the appointment by Tasracing of stewards and other racing officials and related matters.
- Clause 69 Effect of appointment under this Division**
This clause provides that, for the avoidance of doubt, the *State Service Act 2000* does not apply to a person appointed under this Division.
- Clause 70 Interpretation of Part**
This clause provides definitions for the purpose of this Part.

- Clause 71** **Tasmanian Racing Appeal Board (TRAB)**
- This clause provides for the constitution of the TRAB, and the appointment and terms of office of its members and related matters. Schedule 4 details further provisions in relation to the constitution and membership of the TRAB.
- Clause 72** **Delegation by chairperson**
- This clause enables the chairperson of the TRAB to delegate his or her powers or functions under this or any other Act to the deputy chairperson.
- Clause 73** **Role of deputy chairperson**
- This clause defines the role and specifies the powers and functions of the deputy chairperson of the TRAB.
- Clause 74** **TRAB secretary**
- This clause provides for the appointment of the secretary of the TRAB by the Secretary of the Department administering the Act, currently the Department of Natural Resources and Environment Tasmania.
- Clause 75** **Consultation with racing industry**
- This clause requires the chairperson and deputy chairpersons of the TRAB to consult with specified persons on at least 2 occasions in a year.
- Clause 76** **Persons may appeal to TRAB about certain matters**
- 76(1)** This subclause specifies the decisions of Tasracing, a registered club, or stewards about which a person may appeal to the TRAB.
- 76(2)** This subclause provides that no appeal lies to the TRAB under subsection 76(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”. Such a decision may be made in response to a protest about an incident that occurred during the race.
- 76(3)** This subclause provides that where the TRAB is empowered to hear an appeal against a decision of Tasracing or a registered club, then no appeal lies to Tasracing or that club.
- 76(4)** This subclause provides that where the TRAB is empowered to hear an appeal against a decision of the stewards, then no appeal lies to Tasracing or a registered club
- 76(5)** This subclause provides that where the TRAB is empowered to hear an appeal against a decision, then no appeal lies to the Commissioner.

- 76(6) This subclause provides that this section has effect despite anything to the contrary contained in Rules of Racing or the constitution, rules or articles of a club or Tasracing.
- Clause 77 **Other rights of appeal to TRAB**
This clause specifies the decisions of Tasracing against which an aggrieved person or wagering operator may appeal to the TRAB, and related matters.
- Clause 78 **How and when should persons appeal?**
This clause specifies the manner, and the time within which, an appeal may be lodged with the secretary of the TRAB.
- Clause 79 **Procedure on appeals**
This clause provides for the procedure to be followed on the lodgement of an appeal, including the duties of the secretary to the TRAB upon receipt of an appeal notice. It provides for the chairperson of the TRAB to endeavour to ensure appeals within specified times. It also requires an appellant to pay a prescribed deposit to the secretary of the TRAB before an appeal is heard or consideration is given to suspending the operation of a penalty. It requires that an appeal cannot be withdrawn or abandoned without the leave of the chairperson of the TRAB, and the requirements for an appellant to apply for leave to withdraw or abandon an appeal. It also enables the TRAB to allow an appellant to amend the grounds of appeal at the hearing of that appeal.
- Clause 80 **Constitution of TRAB for appeals &c.**
This clause specifies the constitution of the TRAB for the hearing of appeals, and the manner in which an appeal is to be decided in the event of an equality of votes or where the members do not agree.
- Clause 81 **Hearing of appeals**
- 81(1) This subclause provides that on hearing an appeal, the TRAB may regulate its own proceedings, and is to proceed expeditiously with as little formality and technicality as possible, according to equity, good conscience and the substantial merits of the case, and in accordance with the rules of natural justice. It also provides for the Board to adjourn hearings as it thinks fit.
- 81(2) This subclause provides, subject to clause 82, that the presiding member of the TRAB may decide any question relating to the TRAB's jurisdiction, the admissibility of evidence, and law or procedure.
- 81(3) This subclause provides that an appeal is to be heard and determined upon the evidence at the original hearing when the decision or finding appealed against was made. However, if the presiding member considers it to be proper, expert

or other evidence may be required or admitted, and that evidence may be used to assist the TRAB.

81(4) This subclause enables the TRAB to appoint a legal practitioner or other person to help it conduct an appeal.

81(5) This subclause enables the appellant to request the TRAB to admit any expert or other evidence that the appellant considers necessary to the appeal.

81(6) This subclause introduces a presumption that the TRAB makes a full and thorough investigation in open court. It also provides that the TRAB will make its investigation without regard to the forms, requirements or solemnities of legal proceedings. It also provides a discretion for the TRAB to inform itself and admit evidence and related matters, including to take into account any matters within a member's knowledge or experience which have arisen in, or as a result of, appeal proceedings before the TRAB.

81(7) This subclause provides that, notwithstanding the presumption in subsection 81(6)(a), the TRAB may hear evidence in camera.

81(8) This subclause provides the TRAB a power to conduct hearings in private in certain circumstances provided that prior notice of that course of action is stated in a public hearing.

81(9) This subclause provides for the TRAB to pay such allowances and expenses as are prescribed or, as the TRAB determines, to a person required by the Board to attend an appeal hearing.

Clause 82 Referral of questions of law

This clause sets out a procedure whereby disputed questions of law may be referred to the Supreme Court for a final and binding decision.

Clause 83 Control of proceedings

This clause confers power upon the TRAB the power to control its own proceedings, and to enlist the assistance of police officers for that purpose.

Clause 84 Control of public reporting

This clause confers a power on the TRAB to prohibit or restrict the public reporting of hearings, or publishing of any evidence, if the public interest is outweighed by considerations of public security, privacy of personal or financial affairs, or the right to a fair trial. Prior notice of that prohibition or restriction must be stated in a public hearing.

Clause 85 Suspension of penalties pending appeals

This clause provides the circumstances in which the chairperson of the TRAB may suspend the operation of a penalty pending the hearing and determination of an appeal. It specifies that the chairperson must not suspend the operation of a penalty in certain circumstances.

Clause 86 Representation before TRAB

This clause provides that a party to an appeal may be represented by counsel or any other person.

Clause 87 Interpretation of Division

This clause defines the term *reasonable excuse* for the purposes of this Division.

Clause 88 Rules of evidence

This clause provides that the TRAB is not generally bound by the rules of evidence. This will prevent appeal proceedings becoming overly legalistic.

Clause 89 Notices to witnesses

This clause contains the TRAB's powers to summon witnesses, and order the production of any relevant document or thing. There is an immunity from such summonses if the person is the subject of criminal proceedings in respect of the matter which have not been finalised.

Clause 90 Notices to produce document or statement

This clause contains the TRAB's powers to require the preparation of a document or statement. There is an immunity from such requirements if the person is the subject of criminal proceedings, in respect of the matter to which the document or statement relates, which have not been finalised.

Clause 91 Privilege does not apply in certain circumstances

This clause provides that the TRAB may require the production of a document required under Section 89 or 90 to be produced for the purposes of assessing a claim of privilege.

Clause 92 Power to examine under oath

This clause provides that the TRAB may administer and examine a person under oath. The giving of sworn evidence on oath is fundamental to the purpose of ascertaining the truth of a matter. The offence of perjury is available to prosecute those who knowingly give false evidence.

Clause 93 Failure to give or produce evidence is contempt

This clause provides that a failure to give evidence or produce a document or thing is a contempt of the TRAB. Punishment for contempt is by the Supreme

Court and is dealt with in clauses 97 to 100. Notwithstanding those sanctions, a person cannot frustrate the purposes of the TRAB by refusal to testify or produce evidence. The TRAB may apply to a magistrate for the issue of a warrant for the arrest and detention of a witness in contempt.

Clause 94 Other contempts

This clause lists further acts which constitute a contempt of the TRAB, such as refusal to take an oath or affirmation, refusal to answer questions, and related matters.

Clause 95 Show cause procedure

This clause prescribes a preliminary procedure before the TRAB can refer a contempt action to the Supreme Court. The TRAB must give that person an opportunity to be heard as to why the matter should not be referred to the Supreme Court.

Clause 96 Review of decision to certify contempt

This clause provides for appeals to the Supreme Court against decisions by the TRAB to certify a contempt to the court for determination.

Clause 97 Punishment for contempt

This clause sets out the procedure for the Supreme Court to hear and determine an allegation of contempt of the TRAB and related matters.

Clause 98 Fines for contempt

This clause provides that Part 4 of the *Monetary Penalties Enforcement Act 2005* applies in relation to the payment of a fine imposed by the Supreme Court for contempt of the TRAB.

Clause 99 Determination of appeals

99(1) This subclause provides the TRAB with the power to determine appeals.

99(2) This subclause provides, subject to subsection 99(3), that if the decision that was the object of the appeal is affirmed or varied, the decision is to take effect immediately.

99(3) This subclause provides that if the immediate implementation of the decision referred to in subsection 99(2) would have a detrimental effect in relation to the care and wellbeing of a horse or a greyhound, then 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 a period not exceeding 5 days, as it thinks fit.

- 99(4) This subclause requires the TRAB, after hearing an appeal, or on the withdrawal or abandonment of an appeal, to make an order with regard to the disposal of the prescribed deposit, if any, lodged on appeal.
- 99(5) This subclause outlines the orders that may be made for the purposes of subsection 99(4).
- 99(6) This subclause provides the matters to which the TRAB must have regard if it orders an amount of more than 50 per cent of the prescribed deposit be forfeited to the Secretary of the Department.
- 99(7) This subclause provides that any part of a prescribed deposit not forfeited to the Secretary of the Department is to be refunded to the appellant.
- 99(8) This subclause provides that 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).
- 99(9) This subclause outlines the orders that may be made for the purposes of subsection 99(8).
- 99(10) This subclause provides the matters to which the TRAB must have regard if it orders an amount of more than 50 per cent of the cost referred to in subsection 99(8) is to be paid to the Secretary of the Department.
- 99(11) This subclause allows the TRAB to make a decision under an alternative charge in certain circumstances.
- 99(12) This subclause requires a registered bookmaker to comply with an order of the TRAB to pay a debt in relation to a disputed bet hearing, and it provides a penalty for failure to comply with such order.
- 99(13) It also requires the TRAB to give parties to an appeal notice of its determination in relation to that appeal.
- 99(14) This subclause provides that a determination of the TRAB in relation to an appeal is final and, in the case of an appeal against a decision, is taken to be the decision of the respondent to which the determination relates.

Clause 100 Recommendations of TRAB

This clause provides that the TRAB may provide the Commissioner and Tasracing recommendations in relation to the conduct of investigations and

inquiries by stewards, the role of stewards in the appeals process under this Part, and any other functions of stewards under the Rules of Racing. It also empowers the Commissioner to make recommendations to Tasracing on these and related matters following its consideration of the TRAB's recommendations.

Clause 101 Protection of TRAB members &c.

This clause provides for the protection and immunity of certain persons.

Clause 102 Offences

This clause sets out a number of offences against provisions of the Act, and related matters. The offences are intended to protect witnesses' interests from subtle and indirect influence by persons having an interest in preventing the witness from giving evidence to the TRAB.

Clause 103 What is a race meeting?

This clause defines what constitutes a race meeting.

Clause 104 Who may hold race meetings?

This clause specifies who may hold race meetings, and it provides a penalty for unauthorised persons who conduct race meetings.

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

This clause specifies that race meetings and betting-only meetings may only be held at a *registered racecourse*, as that term is defined.

Clause 106 Race meeting permits

This clause provides that a person may apply to Tasracing for a permit to hold a race meeting for on behalf of an association or other body of persons (other than a registered club). It specifies the requirements for making the application, and it specifies that Tasracing may grant or refuse the application, and related matters. It specifies that a permit is not renewable or transferable, and related matters. It also provides offences for the contravention of a condition of a permit.

Clause 107 Provisions about clubs

This clause specifies that members of the committee of a registered club are jointly and severally liable for exercising a power or complying with an obligation conferred on them under this Act, and related matters, including their defences. It also provides that a member of a committee of a registered club may be charged and convicted of an offence regardless of whether any other members are charged, either jointly or individually, or convicted of the offence.

- Clause 108 Applications for registration or renewal of registration of club**
- This clause empowers Tasracing to register or renew the registration of a club if it is satisfied that the club meets the conditions outlined in this section, and related matters.
- Clause 109 Features of club registration**
- This clause provides for Tasracing to register or reregister a club for a specified period upon such conditions it may determine. It also specifies that such registration is not transferable. The club may surrender its registration at any time, but it has no surrender value.
- Clause 110 Suspension and cancellation, &c., of registration**
- This clause empowers Tasracing to suspend or cancel a club's registration if it is satisfied that the club no longer meets the requirements specified in this section. It also outlines the required process and the effect of such a suspension or cancellation.
- Clause 111 Substitute race meetings on suspension, &c., of registration**
- This clause empowers the Commissioner to authorise Tasracing to hold a race meeting or betting-only meeting in place of a club whose registration is suspended, cancelled, or surrendered. It details the form and effect of such an authorisation and specifies that Tasracing holds the status of a club when conducting such meetings.
- Clause 112 Purchase and improvement of racecourses**
- This clause provides for the purchase and improvement of racecourses by registered clubs.
- Clause 113 Allotment of racing days**
- This clause empowers Tasracing, after consultation with each racing club, to allot the racing days for racing clubs on which a totalizator is to be used, and to specify the racing days on which certain races may be conducted.
- Clause 114 Betting-only meetings**
- This clause empowers Tasracing, after consultation with each racing club that may be affected by the authorisation, to authorise a racing club to hold one or more betting-only meetings in a racing year. It also provides that Tasracing must not authorise a racing club to hold such a 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.
- Clause 115 Emergency conversion of race meetings to betting-only meetings**

This clause empowers Tasracing to authorise a club to convert a race meeting to a betting-only meeting in certain circumstances.

Clause 116 Club returns, &c.

This clause empowers Tasracing to direct a club to provide such information as the it considers necessary or convenient in terms of its powers or functions under the Act.

Clause 117 Accounting records, audit, &c.

This clause specifies the requirements for the keeping of accounting records by a club, the right of access to those records by Tasracing or a member of the club, and reporting and audit requirements.

Clause 118 Winding-up of clubs

This clause empowers Tasracing to wind up a registered club if certain conditions as outlined in this clause apply. It provides that Tasracing may not wind up a company unless the Racing Integrity Committee has considered and approved the winding-up. It also outlines the procedure that must be followed, and other related matters.

Clause 119 Merger of clubs

This clause empowers a registered club to merge with another with the prior written consent of Tasracing. It provides that Tasracing must not give consent unless the Racing Integrity Committee has considered and approved the merger. It also outlines the procedure that must be followed, and other related matters.

Clause 120 Prohibition of proprietary racing

This clause effectively prohibits proprietary racing by specifying the purposes for which the takings, receipts, profits or gains of a registered club are to be applied. It also defines a “registered club” for the purpose of this section.

Clause 121 Appointment, &c., of club officers

This clause requires a registered club to obtain the approval of Tasracing before appointing or dismissing a prescribed officer of a racing club. It gives Tasracing the discretion to approve the appointment or dismissal. It empowers Tasracing to direct a club to dismiss such a person in certain circumstances, and it requires a registered club to comply with such a direction, and related matters. This clause also provides that a club may remunerate its officers and invest them with powers and assign them functions as considered appropriate. It provides that a person holding an appointment as an officer of a registered club is not subject to the *State Service Act 2000*.

Clause 122 Stewards may regulate betting in certain cases

This clause empowers stewards to make orders as to betting by and with bookmakers following the withdrawal of a horse or greyhound after it has been officially drawn in the field for a race.

Clause 123 Effect of disqualification

This clause provides that a person disqualified under the Rules of Racing in one code is deemed disqualified for all codes of racing.

Clause 124 Warning-off notices and exclusion notices

This clause empowers Tasracing and registered clubs to issue and rescind warning-off notices and exclusion notices. For the purposes of Rules of Racing, it distinguishes warning-off notices from exclusion notices; while a warning-off notice may enliven further prohibitions in Rules of Racing, an exclusion notice will not. Further, it outlines procedures relating to the service of notices issued under this section. It also imposes an obligation on a person to comply with a notice issued under this section, and it empowers police and others to act in cases of a failure to comply.

Clause 125 Interpretation – publishing of Tasmanian race field information

This clause explains what it means for a wagering operator to publish Tasmanian race field information for the purposes of this Part.

Clause 126 Publication of Tasmanian race field information restricted

This clause explains the circumstances in which a wagering operator must not publish Tasmanian race field information. It makes a contravention of those requirements an offence.

Clause 127 Determination relating to publication of race field information

This clause provides that Tasracing must make a determination in relation to the publication of race field information that specifies the fee or series of fees payable in respect of a race field information publication approval and related matters, which the Minister must approve. It also provides for the publication of the determination.

Clause 128 Tasracing may grant race field information publication approvals

This clause provides that a wagering operator who wishes to publish Tasmanian race field information must apply to Tasracing, which Tasracing may approve with conditions, and related matters.

Clause 129 Applications for race field information publication approvals

This clause provides that an application for a race field information publication approval must be made in a manner and time determined by Tasracing and accompanied by such information as Tasracing requires. It also provides that, if

Tasracing determines not to grant an approval, or to grant an approval subject to conditions, it must provide the applicant with written reasons why.

Clause 130 Effect of race field information publication approval limited

This clause provides that the granting of an approval does not authorise the holder of the approval to do (or omit to do) anything other than to publish the Tasmanian race field information to which the approval relates in accordance with the terms of the approval.

Clause 131 What is bookmaking?

This clause defines what constitutes bookmaking.

Clause 132 Bookmakers must be registered

This clause provides that bookmakers must be registered. It also provides that a person who is not registered as a bookmaker must not induce another person to believe that they are so-registered. It provides offences in relation to these provisions.

Clause 133 Bookmakers' agents must be registered

This clause requires a person to be a registered bookmaker's agent before engaging in bookmaking for or on behalf of a registered bookmaker who is named as the principal on the agent's certificate of registration.

Clause 134 Applications for registration

This clause specifies the form and content of an application for registration as a bookmaker or a bookmaker's agent. It provides that Tasracing must refer the application for registration as a bookmaker to the Racing Integrity Committee, and that the Committee may make recommendations in relation to it. It states that Tasracing may refer the application for registration as a bookmaker's agent. It empowers Tasracing to grant or refuse an application and the matters it must and may consider. It obliges Tasracing to give notice of its decision and related matters, including reasons for refusal and appeal rights. It enables Tasracing to refund all or part of the application fee. For approved applications, it obliges Tasracing to give notice of approval and issue the required certificate. It also provides for the form of the certificate of registration.

Clause 135 Security for bookmaker registration

This clause requires a person to give a security to Tasracing before he or she is entitled to be registered as a bookmaker. It also specifies the amount and form of such security.

Clause 136 Features of registration

This clause provides for Tasracing to register a bookmaker or bookmaker's agent for a specified period with such conditions as Tasracing may determine. It also specifies that such registration is not transferable. The bookmaker or bookmaker's agent may surrender his or her registration at any time, but it has no surrender value.

Clause 137 What does registration authorise?

This clause specifies what is authorised as a consequence of a person being registered as a bookmaker or bookmaker's agent.

Clause 138 Substitute certificates of registration

This clause empowers Tasracing to issue a substitute certificate of registration in certain circumstances and authorises the holder of such certificate to act on behalf of the incapacitated bookmaker. It also specifies that the substitute is subject to the same liability as a registered bookmaker and that the incapacitated bookmaker remains responsible for the acts of the substitute.

Clause 139 Replacement certificates of registration

This clause empowers Tasracing to issue a replacement certificate of registration to a club, bookmaker or bookmaker's agent and recover reasonable costs.

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

This clause cancels the registration of a bookmaker or bookmaker's agent if convicted of an offence specified in the section. It also empowers Tasracing to suspend the certificate of registration of a bookmaker or bookmaker's agent pending the conclusion of any proceedings that may follow the recording of such conviction.

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

141(1) This subclause empowers Tasracing to suspend or cancel the registration of a bookmaker or bookmaker's agent if satisfied that the bookmaker or agent is guilty of any of the acts specified in this section.

141(2) This subclause empowers Tasracing to suspend or cancel a telephone betting endorsement or off-course function approval or impose a fine where a condition of such endorsement has been contravened.

141(3) This subclause prevents Tasracing from imposing a fine whilst a person remains charged in relation to any of the offences specified in subsections (1) and (2).

141(4) This subclause requires Tasracing to give a person notice of and reasons for a decision, and advise such person of his or her appeal rights in cases where Tasracing decides to suspend or cancel the person's registration or telephone

betting endorsement, disqualify the person from being registered or impose a fine.

141(5) This subclause specifies when a decision of Tasracing under this section takes effect.

141(6) This subclause provides that any fine imposed under this section is a debt payable to Tasracing for and on behalf of the Crown and, if not paid, may be recovered as a debt due to the Crown.

Clause 142 **Effect of suspension of registration**

This clause stipulates that whilst the registration of a bookmaker or bookmaker's agent is suspended, he or she is taken not to be registered for any purpose.

Clause 143 **Return of cancelled certificates**

This clause requires a bookmaker or bookmaker's agent to return his or her certificate of registration to Tasracing within 14 days after being given notice of its cancellation.

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

This clause prohibits a bookmaker or bookmaker's agent from engaging in bookmaking except on a racecourse and on such parts of that racecourse as determined by its controlling club.

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

This clause prohibits a bookmaker or bookmaker's agent from using another person to accept or place a bet that would contravene this Act.

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

This clause prohibits a bookmaker's agent from fielding unless their principal fields on the same day. It also provides a defence to a prosecution under this section.

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

This clause provides a number of restrictions on the power of clubs to control or charge bookmakers or bookmakers' agents.

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

This clause specifies the conditions under which a bookmaker can accept a telephone bet, the minimum amount and liability of such bet. It also prohibits a bookmaker's agent from accepting telephone bets.

Clause 149 **Applications for endorsements**

- 149(1) This subclause permits a registered bookmaker to apply to Tasracing for a telephone betting endorsement.
- 149(2) This subclause specifies the form and content of an application for a telephone betting endorsement.
- 149(3) This subclause provides that Tasracing must refer the application to the Racing Integrity Committee for consideration by it.
- 149(4) This subclause empowers the Racing Integrity Committee to make recommendations in relation to the application.
- 149(5) This subclause empowers Tasracing to approve or refuse the application.
- 149(6) This subclause requires that Tasracing must not approve an application unless it has considered any recommendations made by the Racing Integrity Committee in relation to granting the application.
- 149(7) This subclause provides that Tasracing may only approve an application if the registered bookmaker has been a registered bookmaker for a period of not less than 2 years before the application is made.
- 149(8) This subclause requires that on refusal of an application for a telephone betting endorsement, Tasracing is to notify the applicant of the reasons for refusal and appeal rights. It also enables Tasracing to refund all or part of the application fee.
- 149(9) This subclause requires Tasracing, on approving an application for a telephone betting endorsement, to give the applicant notice of approval and endorse the applicant's certificate.

Clause 150 Particular specifications on off-course telephone betting endorsements

This clause requires Tasracing to specify certain matters in relation to an off-course telephone betting endorsement on the certificate of registration of a registered bookmaker. It prevents Tasracing from specifying more than 10 days on which the registered bookmaker is authorised to engage in off-course telephone betting.

Clause 151 Security for endorsements

This clause requires a person to give a security to Tasracing before he or she is entitled to have a telephone betting endorsement. It also specifies the amount and form of such security.

Clause 152 Conditions of on-course telephone betting endorsements

This clause empowers Tasracing to determine the conditions under which a bookmaker may engage in on-course telephone betting and provides a number

of conditions that Tasracing may consider. In imposing conditions, it requires Tasracing to consider any recommendations made by the Racing Integrity Committee in relation to the endorsement.

Clause 153 Conditions of off-course telephone betting endorsement

This clause specifies the conditions Tasracing may determine under which a bookmaker may engage in off-course telephone betting. In imposing conditions, it requires Tasracing to consider any recommendations made by the Racing Integrity Committee in relation to the endorsement.

Clause 154 Conditions of off-course function betting endorsement

This clause specifies the conditions Tasracing may determine under which a bookmaker may engage in off-course function betting. In imposing conditions, it requires Tasracing to consider any recommendations made by the Racing Integrity Committee in relation to the endorsement.

Clause 155 Off-course function approvals

155(1) This subclause permits a registered bookmaker whose certificate of registration is endorsed with an off-course function betting endorsement to apply to Tasracing for an approval of a function specified in the application.

155(2) This subclause specifies the form and content of an application for an approval in relation to a function.

155(3) This subclause specifies the time in which an application for approval in relation to a function must be made.

155(4) This clause provides the time in which Tasracing must issue or refuse to issue an approval in relation to the function.

155(5) This subclause empowers Tasracing to determine and specify in an off-course function approval the conditions that it thinks fit.

155(6) This subclause specifies what an approval in relation to a function is to specify.

155(7) This subclause provides that Tasracing may not issue to a registered bookmaker more than 3 off-course function approvals in respect of any racing year.

155(8) This subclause specifies that Tasracing is to give a registered bookmaker a copy of an off-course function approval issued to the bookmaker.

155(9) This subclause requires that on refusal of an application for a telephone betting endorsement, Tasracing is to notify the applicant of the reasons for refusal and appeal rights. It also enables Tasracing to refund all or part of the application fee.

- Clause 156** **Cancellation of off-course function approval**
- This clause provides the circumstances in which Tasracing may cancel an off-course function approval issued to a registered bookmaker in relation to a function. It requires that, on cancellation of an approval, Tasracing is to notify the applicant of the reasons for refusal and appeal rights. It specifies when a decision to cancel an approval takes effect.
- Clause 157** **Features of endorsements**
- This clause links the term and validity of a telephone betting endorsement to that of the bookmaker's certificate of registration. It also specifies that such endorsement is not transferable and although the bookmaker may surrender it at any time it has no surrender value.
- Clause 158** **What does an endorsement authorise?**
- 158(1)** This subclause identifies that an on-course telephone betting endorsement, an off-course telephone betting endorsement, or an off-course function betting endorsement, while it is in force, authorises the bookmaker on whose certificate of registration the endorsement is endorsed, to engage in on-course telephone betting, off-course telephone betting, or off-course function betting respectively, subject to any conditions of the endorsement, directions of Tasracing, or provisions of this Act.
- 158(2)** This subclause provides that an on-course telephone betting endorsement endorsed on a registered bookmaker's certificate of registration, while it is in force, authorises a bookmaker's agent, on behalf of the bookmaker, to engage in on-course telephone betting, subject to any conditions of the endorsement, directions of Tasracing, or provisions of this Act.
- Clause 159** **Bookmakers and agents must issue tickets and record bets**
- This clause requires a bookmaker and bookmaker's agent to issue tickets and record accepted bets. It also prohibits them from re-issuing or retaining longer than is necessary betting tickets that have been previously used.
- Clause 160** **Bookmakers must keep betting records**
- This clause requires a bookmaker to keep records of all bets accepted and provides for the form and manner of such records.
- Clause 161** **Bookmakers must keep books of account**
- This clause requires a bookmaker to keep books of account as specified, and it empowers Tasracing to inspect such books or to have them audited. It also prohibits a bookmaker from acting in a manner as specified in relation to a person carrying out an inspection or audit of that bookmaker's business.

- Clause 162 Bookmakers must give certain returns to Tasracing**
This clause empowers Tasracing to obtain periodic and special returns in relation to a bookmaker's bookmaking business.
- Clause 163 Unclaimed winnings and their disposal**
This clause requires a bookmaker to return unclaimed winnings to Tasracing and provides for their disposal by Tasracing during and on the expiration of the period of time specified.
- Clause 164 Payment of commission to Tasracing**
This subclause requires a bookmaker to pay commission on his or her turnover at the specified rates to Tasracing within a specified period of time. It establishes a bookmaker's liability to pay commission on bets omitted from his or her records. It for unpaid commission to be recovered from the bookmaker as a debt due to Tasracing. It also clarifies that this section applies to bets placed with a bookmaker's agent.
- Clause 165 Payment of commission to clubs**
This clause requires Tasracing to pay commission received from a bookmaker, within a specified period of time, to a club with respect to bets placed at that club.
- Clause 166 Set-off for GST**
- 166(1)** This subclause enables a bookmaker on a monthly basis to offset against his or her commission payable the amount of GST paid in respect of all bets accepted by that bookmaker.
- 166(2)** This subclause enables a bookmaker to carry over to a subsequent month in the same financial year GST credits that exceed the amount of commission payable in that month.
- 166(3)** This subclause specifies that the amount of any GST credits given cannot exceed the amount of commission payable for the financial year.
- 166(4)** This subclause requires a bookmaker, within 21 days of the end of the financial year, to give Tasracing a return containing the information as specified in the subsection.
- 166(5)** This subclause provides for the treatment of the difference between GST paid and GST credits given in a financial year for a bookmaker.
- 166(6)** This subclause provides that the provisions of the *Taxation Administration Act 1997* apply to this section.

- 166(7) This subclause clarifies for the purposes of this section that bets accepted by a bookmaker include those accepted by his agents.
- 166(8) This subclause defines GST for the purposes of this section as being the same as that in the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999*.
- Clause 167 **Authorised betting and unauthorised betting, &c.**
- 167(1) This subclause makes it lawful for a person to engage in authorised betting.
- 167(2) This subclause defines what authorised betting is for the purposes of the Act.
- 167(3) This subclause defines, for the purposes of this Act, unauthorised betting as being any betting that is not authorised by virtue of this section.
- Clause 168 **Offences by bettors**
- This clause specifies a number of offences in relation to a person who places a bet (bettor) with a bookmaker or bookmaker's agent. It also clarifies the meaning of intent for the purposes of this section.
- Clause 169 **Betting with and by minors**
- 169(1) This subclause prohibits a bookmaker or a bookmaker's agent accepting or offering to accept a bet from a minor.
- 169(2) This subclause prohibits a person betting on behalf of a minor or allowing or encouraging a minor to bet with a bookmaker.
- 169(3) This subclause provides a defence for a bookmaker, bookmaker's agent or another person if they reasonably believed the person in relation to whom the offence was committed was not a minor.
- 169(4) This subclause prohibits a minor from betting or causing or allowing another person to bet on their behalf with a bookmaker.
- 169(5) This subclause empowers police or stewards to demand all betting tickets in the possession of a person they reasonably believe is a minor who has been betting with a bookmaker.
- 169(6) This subclause requires a person to comply forthwith with a demand pursuant to subsection (5).
- 169(7) This subclause provides that a minor is guilty of an offence if he or she falsely represents himself or herself not to be a minor for the purposes of engaging in

betting activities. It is also an offence for such minor to induce another person to engage in betting activities on the minor's behalf.

Clause 170 Betting with unregistered bookmakers

This clause prohibits a person from betting with an unregistered bookmaker or bookmaker's agent and also provides certain grounds as a defence in any consequent proceedings.

Clause 171 Clubs must not allow unregistered persons to field

This clause prohibits a club from allowing an unregistered bookmaker or bookmaker's agent to engage in bookmaking.

Clause 172 Betting in public places

This clause prohibits a person, either personally or by means of an agent, from betting in a public place except as authorised by this Act. It also provides certain grounds as a defence in any subsequent proceedings

Clause 173 Unlawful betting-places

This clause makes it an offence to operate unlawful betting places, defines what constitutes such places and prohibits certain activities associated with unlawful betting.

Clause 174 False or misleading statements

This clause makes it an offence for a person to make a false or misleading statement in relation to the provision of information for the purposes of this Act.

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

175(1) This subclause prohibits a person from acting in a manner as specified in relation to the Commissioner, a member of the Racing Integrity Committee, or a racing official in the performance of their functions.

175(2) This subclause prohibits the Commissioner, a member of the Racing Integrity Committee, or a racing official from accepting a bribe, or colluding with any person in the performance of their functions.

Clause 176 Authorised persons and police officers have right to enter racecourses

This clause entitles a person authorised by the Commissioner or Tasracing, or a police officer acting in the course of his or her duty, to enter a racecourse free of charge. It also makes it an offence for a person to prevent an authorised person from exercising this right.

- Clause 177** **Power of police and stewards to require personal information**
- This clause empowers a police officer or steward to require a person to state his or her name and address to the police officer or steward in circumstances relating to an offence under this Act. It also makes it an offence for failure to comply with such request or to provide false information and empowers the police officer to arrest without warrant in such circumstances.
- Clause 178** **Power of police to arrest, &c., in public places**
- This clause empowers a police officer to arrest and search a person in connection with unauthorised betting in a public place. It also empowers the police officer to retain evidence of the unauthorised betting that may be used in any subsequent proceedings.
- Clause 179** **Forfeiture and disposal of things, &c., used for unauthorised betting**
- This clause provides for the forfeiture and disposal of any money, document or other thing seized by a police officer in connection with an offence against this Act.
- Clause 180** **Vicarious liability of bookmakers**
- This clause makes a bookmaker liable for any action that would constitute an offence against this Act committed by his or her agent or other person acting for or on behalf of the bookmaker, unless the bookmaker proves that the act was committed without his or her knowledge or consent.
- Clause 181** **Evidentiary provisions**
- 181(1)** In any proceedings for an offence against this Act, proof that a place was kept open or used for the purpose of unauthorised betting is evidence that this occurred with the permission of the occupier of those premises.
- 181(2)** In any proceedings for an offence against this Act, an allegation in a complaint that at a particular time the matters specified applied is evidence of that fact. These averments are capable of being rebutted by other evidence.
- 181(3)** In any proceedings for an offence against this Act, an allegation in a complaint that on a particular day the matters specified applied is evidence of that fact. These averments are capable of being rebutted by other evidence.
- Clause 182** **Unauthorised betting agreements, &c., are void**
- This clause voids all agreements, claims and actions in relation to unauthorised betting.
- Clause 183** **Proceedings**

This clause extends the period under the *Justices Act 1959* for the commencement of proceedings in relation to an offence against this Act from 6 months to 2 years.

Clause 184 Infringement notices

184(1) This subclause defines infringement offence for the purposes of this section.

184(2) This subclause provides for the issue and service of an infringement notice on a person by Tasracing if Tasracing reasonably believes that the person has committed an infringement offence.

184(3) This subclause provides that an infringement notice may not be served on minors and must not relate to more than 3 offences.

184(4) This subclause provides that an infringement notice must be in accordance with the *Monetary Penalties Enforcement Act 2005*.

184(5) This subclause provides that 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.

184(6) This subclause provides that the regulations may prescribe the penalties payable under infringement notices and related matters.

184(7) This subclause provides that the penalty prescribed for an infringement notice must not exceed 20% of the maximum penalty that could be imposed on an individual by a court in respect of the offence.

Clause 185 Immunity from personal liability

185(1) This subclause identifies persons 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.

185(2) This subclause provides that no civil proceedings lie against the specified persons 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 the specified persons for the purposes of the Act.

Clause 186 Application of Corporations Act

This clause provides that 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.

Clause 187

Information and documents

- 187(1) This subclause defines what is a regulatory body for the purposes of this clause.
- 187(2) This subclause provides that the Commissioner may require a person to provide specified information or specified documents it believes are necessary to enable it to perform its functions under this Act.
- 187(3) This subclause provides that Tasracing may require a person to provide specified information or specified documents it believes are necessary to enable it to perform specified functions.
- 187(4) This subclause qualifies the circumstances in which a regulatory body may exercise a power under this section.
- 187(5) This subclause provides that a requirement under this section must in writing and served on the relevant person.
- 187(6) This subclause provides that a person must not, without reasonable excuse, fail to comply with a requirement under subsection (2) or (3).
- 187(7) This subclause provides that a regulatory body may take and retain possession, or take copies, of any document produced under this section.
- 187(8) This subclause provides that a person complying with a requirement under this section cannot, by virtue of their compliance, be held to have breached any code of professional etiquette or ethics, or be taken to have departed from acceptable standards of professional conduct, or be taken to have contravened any confidentiality requirements of any Act.

Clause 188

Certain notices to be confidential documents

- 188(1) This subclause defines what is a confidential document for the purposes of this section.
- 188(2) This subclause provides that a person to whom a confidential document is given under this Act must not, without reasonable excuse, disclose the existence of that document, the contents of that document, or any matters relating to or arising from the document.
- 188(3) This subclause provides that a person to whom the existence of a confidential document was disclosed must not, without reasonable excuse, disclose the existence of that document, the contents of that document, or any matters relating to or arising from the document, to another person.

- 188(4) This subclause identifies the matters relating to or arising from a confidential document for the purposes of subsections (2) and (3).
- 188(5) This subclause identifies what is a reasonable excuse for a person to disclose the existence of a confidential document.
- 188(6) This subclause provides that the Commissioner may advise a person to whom a confidential document is given under this Act that the document is no longer confidential.
- 188(7) This subclause provides that, 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.
- Clause 189 **Service of notices**
This clause defines what constitutes the service of a notice for the purposes of this Act.
- Clause 190 **Information sharing**
This clause provides that a personal information custodian within the meaning of the *Personal Information Protection Act 2004*, acting in good faith, does not breach that Act by reason only of collecting, using, disclosing, or otherwise dealing with personal information for the purposes of this Act.
- Clause 191 **Exemption from *Right to Information Act 2009***
This clause provides that the *Right to Information Act 2009* does not apply to information, as defined in that Act, in the possession of the Commissioner, or an officer of the Commissioner or a person assisting the Commissioner, if it relates to an inquiry, investigation, recommendation or direction made under this or any other Act.
- Clause 192 **Regulations**
This clause empowers the Governor to make regulations for the purposes of this Act and provides a number of matters for which regulations may be made.
- Clause 193 **Further amendment of regulations not prevented**
This clause provides that if an Act amending this Act also amends a provision of any regulations made under this Act, the amendment does not prevent that provision or any other provision of the regulations from being amended or rescinded by a subsequent regulation.
- Clause 194 **Savings and transitional provisions**

This clause provides that the savings and transitional provisions specified in Schedule 5 have effect.

Clause 195 Administration of Act

This clause provides for the administration of the Act by the Minister for Racing and the Department of Natural Resources and Environment Tasmania.

Clause 196 Legislation repealed

This clause provides that the legislation specified in Schedule 6 is repealed.

Clause 197 Legislation rescinded

This clause provides that the legislation specified in Schedule 7 is rescinded.

SCHEDULE 1 – TERMS OF APPOINTMENT OF COMMISSIONER

Clause 1 Duration of appointment

This clause provides for the term of appointment and the reappointment of the Commissioner.

Clause 2 Terms of appointment

This clause provides that the Commissioner holds office on such conditions as are specified in the Commissioner's instrument of appointment and related matters.

Clause 3 Remuneration

This clause provides for remuneration and allowances for the Commissioner.

Clause 4 Vacation of office

This clause provides the circumstances in which the Commissioner vacates office or may be removed from office and related matters.

Clause 5 Defect does not invalidate appointment

This clause provides that the appointment of a person as Commissioner is not invalid because of a defect or irregularity in relation to that appointment.

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

PART 1 - PRELIMINARY

Clause 1 Interpretation

This clause provides definitions for the purpose of Schedule 2.

PART 2 – MEMBERS

- Clause 1** **Holding other office**
- This clause provides that a member of the Advisory Committee may hold another office and provides for related matters.
- Clause 2** **State servants may be members**
- This clause provides that State servants may be members of the Advisory Committee.
- Clause 3** **Remuneration and allowances**
- This clause provides for remuneration and allowances of the Advisory Committee's members.
- Clause 4** **Change of name &c.**
- This clause provides for changes of names to the bodies from which the members of the Advisory Committee come.
- Clause 5** **Vacation of office**
- This clause provides the circumstances in which a member of the Advisory Committee vacates office or may be removed from office and related matters.

PART 3 – MEETINGS

- Clause 1** **Procedure at meetings of Advisory Committee**
- This clause provides for the quorum of the Advisory Committee and related matters.
- Clause 2** **Chairperson**
- This clause provides a contingency for the absence of the chairperson of the Advisory Committee from its meetings.
- Clause 3** **Minutes**
- This clause provides for the keeping and distribution of minutes by the Advisory Committee.
- Clause 4** **Conduct of meetings**
- This clause provides that the Advisory Committee may regulate its own meetings.
- Clause 5** **Expert advice**
- This clause provides that, subject to this Act, the Advisory Committee may advise itself on any relevant matter in any way it thinks fit, and that it may 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

PART 1 – PRELIMINARY

Clause 1 Interpretation

This clause provides definitions for the purpose of Schedule 3.

PART 2 - MEMBERSHIP

Clause 1 Term of office

This clause provides for the terms of office of members of the Racing Integrity Committee.

Clause 2 Remuneration and allowances

This clause provides for remuneration and allowances of the Racing Integrity Committee members.

Clause 3 Vacation of office

This clause provides the circumstances in which a member of the Racing Integrity Committee vacates office or may be removed from office.

PART 3 – MEETINGS

Clause 1 Procedure at meetings of Racing Integrity Committee

This clause provides for the quorum of the Racing Integrity Committee and related matters.

Clause 2 Minutes

This clause imposes obligations related to the keeping and distribution of minutes by the Racing Integrity Committee.

Clause 3 Conduct of meetings

This clause provides that the Racing Integrity Committee may regulate its own meetings.

Clause 4 Expert advice

This clause provides that, subject to this Act, the Racing Integrity Committee may advise itself on any relevant matter in any way it thinks fit, and that it may

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

Clause 1 Interpretation

This clause provides definitions for the purpose of Schedule 4.

Clause 2 Holding other office

This clause provides that a member of the TRAB may hold another office and provides for related matters.

Clause 3 State servants may be members

This clause provides that State Servants may be members of the TRAB.

Clause 4 Remuneration of members and conditions of appointment

This clause makes provision for terms and conditions, including remuneration, of members of the TRAB and related matters.

Clause 5 Vacation of office

This clause provides the circumstances in which a member of the TRAB vacates or may be removed from office.

Clause 6 Disclosure of interest

This clause provides for the disclosure of interests by members of the TRAB and related matters.

Clause 7 Filling of vacancies

This clause provides for the filling of vacant memberships of the TRAB.

Clause 8 Validity of proceedings

This clause provides for the validity of acts and proceedings of the TRAB and related matters.

Clause 9 Presumptions

This clause provides evidentiary presumptions to apply in TRAB proceedings.

SCHEDULE 5 – SAVINGS AND TRANSITIONAL

PART I – PRELIMINARY

Clause 1 Interpretation

This clause provides definitions for the purpose of Schedule 5.

PART 2 – OFFICES AND BODIES

- Clause 1 Appointment of initial Chief Racing Integrity Officer**
This clause provides a mechanism for the appointment of the first Chief Racing Integrity Officer if certain circumstances exist.
- Clause 2 Tasmanian Racing Appeal Board (TRAB)**
This clause provides for the continuation of appointments to the TRAB.
- Clause 3 Transfer of stipendiary stewards and betting supervisors**
This clause provides for the transfer of stipendiary stewards and betting supervisors to Tasracing and related matters.
- Clause 4 Transfer of State Service employees**
This clause provides for the transfer of State Service employees to Tasracing and related matters.
- Clause 5 Certain service taken to be continuous employment**
This clause provides that 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, in certain circumstances.

PART 3 – RULES OF RACING

- Clause 1 Rules of Racing**
This clause provides for the continuation of the Rules of Racing in force under the former Act and related matters, including the continuation of registrations and licences under the Rules of Racing.
- Clause 2 Continuation of determinations &c., under certain Rules of Racing**
This clause provides for the continuation or discontinuation of determinations and authorisations under the Rules of Racing and related matters.

PART 4 – REGISTRATION, PERMITS AND AUTHORISATIONS UNDER FORMER ACT

- Clause 1 Club registration &c.**
This clause provides for the continuation of club registrations and winding-up notices under the former Act and related matters.
- Clause 2 Bookmaker registration and telephone betting endorsements**
This clause provides for the continuation of bookmaker registrations and telephone betting endorsements under the former Act and related matters.

- Clause 3 Applications for telephone betting endorsements**
This clause provides for the continuation of applications for telephone betting endorsements made under the former Act and related matters.
- Clause 4 Race meeting permits**
This clause provides for the continuation of race meeting permits issued under the former Act.
- Clause 5 Substitute race meeting authorisation**
This clause provides for the continuation of substitute race meeting authorisations issued under the former Act.
- Clause 6 Authorisations by Director of Racing**
This clause provides for the continuation and discontinuation of authorisations by the Director of Racing under the former Act.
- Clause 7 Authorisations by Tasracing**
This clause provides for the continuation and discontinuation of authorisations by Tasracing, and applications to Tasracing for authorisations, under the former Act.

PART 5 – MISCELLANEOUS

- Clause 1 TRAB appeals**
This clause provides for the continuation of TRAB appeals.
- Clause 2 Warning-off notices &c.**
This clause provides for the continuation of notices issued under the former Act.
- Clause 3 Inquiries**
This clause provides when an inquiry being held by the Director of Racing under the former Act may be continued or discontinued.
- Clause 4 Determinations by Director of Racing**
This clause outlines when and how determinations of the Director of Racing which were in force under the former Act will continue.
- Clause 5 Sports Betting Rules**
This clause discontinues any Sports Betting Rules, and any determinations made under them, which were in force before the commencement of Schedule 5.

- Clause 6** **Determinations by Tasracing**
- This clause outlines when determinations by Tasracing which were in force under the former Act will not continue.
- Clause 7** **References to Tasmanian Principal Clubs Board**
- This clause provides for the interpretation of references to the Tasmanian Principal Clubs Board.
- Clause 8** **Fines and other moneys payable**
- This clause provides that fines and certain money payable to, due to or recoverable by the Director of Racing under the former Act are payable to, due to or recoverable by Tasracing for and on behalf of the Crown.
- Clause 9** **Securities**
- This clause provides that certain bonds of indemnity or other forms of security given to the Director of Racing under the former Act are taken to be bonds of indemnity or other forms of security given to Tasracing.
- Clause 10** **Records**
- This clause provides for the continuation of records or other documents required to be kept or made under the former Act.
- Clause 11** **Authorisations to enter racecourses**
- This clause continues authorisations of the Director of Racing under the former Act as though they were authorisations by Tasracing.
- Clause 12** **Savings and transitional regulations**
- This clause provides that the Governor may make regulations of a savings and transitional nature.

SCHEDULE 6 – LEGISLATION REPEALED

This Schedule identifies the legislation that is repealed by this Act.

SCHEDULE 7 – LEGISLATION RESCINDED

This Schedule identifies the legislation that is rescinded by this Act.