

TASMANIA

RACING REGULATION AMENDMENT (GOVERNANCE REFORM) BILL 2008

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**RACING REGULATION AMENDMENT
(GOVERNANCE REFORM) BILL 2008**

*(Brought in by the Minister for Racing, the Honourable
Michael Anthony Aird)*

A BILL FOR

An Act to amend the *Racing Regulation Act 2004*

Be it enacted by His 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:

1. Short title

*This Act may be cited as the *Racing Regulation Amendment (Governance Reform) Act 2008*.*

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

In this Act, the *Racing Regulation Act 2004** is referred to as the Principal Act.

*No. 62 of 2004

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “TRAB” from the definition of “appeal” and substituting “IAB or the TRAB, as the context indicates or requires”;
- (b) by omitting “TOTE Tasmania” from the definition of “betting-only meeting” and substituting “the TRB”;
- (c) by inserting the following definition after the definition of “betting ticket”:

“bookmaker” means a person who is engaging in bookmaking, whether as a registered bookmaker or registered bookmaker’s agent;

- (d) by omitting the definition of “chairperson” and substituting the following definitions:

“chairperson” means the chairperson of the IAB, TRB or TRAB, as the context indicates or requires;

“close associate” – see section 3A;

- (e) by omitting the definitions of “Council” and “deputy chairperson” and substituting the following definition:

“deputy chairperson” means the deputy chairperson of the IAB,

TRB or TRAB, as the context indicates or requires;

- (f) by inserting the following definition after the definition of “functions”:

“greyhound” means a greyhound dog bred for the purposes of racing;

- (g) by inserting the following definitions after the definition of “greyhound race”:

“horse” means a thoroughbred horse or a standardbred horse bred for the purposes of racing;

“IAB” means the Integrity Assurance Board established under section 21;

- (h) by inserting the following definition after the definition of “minor”:

“minor appeal” means an appeal only against the imposition of either, or both, of the following:

- (a) a fine not exceeding \$500 or, if another amount is prescribed, the prescribed amount;

- (b) a suspension for a period not exceeding 30 days;

- (i) by inserting the following definition after the definition of “notice”:

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“panel” means the person or body appointed under section 19(3);

- (j) by inserting the following definitions after the definition of “racing”:

“racing club” means a club that is registered under section 40;

“racing industry association” means a body prescribed in the regulations;

- (k) by inserting the following definition after the definition of “racing official”:

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

- (l) by omitting the definition of “regulatory panel”;

- (m) by inserting “IAB or” after “to the” in the definition of “respondent”;

- (n) by omitting the definition of “secretary” and substituting the following definition:

“secretary” means the secretary to the IAB or TRAB, as the context indicates or requires;

- (o) by inserting the following definition after the definition of “TRAB”:

“TRB” means the Tasmanian Racing Board established under section 10;

- (p) by omitting “section 86.” from the definition of “unauthorised betting” and substituting “section 86;”;
- (q) by inserting the following definition after the definition of “unauthorised betting”:

“wager” has the same meaning as in the *Gaming Control Act 1993*.

5. Section 3A inserted

After section 3 of the Principal Act, the following section is inserted in Part 1:

3A. Close associate

- (1) A person is a close associate of another person (the **“other person”**) if the firstmentioned person is –
 - (a) a proprietary company in which the other person is a shareholder; or
 - (b) a public company in which the other person is directly or indirectly a substantial shareholder; or
 - (c) a beneficiary under a trust or an object of a discretionary trust of

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which the other person is a trustee; or

- (d) a business or commercial partner of the other person; or
- (e) the employer or an employee of the other person; or
- (f) a person from whom the other person has received, or might reasonably be expected to receive, a fee, commission or other reward for providing professional or other services; or
- (g) the spouse or partner of the other person or of the other person's son or daughter; or
- (h) the son, daughter, brother, sister, mother or father of the other person or their spouse or partner.

- (2) For the purposes of subsection (1)(g) and (h) –

“**partner**” means the person with whom a person is in a personal relationship, within the meaning of the *Relationships Act 2003*.

6. Section 6 amended (Functions of Director)

Section 6 of the Principal Act is amended as follows:

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- (a) by inserting in subsection (1)(c) “integrity” after “racing”;
 - (b) by inserting in subsection (1)(d) “integrity” after “on racing”;
 - (c) by inserting in subsection (1)(e) “integrity” after “racing”;
 - (d) by inserting in subsection (1)(f) “integrity” after “racing”;
 - (e) by omitting paragraph (g) from subsection (1);
 - (f) by omitting from subsection (1)(h) “regulatory panels and the”;
 - (g) by omitting from subsection (2)(c) “Tasmanian Thoroughbred Racing Council” and substituting “TRB”;
 - (h) by omitting from subsection (2)(d) “stewards.” and substituting “stewards; and”;
 - (i) by inserting the following paragraphs after paragraph (d) in subsection (2):
 - (e) approving registrations under the *Rules of Racing*; and
 - (f) granting licences under the *Rules of Racing*.

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7. Section 7 amended (Powers of Director)

Section 7(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “Councils and”;
- (b) by omitting from paragraph (f) “Council,”;
- (c) by inserting the following paragraphs after paragraph (f):
 - (fa) determine, after consulting with the TRB, 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*; and
 - (fb) determine, after consulting with the TRB, the nature and level of swabbing of racing animals and participants to be undertaken; and
 - (fc) determine, after consulting with the TRB, licence and registration fees pursuant to the *Rules of Racing*; and

(d) by omitting subparagraph (i) from paragraph (g) and substituting the following subparagraph:

(i) payments forfeited under sections 22J and 34;

8. Parts 3 and 4 substituted

Parts 3 and 4 of the Principal Act are repealed and the following Parts are substituted:

PART 3 – TASMANIAN RACING BOARD

Division 1 – General provisions

10. Tasmanian Racing Board

(1) The Tasmanian Racing Board is established.

(2) The TRB –

(a) is a body corporate with perpetual succession; and

(b) may sue and be sued in its corporate name; and

(c) may acquire, hold, dispose of and otherwise deal with property; and

(d) may have a common seal.

(3) If the TRB has a common seal –

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- (a) it is to be kept and used as authorised by the TRB; and
 - (b) all courts and persons acting judicially must take judicial notice of the imprint of that seal on a document and presume that it was duly sealed by the TRB.
- (4) Schedule 1 has effect in relation to the meetings of the TRB.

11. General functions and powers of TRB

- (1) The TRB 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
- (j) developing and maintaining racing and training venues under its control; and
- (k) making (by drawing up its own local rules and by adopting Australian Rules of Racing) the *Rules of Racing*, having regard to the recommendations of the Director; and
- (l) setting licence and registration standards and criteria, having regard to the recommendations of the Director; and
- (m) monitoring, coordinating and setting standards, in consultation with the Director, for the training of people employed or otherwise engaged in the racing industry other than –
 - (i) persons appointed under section 51; or

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- (ii) persons employed in that industry appointed under the *State Service Act 2000*; and
- (n) representing the Tasmanian racing industry on national and international controlling bodies and in national and international forums; and
- (o) publishing industry journals; and
- (p) approving the operating budgets of racing clubs; and
- (q) assisting racing clubs with the promotion and marketing of major race meetings and race carnivals; and
- (r) developing a code of conduct to be complied with by the TRB and its employees; and
- (s) controlling race nominations, acceptances, field selections, handicapping, barrier draws and scratchings in thoroughbred racing; and
- (t) negotiating with broadcast providers scheduling and revenue-sharing arrangements for the broadcast of Tasmanian racing, both nationally and internationally; and

- (u) such other functions as may be conferred or imposed on it by or under this or any other Act.
- (2) The TRB is to prepare a 5-year corporate plan in respect of its operations.
- (3) The TRB is to provide the Minister with its 5-year corporate plan not later than 31 August in each year.
- (4) The TRB, subject to the Treasurer's approval, may –
 - (a) make grants or loans at such interest and on such terms as it may determine, for or in relation to the administration, maintenance or improvement of horse racing or greyhound racing in Tasmania and may take mortgages or such other securities as it considers adequate to secure such a loan; and
 - (b) undertake and contract for capital improvement to, or maintenance of, a racecourse; and
 - (c) purchase, lease, maintain, develop and otherwise deal with properties and facilities for the conduct of race meetings or for the training of horses and greyhounds and charge fees for the use of those properties or facilities.

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- (5) A grant or loan under subsection (4)(a) or an undertaking under subsection (4)(b) may be made unconditionally or subject to such conditions as the TRB may impose and, without limiting the generality of this subsection, the conditions, in the case of a grant or a loan to a club, may relate to the administration of the club, capital improvements to and maintenance of racecourses, the payment of stake money and the provision of facilities for the training of horses and greyhounds.
- (6) The Treasurer is not to give his or her approval under subsection (4) without consulting the Minister.
- (7) Subject to subsection (8), the TRB has power to do such things as are necessary or convenient for or in connection with the performance of its functions.
- (8) The TRB may not, without the prior approval of the Treasurer –
 - (a) form, or participate in the formation of, a company; or
 - (b) participate in a trust; or
 - (c) open any deposit-taking institution accounts; or
 - (d) borrow, or otherwise obtain financial accommodation, for the

purpose of performing its functions; or

- (e) participate in any or all of the following arrangements for the purpose of the sharing of profits:
 - (i) a joint venture;
 - (ii) a partnership;
 - (iii) any other arrangement.
- (9) Except where approved by the Treasurer, the TRB must not borrow or otherwise obtain financial accommodation from any person other than the Tasmanian Public Insurance Corporation.
- (10) The Treasurer is not to give his or her approval under subsection (8) without consulting the Minister.
- (11) The TRB must perform its functions and exercise its powers in accordance with –
 - (a) sound commercial practice; and
 - (b) the *Rules of Racing*.
- (12) In the performance of its functions and exercise of its powers under this Act, the TRB or a representative of the TRB is to meet with the Director, racing clubs and racing industry associations at least once every 3 months and report to the Director, racing clubs and racing industry

associations the outcomes of those meetings.

12. Failure of member of TRB to comply with code of conduct

- (1) If a member of the TRB fails to comply with the code of conduct referred to in section 11(1)(r), the TRB is to notify the Minister.
- (2) On receipt of a notification under subsection (1), the Minister may recommend to the Governor that the member be removed from office.

13. Delegation by TRB

The TRB may delegate any of its functions or powers, other than this power of delegation.

14. TRB returns, &c.

- (1) The TRB must give the Minister –
 - (a) an annual report on its activities for each financial year; and
 - (b) such other reports on matters concerning racing as the Minister, by notice, requires.

- (2) The TRB is to provide copies of the report referred to in subsection (1)(a) to the racing clubs and racing industry associations within 14 days after giving the annual report to the Minister.
- (3) The TRB must –
 - (a) comply with subsection (1)(a) for a financial year before 31 October following the end of that financial year; and
 - (b) comply with a requirement under subsection (1)(b) within such reasonable time as the Minister, by the notice, allows.
- (4) The TRB must keep proper accounts and records of its financial affairs.
- (5) The TRB is to prepare and forward to the Auditor-General a copy of its financial statements for each financial year in accordance with the *Audit Act 2008*.

15. Treasurer's Instructions

Treasurer's Instructions issued under the *Financial Management and Audit Act 1990* apply to the TRB as if it were an Agency within the meaning of that Act.

16. Chief Executive Officer and employees of TRB

- (1) The TRB may employ persons to enable it to perform its functions and exercise its powers under this Act.
- (2) The TRB is to appoint a person to be its Chief Executive Officer.
- (3) The Chief Executive Officer of the TRB holds office on the terms and conditions specified in his or her contract of employment.
- (4) A person holding office as Chief Executive Officer of the TRB and any other employees of the TRB are not subject to the *State Service Act 2000*.
- (5) Schedule 2 has effect with respect to superannuation relating to employees of the TRB.

Division 2 – TRB membership

17. Initial TRB

- (1) The initial TRB consists of 7 persons appointed by the Governor on the recommendation of the Minister.
- (2) The Governor is to appoint a person as the chairperson of the initial TRB for a period not exceeding 3 years.

- (3) The Governor is to appoint the other members of the initial TRB for a period not exceeding 12 months.
- (4) The members of the initial TRB are to appoint a member as deputy chairperson.

18. Abolition of initial TRB

- (1) The Governor may, by order, abolish the initial TRB on the date specified in the order.
- (2) On the date specified in the order referred to in subsection (1), the provisions of section 19 take effect.

19. Membership of TRB

- (1) Following the abolition of the initial TRB, the TRB consists of 7 persons, appointed by the Governor, of whom –
 - (a) one is appointed to be the chairperson; and
 - (b) one is appointed from the names of candidates submitted to the panel under subsection (5)(a); and
 - (c) one is appointed from the names of candidates submitted to the panel under subsection (6)(a); and

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- (d) one is appointed from the names of candidates submitted to the panel under subsection (7)(a); and
- (e) three are appointed from the names of candidates submitted to the panel under subsection (5)(b), (6)(b) and (7)(b) and from the advertisement referred to in subsection (10) to provide expertise in one or more of the following areas:
 - (i) marketing;
 - (ii) finance;
 - (iii) law;
 - (iv) commerce;
 - (v) business management;
 - (vi) risk management;
 - (vii) information technology;
 - (viii) media relations and communications;
 - (ix) racing industry administration;
 - (x) any other area prescribed in the regulations.

- (2) The first chairperson of the TRB is to be the chairperson of the initial TRB appointed under section 17(2).
- (3) Before any person is appointed as a member of the TRB under paragraph (b), (c), (d) or (e) of subsection (1), the Minister is to appoint a person or body (the “panel”) to recommend the names of persons it considers suitable for appointment to the TRB under each of those paragraphs.
- (4) The panel as appointed with respect to the appointment of a person to be a member of the TRB –
 - (a) referred to in subsection (1)(b), is to include a person with knowledge and expertise in thoroughbred racing; and
 - (b) referred to in subsection (1)(c), is to include a person with knowledge and expertise in harness racing; and
 - (c) referred to in subsection (1)(d), is to include a person with knowledge and expertise in greyhound racing.
- (5) Persons are eligible to –
 - (a) submit to the panel the names of candidates, not exceeding 3, with knowledge and expertise relating

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to the thoroughbred code of racing who the persons consider suitable for appointment to the TRB; or

- (b) submit to the panel the names of candidates, not exceeding 3, with expertise in any of the areas specified in subsection (1)(e) who the persons consider suitable for appointment to the TRB –

if the persons are –

- (c) members of a thoroughbred racing club; or
- (d) members of a thoroughbred racing industry association; or
- (e) licensed under the *Rules of Racing* for the thoroughbred code of racing; or
- (f) owners or breeders of thoroughbred horses.

(6) Persons are eligible to –

- (a) submit to the panel the names of candidates, not exceeding 3, with knowledge and expertise relating to the harness code of racing who the persons consider suitable for appointment to the TRB; or

- (b) submit to the panel the names of candidates, not exceeding 3, with expertise in any of the areas specified in subsection (1)(e) who the persons consider suitable for appointment to the TRB –

if the persons are –

- (c) members of a harness racing club; or
- (d) members of a harness racing industry association; or
- (e) licensed under the *Rules of Racing* for the harness code of racing; or
- (f) owners or breeders of standardbred horses.

(7) Persons are eligible to –

- (a) submit to the panel the names of candidates, not exceeding 3, with knowledge and expertise relating to the greyhound code of racing who the persons consider suitable for appointment to the TRB; or
- (b) submit to the panel the names of candidates, not exceeding 3, with expertise in any of the areas specified in subsection (1)(e) who the persons consider suitable for appointment to the TRB –

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if the persons are –

- (c) members of a greyhound racing club; or
 - (d) members of a greyhound racing industry association; or
 - (e) registered under the *Rules of Racing* for the greyhound code of racing; or
 - (f) owners or breeders of greyhounds.
- (8) If a person submits a name to the panel under subsection (5), (6) or (7), the person is to advise the panel whether the name is submitted under paragraph (a) or (b) of those subsections.
- (9) The panel is to recommend, in writing, to the Minister –
- (a) from the names of candidates submitted to it under subsection (5)(a), a person who it considers suitable for appointment as a member of the TRB; and
 - (b) from the names of candidates submitted to it under subsection (6)(a), a person who it considers suitable for appointment as a member of the TRB; and

- (c) from the names of candidates submitted to it under subsection (7)(a), a person who it considers suitable for appointment as a member of the TRB.
- (10) The panel is to place in the 3 daily newspapers published and circulating in the State an advertisement calling for expressions of interest from potential candidates for appointment to the TRB to provide expertise in the areas specified in subsection (1)(e).
- (11) The panel is to recommend, in writing, to the Minister, from the names of candidates submitted to it under subsections (5)(b), (6)(b) and (7)(b) and from the names of candidates received by it pursuant to an advertisement referred to in subsection (10), three persons who it considers suitable for appointment as members of the TRB.
- (12) The Minister is to recommend to the Governor –
 - (a) the names of the persons referred to in subsections (9) and (11); and
 - (b) the name of a person to be chairperson –

for appointment to the TRB.

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- (13) The members of the TRB are to appoint a member as deputy chairperson.
- (14) A member of the TRB holds office for such term, not exceeding 3 years, as is specified in the member's instrument of appointment and, if eligible, may be nominated and appointed for further terms.
- (15) Schedule 3 has effect in relation to the membership of the TRB.

20. Vacancies in offices of members of TRB

- (1) If a vacancy arises in the office of a member of the TRB less than 6 months before the expiration of the term for which the member was appointed, the Minister may appoint a person to the vacant office for the remainder of the member's term of office.
- (2) If a vacancy arises in the office of a member of the TRB 6 months or more before the expiration of the term of office of the member and the member is –
 - (a) a member referred to in section 19(1)(a), the Minister is to recommend to the Governor the name of a person who the Minister considers suitable to fill the vacancy; or

- (b) a member referred to in section 19(1)(b), the eligible persons referred to in section 19(5) are to submit to the panel the names of candidates, not exceeding 3, with knowledge and expertise relating to the thoroughbred code of racing who the eligible persons consider suitable to fill the vacancy; or
- (c) a member referred to in section 19(1)(c), the eligible persons referred to in section 19(6) are to submit to the panel the names of candidates, not exceeding 3, with knowledge and expertise relating to the harness code of racing who the eligible persons consider suitable to fill the vacancy; or
- (d) a member referred to in section 19(1)(d), the eligible persons referred to in section 19(7) are to submit to the panel the names of candidates, not exceeding 3, with knowledge and expertise relating to the greyhound code of racing who the eligible persons consider suitable to fill the vacancy; or
- (e) a member referred to in section 19(1)(e), the eligible persons referred to in

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section 19(5), (6) and (7) are to submit to the panel the names of candidates, not exceeding 3, with expertise in the areas specified in section 19(1)(e) who the eligible persons consider suitable to fill the vacancy.

- (3) In relation to the vacancy in the office of a member of the TRB referred to in section 19(1)(e), the panel is to place in the 3 daily newspapers published and circulating in the State, an advertisement calling for expressions of interest from potential candidates to fill the vacancy.
- (4) The panel is to recommend, in writing, to the Minister –
 - (a) from the names of candidates submitted to it under subsection (2)(b), a person who it considers suitable to fill the vacancy; or
 - (b) from the names of candidates submitted to it under subsection (2)(c), a person who it considers suitable to fill the vacancy; or
 - (c) from the names of candidates submitted to it under subsection (2)(d), a person who it considers suitable to fill the vacancy; or

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- (d) from the names of candidates submitted to it under subsection (2)(e) and from the names of persons received by it pursuant to an advertisement referred to in subsection (3), a person who it considers suitable to fill the vacancy.
- (5) On receipt of a recommendation referred to in subsection (4), the Minister is to recommend to the Governor the appointment of the person to fill the vacancy.

PART 4 – INTEGRITY ASSURANCE BOARD

Division 1 – Integrity Assurance Board

21. Integrity Assurance Board

The Integrity Assurance Board is established.

22. Membership of IAB

- (1) The IAB consists of 5 members.
- (2) At least 2 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 member is to be appointed as deputy chairperson.
- (3) The members of the IAB are appointed by the Governor.
- (4) A member of the IAB is to be appointed for a term not exceeding 3 years and, if eligible, may be reappointed for further terms.
- (5) Schedule 3A has effect in relation to the membership of the IAB.
- (6) A person is not eligible to be a member of the IAB if the person or a close associate of that 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 or employee of TOTE Tasmania; or
 - (e) a member or employee of the TRB; or
 - (f) the chairperson of the TRAB or the deputy chairperson of the TRAB; or
 - (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.
- (7) A member of the IAB must not wager on a Tasmanian race meeting or with a Tasmanian registered bookmaker.

22A. Delegation by chairperson

The chairperson may delegate any of the chairperson's functions or powers under

this or any other Act, other than this power of delegation, to the deputy chairperson.

22B. Role of deputy chairperson

The deputy chairperson assists the chairperson and acts as the chairperson while the chairperson is absent or during any vacancy in that office and, while so acting, may perform the functions and exercise the powers of the chairperson as fully and effectively as the chairperson.

22C. IAB 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 IAB and that officer or employee may hold that office in conjunction with State Service employment.

Division 2 – Appeals

22D. Persons may appeal to IAB against decisions of Director

A person may appeal to the IAB if the person is aggrieved by a decision of the Director 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) refuse to register the person as a bookmaker or bookmaker's agent; or
- (c) cancel or suspend the person's registration as a bookmaker or bookmaker's agent; or
- (d) refuse to endorse the person's certificate of registration as a bookmaker with a telephone betting endorsement; or
- (e) cancel or suspend the person's telephone betting endorsement; or
- (f) refuse to register a club of which the person is a member; or
- (g) cancel or suspend the registration of a club of which the person is a member; or
- (h) impose conditions on the person's licence or registration granted or approved under the *Rules of Racing*; or
- (i) impose conditions on the person's registration as a bookmaker or bookmaker's agent; or

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- (j) impose conditions on the person's telephone betting endorsement; or
- (k) impose conditions on the registration of a club of which the person is a member; or
- (l) issue the person with a warning-off notice under section 54; or
- (m) impose a fine on the person.

22E. Persons may appeal to IAB about disputed bets and other matters

A person may also appeal to the IAB 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 bookmaking on a racecourse under its control.

22F. How and when should persons appeal?

- (1) An appeal is instituted by lodging a notice of appeal with the IAB.
- (2) The notice of appeal –
 - (a) is to be in a form approved by the IAB; and
 - (b) must specify –
 - (i) the parties to the appeal, the relevant decision and the grounds of appeal; or
 - (ii) if section 22E(a) applies, the parties in dispute and the nature of the dispute.
- (3) The notice of appeal must be lodged with the IAB within –
 - (a) 14 days after the taking of the relevant decision; or
 - (b) if section 22D(l) applies, 14 days after the day on which the person was issued with the warning-off notice; or
 - (c) if section 22E(a) applies, 60 days after the conclusion of the event to which the disputed bet relates.

22G. Hearing of appeals

- (1) On the lodgment of an appeal, the secretary is to –
 - (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.
- (2) Before an appeal is heard, or consideration is given under section 22I to suspending the operation of a penalty, the appellant must pay the prescribed deposit, if any, to the secretary.
- (3) An appeal is not capable of being withdrawn or abandoned except by leave of the chairperson.
- (4) An application for leave to withdraw or abandon an appeal is to be –
 - (a) in a form approved by the IAB; and
 - (b) lodged with the IAB.
- (5) At the hearing of an appeal, the IAB 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.

- (6) On the hearing of an appeal, the IAB –
 - (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) must observe the rules of natural justice; and
 - (c) may adjourn the hearing from time to time or from place to place as it thinks fit; and
 - (d) except as provided by this Act, may otherwise regulate its own proceedings.
- (7) Except as otherwise provided by this Act, Part 3 and section 33 of the *Commissions of Inquiry Act 1995* apply to appeal proceedings as if the IAB were a Commission established under section 4 of that Act and the appeal were an inquiry being conducted by that Commission under that Act.
- (8) A person, other than the appellant, who is required by the IAB 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 IAB determines.

- (9) A party to an appeal may be represented by an Australian legal practitioner or any other person.
- (10) The IAB may appoint an Australian legal practitioner or other person to help it conduct an appeal.

22H. Constitution of IAB for appeals, &c.

- (1) For the purposes of hearing an appeal, the IAB is properly constituted by 3 members.
- (2) The chairperson is to choose the members who are to constitute the IAB for an appeal, but where practicable one of the members chosen is to be the chairperson or deputy chairperson.
- (3) The chairperson is to preside at all hearings of the IAB at which the chairperson is present.
- (4) If the chairperson is not present at a hearing of the IAB, the deputy chairperson or, if the deputy chairperson is also absent from the hearing, such other member of the IAB as the members present elect is to preside at the hearing.
- (5) If the members constituting the IAB for any hearing do not agree on a matter, the decision of the majority is the decision of the IAB.

22I. Suspension of penalties pending appeals

The chairperson may, unconditionally or on such conditions as he or she thinks fit, suspend the operation of a penalty pending the hearing and determination of an appeal.

22J. Determination of appeals

- (1) After hearing an appeal, the IAB –
 - (a) may affirm, vary or quash the decision that was the object of the appeal or, if section 22E(a) applies, make such orders in settlement of the dispute as it thinks fit; and
 - (b) must make an order regarding the disposal of the prescribed deposit, if any, lodged on appeal.
- (2) For the purposes of subsection (1)(b), the IAB must order that –
 - (a) if the decision that was the object of the appeal is affirmed, an amount of not less than 50 per cent 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 22I to

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- suspending the operation of a penalty, an amount of not less than 50 per cent 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 22I 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 per cent 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, the whole of the prescribed deposit is to be refunded to the appellant.
- (3) If the IAB orders that an amount of more than 50 per cent of the prescribed deposit is to be forfeited to the Secretary of the Department, it is to have regard to –
- (a) whether the appeal appears to the IAB to have been made in good faith or vexatiously; and

- (b) whether the grounds of appeal appear to the IAB to have been serious or frivolous; and
 - (c) whether the appellant appears to the IAB 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 IAB, the appellant pursued the appeal with due diligence or was obstructive; and
 - (e) such other matters as the IAB thinks reasonable and fair in the circumstances.
- (4) Any part of a prescribed deposit not forfeited to the Secretary of the Department is to be refunded to the appellant.
- (5) If, after hearing an appeal against a decision, the IAB 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 IAB 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.

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- (6) The IAB is to give the parties to an appeal notice of its determination in relation to the appeal.
- (7) A determination of the IAB 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.
- (8) A registered bookmaker who, following the determination of an appeal under section 22E(a), is ordered by the IAB 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.

Division 3 – General

22K. Protection of IAB members, &c.

- (1) A member of the IAB has, in that capacity, the same protection and immunity as a judge of the Supreme Court.
- (2) An Australian legal practitioner or other person who represents a party to an appeal or is engaged to help the IAB conduct an appeal has, in that capacity, the same protection and immunity as a

barrister appearing for a party in proceedings in the Supreme Court.

9. Section 23 amended (Tasmanian Racing Appeal Board (TRAB))

Section 23 of the Principal Act is amended as follows:

- (a) by omitting subsection (6) and substituting the following subsection:
 - (6) Schedule 3B has effect in relation to the membership of the TRAB.
- (b) by omitting from subsection (7)(b) “or owner” and substituting “, owner or lessee”;
- (c) by omitting from subsection (7)(e) “of a Council” and substituting “or employee of the TRAB”;
- (d) by omitting paragraph (f) from subsection (7) and substituting the following paragraphs:
 - (f) the chairperson of the IAB or deputy chairperson of the IAB; or
 - (g) a member of a racing club committee; or
 - (h) an employee of a racing club; or

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- (i) a member of a racing industry association committee.

10. Section 25 substituted

Section 25 of the Principal Act is repealed and the following section is substituted:

25. Role of deputy chairperson

The deputy chairperson assists the chairperson and acts as the chairperson while the chairperson is absent or during any vacancy in that office and, while so acting, may perform the functions and exercise the powers of the chairperson as fully and effectively as the chairperson.

11. Section 27 repealed

Section 27 of the Principal Act is repealed.

12. Section 28 amended (Persons may appeal to TRAB about other matters)

Section 28 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

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

- (a) aggrieved by the decision of the TRB or a registered club to issue the person with a warning-off notice under section 54; 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.
- (b) by omitting from subsection (3) “Council or a”;
- (c) by omitting from subsection (3) “Council or” second occurring;
- (d) by omitting from subsection (4) “Council or”;
- (e) by omitting from subsection (5)(b) “Council or any”.

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13. Section 29 amended (How and when should persons appeal?)

Section 29(3) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “14 days” and substituting “in the case of a minor appeal, 7 days”;
- (b) by inserting the following paragraph after paragraph (a):
 - (ab) in the case of any other appeal, 14 days after the taking of the relevant decision; or
- (c) by omitting from paragraph (b) “section 27(j) or”;
- (d) by omitting paragraph (c).

14. Section 30 amended (Hearing of appeals)

Section 30 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(a) “, as soon as practicable,” after “place”;
- (b) by inserting in subsection (2) “or consideration is given under section 33 to suspending the operation of a penalty,” after “heard”;

- (c) by omitting from subsection (3) “who, in granting such leave, may direct that the whole or any part of the deposit be forfeited and paid to the Director”;
- (d) by inserting in subsection (8) “, other than the appellant,” after “person”.

15. Section 31 amended (Constitution of TRAB for appeals, &c.)

Section 31 of the Principal Act is amended by omitting subsections (7) and (8).

16. Section 34 amended (Determination of appeals)

Section 34 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1) and substituting the following paragraph:
 - (a) may affirm, vary or quash the decision that was the object of the appeal; and
- (b) by omitting subsections (2), (3) and (4) and substituting the following subsections:
 - (2) For the purposes of subsection (1)(b), 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 per cent 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 33 to suspending the operation of a penalty, an amount of not less than 50 per cent 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 33 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 per cent 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, the whole of the prescribed deposit is to be refunded to the appellant.

- (3) If the TRAB orders that an amount of more than 50 per cent of the prescribed deposit is to be forfeited 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

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- (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.
- (4) Any part of a prescribed deposit not forfeited to the Secretary of the Department is to be refunded to the appellant.
- (c) by omitting from subsection (5) “and with the consent of the appellant”;
 - (d) by omitting subsection (8).

17. Section 36 amended (Who may hold race meetings?)

Section 36(1)(c) of the Principal Act is amended by omitting “Councils that are” and substituting “the TRB if”.

18. Section 38 amended (Race meeting permits)

Section 38(6)(b) of the Principal Act is amended by omitting “TRAB” and substituting “IAB”.

19. Section 40 amended (Registration and renewal of registration)

Section 40 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsections:

(1) The Director may register a club on the recommendation of the TRB.

(1A) In making its recommendation, the TRB must be satisfied that the club –

(a) is incorporated; and

(b) is not a proprietary club; and

(c) comprises not less than the prescribed number of members; and

(d) has, or is likely to have, an aggregate annual membership subscription of not less than the prescribed amount; and

(e) is, or within 12 months of lodging its application for registration is likely to be, the owner, lessee or licensee of a racecourse

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complying with the
prescribed conditions, if
any; and

(f) is in a sound financial
position.

(b) by inserting in subsection (2) “, on the
recommendation of the TRB,” after
“may”;

(c) by omitting from subsection (2)
“subsection (1)” and substituting
“subsection (1A)”.

**20. Section 43 amended (Suspension and cancellation,
&c., of registration)**

Section 43(1) of the Principal Act is amended as
follows:

(a) by omitting from paragraph (b)
“section 40(1)” and substituting
“section 40(1A)”;

(b) by omitting from paragraph (g) “section
6 of the *TOTE Tasmania (Racing
Regulation) Act 2004*” and substituting
“section 44A”.

21. Section 44 amended (Substitute race meetings on suspension, &c., of registration)

Section 44 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “relevant Council” and substituting “TRB”;
- (b) by omitting from subsection (3)(a) “a Council” and substituting “the TRB”;
- (c) by omitting from subsection (3)(b) “a Council” and substituting “the TRB”;
- (d) by omitting from subsection (4) “a Council” and substituting “the TRB”.

22. Sections 44A, 44B, 44C and 44D inserted

After section 44 of the Principal Act, the following sections are inserted in Division 2:

44A. Purchase and improvement of racecourses

- (1) A racing club must not, without the written approval of the TRB –
 - (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

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relating, wholly or partly, to the
carrying out of those
improvements.

(2) In subsection (1) –

“allowed limit” means –

- (a) \$5 000; or
- (b) if another amount is prescribed,
that other amount.

44B. Allotment of racing days

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

44C. Betting-only meetings

- (1) The TRB may authorise a racing club to hold one or more betting-only meetings in a racing year.
- (2) The betting-only meetings for racing clubs are to be authorised and allotted by the TRB only after it has consulted each racing club that may be affected by the authorisation.

(3) The TRB 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.

(4) In this section –

“**region**” means the northern region, north-western region or southern region.

44D. Emergency conversion of race meetings to betting-only meetings

Notwithstanding sections 44B and 44C, the TRB 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) the TRB is satisfied in the circumstances that the club had good cause for abandoning the race meeting.

23. Section 47 amended (Winding-up of clubs)

Section 47 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (4)(b) “TOTE Tasmania” and substituting “the TRB”;
- (b) by omitting from subsection (5) “TOTE Tasmania” twice occurring and substituting “the TRB”;
- (c) by omitting from subsection (6) “TOTE Tasmania” and substituting “the TRB”.

24. Section 50 amended (Appointment, &c., of club officers)

Section 50 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Council or”;
- (b) by omitting from subsection (2) “Council or”;
- (c) by omitting from subsection (3) “Council or” twice occurring;
- (d) by omitting from subsection (4) “Council or”;
- (e) by omitting from subsection (5) “Council or” first occurring;
- (f) by omitting from subsection (5)(a) “Council or”;

- (g) by omitting from subsection (5)(b) “Council or”;
- (h) by omitting from subsection (6) “Council or” twice occurring;
- (i) by omitting from subsection (7) “Council or”.

25. Section 51 amended (Appointment of stewards and other racing officials)

Section 51 of the Principal Act is amended as follows:

- (a) by omitting subsections (2) and (3) and substituting the following subsection:
 - (2) A person is not capable of being appointed as a full-time stipendiary steward unless a panel consisting of the chairpersons of the TRB and IAB and the Director has recommended the appointment.
- (b) by omitting from subsection (7) “a Council or” and substituting “the TRB or a”.

26. Section 53 amended (Effect of disqualification)

Section 53(2) of the Principal Act is amended by omitting “a Council, club or” from the definition of “disqualified”.

27. Section 54 amended (Warning-off notices)

Section 54 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “A Council or” and substituting “The TRB or a”;
- (b) by omitting from subsection (2)(a) “Council” and substituting “TRB”;
- (c) by omitting from subsection (2)(b) “Council” and substituting “TRB”;
- (d) by omitting from subsection (4) “a Council” and substituting “the TRB”;
- (e) by omitting from subsection (4) “Council” second occurring and substituting “TRB”;
- (f) by omitting from subsection (6) “a Council” and substituting “the TRB”;
- (g) by omitting from subsection (12) “a Council” and substituting “the TRB”;

- (h) by omitting from subsection (12)(a) “Council” twice occurring and substituting “TRB”;
- (i) by omitting from subsection (12)(b) “Council” and substituting “TRB”;
- (j) by omitting from subsection (13) “a Council” and substituting “the TRB”.

28. Section 82 amended (Unclaimed winnings and their disposal)

Section 82(2)(b) of the Principal Act is amended by omitting “TOTE Tasmania” and substituting “the TRB”.

29. Section 106 amended (Protection for racing administrators and officials)

Section 106 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “a Council or regulatory panel” and substituting “the TRB”;
- (b) by omitting from subsection (2) “Council’s or regulatory panel’s” and substituting “TRB’s”;
- (c) by omitting from subsection (4) “a Council attaches to the Council” and

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substituting “the TRB attaches to the TRB”;

(d) by omitting subsection (5).

30. Section 109 amended (Regulations)

Section 109(3) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “a Council” and substituting “the TRB”;
- (b) by omitting from paragraph (c) “that Council” and substituting “the TRB”;
- (c) by omitting from paragraph (d) “a regulatory panel” and substituting “the IAB”;
- (d) by omitting from paragraph (d) “that panel” and substituting “the IAB or its chairperson”.

31. Section 111 amended (*Rules of Racing*)

Section 111 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(b) “a Council, regulatory panel,” and substituting “the TRB, the IAB, the TRAB, a”;

- (b) by omitting from subsection (4) “A rule-making authority” and substituting “The TRB”;
- (c) by omitting from subsection (5) “rule-making authority” and substituting “TRB”;
- (d) by omitting from subsection (6) “A rule-making authority” and substituting “The TRB”;
- (e) by omitting from subsection (7)(b) “responsible rule-making authority” and substituting “TRB”;
- (f) by omitting subsection (8).

32. Section 112 repealed

Section 112 of the Principal Act is repealed.

33. Schedules 1, 2 and 3 substituted

Schedules 1, 2 and 3 to the Principal Act are repealed and the following Schedules are substituted:

**SCHEDULE 1 – MEETINGS OF TASMANIAN
RACING BOARD**

Section 10(4)

1. Interpretation

In this Schedule –

“**meeting**” means a meeting of the
TRB;

“**member**” means a member of the
TRB.

2. Convening meetings

A meeting may be convened by the
chairperson alone or by any 4 members.

3. Quorum

Five members constitute a quorum at any
duly convened meeting of the TRB.

4. Chairing of meetings

- (1) The chairperson is to preside at all
meetings at which he or she is present.
- (2) If the chairperson is not present at a
meeting, the deputy chairperson is to
preside at that meeting if he or she is
present.

- (3) If the chairperson and deputy chairperson are both absent from a meeting, the members present are to elect one of their number to preside at the meeting.

5. Procedure at meetings

- (1) Any duly convened meeting at which a quorum is present is competent to transact any TRB business.
- (2) Each member, including the chairperson and deputy chairperson, has only one vote.
- (3) A question arising at a meeting is to be determined by a majority of the votes cast.
- (4) In the event of an equality of votes on a question arising at a meeting, the question stands adjourned until the next meeting.

6. Minutes

The TRB is to –

- (a) keep accurate minutes of each meeting; and
- (b) approve the minutes; and

- (c) give the Minister a copy of those minutes within 14 days of the minutes being approved.

7. Special attendance

- (1) The TRB may permit a member to participate in a particular meeting by –
 - (a) telephone; or
 - (b) television conference; or
 - (c) another means of communication approved by the TRB.
- (2) A member who participates in a meeting under a permission granted under this clause is taken to be present at the meeting.
- (3) The TRB may permit a person to attend a meeting for the purpose of advising or informing it on any matter.

8. General procedure

Except as provided by this Act, the TRB may regulate its own proceedings.

**SCHEDULE 2 – PROVISIONS WITH RESPECT TO
SUPERANNUATION RELATING TO EMPLOYEES
OF TRB**

Section 16(5)

1. Superannuation information

The TRB must, when so required by the Minister administering the *Retirement Benefits Act 1993* or by the Retirement Benefits Fund Board, provide any information that may be required for an actuarial review of any of its liabilities under that Act.

2. Superannuation

- (1) The TRB may make contributions to one or more superannuation schemes that comply with the law of the Commonwealth relating to superannuation and may participate in a superannuation scheme provided by the *Retirement Benefits Act 1993* or the *Public Sector Superannuation Reform Act 1999* and, if it does so participate in either of those schemes, it is taken to be a prescribed authority for the purposes of those Acts in respect of any of its employees who are subject to the scheme.
- (2) The TRB must not establish a superannuation scheme.

- (3) If the TRB participates in a superannuation scheme provided by the *Retirement Benefits Act 1993* or the *Public Sector Superannuation Reform Act 1999*, the TRB must comply with any instruction relating to superannuation given to it by the Minister administering those Acts.

**SCHEDULE 3 – PROVISIONS RELATING TO
MEMBERSHIP OF TRB**

Section 19(15)

1. Interpretation

In this Schedule –

“**chairperson**” means the chairperson of the TRB;

“**member**” means a member of the TRB;

“**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 his or her employment to devote the whole of his or her 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 a member in his or her capacity as a member.
- (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 he or she –
 - (a) dies before the end of the term for which he or she has been appointed; or
 - (b) resigns by notice given to the Governor; or
 - (c) is removed from office under subclause (2).
- (2)** The Governor may remove a member from office if the member –
 - (a) fails to comply with the code of conduct referred to in section 11(1)(r); 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) under this Act, ceases to be eligible to hold the office; or

- (d) fails to disclose a personal interest as required by clause 6(1); or
- (e) 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
- (f) is convicted of an offence against this Act, the *Racing (Totalizator Betting) Act 1952* or the *Gaming Control Act 1993*.

6. Disclosure of interest

- (1) A member of the TRB who has a direct or indirect interest in a matter being considered, or about to be considered, by the TRB must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest at a meeting of the TRB.

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

- (2) A disclosure made by a member under subclause (1) is to be recorded in the minutes and the member must not, unless the TRB exclusive of that member determines otherwise –

- (a) be present during any deliberations of the TRB in relation to the matter; or
- (b) take part in any decision of the TRB in relation to the matter.

7. Validity of proceedings, &C.

- (1) An act or proceeding of the TRB or of a person acting under a direction of the TRB 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 TRB.
- (2) All acts and proceedings of the TRB or of a person acting under a direction of the TRB 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 TRB had been fully constituted.

8. Presumptions

In any proceedings by or against the TRB or in which an act or proceeding of the

TRB is in issue, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the TRB; or
- (b) any resolution of the TRB; or
- (c) the appointment of any member of the TRB; or
- (d) the presence of a quorum at any meeting of the TRB.

**SCHEDULE 3A – FURTHER PROVISIONS
RELATING TO MEMBERSHIP OF IAB**

Section 22(5)

1. Interpretation

In this Schedule –

“**member**” means a member of the IAB;

“**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 his or her employment to devote the whole of his or her time to the duties of that office is not disqualified from –

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- (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 a member in his or her capacity as a member.
- (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 he or she –
 - (a)** dies before the end of the term for which he or she 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 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

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- (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, the *Racing (Totalizator Betting) Act 1952* or the *Gaming Control Act 1993*; or
 - (f) has his or her name 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 IAB who has a direct or indirect interest in a matter being considered, or about to be considered, by the IAB 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 before the IAB 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 under subclause (1) must not, unless the chairperson determines otherwise –
- (a) be present during any deliberations of the IAB in relation to the matter; or
 - (b) take part in any decision of the IAB in relation to the matter.

7. Filling of vacancies

If the office of a member of the IAB 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 IAB or of a person acting under a direction of the IAB 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 IAB.

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- (2) All acts and proceedings of the IAB or of a person acting under a direction of the IAB 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 IAB had been fully constituted.

9. Presumptions

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

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

**SCHEDULE 3B – FURTHER PROVISIONS
RELATING TO MEMBERSHIP OF TRAB**

Section 23(6)

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 his or her employment to devote the whole of his or her 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 a member in his or her capacity as a member.
- (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

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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 he or she –
 - (a) dies before the end of the term for which he or she 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 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, the *Racing (Totalizator Betting) Act 1952* or the *Gaming Control Act 1993*; or
 - (f) has his or her name 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 before the TRAB 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 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

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- (c) the appointment of any member of the TRAB.