

TASMANIA

RACING REGULATION BILL 2003

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RACING REGULATION BILL 2003

(Brought in by the Minister for Racing, Sport and Recreation, the Honourable Paul Anthony Lennon)

A BILL FOR

An Act to provide for the better regulation of thoroughbred, harness and greyhound racing and associated betting activities, and for related purposes

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:

PART 1 – PRELIMINARY

Short title

1. This Act may be cited as the *Racing Regulation Act 2003*.

Commencement

2. This Act commences on a day to be proclaimed.

Interpretation

3. In this Act, unless the contrary intention appears –

“**accept a bet**” includes negotiate a bet;

“act” includes omission;

“appeal” means an appeal to the TRAB;

“approved form” means a form approved or determined by the Director;

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

“authorised betting” has the meaning referred to in section 85;

“betting” means betting on –

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

“betting-only meeting” means a meeting of a registered club (held under the authority of TOTE Tasmania on a racecourse) at which no racing takes place but during which the club may conduct totalizator betting or allow lawful bookmaking to be carried on;

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

“bookmaker” means a person who seeks to make the whole or a part of his or her living through bookmaking;

“bookmaker’s agent” means a person who independently accepts bets for or on behalf of a bookmaker but does not include a person who, by virtue of his or her employment and under

direction, merely assists a bookmaker or bookmaker's agent to engage in bookmaking;

“bookmaking” has the meaning referred to in section 54;

“chairperson” means the chairperson of the TRAB;

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

“code of racing” means, according to the context –

- (a) thoroughbred racing; or
- (b) harness racing; or
- (c) greyhound racing;

“control” includes supervision;

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

“conviction”, in relation to an offence, includes a finding of guilt without the recording of a conviction for the offence;

“Council” means, according to the context –

- (a) the Tasmanian Thoroughbred Racing Council; or
- (b) Harness Racing Tasmania; or
- (c) Greyhound Racing Tasmania;

“deputy chairperson” means the deputy chairperson of the TRAB;

“direct” means direct in writing pursuant to section 7(2)(c), (d) or (e);

“Director” means the person for the time being holding or acting in the office of Director of Racing referred to in section 5;

“exclude”, in relation to the exclusion of a person from a racecourse by a club, means –

- (a) refusing permission for the person to enter the racecourse; or
- (b) withdrawing consent for the person’s continued presence on the racecourse;

“financial year” means –

- (a) in the case of a club, the financial year used by the club; or
- (b) in any other case, the 12-month period ending on 30 June in any year;

“functions” includes duties;

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

“inquiry” means an inquiry held by the Director under this Act;

“issue”, in relation to a betting ticket, includes deliver;

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

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

“notice” means notice in writing;

“police officer” means a police officer within the meaning of the *Police Regulation Act 1898*;

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

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

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

“race meeting” has the meaning referred to in section 34;

“racing” means horse racing or greyhound racing but does not include any such racing conducted exclusively for the purpose of training animals, drivers or riders;

“registered” means registered under this Act;

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

“Rules of Racing”, of a Council, means the Rules of Racing of the Council made and in force under this Act, including –

- (a) the Australian Rules of Racing adopted by the Council; and
- (b) the local Rules of Racing made by the Council;

“secretary” means the secretary to the TRAB;

“statutory rule” means a statutory rule within the meaning of the *Rules Publication Act 1953*;

“steward” means a person holding an appointment as a stipendiary steward under section 50;

“telephone betting endorsement” means an endorsement, on a bookmaker’s certificate of registration, that authorises the bookmaker to engage in on-course telephone betting in accordance with Subdivision 2 of division 3 of Part 6;

“totalizator” means an instrument, machine or contrivance for the distribution of money to the holders of tickets or shares in a pool or an aggregation of contributions contingently on the result of a sporting contingency, and includes a device for the distribution of money in the like manner on any contingency;

“TOTE Tasmania” means the company formed under section 6 of the *TOTE Tasmania Act 2000* as TOTE Tasmania Pty Ltd;

“TRAB” means the Tasmanian Racing Appeal Board continued under section 22;

“unauthorised betting” has the meaning referred to in section 85.

Application of Act

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

- (a) totalizator betting by, with or through TOTE Tasmania; or

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

PART 2 – DIRECTOR OF RACING

Director of Racing

5. The Governor may appoint a State Service officer or State Service employee to be Director of Racing and that officer or employee may hold that office in conjunction with State Service employment.

Functions of Director

6. (1) The Director has the following functions:

- (a) to regulate and control racing to ensure that it is conducted with probity and integrity;
- (b) to advise the Minister on the conduct and administration of racing and to make recommendations to the Minister on racing policy and racing legislation;
- (c) to research and investigate matters relating to racing, including the probity of persons involved in the management of racing activities;
- (d) to liaise with authorities or persons responsible for the regulation and conduct of racing in this State and, as appropriate, elsewhere;
- (e) such other functions as are imposed on the Director by or under this or any other Act.

(2) The Director is also responsible, on behalf of the Councils, for –

- (a) administering, under their *Rules of Racing*, the registration and licensing of persons employed or otherwise engaged in the racing industry and of horses and greyhounds used for racing; and
- (b) the registration of other matters as may be required under those rules.

(3) The Director is also responsible, in consultation with the Councils, for monitoring, coordinating and setting standards for the training of people employed or otherwise engaged in the racing industry.

Powers of Director

7. (1) The Director has power to do –

- (a) such things (other than employ persons) as the Director considers necessary or convenient for or in connection with the exercise or performance of any power or function conferred or imposed on the Director by this or any other Act; and
- (b) such other things as the Director considers necessary or convenient for or in connection with the regulation and direction of racing and betting in this State.

(2) Without limiting the generality of subsection (1), the Director may –

- (a) hold inquiries; and
- (b) maintain registers of clubs, bookmakers and bookmakers' agents; and

- (c) give directions to Councils and registered clubs, either individually or collectively; and
- (d) give directions to registered bookmakers, either individually or collectively, including directions about how they may advertise; and
- (e) give directions to bookmakers' agents and other persons involved in the racing industry, either individually or collectively; and
- (f) require a Council, registered club or registered bookmaker to furnish the Director with specified information within a specified time and in a specified manner;
- (g) apply, towards the costs of administering this Act, any of the following payments received by the Director or on his or her behalf:
 - (i) payments under sections 29 and 33;
 - (ii) registration fees under this Act;
 - (iii) registration and licensing fees under any *Rules of Racing*;
 - (iv) fines imposed by stewards under any *Rules of Racing*;
 - (v) fines imposed by the Director under this Act;
 - (vi) proceeds from the sale of any goods or the provision of any services;
 - (vii) such other payments as the Minister may approve.

Financial management and audit

8. (1) The Director is to –

- (a) ensure that payments from the Director's funds are correctly made and properly authorised; and
- (b) maintain adequate control over –
 - (i) any assets of, or in the custody of, the Director; and
 - (ii) the incurring of Director's liabilities.

(2) The Director is to keep accounting records that correctly record and explain the Director's transactions and financial position.

(3) The accounts and records of the Director are subject to the *Financial Management and Audit Act 1990*.

Delegation by Director

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

PART 3 – COUNCILS***Division 1 – General provisions*****Racing Councils**

10. (1) The 3 specialist councils reconstituted under section 16I(1) of the *Racing Act 1983* each continue as a body corporate as follows:

- (a) the council referred to in paragraph (a) of that section continues under the name “Tasmanian Thoroughbred Racing Council”;
- (b) the council referred to in paragraph (b) of that section continues under the name “Harness Racing Tasmania”;
- (c) the council referred to in paragraph (c) of that section continues under the name “Greyhound Racing Tasmania”.

(2) A person is not eligible to be a member of a Council if the person is –

- (a) a member of another Council; or
- (b) an employee of a Council or registered club; or
- (c) registered as a bookmaker or bookmaker’s agent; or
- (d) the holder of registration or a licence under the Council’s *Rules of Racing*, other than as an owner; or
- (e) disqualified under the Council’s *Rules of Racing*; or
- (f) subject to a notice in force under section 53.

(3) Schedule 2 has effect in relation to the meetings of a Council.

(4) Each Council –

- (a) has perpetual succession; and
- (b) may have a common seal; and
- (c) may sue and be sued in its corporate name; and
- (d) may acquire, hold, dispose of and otherwise deal with property; and
- (e) may do and be subject to all other things that bodies corporate may, by law, do and be subject to and that are necessary for or incidental to the purposes for which it is constituted; and
- (f) has, and may exercise and perform, such other powers and functions as are conferred or imposed on it by this or any other Act.

(5) If a Council has a common seal, all courts and persons acting judicially must take judicial notice of the imprint of the common seal of a Council on a document and presume that it was duly sealed by that Council.

(6) The employees of a Council are not subject to the *State Service Act 2000*.

General functions and powers of Councils

11. (1) Each Council has the following functions for its code of racing:

- (a) to make and administer its *Rules of Racing*;

- (b) to approve registrations and grant licences under its *Rules of Racing*;
- (c) to prepare budgets and amendments to budgets for approval by TOTE Tasmania;
- (d) to be responsible for the organisation of –
 - (i) nominations, acceptances and field selections; and
 - (ii) handicapping and grading; and
 - (iii) race programming;
- (e) to represent the State at national forums;
- (f) to publish industry journals;
- (g) to develop and administer guidelines for the holding of race meetings;
- (h) to perform such other functions as may be conferred or imposed on it by or under this or any other Act.

(2) A Council has power to do such things as are necessary or convenient for or in connection with the performance of its functions.

(3) A Council must perform its functions and exercise its powers in accordance with its *Rules of Racing*.

(4) A person appointed under section 50 as a stipendiary steward for a Council is under the direction of that Council for the purposes of administering its *Rules of Racing*.

Council returns, &c.

12. (1) A Council must give TOTE Tasmania –

- (a) a report on its activities for each financial year; and
- (b) such other reports on matters concerning its code of racing as TOTE Tasmania, by notice, requires.

(2) A Council 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 TOTE Tasmania, by the notice, allows.

(3) The Director may direct a Council to give the Director such periodic and special returns, or such information, as the Director considers necessary or convenient for the purpose of exercising or performing the Director's powers or functions under this or any other Act.

(4) The Director may direct a Council to have all or any of its accounts or records audited by the Auditor-General.

(5) A Council must comply with a direction under subsection (3) or (4) within such time and in such manner as is specified in the direction.

***Division 2 – Tasmanian Thoroughbred Racing
Council***

Interpretation of Division

13. In this Division, “**Council**” means the Tasmanian Thoroughbred Racing Council.

Constitution of Tasmanian Thoroughbred Racing Council

14. (1) The Council consists of 8 persons of whom –

- (a) two are nominated by the Tasmanian Racing Club; and
- (b) two are nominated by the Tasmanian Turf Club; and
- (c) one is nominated by the Devonport Racing Club; and
- (d) one is nominated by Thoroughbred Breeders Tasmania; and
- (e) one is nominated by the Tasmanian Racehorse Owners Association; and
- (f) one (called “the elected member”) is elected as prescribed by persons licensed under its *Rules of Racing*.

(2) The members referred to in paragraphs (a), (b), (c), (d) and (e) of subsection (1) (called “the appointed members”) are appointed by the Minister.

(3) The members are to appoint a member as chairperson and another member as deputy chairperson.

(4) An appointed member 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.

(5) The elected member holds office for a 3-year term and, if eligible, may be elected for further terms.

(6) If a body referred to in paragraph (a), (b), (c), (d) or (e) of subsection (1) changes its name or ceases to exist, the Minister may, by order, amend that paragraph by substituting –

- (a) the name of the body as changed; or
- (b) the name of a body which the Minister is satisfied represents the interests represented by the body that has ceased to exist.

(7) If a nomination under subsection (1) is not made when required to be made, the Minister may appoint an appropriate person without such a nomination.

(8) If a member of the Council is absent from office, the Minister may, on the nomination of the relevant body referred to in subsection (1), appoint a person to act in the office of that member during that absence.

(9) A body that nominates an appointed member may nominate another member to be the appointed member's proxy.

(10) The elected member may nominate another member to be his or her proxy.

(11) Schedule 1 has effect in relation to the membership of the Council.

Specific functions and powers of Tasmanian Thoroughbred Racing Council

15. Pursuant to section 11, the Council controls thoroughbred racing in Tasmania.

Division 3 – Harness Racing Tasmania**Interpretation of Division**

16. In this Division, “**Council**” means Harness Racing Tasmania.

Constitution of Harness Racing Tasmania

17. (1) The Council consists of 5 persons elected as prescribed.

(2) A member of the Council is elected for a 3-year term and, if eligible, may be elected for further terms.

(3) The members are to appoint a member as chairperson and another member as deputy chairperson.

(4) A member may nominate another member to be his or her proxy.

(5) Schedule 1 has effect in relation to the membership of the Council.

Specific functions and powers of Harness Racing Tasmania

18. Pursuant to section 11, the Council controls harness racing in Tasmania.

Division 4 – Greyhound Racing Tasmania**Interpretation of Division**

19. In this Division, “**Council**” means Greyhound Racing Tasmania.

Constitution of Greyhound Racing Tasmania

20. (1) The Council consists of 5 persons elected as prescribed.

(2) A member of the Council is elected for a 3-year term and, if eligible, may be elected for further terms.

(3) The members are to appoint a member as chairperson and another member as deputy chairperson.

(4) A member may nominate another member to be his or her proxy.

(5) Schedule 1 has effect in relation to the membership of the Council.

Specific functions and powers of Greyhound Racing Tasmania

21. Pursuant to section 11, the Council controls greyhound racing in Tasmania.

PART 4 – TRAB**Tasmanian Racing Appeal Board (TRAB)**

22. (1) The Tasmanian Racing Appeal Board constituted under section 25(1) of the *Racing Act 1983* continues.

(2) The TRAB consists of 8 members.

(3) At least 2 of the members are to be legal practitioners of at least 5 years' standing and one such member is to be appointed as chairperson and another such member is to be appointed as deputy chairperson.

(4) The members, and the chairperson and deputy chairperson, are appointed by the Governor.

(5) A member is to be appointed for a term not exceeding 3 years and, if eligible, may be reappointed for further terms.

(6) Schedule 1 has effect in relation to the constitution and membership of the TRAB.

(7) A person is not eligible to be a member of the TRAB if the person is –

- (a)** registered as a bookmaker or a bookmaker's agent; or
- (b)** the trainer of a horse or greyhound used for racing; or
- (c)** the rider or driver of a horse used for racing.

Delegation by chairperson

23. 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.

Role of deputy chairperson

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

TRAB secretary

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

Persons may appeal to TRAB against decisions of Director

26. A person may appeal to the TRAB if the person is aggrieved by a decision of the Director to –

- (a) refuse to register the person as a bookmaker or bookmaker's agent; or
- (b) cancel or suspend the person's registration as a bookmaker or bookmaker's agent; or

- (c) refuse to endorse the person's certificate of registration as a bookmaker with a telephone betting endorsement; or
- (d) cancel or suspend the person's telephone betting endorsement; or
- (e) refuse to register a club of which the person is a member; or
- (f) cancel or suspend the registration of a club of which the person is a member; or
- (g) impose conditions, or particular conditions, on the person's registration as a bookmaker or bookmaker's agent; or
- (h) impose conditions, or particular conditions, on the person's telephone betting endorsement; or
- (i) impose conditions, or particular conditions, on the registration of a club of which the person is a member; or
- (j) issue the person with a warning-off notice under section 53; or
- (k) impose a fine on the person; or
- (l) take a prescribed decision or action in relation to the person.

Persons may appeal to TRAB about disputed bets and other matters

27. (1) A person may also appeal to the TRAB if the person is –

- (a) in dispute with a bookmaker regarding the placement, acceptance, payment, non-payment or amount of a bet; or
- (b) aggrieved by the decision of a registered club to exclude the person, in his or her capacity as a registered bookmaker or bookmaker's agent, from a racecourse; or
- (c) aggrieved by the decision of a Council or registered club to issue the person with a warning-off notice under section 53; or
- (d) aggrieved by the decision of a Council, registered club or 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 or leased by the person.

(2) An appeal does not lie under subsection (1)(d)(ii) in respect of the disqualification of a horse or greyhound if –

- (a) the disqualification was imposed by stewards immediately after a race in which the horse or greyhound was entered; and
- (b) the stewards imposed the disqualification as a result of a protest made about an incident that occurred during the race.

(3) If a person has a right of appeal under this section against a decision of a Council (or its stewards) or a registered club, no appeal against that decision lies to that Council or club.

(4) Subsection (3) has effect notwithstanding anything to the contrary that may be contained in –

- (a) the Council's *Rules of Racing*; or
- (b) the constitution, rules or articles of the Council or any club.

How and when should persons appeal?

28. (1) An appeal is instituted by lodging a notice of appeal with the secretary.

(2) The notice of appeal –

- (a) is to be in a form approved by the TRAB; and
- (b) must specify –
 - (i) the parties to the appeal, the relevant decision and the grounds of appeal; or
 - (ii) if section 27(1)(a) applies, the parties in dispute and the nature of the dispute.

(3) The notice of appeal must be lodged with the secretary within –

- (a) 14 days after the taking of the relevant decision; or
- (b) if section 26(j) or section 27(1)(c) applies, 14 days after the day on which the person is given the warning-off notice; or
- (c) if section 27(1)(a) applies, 60 days after the conclusion of the event to which the disputed bet relates.

Hearing of appeals

29. (1) On the lodgment of an appeal, the secretary is to –

- (a) request the chairperson to fix a time and place 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 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 who, in granting such leave, may direct that the whole or any part of the deposit be forfeited and paid to the Director.

(4) An application for leave to withdraw or abandon an appeal is to be –

- (a) in a form approved by the TRAB; and
- (b) lodged with the secretary.

(5) At the hearing of an appeal, the TRAB may allow the appellant to amend the grounds of appeal if satisfied in the circumstances of the case that it would be just to do so.

(6) On the hearing of an appeal, the TRAB –

- (a) is to proceed with as little formality and technicality, and with as much expedition, as a proper consideration of the appeal permits; and
- (b) 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 TRAB 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 who is required by the TRAB to attend the hearing of an appeal is entitled to be paid such allowances and expenses as are prescribed or, if not prescribed, as the TRAB determines.

(9) A party to an appeal may be represented by a legal practitioner or any other person.

(10) The TRAB may appoint a legal practitioner or other person to help it conduct an appeal.

Constitution of TRAB for appeals, &c.

30. (1) For the purposes of hearing an appeal the TRAB is properly constituted by –

- (a) one, 2 or 3 members for a minor appeal; and
- (b) 3 or more members for any other appeal.

(2) The chairperson is to choose the members who are to constitute the TRAB for an appeal, but –

- (a) for a minor appeal, the member chosen or, if applicable, one of the members chosen must be the chairperson or deputy chairperson; and

- (b) as often as practicable for any other appeal, the chairperson or deputy chairperson is to be chosen as such a member.

(3) The chairperson is to preside at all hearings of the TRAB at which the chairperson is present.

(4) If the chairperson is not present at a hearing of the TRAB, the deputy chairperson or, if the deputy chairperson is also absent from the hearing, such other member of the TRAB as the members present elect is to preside at the hearing.

(5) The presiding member has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(6) If the members constituting the TRAB for any hearing do not agree on a matter, the decision of the majority is the decision of the TRAB.

(7) A member is not eligible to hear an appeal concerning a code of racing if the member owns or leases a horse or greyhound that races in that code of racing.

(8) In this section, “**minor appeal**” means an appeal only against the imposition of either, or both, of the following:

- (a) a fine not exceeding \$500.00 or, if another amount is prescribed, the prescribed amount;
- (b) a suspension for a period not exceeding 30 days.

Protection of TRAB members, &c.

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

(2) A legal practitioner or other person who represents a party to an appeal or is engaged to help the TRAB conduct an appeal has, in that capacity, the same protection and immunity as a barrister appearing for a party in proceedings in the Supreme Court.

Suspension of penalties pending appeals

32. 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.

Determination of appeals

33. (1) After hearing an appeal, the TRAB –

- (a) may affirm, vary or quash the decision that was the object of the appeal or, if section 27(1)(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 TRAB may order that –

- (a) the whole of the deposit be refunded to the appellant; or

- (b) a specified portion of the deposit be refunded to the appellant and that the balance be forfeited; or
- (c) the whole of the deposit be forfeited.

(3) In making an order under subsection (1)(b), the TRAB is to have regard to the nature of the order being made under subsection (1)(a) and it may also consider –

- (a) whether the appeal appears to the TRAB to have been made in good faith or vexatiously; and
- (b) whether the grounds of appeal appear to the TRAB to have been serious or frivolous; and
- (c) whether the appellant appears to the TRAB to have been seeking genuine redress or merely a delay in the implementation of the decision under appeal; and
- (d) whether, in the reasonable opinion of the TRAB, the appellant pursued the appeal with due diligence or was obstructive; and
- (e) such other matters as the TRAB thinks reasonable and fair in the circumstances.

(4) Any part of a deposit not refunded to an appellant is to be paid to the Director.

(5) If, after hearing an appeal against a decision, the TRAB is satisfied that the appellant did not engage in the conduct that prompted the making of the decision but may have engaged in some other conduct that would have justified the respondent making another decision against the appellant, the TRAB may, if it considers it just to do so and with the consent of the appellant, make any decision

that could have been made by the respondent in relation to the other conduct.

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

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

(8) A registered bookmaker who, following the determination of an appeal under section 27(1)(a), is ordered by the TRAB to pay a bet must comply with that order.

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

PART 5 – REGULATION OF RACING***Division 1 – Restrictions on holding race meetings*****What is a race meeting?**

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

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

Who may hold race meetings?

35. (1) Race meetings may be held by –

- (a) persons who are authorised to do so by a permit issued under section 37; or
- (b) registered clubs; or

- (c) Councils that are authorised to do so under section 43.

(2) Except as provided by subsection (1), a person must not hold a race meeting.

Penalty: Fine not exceeding 50 penalty units.

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

36. (1) Race meetings and betting-only meetings may only be held on registered racecourses.

(2) A person who holds a race meeting or betting-only meeting on a racecourse other than a registered racecourse is guilty of an offence.

Penalty: Fine not exceeding 50 penalty units.

(3) In this section, “**registered racecourse**” means a racecourse specified in –

- (a) a permit issued, and in force, under section 37; or
- (b) a certificate of registration issued, and in force, under section 40; or
- (c) an authorisation issued, and in force, under section 43.

Race meeting permits

37. (1) A person may apply to the Director for a permit to hold a race meeting for or on behalf of an association or other body of persons (other than a registered club).

(2) The application –

- (a) is to be in an approved form; and
- (b) must be accompanied by the prescribed fee, if any; and
- (c) must be supported by such information or evidence as the Director requires.

(3) Subject to subsection (4), the Director may –

- (a) approve the application; or
- (b) refuse the application.

(4) The Director must refuse the application if the association or other body of persons for or on whose behalf the race meeting is proposed to be held is a proprietary body.

(5) In deciding in any other case whether to approve the application the Director may consider such matters as he or she thinks fit, including –

- (a) whether the venue for the proposed race meeting is suitable for use as a racecourse; and
- (b) whether adequate first-aid and veterinary facilities will be available at the proposed race meeting; and
- (c) whether any necessary local government approvals have been obtained.

(6) If the application is refused –

- (a) the Director is to give the applicant notice of the refusal, with reasons, and may refund all or any part of the application fee; but

- (b) the Director's decision is not appealable to the TRAB.

(7) If the application is approved, the Director is to –

- (a) give the applicant notice of the approval; and
- (b) issue the applicant with the required permit.

(8) The permit may be issued unconditionally or on such conditions as the Director determines.

(9) Without limiting the Director's discretion, the permit may be issued on one or more of the following conditions:

- (a) that no betting take place at or in respect of the proposed race meeting;
- (b) that no images of any race of the proposed race meeting be transmitted, electronically or otherwise, for display anywhere outside the venue used for the race meeting;
- (c) that no commentary of any race of the race meeting be broadcast by radio or other means.

(10) The permit is to be in an approved form but it must –

- (a) specify the conditions, if any, of the permit; and
- (b) specify which racecourse is to be used for the proposed race meeting.

(11) The permit is invalidated if any racecourse other than the one specified in the permit is used for the proposed race meeting.

(12) The permit may, by notice to the Director, be surrendered at any time but it has no surrender value.

(13) The permit is not renewable or transferable and if any attempt is made to transfer the benefit of the permit it is taken to have been cancelled on the date of the attempted transfer.

(14) A person issued with a permit under this section must not –

- (a) contravene a condition of the permit; or
- (b) cause or allow another person to contravene a condition of the permit.

Penalty: Fine not exceeding 20 penalty units.

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

Penalty: Fine not exceeding 20 penalty units.

Division 2 – Clubs and racing by clubs

Provisions about clubs

38. (1) If a provision of this Act confers a power or imposes an obligation on a registered club then, unless the contrary intention appears –

- (a) the capacity to exercise the power or the responsibility to comply with the obligation is taken to be conferred or imposed on the club committee; and
- (b) the persons who constitute the club committee at the relevant time are jointly and severally

liable for exercising the power or complying with the obligation.

(2) If a club's failure to comply with an obligation constitutes an offence against this Act, each person who is a member of the club committee at the relevant time is taken to have committed, and may be convicted of, the offence unless the person shows that –

- (a) the failure of compliance occurred without the person's knowledge and the person could not reasonably have acquired the knowledge; or
- (b) the person was not in a position to influence the conduct of the club in relation to the obligation; or
- (c) although being in such a position of influence, the person used due diligence to try to prevent the failure of compliance.

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

Registration and renewal of registration

39. (1) The Director may register a club if satisfied that –

- (a) it is incorporated; and
- (b) it is not a proprietary club; and
- (c) it comprises not less than the prescribed number of members; and

- (d) it has, or is likely to have, an aggregate annual membership subscription of not less than the prescribed amount; and
- (e) it is, or within 12 months of lodging its application for registration is likely to be, the owner or lessee of a racecourse complying with the prescribed conditions, if any.

(2) The Director may renew the registration of a club if satisfied that it is still compliant with subsection (1).

Applications for registration or renewal of registration

40. (1) An application to register or renew the registration of a club –

- (a) is to be in an approved form; and
- (b) must be accompanied by the prescribed fee, if any; and
- (c) must be supported by such information or evidence as the Director requires.

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

(3) The Director may, when considering the application, call for submissions from and consult with such persons and organisations as the Director thinks fit.

(4) After considering the application, the Director may –

- (a) approve the application; or

(b) refuse the application.

(5) If the application is refused, the Director –

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

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

(6) If the application is approved, the Director is to –

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

(b) register the club and issue it with a certificate of registration or, in the case of a renewal, a new certificate of registration.

(7) The certificate of registration is to be in an approved form but it must specify which racecourse the club is to use for the purposes of holding its race meetings.

Features of club registration

41. (1) A club may be registered or reregistered unconditionally or on such conditions as the Director determines and specifies in its certificate of registration.

(2) Without limiting the Director's discretion, a club may be registered on conditions to do with –

(a) the standard, safety and suitability of the racing venue used by the club; and

(b) the keeping, custody and inspection of membership and racing records; and

(c) the giving of information and returns to the Director.

(3) Except as provided by this Division, a club's registration comes into force on the day on which it is issued with its certificate of registration and expires on the following 31 July.

(4) A club's registration is not transferable.

(5) A club may, by notice to the Director accompanied by its certificate of registration, surrender its registration at any time but such registration has no surrender value.

Suspension and cancellation, &c., of registration

42. (1) The Director may suspend a club's registration for such period as the Director thinks fit or, following an inquiry, cancel its registration if satisfied that the club has –

- (a) contravened this Act; or
- (b) ceased to be compliant with section 39(1); or
- (c) contravened a condition of its registration; or
- (d) contravened a direction that the Director has given the club under this Act; or
- (e) held a race meeting on a racecourse not specified in its certificate of registration; or
- (f) become insolvent; or
- (g) contravened section 7 of the *TOTE Tasmania (Racing Regulation) Act 2003*.

(2) If the Director decides to suspend a club's registration but its registration is already suspended, the Director may impose such further period of suspension as the Director thinks fit.

(3) As soon as practicable after taking a decision under subsection (1), the Director is to give the club notice of –

- (a) the decision; and
- (b) the reasons for taking the decision; and
- (c) the club's right of appeal.

(4) The decision takes effect when the club is given the notice.

(5) A club that has its registration suspended under this section is, except for the purposes of applying for a renewal of the registration, taken not to be registered during the period of suspension.

(6) The suspension or cancellation of a club's registration under this section does not affect any penalty that might be imposed on the club or a member of the club committee under this Act.

(7) If a club's registration is cancelled, it must return its certificate of registration to the Director within 14 days of being given notice of the cancellation.

Penalty: Fine not exceeding 5 penalty units.

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

43. (1) If a club's registration is suspended, cancelled or surrendered, the Director may authorise the relevant Council to hold a race meeting or betting-only meeting in substitution for any such meeting that the club could have otherwise held, whether allotted or not.

(2) Any such authorisation –

- (a) is to be in an approved form (but must specify which racecourse is to be used for the substitute race meeting or betting-only meeting); and
- (b) has effect for such period as the Director determines and specifies in the authorisation; and
- (c) may be rescinded before the expiration of that period if the Director, having regard to any changed circumstances, thinks it appropriate to do so.

(3) For the purposes of this Act –

- (a) a Council is, in relation to a race meeting or betting-only meeting that it holds in the place of a registered club pursuant to an authorisation under subsection (1), taken to be the club committee of the club; and
- (b) the records of a Council relating to such a meeting are taken to be the accounting records of the club.

(4) An authorisation under subsection (1) does not confer on a Council any right to the use or occupation of a racecourse to which it would not otherwise be entitled.

Club returns, &c.

44. (1) The Director may direct a registered club to give the Director such periodic and special returns, and such membership lists and other information, as the Director considers necessary or convenient for the purpose of exercising or performing the Director's powers or functions under this or any other Act.

(2) A registered club must comply with a direction under subsection (1) within such time and in such manner as is specified in the direction.

Penalty: Fine not exceeding 25 penalty units.

Accounting records, audit, &c.

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

- (a) allows true and fair accounts of the club to be prepared; and
- (b) allows its accounts to be conveniently and properly audited or reviewed; and
- (c) complies with Australian Accounting Standards and any directions given to it by the Director.

(2) The registered club must allow the accounting records to be inspected at any reasonable time, free of charge, by –

- (a) the Director or any person who is authorised for the purpose by the Director; or
- (b) any member of the club.

(3) A person who is entitled to inspect the registered club's accounting records may make copies of, or take extracts from, all or any of those records free of charge.

(4) Within 60 days after the end of each of its financial years, a registered club must –

- (a) prepare, for that financial year, financial statements that include any information required by the Director; and
- (b) give the Director copies of those financial statements; and
- (c) have those financial statements, and its accounting records for the same financial year, audited as required by the Director.

(5) The Director may direct a club to have all or any of its accounts or records audited by the Auditor-General.

Winding-up of clubs

46. (1) The Director may wind up a registered club if satisfied that the club has –

- (a) disbanded; or
- (b) ceased to hold race meetings; or
- (c) failed in any 12-month period to hold a race meeting.

(2) If the Director decides to wind up a registered club, he or she must –

- (a) cause a notice (called a “winding-up notice”) to be published in the *Gazette* declaring that the club is to be wound up; and
- (b) give the club notice of the decision as soon as practicable.

(3) A person must not, without obtaining the prior written permission of the Director –

- (a) dispose of, or otherwise deal with, any of the assets of a registered club that is being wound up; or
- (b) incur any liability on behalf of a registered club that is being wound up.

Penalty: Fine not exceeding 50 penalty units.

(4) Once a winding-up notice has been published in relation to a registered club –

- (a) the Director may take possession of the club's assets and apply all or any part of those assets towards the discharge of any liabilities that the club had when the notice was published or arising in respect of any such assets; and
- (b) if a residue of those assets remains after discharging those liabilities, the Director is, after recouping the Director's costs in relation to the winding-up, to pay or transfer that residue to TOTE Tasmania to be held or applied for the benefit of the racing industry.

(5) If the assets of a registered club being wound up consist partly of an interest in land and it appears to the Director that the club's other assets will be sufficient to discharge its liabilities, the Director may transfer that interest in land to TOTE Tasmania free of consideration to be held or applied by TOTE Tasmania for the benefit of the racing industry.

(6) Notwithstanding subsection (5), an interest in land that is transferred to TOTE Tasmania under that subsection is to be transferred subject to any subsisting mortgage, trust, charge or other encumbrance.

(7) In the exercise of a power under this Part in relation to a registered club that is being wound up, the Director may –

- (a) exercise, in relation to any property forming part of the assets of the club, the powers that may be exercised by the persons in whom the property is vested or by any person who, but for this section, would have had power to dispose of or otherwise deal with the property; and
- (b) recover any sums due to the club or to any person on behalf of, or for the purposes of, the club, and take any legal proceedings necessary for that purpose; and
- (c) sell or otherwise realise any property forming part of the assets of the club, or transfer any such property to the Director or any other person; and
- (d) do such other things as may be necessary or convenient for or in connection with the exercise of the powers conferred on the Director under this subsection.

(8) The Director may direct a registered club that is being wound up to do either or both of the following within such reasonable time as the Director may allow:

- (a) surrender, or cause to be surrendered, to the Director all the documents in the possession of, or available to, the club or any of its members or officers, that relate to the affairs of the club;
- (b) cause the club's financial statements to be prepared in compliance with Australian

Accounting Standards, audited and forwarded to the Director.

(9) If a registered club fails to comply with a direction under subsection (8), each person whose name appears on the list of members last supplied to the Director under section 44, is guilty of an offence and severally liable to a fine not exceeding 25 penalty units unless the person shows that –

- (a) the failure of compliance occurred without the person's knowledge and the person could not reasonably have acquired that knowledge; or
- (b) the person was not in a position to influence the conduct of the club in relation to the direction; or
- (c) although being in such a position of influence, the person used due diligence to try to prevent the failure of compliance.

(10) Notwithstanding anything in this section, the Director may –

- (a) retain any document or article that comes into the Director's possession under this section that he or she considers to be of historical interest; and
- (b) deal with any such document or article in such manner as appears to the Director most appropriate for its preservation.

(11) In this section –

- (a) a reference to a registered club that is being wound up is taken to be a reference to a registered club in respect of which a winding-up notice has been published; and

- (b) a reference to the assets of a registered club is taken to include a reference to any assets held on behalf, or for the purposes, of the registered club; and
- (c) a reference to the liabilities of a registered club is taken to include a reference to any liabilities that may be discharged out of its assets.

(12) A winding-up notice is not a statutory rule.

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

Merger of clubs

47. (1) A registered club may, with the prior written permission of the Director, merge with –

- (a) any other registered club; or
- (b) a new club being formed, whether by the merger of 2 or more registered clubs or otherwise.

(2) The Director must, as soon as practicable after approving a club merger, cause a notice (called a “merger notice”) to be published in the *Gazette* –

- (a) setting out particulars of the merger; and
- (b) specifying the date on which the merger will take effect.

(3) If the Director approves the merger of a club with any other club, all of the assets and liabilities of the

former club are, on the date specified under subsection (2)(b), vested in and transferred to the latter club without further assurance.

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

(5) In this section –

“**assets**” of a club, include any assets held on behalf, or for the purposes, of the club;

“**liabilities**” of a club, include any liabilities that may be discharged out of its assets.

Prohibition of proprietary racing

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

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

- (a) the benefit of racing in this State; or
- (b) with the approval of the Director, a charitable, philanthropic or special purpose.

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

- (a) purchasing, maintaining or improving racecourses or racecourse facilities; and
- (b) improving freehold property, the revenue from which is applied solely for the promotion of racing in this State; and

- (c) improving the breed of horses or greyhounds in this State.

(4) Nothing in this section prevents a registered club from –

- (a) paying the principal and reasonable interest on a loan made to it by one of its members; or
- (b) paying a reasonable rent for a racecourse leased by it from one of its members; or
- (c) awarding advertised prizes or prize money for races held by it; or
- (d) incurring reasonable expenditure for the purpose of providing entertainment for its members in common with other persons; or
- (e) defraying the reasonable expenses of members who perform tasks for it.

(5) Nothing in this section prevents a member of a registered club from receiving any payment or benefit that a club is authorised to make or award to that member under subsection (4).

(6) In this section, “**registered club**” includes an association or other body of persons for or on whose behalf a person is issued with a permit under section 37.

Division 3 – Officers and stewards

Appointment, &c., of Council and club officers

49. (1) Despite any law or *Rules of Racing* to the contrary, the appointment or dismissal of a prescribed officer of a Council or registered club is subject to the approval of the Director.

(2) Where application is made to the Director to approve the appointment or dismissal of a person as a prescribed officer of a Council or registered club, the Director, in his or her absolute discretion, may approve or refuse to approve the appointment or dismissal.

(3) If the Director reasonably considers that a person is not a fit and proper person to remain as a prescribed officer of a Council or registered club, the Director may direct the Council or club to dismiss the person.

(4) A Council or registered club must comply with a direction under subsection (3) within such time as is specified in the direction.

(5) No action lies against the Director or a Council or registered club for or in respect of any damage or loss sustained or alleged to have been sustained by a person by reason of –

- (a) the refusal of the Director to approve the appointment of that person as a prescribed officer of that Council or registered club; or
- (b) the person's dismissal as a prescribed officer of that Council or registered club in accordance with this section.

(6) A Council or registered club may pay its officers such remuneration, invest them with such powers and assign them such functions as the Council or club considers appropriate.

(7) A person holding an appointment as an officer of a Council or registered club is not subject to the *State Service Act 2000*.

(8) This section does not apply to the appointment of stipendiary stewards or their dismissal.

Appointment of stewards, &c.

50. (1) The Secretary of the Department may, on such conditions as he or she thinks fit, appoint persons as –

- (a) stipendiary stewards for a Council; or
- (b) betting supervisors to assist the Director in supervising betting; or
- (c) branding officers to conduct branding.

(2) Before the Secretary appoints a person as a stipendiary steward for a Council, he or she must consult that Council.

(3) A person holding an appointment under subsection (1) is not subject to the *State Service Act 2000*.

(4) A State Service officer or State Service employee may hold an appointment under subsection (1) in conjunction with State Service employment.

(5) A person holding an appointment under subsection (1) is not capable of being dismissed or suspended from office except by the Secretary of the Department.

(6) A person appointed as a stipendiary steward for a Council is a stipendiary steward for the Council for the purposes of its *Rules of Racing*.

(7) A Council or registered club must not do anything to prevent a stipendiary steward from performing the functions of that office.

(8) A registered club must provide stipendiary stewards with such reasonable accommodation and facilities as will enable them to perform their functions in a secure and effective manner.

(9) If a person is appointed as a stipendiary steward for 2 or more Councils, the Secretary of the Department may settle any dispute that may arise between those Councils concerning the performance of that person's functions as a stipendiary steward, and a decision made by the Secretary under this section is binding on each of those Councils.

(10) Despite any law or *Rules of Racing* to the contrary, a Council or registered club is not capable of –

- (a) appointing or dismissing a person as a stipendiary steward; or
- (b) authorising a person to carry out the functions of a stipendiary steward; or
- (c) performing the functions of a stipendiary steward in its own right.

(11) Any purported appointment, dismissal or authorisation contrary to subsection (10)(a) and (b) is void.

(12) Any purported performance of functions contrary to subsection (10)(c) is void.

Stewards may regulate betting in certain cases

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

Division 4 – Miscellaneous**Effect of disqualification**

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

(2) In subsection (1), “**disqualified**” means disqualified with or without limitation as to time by a decision of a Council, club or stewards.

Warning-off notices

53. (1) The Director may, if satisfied that there are grounds to do so, issue a person with a notice directing the person not to enter a specified racecourse, or racecourses generally, on a specified day or during a specified period.

(2) A Council or registered club may, if satisfied that there are grounds to do so, issue a person with a notice directing the person –

- (a)** not to enter, on a specified day or during a specified period, a specified racecourse under the control of the Council or club; or
- (b)** to leave a racecourse under the control of the Council or club where a race meeting or betting-only meeting is being or is about to be held.

(3) A notice issued under subsection (1) or (2) is called a warning-off notice.

(4) Without limiting their discretion under subsection (1) or (2), the Director or a Council or registered club has grounds for issuing a person with a warning-off

notice if the Director, Council or club knows or reasonably suspects that the person –

- (a) is engaging in bookmaking without being registered as a bookmaker or bookmaker's agent; or
- (b) habitually engages in unauthorised betting.

(5) A warning-off notice that directs a person to leave a racecourse must be served personally.

(6) Within 5 days after issuing a person with a warning-off notice, a Council or registered club is to forward a copy of the notice to the Director.

(7) As soon as practicable after issuing a warning-off notice, the Director is to forward a copy of it to –

- (a) each club holding race meetings at the specified racecourse on or during the specified day or period; or
- (b) if the notice applies to racecourses generally, every club.

(8) A person who is issued with a warning-off notice must comply with the notice and, if the notice directs the person to leave a racecourse, the compliance must be immediate.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 30 penalty units or imprisonment for a term not exceeding 3 months.

(9) A person who is issued with a warning-off notice directing the person to leave a racecourse must not, after leaving or being removed from the racecourse pursuant to the notice, enter or attempt to re-enter the racecourse on the same day.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 30 penalty units or imprisonment for a term not exceeding 3 months.

(10) If a person contravenes subsection (8) or (9) –

- (a) a police officer or an employee or agent of the club that issued the notice, using such reasonable force as may be necessary, may, depending on the offence, evict the person from the racecourse or prevent the person from re-entering the racecourse; and
- (b) a police officer may arrest the person without warrant.

(11) The issuer of a warning-off notice may, by a further notice, rescind the notice at any time if satisfied that there is no reason for it to remain in force.

(12) In their application to a Council or registered club, the provisions of this section –

- (a) extend to every racecourse that the Council or club has control of at the relevant time, whether or not the racecourse is owned by the Council or club or is at any other time subject to a right of public use or entry; and

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

(13) Nothing in this section limits the right of a Council or registered club to exclude a person from a racecourse under its control by means other than a warning-off notice.

(14) In this section, “**specified**”, for a warning-off notice, means specified in the notice.

PART 6 – REGULATION OF BOOKMAKING***Division 1 – Restrictions on engaging in bookmaking*****What is bookmaking?**

54. A person engages in bookmaking if he or she accepts bets, and engages in activities connected with the acceptance of bets, on –

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

Bookmakers must be registered

55. (1) A person must not engage in bookmaking on his or her own behalf unless the person is registered as a bookmaker.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 200 penalty units or imprisonment for a term not exceeding 6 months, or both; and
- (b) a second offence, a fine not exceeding 300 penalty units or imprisonment for a term not exceeding 12 months, or both; and
- (c) a subsequent offence, a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A person who is not registered as a bookmaker must not, by any means, induce another person to believe that the first-mentioned person is –

- (a) registered as a bookmaker; or
- (b) in any way authorised to engage in bookmaking on his or her own behalf in Tasmania.

Penalty: Fine not exceeding 50 penalty units.

Bookmakers' agents must be registered

56. (1) A person must not engage in bookmaking for or on behalf of another person unless –

- (a) the person engaging in the bookmaking is registered as a bookmaker's agent; and
- (b) the other person is –
 - (i) registered as a bookmaker; and
 - (ii) named as the principal in the certificate of registration issued under section 57 to the person engaging in the bookmaking.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(2) A registered bookmaker must not cause or allow another person to engage in bookmaking on the bookmaker's behalf unless –

- (a) the person is registered as a bookmaker's agent; and
- (b) the bookmaker is named as the person's principal in the certificate of registration issued to the person under section 57.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(3) This section does not apply to a person who, by virtue of his or her employment and under direction, merely assists a bookmaker or bookmaker's agent to engage in bookmaking but does not independently accept bets.

Division 2 – Registration

Applications for registration

57. (1) An application to be registered as a bookmaker or bookmaker's agent –

- (a) is to be in an approved form; and
- (b) must be accompanied by the prescribed fee, if any; and
- (c) is to be lodged with the Director; and
- (d) must be supported by such information or evidence as the Director requires; and
- (e) must, in the case of an application for registration as a bookmaker's agent –

- (i) nominate one registered bookmaker as the applicant's principal; and
- (ii) be endorsed by that registered bookmaker.

(2) The Director may –

- (a) approve the application; or
- (b) refuse the application.

(3) In deciding whether to approve the application the Director may consider such matters as he or she thinks fit, including –

- (a) whether the applicant is a fit and proper person to be so registered; and
- (b) whether, in the case of an application for registration as a bookmaker, the applicant has sufficient assets to carry on business as a bookmaker.

(4) If the application is refused, the Director –

- (a) is to give the applicant notice of the refusal, with reasons, and the applicant's right of appeal; and
- (b) may refund all or any part of the application fee.

(5) If the application is approved, the Director is to –

- (a) give the applicant notice of the approval; and
- (b) subject to section 58, register the applicant and issue the applicant with a certificate of registration.

(6) The certificate of registration is to be in an approved form but, in the case of registration as a bookmaker's agent, it must specify the name of the agent's principal.

Security for bookmaker registration

58. (1) Notwithstanding section 57, an applicant is not entitled to be registered as a bookmaker unless he or she has given the Director a bond of indemnity, or such other form of security as the Director may approve, to secure proper observance by the applicant of the provisions of this Act.

(2) The bond of indemnity or other form of security is to be to the value of \$6 000 or, if another value is prescribed, to the prescribed value.

(3) Without limiting the Director's discretion, the security to be given under this section may comprise any, or any combination of, the following:

- (a) cash;
- (b) money on fixed deposit with an authorised deposit-taking institution carrying on business in this State;
- (c) a bond or guarantee, in an approved form, of a corporation or authorised deposit-taking institution approved by the Director;
- (d) a State or Commonwealth government security;
- (e) a prescribed security.

Features of registration

59. (1) A bookmaker or bookmaker's agent may be registered unconditionally or on such conditions as the Director determines and specifies in the certificate of registration issued to the bookmaker or bookmaker's agent.

(2) Registration as a bookmaker or bookmaker's agent comes into force on the day on which the bookmaker or bookmaker's agent is issued with his or her certificate of registration and expires on the following 30 June, unless it is expressed to continue in force only until an earlier date, in which case it expires on that earlier date.

(3) Except as provided by section 61, registration as a bookmaker or bookmaker's agent is not transferable.

(4) A bookmaker or bookmaker's agent may, by notice to the Director accompanied by his or her certificate of registration, surrender his or her registration at any time but such registration has no surrender value.

What does registration authorise?

60. (1) Registration as a bookmaker, while in force, authorises the person so registered to engage in bookmaking on a racecourse on his or her own behalf subject to –

- (a) the provisions of this Part; and
- (b) the conditions, if any, that the Director specifies in the certificate of registration issued to the person under section 59(1); and
- (c) the directions, if any, that the Director gives to the bookmaker; and

- (d) the regulations made and in force under this Act.

(2) Registration as a bookmaker's agent, while in force, authorises the person so registered to engage in bookmaking on a racecourse for or on behalf of his or her principal subject to –

- (a) the provisions of this Part; and
- (b) the conditions, if any, that the Director specifies in the certificate of registration issued to the person under section 59(1); and
- (c) the directions, if any, that the Director gives to the bookmaker's agent or to his or her principal; and
- (d) the regulations made and in force under this Act.

(3) A bookmaker's agent may, with the written approval of the Director, change his or her principal but he or she is not entitled to have more than one principal at any one time.

(4) For the purposes of this section, a bookmaker or bookmaker's agent engages in bookmaking on a racecourse if –

- (a) while a lawful race meeting is being held on the racecourse, the bookmaker or bookmaker's agent accepts a bet on –
 - (i) the outcome of any racing being held on the racecourse or elsewhere; or
 - (ii) a contingency relating to an approved sports event; or

- (b) while a lawful betting-only meeting is being held on the racecourse, the bookmaker or bookmaker's agent accepts a bet on –
 - (i) the outcome of any racing being held elsewhere; or
 - (ii) a contingency relating to an approved sports event; or
- (c) following the abandonment of a lawful race meeting begun on the racecourse, the bookmaker or bookmaker's agent continues to accept bets on –
 - (i) the outcome of any racing being held elsewhere; or
 - (ii) a contingency relating to an approved sports event.

(5) For the purposes of subsection (4)(c), a race meeting is taken to have begun if it is not abandoned before 6 a.m. on the advertised day of the meeting.

(6) Nothing in this section –

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

Substitute certificates of registration

61. (1) If the Director is satisfied that a registered bookmaker is temporarily incapable of carrying on business because of illness or some other unavoidable or reasonable cause, the Director may, in his or her absolute discretion, issue a substitute certificate of registration to a nominee of that bookmaker.

(2) The nominee must be a registered bookmaker's agent.

(3) A substitute certificate of registration authorises the person to whom it is issued to carry on the bookmaking business of the incapacitated bookmaker, on that bookmaker's behalf, during the period specified in the certificate.

(4) A person to whom a substitute certificate is issued is subject to the same liability in all respects as if he or she were registered as a bookmaker.

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

Cancellation, &c., of registration for certain convictions

62. (1) The registration of a bookmaker or bookmaker's agent is taken to have been cancelled forthwith if the bookmaker or bookmaker's agent is convicted of an offence against –

- (a) Subdivision 1 of division 3 or section 71, 92 or 93 of this Act; or
- (b) section 5A of the *Gaming Control Act 1993*.

(2) If a registered bookmaker or bookmaker's agent is charged with an offence referred to in subsection (1) and the court records a conviction on the charge, the Director may, whether or not any appeal or other proceedings may be taken in relation to the matter, suspend the bookmaker's or agent's registration until the conclusion of the proceedings on the charge.

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

63. (1) The Director may suspend the registration of a bookmaker or bookmaker's agent for such period as the Director thinks fit or, following an inquiry, cancel the registration or impose on the bookmaker or bookmaker's agent a fine not exceeding 20 penalty units, if satisfied that the bookmaker or bookmaker's agent has –

- (a) contravened this Act; or
- (b) contravened another Act, being a contravention of a kind that calls into question the professional probity of the bookmaker or bookmaker's agent; or
- (c) engaged in bookmaking at a time or place or in a way not authorised under this Act; or
- (d) contravened a condition of his or her certificate of registration; or
- (e) contravened a condition of a telephone betting endorsement; or
- (f) contravened any *Rules of Racing*; or
- (g) defaulted in payment of any bet; or

- (h) been guilty of misconduct or incompetence when engaging in bookmaking; or
- (i) ignored or contravened a direction that the Director has given to that particular bookmaker or bookmaker's agent; or
- (j) ignored or contravened a direction that the Director has given to bookmakers or bookmakers' agents generally.

(2) If subsection (1)(e) applies, the Director may, instead of taking action under that subsection, do either or both of the following:

- (a) cancel the telephone betting endorsement or suspend it for such period as the Director thinks fit;
- (b) impose on the bookmaker or bookmaker's agent a fine not exceeding 20 penalty units.

(3) Notwithstanding subsections (1) and (2), the Director's power to impose a fine under those subsections is not capable of being exercised in respect of an offence that a person has been charged with unless the charge has been withdrawn.

(4) If, under this section, the Director decides to suspend or cancel a person's registration, suspend or cancel a person's telephone betting endorsement or impose a fine, the Director must give the person notice of –

- (a) the decision; and
- (b) the reasons for taking the decision; and
- (c) the person's right of appeal.

(5) The Director's decision takes effect when the person is given the notice.

(6) Any fine imposed on a person under this section may be recovered from that person as a debt due to the Crown.

Effect of suspension of registration

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

Return of cancelled certificates

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

Penalty: Fine not exceeding 5 penalty units.

Division 3 – Business and betting

Subdivision 1 – General controls and conduct

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

66. (1) A registered bookmaker or bookmaker's agent must not engage in bookmaking except on a racecourse.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

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

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

Bookmakers and their agents must not bet at totalizator odds

67. A registered bookmaker or bookmaker's agent must not accept a bet on a horse race, greyhound race or approved sports event at a price determined, directly or indirectly, by the dividend paid for the race or event on any totalizator.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

Bookmakers and their agents must not engage in improper procurement

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

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

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

69. (1) A registered bookmaker's agent must not engage in bookmaking on any day on which his or her principal does not also engage in bookmaking.

Penalty: In the case of –

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

(2) It is a defence to a prosecution under subsection (1) for the defendant to show that, on the day of the alleged offence, the defendant's principal –

- (a) attended, with the intention of engaging in bookmaking, a Tasmanian racecourse where a lawful race meeting was scheduled to be held; but
- (b) was prevented from engaging in bookmaking by the postponement or abandonment of that race meeting.

Restrictions on power of clubs to control or charge bookmakers

70. Nothing in this Act authorises a registered club to –

- (a) impose conditions on registered bookmakers or bookmakers' agents who lawfully engage in bookmaking on a racecourse under its control, other than conditions as to the places or positions they may occupy and the allocation of those places between such persons; or
- (b) impose, without the prior written permission of the Director, a fee or charge for allowing a registered bookmaker or bookmaker's agent to engage in lawful bookmaking on a racecourse under its control; or
- (c) if such permission is given, demand or receive a fee or charge in excess of that authorised by the Director.

Subdivision 2 – Telephone betting endorsements**Control of telephone betting**

71. (1) A registered bookmaker must not accept a bet from a person who is not physically present at the place where the bet is accepted and recorded unless –

- (a) the bookmaker is on a racecourse and carrying on business as a bookmaker when the bet is accepted; and
- (b) the bookmaker's certificate of registration has a telephone betting endorsement; and

- (c) the bet is placed and accepted in accordance with the conditions of the telephone betting endorsement.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(2) A registered bookmaker must not accept a bet by telephone unless –

- (a) the bet is for a minimum amount of \$100 (or such other minimum amount as may be prescribed); or
- (b) the bookmaker's minimum liability in respect of the bet is \$1 000 (or such other amount as may be prescribed).

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

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

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and

- (b) a subsequent offence, a fine not exceeding 50 penalty units.

Applications for telephone betting endorsements

72. (1) A registered bookmaker who wishes to engage in telephone betting may apply to the Director to have his or her certificate of registration endorsed with a telephone betting endorsement.

(2) The application –

- (a) is to be in an approved form; and
- (b) must be accompanied by the prescribed fee, if any; and
- (c) must be supported by such information or evidence as the Director requires.

(3) The Director may –

- (a) approve the application; or
- (b) refuse the application.

(4) If the application is refused, the Director –

- (a) is to give the applicant notice of the refusal, with reasons, and the applicant's right of appeal; and
- (b) may refund all or any part of the application fee.

(5) If the application is approved, the Director is to –

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

- (b) endorse the applicant's certificate of registration with the telephone betting endorsement.

(6) The telephone betting endorsement is to be in an approved form.

Security for telephone betting endorsements

73. (1) Notwithstanding section 72, a bookmaker is not entitled to have his or her certificate of registration endorsed with a telephone betting endorsement unless he or she has given the Director a bond of indemnity, or such other form of security as the Director may approve, to secure proper observance by the bookmaker of the provisions of this Division.

(2) The bond of indemnity or other form of security is to be to the value of \$15 000 or, if another value is prescribed, to the prescribed value.

(3) Without limiting the Director's discretion, the security to be given under this section may comprise any, or any combination of, the following:

- (a) cash;
- (b) money on fixed deposit with an authorised deposit-taking institution carrying on business in this State;
- (c) a bond or guarantee, in an approved form, of a corporation or authorised deposit-taking institution approved by the Director;
- (d) a State or Commonwealth Government security;
- (e) a prescribed security.

Conditions of telephone betting endorsements

74. (1) The conditions on which a registered bookmaker may engage in telephone betting under a telephone betting endorsement are as determined by the Director and specified in the endorsement.

(2) Without limiting the Director's discretion, a telephone betting endorsement may include any one or more of the following conditions:

- (a) that the registered bookmaker's telephone unit must be of a type approved by the Director and adapted and tested as required by the Director to ensure that outgoing calls cannot be made on the telephone unit;
- (b) that the registered bookmaker must, on demand, allow a person authorised for the purpose by the Director to inspect and test a telephone unit being used by the bookmaker on a racecourse;
- (c) that the registered bookmaker must pay such annual fee in respect of the reasonable costs incurred by the Director in administering and auditing the bookmaker's telephone betting endorsement as is specified in the endorsement.

Features of telephone betting endorsements

75. (1) A registered bookmaker's telephone betting endorsement comes into force as soon as the endorsement is made under section 72(5)(b) and expires when the bookmaker's certificate of registration expires or is cancelled or surrendered, whichever first occurs.

(2) A registered bookmaker's telephone betting endorsement does not authorise the bookmaker to engage in telephone betting during any period when his or her registration is suspended.

(3) A telephone betting endorsement is not transferable.

(4) A bookmaker whose certificate of registration has a telephone betting endorsement may surrender the endorsement at any time by requesting the Director to cancel the endorsement but it has no surrender value.

Subdivision 3 – Betting tickets and records

Bookmakers and agents must issue tickets and record bets

76. (1) A registered bookmaker or bookmaker's agent must, immediately after accepting a bet –

- (a) issue a betting ticket for the bet in an approved form; and
- (b) record the bet in the record required to be kept under section 77.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(2) A registered bookmaker who issues a betting ticket as required by subsection (1) must –

- (a) unless the bet was placed and accepted by telephone, give the betting ticket directly to the bettor; or
- (b) if the bet was placed and accepted by telephone, deliver the betting ticket to the bettor by post as soon as practicable or deal with the betting ticket in such other manner as the Director may direct.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(3) A registered bookmaker's agent who issues a betting ticket as required by subsection (1) must give the betting ticket directly to the bettor.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(4) A registered bookmaker or bookmaker's agent must not make a written record or note of an accepted bet until the bet has been recorded as required by subsection (1)(b).

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 10 penalty units; and

- (b) a subsequent offence, a fine not exceeding 20 penalty units.

(5) A registered bookmaker or bookmaker's agent must not issue a betting ticket that has been previously used for another bet.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(6) Except as may be authorised by a telephone betting endorsement, a registered bookmaker or bookmaker's agent must not have in his or her possession, for longer than is necessary to enable it to be destroyed, a betting ticket that has been used and issued to a bettor.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

Bookmakers must keep betting records

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

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and

- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(2) A bet that is accepted under section 60(4)(a)(i) on the outcome of more than one race is taken, for the purposes of a record under subsection (1), to relate only to the club on the racecourse where the first of those races is held.

(3) A bet that is accepted under section 60(4)(a)(ii) on the sporting contingency of more than one approved sports event is taken, for the purposes of a record under subsection (1), to relate only to the racecourse where bets are accepted on the first of those approved sports events.

(4) If a bet is accepted in respect of a race or approved sports event that is abandoned, or if the competent authority has declared a bet off, the bet need not be included in a record under this section.

(5) Except as may be provided by the conditions of a telephone betting endorsement, it is not necessary to include in a record under this section the name of the person who places a bet.

Bookmakers must keep books of account

78. A registered bookmaker must –

- (a) keep, in the form and manner required by the Director, complete and proper books of account in respect of his or her bookmaking business; and
- (b) enter and record in those books of account a full and accurate account of all betting transactions entered into by the bookmaker and registered agents of the bookmaker; and

- (c) keep those books of account available at all times, and produce them on demand at any reasonable time for inspection by the Director or any person authorised for the purpose by the Director; and
- (d) if the Director so directs, have those books of account audited within such time and in such manner as is specified in the direction.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

Bookmakers must give certain records to clubs

79. (1) A registered bookmaker must, immediately after each race held on a racecourse where the bookmaker is engaging in bookmaking as mentioned in section 60(4)(a)(i), give the controlling club a written record in an approved form of all bets that the bookmaker accepted on that race.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(2) Within 3 days after holding a race meeting, a registered club must give the Director all of the betting records that it has received from bookmakers in respect of that race meeting pursuant to subsection (1).

Penalty: Fine not exceeding 5 penalty units.

Bookmakers must give certain returns to Director

80. (1) The Director may direct a registered bookmaker to give the Director such periodic and special returns in relation to the bookmaker's bookmaking business as the Director considers necessary or convenient for the purpose of exercising or performing the Director's powers or functions under this or any other Act.

(2) A registered bookmaker must comply with a direction under subsection (1) within such time and in such manner as is specified in the direction.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

Subdivision 4 – Unclaimed winnings and commissions

Unclaimed winnings and their disposal

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

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

- (b) at the same time, pay that money to the Director.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 20 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 penalty units.

(2) The Director –

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

(3) After the 6-month period referred to in subsection (1) expires, the right of a person holding a betting ticket to which the return relates (or a person claiming through that person) to recover any winnings to which, but for this subsection, the betting ticket would entitle the person, is barred, and no action lies for the recovery of those winnings.

Payment of commission to Director

82. (1) Subject to section 84, a registered bookmaker must, in respect of each month, pay to the Director an amount by way of commission equal to the sum of –

- (a) an amount equal to 1% of all money paid or payable, contingently or otherwise, in respect of all bets placed with the bookmaker during that month in relation to racing; and
- (b) an amount equal to 0.5% of all money paid or payable in respect of all other bets placed with the bookmaker during that month in relation to amounts bet by persons betting in Australia or New Zealand; and
- (c) an amount equal to 0.25% of all money paid or payable in respect of all other bets placed with the bookmaker during that month in relation to amounts bet by persons betting outside Australia and New Zealand.

(2) A registered bookmaker must pay the commission payable under subsection (1) in relation to a month not later than 7 days after the end of that month.

(3) The omission of a bet that should have been included in a record under section 77 or a return under section 80 does not relieve the registered bookmaker of liability to pay commission in respect of that bet.

(4) If a registered bookmaker fails to pay the whole or any part of the commission that the bookmaker is required to pay under this section, the amount of the unpaid commission may be recovered from the bookmaker as a debt due to the Crown.

(5) For the avoidance of doubt, a reference in this section to the bets placed with a registered bookmaker is

taken to include the bets, if any, placed with registered agents of the bookmaker.

Payment of commission to clubs

83. Within 7 days after receiving a payment of commission under section 82(1), the Director is to pay the commission to each registered club in respect of all bets placed –

- (a) at any race meeting or betting-only meeting held in this State in relation to a race held by that club; and
- (b) at any race meeting or betting-only meeting held by that club in relation to a race held outside this State; and
- (c) at any race meeting or betting-only meeting held by that club in relation to an approved sports event.

Set-off for GST

84. (1) In any month, a registered bookmaker may set off against the commission payable under section 82 any GST paid during the relevant month arising in respect of all bets accepted by the bookmaker.

(2) If, in any month, the amount of GST paid in respect of the bets accepted by the registered bookmaker exceeds the amount of commission payable under section 82 in respect of those bets, that excess may be set off in any subsequent month in the same financial year against the commission payable under that section.

(3) The amount of any credit given to a registered bookmaker for GST paid in a financial year is limited to the commission payable under section 82 for the financial year.

(4) Within 21 days after the end of a financial year, a registered bookmaker must give the Director a return stating –

- (a) the amount of commission payable under section 82 in respect of bets accepted by the bookmaker for that financial year; and
- (b) the amount of GST paid by the bookmaker in that financial year in respect of those bets; and
- (c) the amount of credit given for the amount of commission payable under section 82 in respect of bets accepted in that financial year.

(5) Subject to subsection (3) –

- (a) if the amount of GST paid in respect of bets accepted by a registered bookmaker for a financial year exceeds the amount of credit given in respect of those bets for that financial year, the difference between those amounts is to be credited to the bookmaker at the time of the next payment of commission required under this Act; and
- (b) if the amount of GST paid in respect of bets accepted for a financial year by a registered bookmaker is less than the amount of credit given in respect of those bets for that financial year, the difference between those amounts is to be paid by the bookmaker at the time of the next payment of commission required under this Act.

(6) The provisions of the *Taxation Administration Act 1997* apply to this section and, for that purpose, this section is taken to be a taxation law within the meaning of that Act.

(7) For the avoidance of doubt, a reference in this section to the bets accepted by a registered bookmaker is taken to include the bets, if any, accepted by registered agents of the bookmaker.

(8) In this section, “**GST**” has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

PART 7 – OFFENCES**Authorised and unauthorised betting, &c.**

85. (1) Except as otherwise provided by this Act, it is lawful for a person to engage in authorised betting and the placement or acceptance of an authorised bet does not, in itself, constitute an offence.

(2) For the purposes of this Act, authorised betting is –

- (a) betting conducted in person by or with a registered bookmaker or bookmaker's agent who is engaging in bookmaking on a racecourse in accordance with Part 6; or
- (b) betting conducted by telephone, in accordance with Subdivision 2 of division 3 of Part 6, by or with a registered bookmaker whose certificate of registration has a telephone betting endorsement; or
- (c) betting in a totalizator conducted by or on behalf of a registered club at a race meeting or betting-only meeting under its control; or
- (d) such other kind of betting as may be prescribed.

(3) Any betting that is not authorised betting by virtue of subsection (2) is, for the purposes of this Act, unauthorised betting.

Offences by bettors

86. (1) A person who places a bet with a registered bookmaker must not, with intent to evade the provisions

of this Act, fail to demand or obtain a betting ticket for the bet from the bookmaker or from a registered agent of the bookmaker.

Penalty: In the case of –

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

(2) A person must not place a bet with a registered bookmaker or bookmaker's agent if the person knows that –

- (a) the bookmaker or bookmaker's agent is not authorised under this Act to engage in bookmaking at the time when and place where the bet is placed; or
- (b) the way in which the bet is being accepted is contrary to the way in which the bookmaker or bookmaker's agent is authorised to engage in bookmaking under this Act.

Penalty: In the case of –

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

(3) In any proceedings for an offence under this section, the defendant is taken to have the intent required to constitute the offence if –

- (a) it is proved that the defendant habitually attends race meetings or bets with bookmakers; and

- (b) the defendant is unable to show that his or her conduct was due to accident or excusable inadvertence.

Betting with and by minors

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

Penalty: Fine not exceeding 25 penalty units.

(2) A person must not –

- (a) place, or offer to place, a bet with a bookmaker for or on behalf of a minor; or
- (b) cause or allow a minor to place a bet with a bookmaker; or
- (c) by actions or words, however conveyed, invite or encourage a minor to –
 - (i) place a bet with a bookmaker; or
 - (ii) enter into or take a share or an interest in a betting transaction involving a bookmaker; or
 - (iii) seek information or advice for the purpose of placing a bet with a bookmaker.

Penalty: Fine not exceeding 25 penalty units.

(3) It is a defence in proceedings for an offence against subsection (1) or (2) for the defendant to show that, at the relevant time, he or she reasonably believed that the person in relation to whom the offence was allegedly committed was not a minor.

(4) A minor must not –

- (a) place a bet with a bookmaker; or
- (b) cause or allow another person to place a bet with a bookmaker for or on behalf of the minor.

Penalty: Fine not exceeding –

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

(5) A police officer or steward who reasonably believes that a person is a minor who has been betting with a bookmaker may demand that the person deliver up all of the betting tickets in the person's possession.

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

Penalty: Fine not exceeding 10 penalty units.

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

Penalty: Fine not exceeding –

- (a) 2 penalty units if the minor has not attained the age of 15 years; or

- (b) 5 penalty units if the minor has attained the age of 15 or 16 years; or
- (c) 10 penalty units if the minor has attained the age of 17 years.

Betting with unregistered bookmakers

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

Penalty: Fine not exceeding 25 penalty units.

(2) It is a defence in proceedings for an offence against subsection (1) for the defendant to show –

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

Clubs must not allow unregistered persons to field

89. A registered club must not allow a person to engage in bookmaking at a race meeting or betting-only meeting

held by the club or under its control if the person is not registered as a bookmaker or bookmaker's agent.

Penalty: Fine not exceeding 25 penalty units.

Unlawful communication of bookmaker odds during race meetings, &c.

90. (1) While a race meeting or betting-only meeting is being held on a racecourse in Tasmania –

- (a) a person inside the racecourse must not, by any means, receive privileged betting information from a person outside the racecourse; and
- (b) a person outside the racecourse must not, by any means, transmit privileged betting information to a person inside the racecourse; and
- (c) a person (whether inside or outside the racecourse) must not, by any means, transmit to a person outside the racecourse information about the odds being offered by bookmakers at that meeting in respect of any race meeting being held, or proposed to be held, in Tasmania or elsewhere.

Penalty: Fine not exceeding 25 penalty units.

(2) Subsection (1)(c) does not apply to the transmission, in good faith, of privileged betting information to the offices of a bona fide newspaper publisher for or in connection with the purposes of the publisher's newspaper business.

(3) Subsection (1) does not apply to –

- (a) the transmission, in good faith, of privileged betting information from one racing club to another racing club; or
- (b) the reception by one racing club of privileged betting information transmitted to it, in good faith, by another racing club.

(4) For the purposes of this section, a race meeting is taken to be held for a continuous period of time commencing one hour before the advertised starting time of the first race of the race meeting on any day and ending at the actual starting time of the last race of the race meeting on that day.

(5) The Director may, on such conditions as the Director thinks fit, issue a person with a permit exempting the person from the operation of subsection (1), or any part of that subsection, and may at any time revoke that permit.

(6) In this section –

“betting-only meeting” means a meeting of a racing club at which no racing takes place but during which, under the law of the jurisdiction in which the meeting is held, the club may conduct totalizator betting or allow bookmaking to be carried on;

“privileged betting information” means information about the actual or estimated betting odds being offered by bookmakers in respect of any race meeting being held, or proposed to be held, in Tasmania or elsewhere in the Commonwealth;

“racing club” means a club that is authorised by or under the law of any State or Territory of the

Commonwealth to operate as a horse racing club or greyhound racing club.

Betting in public places

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

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

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 200 penalty units; and
- (b) a second offence, a fine not exceeding 300 penalty units or imprisonment for a term not exceeding 6 months, or both; and
- (c) a subsequent offence, a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 12 months, or both.

(2) It is a defence in proceedings for an offence against subsection (1)(a) for the defendant to show that –

- (a) the transaction to which the charge relates was conducted pursuant to an agreement with another person to place a bet with a registered bookmaker lawfully engaged in bookmaking, or in a totalizator being lawfully conducted by a registered club; and

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

Unlawful betting-places

92. (1) A person must not –

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

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

(2) In this section, **“unlawful betting-place”** means –

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

False or misleading statements

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

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

Penalty: In the case of –

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

Obstruction of inspectors and auditors

94. A registered bookmaker must not obstruct or hinder a person who is carrying out an inspection or audit that the

person is authorised to carry out under this Act in relation to the registered bookmaker's bookmaking business.

Penalty: In the case of –

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

PART 8 – ENFORCEMENT**Authorised persons and police officers have right to enter racecourses**

95. (1) A person who is authorised in writing for the purpose by the Director is, on production of that authorisation, entitled to enter a racecourse free of charge at any time and to remain on the racecourse.

(2) A person must not prevent another person from exercising a right that the other person is entitled to exercise by virtue of an authorisation under subsection (1).

Penalty: Fine not exceeding 10 penalty units.

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

Power of police and stewards to require personal information

96. (1) A police officer or steward who reasonably believes that a person has committed, is committing or is about to commit an offence against this Act may require the person to state his or her name and address.

(2) A person who is required to state his or her name and address under subsection (1) must not –

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

Penalty: Fine not exceeding 25 penalty units.

(3) A police officer who requires a person to state his or her name and address under subsection (1) may arrest the person without warrant if –

- (a) the person refuses or fails to comply with the requirement; or
- (b) the police officer reasonably believes that the name or address stated by the person is false.

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

97. (1) A police officer who reasonably believes that a person is or has recently been engaging in unauthorised betting in a public place, or is in a public place for the purpose of engaging in unauthorised betting in that public place, may –

- (a) arrest the person without warrant; and
- (b) search the person following the arrest; and
- (c) retain any money, document or other thing found on or in the care, charge or control of the person at the time of arrest or search that, in the reasonable opinion of the police officer, constitutes evidence of the unauthorised betting.

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

Self-incrimination

98. A person, other than the defendant, who is called or examined as a witness in any proceedings in respect of an offence against this Act is not excused from answering a question or producing a document on the ground that the answer or document might tend to incriminate the person or render the person liable to a penalty.

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

99. (1) A court that convicts a person of an offence against this Act may, in addition to any other penalty it may impose, order that any money, document or other thing seized by a police officer in connection with the offence is forfeited to the Crown.

(2) Any money forfeited to the Crown under this section is to be paid into the Consolidated Fund and any document or other thing so forfeited is to be disposed of as the Minister thinks fit.

Vicarious liability of bookmakers

100. (1) If a registered bookmaker's agent or other person acting or purportedly acting for or on behalf of a registered bookmaker commits an act that would constitute an offence against this Act if committed by the bookmaker –

- (a) the bookmaker is taken to have also committed the act; and
- (b) the bookmaker may be charged with and convicted of the offence unless the bookmaker proves that the act was committed without his or her knowledge or consent.

(2) Subsection (1) has effect whether or not the registered bookmaker's agent or other person acting or purportedly acting for the registered bookmaker is charged with or convicted of the offence.

Evidentiary provisions

101. (1) In any proceedings for an offence against this Act proof that at a particular time a place was opened, kept or used for the purpose of unauthorised betting is evidence that it was so opened, kept or used with the permission of its occupier.

(2) In any proceedings for an offence against this Act an allegation in the complaint that at a particular time –

- (a) a person was or was not registered as a bookmaker or bookmaker's agent; or
- (b) a club was or was not registered as a club; or
- (c) a place was a public place within the meaning of this Act; or
- (d) a particular person is or was the occupier of a place mentioned in the complaint; or
- (e) the defendant had or had not attained a specified age –

is evidence of that fact.

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

- (a) a race meeting took place, or was appointed to take place, at a specified place; or

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

is evidence of that fact.

Unauthorised betting agreements, &c., are void

102. (1) Subject to subsection (2) –

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

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

Proceedings

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

PART 9 – MISCELLANEOUS**Replacement certificates of registration**

104. (1) The Director may issue a registered club, a registered bookmaker or a registered bookmaker's agent with a replacement certificate of registration at any time if the Director is satisfied that –

- (a) the original certificate has been lost, stolen, destroyed or damaged; or
- (b) the particulars on the original certificate have changed; or
- (c) there are other reasonable grounds to do so.

(2) Without limiting the generality of subsection (1), the Director may issue a replacement certificate of registration to a bookmaker's agent who changes his or her principal.

(3) The Director, in his or her discretion, may charge a fee to recover the reasonable costs of issuing the replacement certificate.

Protection for racing administrators

105. (1) The Director is not personally liable for any act done or purported or omitted to be done by the Director in good faith in the exercise or performance of the Director's powers or functions under this or any other Act.

(2) A member of a Council is not personally liable for any act done or purported or omitted to be done by the member in good faith in connection with the exercise or performance of the Council's powers or functions under this or any other Act.

(3) A liability that would, but for this section, attach to the Director attaches to the Crown.

(4) A liability that would, but for this section or the *Statutory Authorities (Protection from Liability of Members) Act 1993*, attach to a member of a Council attaches to the Council.

Conduct of inquiries

106. (1) Schedule 3 has effect in relation to the holding of an inquiry.

(2) Except as otherwise provided by this Act, Part 3 and section 33 of the *Commissions of Inquiry Act 1995* apply to inquiry proceedings as if the Director were a Commission established under section 4 of that Act and the inquiry being conducted by the Director were an inquiry being conducted by that Commission under that Act.

Status of *Rules of Racing*, &c.

107. (1) A Council's *Rules of Racing* are not –

- (a) statutory rules; or
- (b) instruments of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.

(2) Sections 47(3) and (10) of the *Acts Interpretation Act 1931* do not apply to a Council's *Rules of Racing*.

(3) A Council's *Rules of Racing* may –

- (a) provide that a contravention of any of the rules is an offence; and

- (b) provide, in relation to the commission of any such offence, for any, or any combination of, the following:
 - (i) the imposition on the offender of a fine not exceeding 750 penalty units;
 - (ii) disqualification of the offender;
 - (iii) disqualification of the horse or greyhound in respect of which the offence was committed;
 - (iv) the suspension of any registration or licence held under the rules by the offender;
 - (v) the suspension of any registration held under the rules by the horse or greyhound in respect of which the offence was committed.

(4) A provision of a Council's *Rules of Racing* that prescribes a registration or licensing fee is invalid unless made with the prior approval of the Director.

(5) Fines payable under a Council's *Rules of Racing* are payable to the Director and, if not paid, may be recovered as a debt due to the Crown.

(6) A Council must ensure that any person who wishes to do so may, during normal business hours –

- (a) inspect its *Rules of Racing* at its office free of charge; and
- (b) obtain a copy of all or any of those rules.

(7) A Council may charge a fee to recover the cost of providing a person with a copy of all or any of its *Rules of Racing*.

(8) A Council may publish its *Rules of Racing* as it sees fit.

Service of notices

108. (1) For the purposes of this Act, an application, direction or other document may be lodged with, served on or given to a person by –

- (a) in the case of an individual –
 - (i) handing it to the person; or
 - (ii) leaving it at, or sending it by post to, the person's postal or residential address or place or address of business or employment last known to the person seeking to lodge, serve or give the document; or
 - (iii) faxing it to the person's facsimile number; or
 - (iv) emailing it to the person's email address; and
- (b) in the case of any other person –
 - (i) leaving it at, or sending it by post to, the person's principal or registered office or one of the person's places of business; or
 - (ii) faxing it to the person's facsimile number; or
 - (iii) emailing it to the person's email address.

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

any other body of persons if the document is lodged with, served on or given to –

- (a) the club or body; or
- (b) the secretary of the club or body.

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

Regulations

109. (1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), regulations may be made under that subsection for or in relation to all or any of the following matters:

- (a) further procedural or other requirements in connection with registrations and applications;
- (b) the control and enforcement and, if relevant, the disbursement of bonds of indemnity or other forms of security given in respect of any matter;
- (c) the business arrangements and conduct of bookmakers and bookmakers' agents;
- (d) the control and regulation of betting by and with bookmakers, including, but not limited to, the following:
 - (i) betting tickets and betting sheets;
 - (ii) the laying and displaying of odds;

- (iii) winning, losing, void and disputed bets;
- (iv) types of bets and the conditions applicable to each type of bet;
- (v) the settlement of bets;
- (e) the control and regulation of telephone betting endorsements;
- (f) the keeping of records and accounts on any matter by clubs or bookmakers or other persons, and the consequences of the loss or destruction of such records or accounts;
- (g) the provision, to the Director, of information or returns on any matter by clubs or bookmakers or other persons involved in the racing industry;
- (h) betting supervisors, branding officers and stipendiary stewards, including their duties and the nature and enforcement of their powers.

(3) The regulations may –

- (a) be of general or limited application; and
- (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
- (c) authorise any matter to be determined, applied or regulated by the Director; and
- (d) authorise any matter relating to the powers or functions of a Council to be determined, applied or regulated by that Council; and

- (e) authorise any matter relating to the powers or functions of the TRAB to be determined, applied or regulated by the TRAB or its chairperson.

(4) The regulations may –

- (a) provide that a contravention of any of the regulations is an offence; and
- (b) provide, in relation to any such offence, for the imposition of a fine not exceeding 25 penalty units and, in the case of a continuing offence, a further fine not exceeding 2.5 penalty units for each day during which the offence continues.

Council elections

110. (1) Elections to elect a member or members of a Council are to be –

- (a) conducted by the Chief Electoral Officer or a Returning Officer appointed or approved for the purpose by the Chief Electoral Officer; and
- (b) supervised by the Chief Electoral Officer.

(2) Regulations made under section 109 for or in relation to the election of a member or members of a Council may, without limiting the generality of that section –

- (a) specify which persons or class of persons are eligible to stand as candidates, and to vote, in the election; and
- (b) authorise the Minister to appoint persons to fill casual vacancies in cases where it is not possible or appropriate to fill such vacancies

by recount, further election or other electoral means; and

- (c) authorise any matter relating to the election to be determined, applied or regulated by the Chief Electoral Officer or Returning Officer.

(3) In this section, “**Chief Electoral Officer**” means the Chief Electoral Officer within the meaning of the *Electoral Act 1985*.

Administration of Act

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

- (a) the administration of this Act is assigned to the Minister for Racing, Sport and Recreation; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Infrastructure, Energy and Resources.

**SCHEDULE 1 – FURTHER PROVISIONS ON
COUNCIL/TRAB MEMBERSHIP**

Section 14(11), section 17(5), section 20(5) and
section 22(6)

Interpretation

1. In this Schedule –

“administering body” means a Council or the TRAB;

“member” means a member of an administering body;

“relevant authority” means –

- (a) for a Council, the Minister; and
- (b) for the TRAB, the Governor;

“State servant” means a State Service officer or State Service employee.

Holding other office

2. 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.

State servants may be members

3. (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.

Remuneration of members and conditions of appointment

4. (1) A member is entitled to be paid such remuneration and allowances as the relevant authority may from time to time determine.

(2) In the case of a Council, any such remuneration or allowance is to be paid from the funds of that Council.

(3) A member who is a State servant is not entitled to receive remuneration or allowances under this clause, except with the approval of the Minister administering the *State Service Act 2000*.

(4) An appointed 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.

Vacation of office

5. (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 elected; or
- (b)** resigns by notice given to the relevant authority; or

- (c) is removed from office under subclause (2) or (3).

(2) The relevant authority may remove a member from office if the member –

- (a) is absent from 3 consecutive meetings of the administering body without the permission of the other members of that body; 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 pecuniary interest as required by clause 6(1); or
- (e) is convicted, in Tasmania or elsewhere, of a crime or offence punishable by imprisonment for a term of 12 or more months 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*.

(3) The relevant authority may remove a member from office if the relevant authority is 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.

Disclosure of interest

6. (1) A member of an administering body who has a direct or indirect pecuniary interest in a matter being or about to be considered by the administering body 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 administering body.

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 administering body exclusive of that member determines otherwise –

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

Filling of vacancies

7. (1) If the office of an appointed member of a Council becomes vacant, otherwise than by 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) A person who is appointed as a member of a Council under subclause (1) may nominate another person to act as his or her proxy.

(3) 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.

Proxies

8. (1) The nomination of a proxy for a member of a Council is to –

- (a) be in writing; and
- (b) state whether the proxy is to vote at his or her discretion or at the direction of the nominator; and
- (c) be given to the chairperson of the Council or, if the nomination is of a proxy for the chairperson, to the deputy chairperson.

(2) A member of a Council is not capable of acting as proxy for more than 2 other members.

Validity of proceedings, &c.

9. (1) An act or proceeding of an administering body or of a person acting under the direction of an administering body 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 administering body.

(2) An act or proceeding of an administering body or of any person acting under the direction of an administering body is valid even if –

- (a) the appointment or election of a member of that body was defective; or

- (b) a person appointed or elected as a member of that body was disqualified from acting as, or incapable of being, such a member.

Presumptions

10. In any proceedings by or against an administering body, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the administering body; or
- (b) any resolution of the administering body; or
- (c) the appointment or election of any member of the administering body; or
- (d) the presence of a quorum at any meeting of the administering body; or
- (e) the nomination of any proxy.

SCHEDULE 2 – MEETINGS OF COUNCILS

Section 10(3)

Interpretation

1. In this Schedule –

“**meeting**” means a meeting of a Council;

“**member**” means a member of a Council.

Convening meetings

2. A meeting may be convened by the chairperson or any 2 members.

Quorum

3. (1) Three members constitute a quorum at any duly convened meeting of Harness Racing Tasmania or Greyhound Racing Tasmania.

(2) Five members constitute a quorum at any duly convened meeting of the Tasmanian Thoroughbred Racing Council.

Chairing of meetings

4. (1) The chairperson is to preside at all meetings.

(2) If the chairperson is not present at a meeting the deputy chairperson is to preside at that meeting.

(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.

Procedure at meetings

5. (1) Any duly convened meeting of a Council at which a quorum is present is competent to transact any business of that Council.

(2) A member may vote at any meeting –

(a) in person; or

(b) by proxy.

(3) Each member, including the chairperson and deputy chairperson, has only one vote.

(4) A question arising at a meeting is to be determined by a majority of the votes cast.

(5) In the event of an equality of votes on a question arising at a meeting, the question stands adjourned until the next meeting.

Proxies

6. (1) A member is not entitled to use a proxy for more than 2 consecutive meetings without the leave of the Council.

(2) A vote that a member casts by proxy is as valid as if it were cast by the member in person.

Minutes

7. (1) A Council is to keep accurate minutes of each of its meetings.

(2) A Council is to give the Director and the Chief Executive Officer of TOTE Tasmania a copy of those minutes within 14 days after the day of the meeting.

Special attendance

8. (1) A Council 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 Council.

(2) A member who participates in a meeting under a permission granted under this clause is taken to be present at the meeting.

(3) A Council may permit a person to attend a meeting for the purpose of advising or informing it on any matter.

General procedures

9. Except as provided by this Act, a Council may otherwise regulate its own proceedings.

SCHEDULE 3 – CONDUCT OF INQUIRIES

Section 106(1)

General procedure

1. In conducting an inquiry, the Director –

- (a) is to proceed with as little formality and technicality, and with as much expedition, as a proper consideration of the matter permits; and
- (b) must observe the rules of natural justice; and
- (c) may proceed with and determine the inquiry notwithstanding the absence of a person who has been required to appear; and
- (d) may adjourn the inquiry from time to time or from place to place as he or she thinks fit; and
- (e) may publish the findings of the inquiry as he or she thinks fit; and
- (f) except as provided by this Act, may otherwise regulate his or her own proceedings.

Representation

2. (1) A natural person is entitled to be represented in an inquiry by a legal practitioner or any other person.

(2) A corporation, club, association or other body of persons is entitled to be represented in an inquiry by a legal practitioner or any other person.

(3) The Director may engage a legal practitioner or other person to help the Director hold an inquiry.

(4) A legal practitioner or other person who represents a party to an inquiry or is engaged to help the Director hold an inquiry has, in that capacity, the same protection and immunity as a barrister appearing for a party in proceedings in the Supreme Court.

Evidentiary provision

3. Section 101 has the same application to inquiry proceedings as it has to proceedings on the hearing of a charge for an offence against this Act.