

CLAUSE NOTES

Racing Regulation Amendment (Board Amalgamation) Bill 2015

PART 1 PRELIMINARY

Clause 1 Short title and citation.

Clause 2 Provides for the *Racing Regulation Amendment (Board Amalgamation) Act 2015* to commence on 1 July 2015. However, if the proposed legislation does not receive the Royal Assent before 1 July 2015, it will commence on the date on which it receives the Royal Assent.

PART 2 RACING REGULATION ACT 2004 AMENDED

Clause 3 In Part 2, the *Racing Regulation Act 2004* is referred to as the Principal Act.

Clause 4 Amends section 3 of the Principal Act by deleting certain definitions, amending others and inserting additional definitions for the purpose of amendments made under this Bill as follows:

under paragraphs (a), (b) and (c), by removing references to the IAB brought about by the abolition of that board under clause 6 of this Bill; and

under paragraph (d), by inserting a definition of “former IAB”, for the purposes of an amendment effected by clause 11(c) of this Bill and the transitional and savings provisions effected by clause 18 of this Bill; and

under paragraph (e), by removing reference to the IAB brought about by the abolition of that board under clause 6 of this Bill; and

under paragraph (f), by inserting a definition of “major appeal” to clarify the different types of appeal consequent on the transferring of responsibility for certain appeals from the IAB to the TRAB, effected by clauses 8 and 9 of this Bill; and

under paragraph (g), by amending the definition of “minor appeal” to clarify the different types of appeal consequent on the transferring of responsibility for certain appeals from the IAB to the TRAB, effected by clauses 8 and 9 of this Bill; and

under paragraphs (h) and (i), by removing references to the IAB brought about by the abolition of that board under clause 6 of this Bill; and

under paragraph (j), by removing the definition of “TOTE Tasmania”, made redundant by the sale and privatisation of this former State-owned company to the Tatts Group in 2012.

Clause 5 Removes the reference to TOTE Tasmania as a consequence of the amendment effected by clause 4(j) of this Bill, while at the same time making it clear that the proposed legislation does not apply to, limit or render unlawful totalizator betting authorised under the *Gaming Control Act 1993*.

Clause 6 Removes Part 4 from the Principal Act, which deals with the establishment, membership and operations of the IAB, to effect the abolition of that board.

Clause 7 Amends section 23 of the Principal Act, which specifies the constitution of the TRAB, eligibility criteria, appointment and term of office of members, by –

under paragraph (a), removing paragraph (d) from subsection (7), which stipulates that a person is ineligible for membership of the TRAB if they are a director or employee of TOTE Tasmania. This amendment is consistent with clauses 4(j), 5 and 6 of this Bill which remove references to TOTE Tasmania in the Principal Act; and

under paragraph (b), removing a reference to the chairperson or deputy chairperson of the IAB, consequent to the abolition of that board under clause 6 of this Bill; and

under paragraph (c),

- removing subsections (8), (9) and (10), provisions which dealt with the termination of appointment of three members of the TRAB consequent on the commencement of the *Racing Regulation Amendment (TRAB) Act 2009* and which are now redundant, and
- inserting a new subsection (8) to prohibit members of the TRAB from wagering on a Tasmanian race meeting or with a Tasmanian registered bookmaker. The inclusion of this restriction is consistent with an equivalent provision that applied to the former IAB.

Clause 8 Amends Part 5 of the Principal Act to provide the legislative mechanism for the TRAB to hear appeals that were formerly heard by the IAB, consequent to the amendments effected by clause 6 of this Bill, by inserting new section 28A as follows:

new section 28A

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| subsection (1) | Specifies the decisions of the Director against which an aggrieved person may appeal to the TRAB. |
| subsection (2) | Specifies the decisions of Tasracing against which a wagering operator may appeal to the TRAB. |
| subsection (3) | Specifies the decisions of a registered club, or disputes in relation to a bet with a bookmaker, against which an aggrieved person may appeal to the TRAB. |
| subsection (4) | Provides that where the TRAB is empowered to hear an appeal against a decision of the Director, then no appeal lies to the Director. |
| subsection (5) | Provides that where the TRAB is empowered to hear an appeal against a decision of Tasracing or a registered club, then no appeal lies to Tasracing or that club. |
| subsection (6) | Provides that subsections (4) and (5) have effect despite anything to the contrary contained in the <i>Rules of Racing</i> or the constitution, rules or articles of a club, or the constitution of |

Tasracing.

- Clause 9** Amends section 29 of the Principal Act, which deals with the manner and time within which an appeal is to be lodged with the secretary of the TRAB, by –
- under subclause (a), inserting a new provision in respect of an appeal relating to a dispute with a bookmaker regarding the placement, acceptance, payment, non-payment or amount of a bet, requiring the notice of appeal to specify the parties in dispute and the nature of that dispute. This amendment is brought about by the transfer of responsibility for hearing betting disputes from the former IAB to the TRAB; and
- under subclause (b), amending subsection 3(ab) to clarify that notice of a major appeal as defined by clause 4(f) of this Bill, or an appeal by a wagering operator against a decision of Tasracing or an appeal by a bookmaker or bookmaker's agent against a decision of a registered club, as inserted by clause 8 of this Bill, must be lodged with the secretary of the TRAB within 14 days of the relevant decision being taken; and
- under subclause (c), inserting a provision requiring a notice of appeal in respect of a decision of the Director of Racing to be lodged with the secretary of the TRAB within 14 days of the relevant decision being taken, and a notice of appeal in respect of a betting dispute to be lodged with the secretary of the TRAB within 60 days after the event to which the disputed bet relates.
- Clause 10** Amends section 30 of the Principal Act, which deals with the hearing of appeals by the TRAB, by –
- under subclause (a), clarifying that the TRAB secretary is to give the parties to the appeal, as soon as practicable, a copy of the transcript of the proceedings at which the decision that is the object of the appeal was made, but only if such proceedings were recorded; and
- under subclause (b), clarifying that the TRAB secretary is to give the parties to the appeal, as soon as practicable, a copy of the race patrol film relating to the matter that is the object of the appeal, but only where the appeal is in respect of a decision of the stewards; and
- under subclause (c), requiring the chairperson to make every endeavour to ensure that a major appeal, as defined by clause 4(f) of this Bill, is heard within 21 days of the lodgement of the appeal.
- Clause 11** Amends section 31 of the Principal Act, which deals with the constitution of the TRAB for appeals, by –
- under subclause (a), specifying the number of members that properly constitute the TRAB for hearing an appeal other than a minor appeal; and
- under subclause (b), requiring the chairperson, when choosing the members who are to constitute the TRAB for an appeal other than a minor appeal, to select the chairperson or a deputy chairperson as a member; and
- under subclause (c), inserting a new provision requiring the chairperson, when

choosing the members who are to constitute the TRAB for an appeal, to consider all members and give due consideration to the issues likely to be involved in the particular appeal and to ensure there is no risk of a chosen member having an actual, or perceived, bias or conflict of interest as a result of having previously sat in judgement of the person who has lodged the appeal, as either a member of the TRAB or the former IAB.

Clause 12 Amends section 33 of the Principal Act, which relates to the suspension of penalties pending appeals, by clarifying that the chairperson must not suspend the operation of a penalty pending the hearing and determination of an appeal in the circumstances specified, but only insofar as it relates to major or minor appeals. The chairperson's power to suspend the operation of a penalty is not limited in relation to appeals against certain decisions of the Director of Racing, Tasracing or racing clubs as specified by clause 8 of this Bill.

This clause also removes the restriction on the chairperson's power to suspend a penalty pending the hearing and determination of an appeal where the chairperson considers the primary reason for the appellant's request for the suspension of the operation of a penalty is to enable a racing activity to be undertaken in the period before the appeal is heard.

Clause 13 Amends section 34 of the Principal Act, which specifies the manner in which the TRAB may determine appeals, by –

under subclause (a), enabling the TRAB, after hearing an appeal, to make orders in relation to betting disputes; and

under subclause (b), clarifying that the TRAB, after hearing an appeal against a decision of the stewards, may if it considers it just to do so, refer the matter to the stewards for rehearing in specified circumstances; and

under subclause (c), inserting two new subsections as follows:

new subsection (5) enabling the TRAB to make a decision under an alternative charge if it considers just to do so; and

new subsection (5A) requiring a registered bookmaker to comply with an order of the TRAB to pay a debt in relation to a disputed bet hearing, and providing a penalty for failure to comply with such order.

Clause 14 Provides that a decision of the Director to refuse an application 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), which could not be appealed to the former IAB, continues to be a decision that is not appealable to the TRAB, consequent on the amendment effected by clause 6 of this Bill.

Clause 15 Amends the constitution of the panel that makes recommendations to the secretary of the administering department in respect of the appointment of all full-time stipendiary stewards, by replacing the chairperson of the former IAB with a person to be determined by the secretary of the department, consequent on the abolition of the IAB effected by clause 6 of this Bill.

Clause 16 Removes the provision in respect of the regulations authorising any matter relating

to the functions or powers of the IAB to be determined, applied or regulated by the board or its chairperson, as the proposed legislation abolishes the IAB, pursuant to clause 6 of this Bill.

Clause 17 Removes a reference to the “IAB” in relation to persons and bodies authorised by the *Rules of Racing* to determine matters from time to time, consequent on the abolition of the IAB effected by clause 6 of this Bill.

Clause 18 Provides for the termination of membership of the IAB and TRAB, and for the necessary transitional and saving provisions consequent on the enactment of this Bill, by inserting new sections 112 and 112A as follows:

new section 112 - provides for the cessation of the office of former members of the IAB and the TRAB at the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015*, notwithstanding any limitations or provisions contained in Schedules 3A and 3B to the Principal Act, and makes it clear that no compensation is payable to any person in respect of their office ceasing to exist as a result of the amendments effected by this clause. It also enables the appointment, or reappointment, to the TRAB of persons whose office ceased to exist as a result of amendments effected by this clause.

new section 112A

- subsection (1) Defines expressions and terms for the purpose of this section.
- subsection (2) Ensures decisions made by the former IAB before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015* continue to have effect as decisions of the TRAB.
- subsection (3) Enables an appeal made to the former IAB, which has not been withdrawn, abandoned or determined before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015*, to be taken as an appeal to the TRAB.
- If an appeal has been heard but not determined before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015*, it is to be reheard by the TRAB as if it had not been heard by the former IAB.
- subsection (4) Enables an appeal that could have been but was not made to the former IAB before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015*, to be made to the TRAB within the prescribed period, calculated from the date of the relevant decision to which the appeal relates.
- subsection (5) Ensures that actions of the former IAB before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015* continue to have effect as actions of the TRAB.
- subsection (6) Ensures a document issued or made by, served on or provided

to or by the former IAB is taken to be a document issued or made by, served on or provided to or by the TRAB.

- subsection (7) Enables a legal proceeding instituted against the IAB and pending before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015* to be continued against the TRAB.
- subsection (8) Enables a legal proceeding to enforce a right that could have been but was not instituted against the IAB before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015* to be instituted against the TRAB.
- subsection (9) Ensures a court judgement or order obtained by or against the IAB before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015* can be enforced by or against the TRAB.
- subsection (10) Provides for the Governor to make regulations of a savings or transitional nature consequent on enactment of this Bill.
- subsection (11) Specifies the purposes for which regulations may be made under this section which are self-explanatory.

Clause 19 Removes Schedule 3A from the Principal Act, which dealt with further provisions relating to the membership of the former IAB. Schedule 3A is no longer required as it relates back to section 22(5) of the Act, which is repealed by clause 6 of this Bill.

PART 3 RACING (MISCELLANEOUS) REGULATIONS 2004 AMENDED

Clause 20 In Part 3, the *Racing (Miscellaneous) Regulations 2004* are referred to as the Principal Regulations.

Clause 21 Amends Schedule 2 to the Principal Regulations, which details prescribed deposits, to remove the reference to the former IAB consequent to the abolition of that board effected by clause 6 of this Bill and the transfer of responsibility for hearing certain appeals from the former IAB to the TRAB by clause 8 of this Bill.

The prescribed deposit of \$200 is retained for appeals against those decisions, formerly heard by the IAB but now heard by the TRAB.

PART 4 CONCLUDING PROVISION

Clause 22 Provides for the automatic repeal of the *Racing Regulation Amendment (Board Amalgamation) Act 2015* one year from the day it commences.