Racing Integrity Bill 2015

Explanatory Notes

Short title

The short title of the Bill is the Racing Integrity Bill 2015.

Policy objectives and the reasons for them

The objectives of the Bill are to:

- establish the new Queensland Racing Integrity Commission (the Commission) responsible for the management of animal welfare and integrity matters within the racing industry;
- amend the *Racing Act 2002* to:
  - reform the structure of the Queensland All Codes Racing Industry Board, including renaming the board as the Racing Queensland Board;
  - dissolve the three individual racing code boards, the Racing Animal Welfare Integrity Board and the Racing Disciplinary Board; and
- amend the *Animal Care and Protection Act 2001* (ACPA) to:
  - provide improved information sharing capacity and broaden authorised officer powers to investigate and respond to animal welfare matter and breaches of the Act relate to racing industry.

The *Racing Act 2002* (the Racing Act) currently establishes the Queensland All Codes Racing Industry Board as the control body responsible for managing and administering the thoroughbred, harness and greyhound codes of racing in Queensland and provides the legislative framework for the regulation of racing bookmakers in Queensland. This encompasses both the commercial, animal welfare and integrity function undertaken for the three codes at any given time. The Queensland All Codes Racing Integrity Board was established in 2013 to govern Racing Queensland functions.

On 1 June 2015, the Queensland Greyhound Racing Industry Commission of Inquiry (the Commission of Inquiry) report was delivered to the Premier. The report is the culmination of three months of independent investigation into the governance and regulation of the industry after allegations of live baiting was prevalent throughout the State.

The report contains 15 recommendations collectively designed to ensure the future integrity of Queensland's greyhound racing industry, safeguard animal welfare, and restore public confidence following allegations of animal cruelty within the industry.
Implementing recommendations 1 to 3 of the report are the main focus of the Bill. The new frameworks provided by the Bill are necessary for the protection of animals involved in racing and, in the case of participants other than animals, to ensure integrity in the activities associated with the racing industry.

Achievement of policy objectives

Establish the Queensland Racing Integrity Commission.

The Bill will achieve its objectives by:-

- establishing the Queensland Racing Integrity Commission, with responsibility for:
    - licencing suitable animals, club, participants and venues for a code of racing;
    - assessment of future control bodies for any new code of racing;
    - conduct audits and investigations of control bodies;
    - manage testing of animals or things involved in the racing industry;
    - manage the integrity of race meetings;
    - safeguard animal welfare participating in racing;
    - review and assess practices of participants and clubs in the racing industry for integrity and compliance with the Racing Act, this Bill and other relevant laws;
    - allow for collaboration between agencies responsible for investigating and prosecuting animal welfare offences;
    - record and monitor animals to which the Bill applies; and
    - promote compliance and integrity by providing participants with information and education.
- the appointment of a full time commissioner for the effective administration of the commissions functions and powers;
- appointment deputy commissioners to support the function of the commissioner at any time;
- ability of the commissioner to employ the appropriately qualified staff to perform the functions and powers of the commission;
- enable authorised officers to share information between relevant agencies.

Amend the *Racing Act 2002* to:-

- remove provisions that relate to the functions that the control body will no longer be responsible for and retain the functions relating to the management and promotion of the industry. The control body will retain the function of maintaining the rules of racing, the provision of prize money and handicapping functions for race meetings. Other than these existing functions the control body will focus on the commercial operations.
- rename and restructure the current Queensland All Codes Racing Industry Board to become the Racing Queensland Board and increase the Board's membership from five to seven members. Four members will be independent from the industry and the remaining three drawn from each code of racing. The term of appointment of these members will be not more than three years and not more than one year respectively.

Consequential amendments have been made to enable effective operation of the remaining amended provisions.

Alternative ways of achieving policy objectives

The Commission of Inquiry found that the current system of self-regulation of the racing industry has failed to ensure integrity in the industry and to safeguard animal welfare.

Recommendations one to three made in the report (which the Bill is implementing), require legislative amendments to achieve their objective. For this reason, no alternate ways of achieving the policy were possible.

Estimated cost for government implementation

Cost of implementation of the measures in the Bill will require funding from the relevant department to address:

- The costs associated with the establishment of the Queensland Racing Integrity Commission (the commission). These costs include the accommodation, resourcing and systems for the Commissioner, Deputy Commissioners and the staff of the commission. These costs are essential to assist the Commission in carrying out its functions in relation to information tracking and the data capture relating to licenced animals, participants and incidents.

- The costs incurred through the transferral of staff from Racing Queensland and the Department of National Parks, Sport and Racing to the Commission. The employment and appointment of additional staff will also be required to undertake specific roles within the commission i.e. the Commissioner and Deputy Commissioner roles. All other staff will be employed under the *Public Service Act 2008*.

Consistency with fundamental legislative principles

It is arguable that there are some departures in the Racing Integrity Bill 2015 (the Bill) from fundamental legislative principles. Any such departure has occurred in the context of a tension between the fundamental legislative principles outlined in the *Legislative Standards Act 1992* and the competing community expectation to protect racing animals from cruelty, unnecessary suffering, injury and death and to bring those responsible for animal welfare offences to justice.

Clause 37 – Obtaining Criminal History

Clause 37 provides that the Queensland Racing Integrity Commission may investigate a control body to find out whether it is suitable to continue to manage its code of racing. It may also investigate a control body associate to decide whether the associate is a suitable person to be, or to continue to be, associated with the control body's operations. The Queensland Racing Integrity Commission may, in investigating a person, ask the Police Commissioner for the person's criminal history. This provision may be perceived as breaching the principle that legislation has sufficient regard to rights and liberties of individuals.

This step in the investigation is justified as it is important to the integrity of the racing industry that persons with a criminal background are not associated with the management or ownership of a control body. Again, the normal safeguards of penalties apply for inappropriate disclosure and destruction of information when it is no longer required.

Clause 59 – Standards made by the Commission

Clause 59 potentially breaches the principle that legislation has sufficient regard to the institution of Parliament and sufficiently subjects the exercise of delegated legislative power to the scrutiny of the Legislative Assembly. Since the commencement of the *Racing Act 2002*, the rules of racing and policies (including the policy relating to the licensing scheme of the control bodies) have been statutory instruments. These documents are not subordinate legislation and are not tabled or subject to disallowance. This approach was taken to allow responsibility for the management of a code of racing to be vested in the control bodies.

While these policies, rules of racing and the standards under the new Act are not subordinate legislation, these documents will be required to comply with the *Legislative Standards Act 1992*. Under the new Act, the standard for the licensing scheme will be required to address mandatory and discretionary matters which are the same as those currently contained in the *Racing Act 2002* for the control body's policy for the licensing scheme. As the Queensland Racing Integrity Commission will now be the licensing body for the racing industry, it is considered appropriate for these requirements to be transferred into the new Act as requirements for the standards for a licensing scheme.

Due to the changing nature of the industry and the need to respond to various challenges and issues, it has been deemed prohibitive to the operation of the licensing framework to codify the scheme in primary legislation. This is mainly as the Queensland Racing Integrity Commission may need to provide for additional licence categories, additional criteria for a license or other matter to allow it to respond to matters that may arise in the future. Appropriate oversight of Queensland Racing Integrity Commission's operations will continue to be provided by the Minister.

Decisions made under the standards, including those under the licensing scheme, are subject to appropriate review processes under the new Act and allow a person who is aggrieved by a decision of the Queensland Racing Integrity Commission, such as a decision to cancel a licence, to seek an internal review, followed by an external review by the Queensland Civil and Administrative Tribunal if necessary. Therefore, although the standard for a licensing scheme is not codified within the legislation, the decisions under the standard will continue to be subject to appropriate scrutiny and review.

Clause 96 – Taking Fingerprints

Clause 96 states an applicant for a racing bookmaker's licence must first obtain an eligibility certificate from the gaming executive. The gaming executive must conduct investigations to assist in deciding whether to grant the certificate, including obtaining fingerprints and the criminal history of the applicant, business associates, executive associates and, for a corporation, its executive officers. This provision may be perceived as breaching the principle that legislation has sufficient regard to rights and liberties of individuals.

While the taking of fingerprints may be considered an infringement of a person's privacy, it is an essential part of enabling appropriate criminal history checks to be undertaken. The gaming executive is required to destroy the fingerprints obtained when they are no longer required. The process for applying for and granting racing bookmaker's licences is essentially the same as the current regime under the *Racing Act 2002*. It is not considered unreasonable to allow for the taking of fingerprints in the circumstances.

Clause 137 and 146 – Review of Ministerial Decisions

As the Minister must use discretion, after considering all relevant matters, to determine whether an applicant corporation is suitable to be a control body for a code of racing, a de novo review of the Minister's decision is considered to be an inappropriate method of review of the decision. This provision may be perceived as a breach of the principle that legislation can only make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

It is however considered appropriate for the Supreme Court to review an approval decision under the *Judicial Review Act 1991* by assessing, for example, whether the Minister has taken all relevant considerations into account and excluded irrelevant considerations when making the decision and that the decision making process was free of bias.

Off-Course approvals under the Bill (currently under the Racing Act) allow licensed bookmakers, once approved, to conduct off-course bookmaking activities through approved telecommunications systems. Similar to the above for approved control body applications, it is considered inappropriate for a de novo review of the Minister's decision as it is at the Minister's discretion to approve the person applying for the off-course approval based on the undertaking provided and any other relevant information provided to the Minister. However, it would be appropriate for the Supreme Court to review an off-course approval decision under the *Judicial Review Act 1991*.

Clauses 175 to 179 – Powers of Entry by Authorised Officers

Clauses 175 to 179 propose expanding the powers of authorised officers, which potentially breaches the principle that legislation should have sufficient regard to rights and liberties of individuals. Authorised officers are currently appointed under the *Racing Act 2002* but will be appointed by the Racing Integrity Commissioner under the new Act. Authorised officers are to have powers of entry to places (including vehicles) similar to those of inspectors and police officers under particular provisions of the *Animal Care and Protection Act 2001* (ACPA) and the *Police Powers and Responsibilities Act 2000.*

The expansion of these powers has also been identified as necessary to remove any potential for evidence to be concealed in a vehicle held at a place where an authorised officer may not have the power to search it. Under the *Racing Act 2002*, the search powers for places other than vehicles are broad, but for vehicles it is very restrictive. The Bill is not proposing entry to residential premises other than under a warrant.

The insertion of these provisions is considered essential to allow authorised officers to investigate and respond to animal welfare matters and other offences under the new Act and the *Racing Act 2002* to ensure integrity and safeguard the welfare of animals.

Clause 282 – Protection from liability for giving information

Clauses 282 includes a provision, also mirrored in amendments to the *Racing Act 2002* (clause 311), that any person may disclose to authorised officer information the person reasonably believes may help with an investigation of an animal welfare offence. A person acting honestly and in good faith will not be exposed to liability for disclosing the information. This provision may be perceived as a breach of the principle that legislation should have sufficient regard to rights and liberties of individuals.

These provisions have been inserted to allow for further information sharing between members of the public and authorised officers and between agencies to allow for improved detection and investigation of animal welfare matters. The normal safeguards of penalties for inappropriate disclosure will continue to apply.

Clause 283 – Power to disclose information relating to animal welfare matters

Clause 283 allows authorised officers under the new Act, and mirrored in amendments to the *Racing Act 2002* (clause 311), the power to share information with inspectors and authorised officers appointed under the *Animal Care and Protection Act 2001* and with police officers, if the authorised officer reasonably believes the information may assist the inspector or officer in the performance of the officer's (or another officer within the agency) functions in relation to animal welfare matters. This provision potentially breaches the principle that legislation should have sufficient regard to rights and liberties of individuals.

These provisions have been inserted to allow for further information sharing between members of the public and authorised officers and between agencies to allow for improved detection and investigation of animal welfare matters. The normal safeguards of penalties for inappropriate disclosure will continue to apply

Clauses 285 – Executive officers may be liable for a corporation's failure to comply with animal welfare directions

Clause 285 is a provision identical to the deemed executive liability provisions under section 209A of the *Animal Care and Protection Act 2001*. Clause 285 provides that responsibility for an offence under the Bill committed by a corporation will vicariously attach to the executive officers of that corporation. This provision may be perceived as breaching the principle that legislation should have sufficient regard to rights and liberties of individuals.

The insertion of clause 285 is to conform to the type 2 liability provisions that were introduced through the *Directors' Liability Reform Amendment Act 2012*. Type 2 liability provisions are reserved for offences, which would cause a significant public harm. These offences include animal welfare offences and under the new Act relate to a failure by a corporation to comply with an animal welfare direction. To allow for consistency between the *Animal Care and Protection Act 2001* and the new Act, the insertion of the provision is considered appropriate.

Consultation

Community

While no specific community consultation has occurred on the detailed content of this submission, consultation has occurred with the community and industry groups, as part of the COI.

The Commission conducted an exhaustive review into the issues. This included:

- collecting existing research, statistics and other data from Queensland and other states and territories;
- calling for public submissions;
- conducting structured interviews with agreed stakeholders;
- analysing the data and public submissions received; and
- identifying options and testing them with key stakeholders.

The approach adopted by the Commission was to attempt to identify failures in the system of regulation within the industry, and look to the evidence for the reasons why those failures may have occurred.

Public submissions were invited by advertising in the Rockhampton Bulletin, Courier Mail, Bundaberg News, Cairns Post, Queensland Times and The Australian newspapers on 18 March 2015. A number of key stakeholders were directly invited to make a submission.

The closing date for submissions was 30 March 2015, but the Commission continued to accept public submissions after that date.

372 submissions were received.

This COI process formulated the recommendations in the final report.

Government

Consultation has been undertaken with the Department of Agriculture and Fisheries, the Department of the Premier and Cabinet, Queensland Treasury, Department of Justice and Attorney-General and the Public Service Commission as part of the legislation development process.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state. However, other jurisdictions, including Victoria, New South Wales and Tasmania have announced inquiries into the greyhound racing industry and have indicated major reforms to their racing industry structures may be implemented in the immediate future to address issues of the live-baiting in the industry.

These reviews and reforms are generally consistent with the proposed reforms to Queensland's legislative framework, including the separation of commercial and integrity matters and increased powers being provided to improve compliance and regulatory processes in the racing industry.

Notes on provisions

Chapter 1 Preliminary

Clause 1 states that, when enacted the Bill will be cited as the *Racing Integrity Act 2015.*

Clause 2 provides that the provisions of this Bill will commence on a day to be fixed by proclamation.

Clause 3 states the main purposes of the Bill and outlines how the main purposes are to be achieved. Establishing a new entity, the Queensland Racing Integrity Commission and the regulation of bookmakers are integral to maintain public confidence, ensure industry integrity and safeguarding the welfare of animals involved in racing in Queensland under this proposed Racing Integrity Act or the *Racing Act 2002*.

Clause 4 states that the legislation is intended to apply both within and outside Queensland, to the fullest extent legally possible.

Clause 5 provides for the dictionary in schedule 1 to define particular words used in the proposed Racing Integrity Act.

Clause 6 provides that the proposed Racing Integrity Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and all other states and territories. No provision in the proposed Racing Integrity Act makes the State of Queensland liable to be prosecuted for an offence against this proposed Racing Integrity Act.

Chapter 2 Queensland Racing Integrity Commission

Part 1 Establishment

Clause 7 establishes the Queensland Racing Integrity Commission, consisting of the commissioner, deputy commissioners and staff of the commission. As the commission will be established as a public service office, it provides that staff will be employed under the *Public Service Act 2008.*

Clause 8 provides that the Queensland Racing Integrity Commission represents the State and so has the status, privileges and immunities of the State.

Clause 9 provides that the Queensland Racing Integrity Commission is a unit of public administration under the *Crime and Corruption Act 2001;* and a statutory body as governed by the *Statutory Bodies Financial Arrangements Act 1982* and the *Financial Accountability Act 2009.*

Part 2 Functions and powers

Clause 10 states the functions of the Queensland Racing Integrity Commission. These are different to the responsibilities of control bodies under the *Racing Act 2002*.

Clause 11 states the functions that the Queensland Racing Integrity Commission is restricted from doing.

Clause 12 states the powers of the Queensland Racing Integrity Commission. These include the powers of an individual which means they can represent themselves like an individual would even though they are an entity other than a corporation; and other powers given under this proposed Racing Integrity Act or another Act.

Clause 13 allows the Minister to provide written directions to the Queensland Racing Integrity Commission, for which the commission must comply. These directions can be provided about the performance of the commission's functions or exercise of its powers, but precludes the Minister giving directions about original decisions (as defined under clause 262), decisions under clause 262(2) or matters for which the commission is conducting an audit or investigation. Any directions made under this provision must be included in the commission's annual report.

Clause 14 allows the Queensland Racing Integrity Commission to provide written directions to licensed clubs. This direction may be in regards to the operations of the club or the licensed venue, licensed to the club. These directions can require action by the licensed club to actively do something, or to refrain from doing something.

Failure by a club to comply with a direction issued by the Queensland Racing Integrity Commission is a ground for disciplinary action, including the cancellation or suspension of the club's licence, to be taken under clause 71(1).

Clause 15 clarifies that any inconsistency between directions given by the Queensland Racing Integrity Commission or a control body, to a licensed club (via this proposed Racing Integrity Act or the *Racing Act 2002*), will result in the commission's direction prevailing to the extent of the inconsistency.

Part 3 Racing Integrity Commissioner and Deputy Racing Integrity Commissioners

Clause 16 provides for the appointment of and conditions applying to, the position of Racing Integrity Commissioner. This commissioner is to be appointed by the Governor in Council, for a term of 3 years or less, with the possibility of reappointment. Remuneration and other conditions are to be decided by the Governor in Council. This clause clarifies that the appointment is to occur via this proposed Racing Integrity Act, rather than under the *Public Service Act 2008.*

Clause 17 provides for the appointment of two or more Deputy Racing Integrity Commissioners and states the conditions that apply. Similarly to the position of Racing Integrity Commissioner, the deputies are to be appointed by the Governor in Council, for a term of 3 years or less, with the possibility of reappointment. There is to be a minimum of two deputy commissioners, a 1st and 2nd deputy, to signify seniority of the 1st deputy commissioner. No maximum number of deputies is specified. The remuneration and other conditions of the deputy commissioner's appointment are to be decided by the Governor in

Council. This clause clarifies that the appointment is to occur via this proposed Racing Integrity Act, rather than under the *Public Service Act 2008.*

Clause 18 provides the eligibility requirements for appointment as commissioner or deputy commissioner. This clause specifies that the positions are only open to a person who is an eligible individual and not a member or employee of a control body at present or an executive officer of a corporation (defined in Schedule 1) which is a control body or been an employee of either in the 2 years before appointment. Eligible individuals are referred to as an *eligible individual* under the *Racing Act 2002*.

Clause 19 states the main functions of and those that may be given under the proposed Racing Integrity Act or another Act to the commissioner that relate the operation and effective administration and performance of clause10 functions; and to manage staff of the Queensland Racing Integrity Commission in accordance with requirements in the proposed Racing Integrity Act, and the *Public Service Act 2008.*

Clause 20 states the main function of a deputy commissioner and includes any given under this proposed Racing Integrity Act or another Act. It also specifies if the function is to act as commissioner, then the 1st and 2nd deputy commissioner will do so.

Clause 21 provides the general powers of and other powers given under the proposed Racing Integrity Act or another Act to the commissioner and deputy commissioners necessary for performing their respective functions and the power to exercise them.

Clause 22 states the reasons that the position of the commissioner and deputy commissioners becomes vacant this clause is assisted by clause 18, 23 and 24.

Clause 23 provides that a resignation by the commissioner or deputy commissioner may be made to the Minister via a signed letter of resignation. This resignation takes effect from the time the Minister receives the letter, or a later day as stated in the letter.

Clause 24 provides that the Governor in Council may remove or suspend a commissioner and or deputy commissioner for the reasons stated.

Clause 25 enables the Minister to temporarily appoint a person to act as commissioner, for a period of up to 3 months. This is only applicable if there is no currently appointed commissioner or the commissioner is absent or unable to perform the functions of the role; and for whatever reason, the 1st and 2nd deputy commissioners are unable to perform the functions of the commissioner's office.

Clause 26 provides that if there is a vacancy in the office or the deputy commissioner is absent for any reason or unable to perform the functions of office that the Minister may appoint a person to act for not more than 3 months but may extend this appointment for a further 3 months. The person appointed is taken to be and assumes all the functions and powers of the deputy commissioner relating to the proposed Racing Integrity Act.

Clause 27 preserves the employee rights of a commissioner and deputy commissioner who is a public service officer. If a public service officer is appointed as a commissioner or deputy commissioner, the person retains all accrued employment rights and entitlements. The

person's service as a commissioner or deputy commissioner is to be regarded as service of a like nature in the public service for deciding the person's rights as a public service officer.

Clause 28 allows the commissioner to delegate to a deputy commissioner, any of the functions and or powers of the commissioner's office. It also allows a commissioner to delegate these functions to an appropriately qualified person (including an employee of the Queensland Racing Integrity Commission), excluding clauses 38-40 and 42. It is not proposed that the commissioner can delegate his obligations to audit and investigate; and the relevant functions and powers associated with these actions. Appropriately qualified persons who receive a delegation by the commissioner through 28(2), may then further delegate the functions, providing it is to an appropriately qualified person. *Appropriately qualified* is defined in the *Acts Interpretation Act 1954* in regards to a function or power as 'having the qualifications, experience or standing appropriate to perform the function or exercise the power'.

Part 4 Commission's role in assessing approval applications

Clause 29 states the process for the assessment of approval applications (referred under the *Racing Act 2002*, section 13(1)(b)). A report is to be prepared by the Queensland Racing Integrity Commission and given to the Minister in regards to the application, including but not limited to, the matters listed in the provision (these include whether the commission is reasonably satisfied by elements of the application). Any submissions made as part of the approval application process, including the commission's assessment and response to the submission, are also required to be provided to the chief executive (racing). The decision provisions resulting from this assessment process are retained in the *Racing Act 2002.*

Clause 30 specifies the process of assessment when two or more approval applications are provided for approval as the control body for a code of racing; where a meeting held with the applicants to attempt to reach agreement has not been successful. This processes requires the Queensland Racing Integrity Commission to provide a report to the Minister regarding the approval applications, stating the matters as provided for in clause 29 (the approval application assessment provision), an assessment of the merits (compared against other approval applications) and a recommendation by the commission as to which applicant is the most suitable and qualified. This must take into account the assessment process for applicants as described in clause 31. The decision provisions resulting from this assessment process are made by the Minister, as retained in the *Racing Act 2002.*

Clause 31 details the assessment process for determining the suitability of an applicant, which contributes to whether an approval application should be approved. This provision lists the considerations the Queensland Racing Integrity Commission must have regard to and investigate if necessary. The decision provisions resulting from this assessment process are retained in the *Racing Act 2002.*

Clause 32 allows the Queensland Racing Integrity Commission to request further information or documents from the applicant, in the course of assessing the approval application. A notice is to be provided to the applicant stating a reasonable period in which to comply with the request. This must also be accompanied by a warning that until the further information and or documents is provided, the application will not be considered further. A notice may also be provided to a business associate or executive associate, requiring information or a document

for the purposes of assessing suitability under clause 31. A reasonable period in which to comply must be included, as well as the warning that until the further information and or documents is provided, the application will not be considered further.

Part 5 Audits and investigations

This part details the audit and investigation processes that must be undertaken by the Queensland Racing Integrity Commission as part of its investigation, enforcement and disciplinary functions and powers. These are provided by the proposed Racing Integrity Act to ensure licensees' suitability to remain licensed.

Division 1 Commission's powers for investigations

Clause 33 enables the Queensland Racing Integrity Commission to investigate a control body, in order to determine its suitability (as required under this proposed Racing Integrity Act) to manage its code of racing.

Clause 34 extends the Queensland Racing Integrity Commission's powers of investigation in relation to suitability, to a control body associate. This will allow the commission to determine whether the control body associate is suitable to be associated with the control body's operations.

Clause 35 allows the Queensland Racing Integrity Commission to request further information or documents, to assist in its investigations of a control body or control body associate. A reasonable period in which to comply must be included, as well a warning that failure to comply with the request without a reasonable excuse will constitute an offence.

Clause 36 makes it an offence to fail to comply with the requirement to give information or document for investigation. This offence applies if the requested information and or document is not provided within the stated time, without a reasonable excuse. It is considered a reasonable excuse if an individual who is to comply with the request, cannot comply due to self-incrimination. It is intended that this offence and resulting penalty units can be made against either an individual, a control body or a control body associate. It is not considered an offence if the information or document sought by the Queensland Racing Integrity Commission is not relevant to the investigation.

Clause 37 allows the Queensland Racing Integrity Commission to access a person's criminal history report as part of the investigation process of a control body or associate of control body's' suitability. This report is to be provided by the police commissioner and must contain the person's criminal history, and a brief description of the circumstances of a conviction if mentioned. This is not intended to result in an investigation into the criminal history by police, but to detail what information is currently accessible and or in the possession of the police commissioner.

Division 2 Commissioner's powers for audits and investigations

Clause 38 provides powers to the commissioner during audits and investigations. This provision allows the commissioner to act without any persons requested to appear (who have been given reasonable notice); receive evidence; disregard minor defects, errors, omissions or

insufficiencies in documents if necessary; and administer an oath or affirmation to a witness. This ensures the commissioner is able to independently pursue the truth of a matter, and use appropriate judgment to disregard irrelevancies.

Clause 39 allows the commissioner to request a person to attend and provide answers to questions, relevant to the audit or investigation. Failure to comply with this notice constitutes an offence under clause 41.

Clause 40 allows the commissioner to request a person to provide information, documents or a thing. A *thing* is defined in this Bill as including an animal (dead or alive). Failure to comply with this notice constitutes an offence under clause 41.

Clause 41 makes it an offence to fail to comply with the requests of the commissioner to attend or provide information (as per clauses 39 and 40). A maximum of one hundred penalty units are provided for each offence. These offences only apply if the person does not have a reasonable excuse as to why there was no compliance. The person appearing as a witness at the audit or investigation must also take an oath or affirmation and must answer all questions as required by the commissioner.

To uphold the integrity of the audits and investigations, knowingly providing false or misleading information, either through answering the commissioner's questions, or providing requested information and or document, also constitutes an offence under this provision. These offences do not apply if the person when giving the document, tells the commissioner how the information is false or misleading; and can provide the correct information.

Clause 42 provides discretion for the commissioner to refuse to investigate or continue to investigate complaints if the matter is being investigated by another entity, or the commissioner is reasonably satisfied it is appropriate for another entity to investigate the matter (eg. the Queensland Police). Any refusal in accordance with this provision must be detailed in a report which is to be provided to the Minister.

Part 6 Reporting and accountability

Division 1 Reporting generally

Clause 43 requires the Queensland Racing Integrity Commission to provide quarterly reports about the commission's operations to the responsible Minister. The information comprised in the quarterly report is to be as per the commission's operational plan. It must be provided to the Minister within 6 weeks after the end of the financial year quarter, or another period as is agreed between the commission and the Minister.

Clause 44 requires the Queensland Racing Integrity Commission to continually inform the responsible Minister of its operations; financial performance and financial position; achievement of the objects in its strategic and operational plans; and immediately inform of any matters which the commission believes may either prevent significantly affect, achievement of the objectives in its strategic and operational plans; or significantly impact on public confidence in the integrity of the Queensland racing industry.

Clause 45 allows the Minister to request additional reporting from the Queensland Racing Integrity Commission to the department.

Clause 46 clarifies that reporting and accountability requirements for the Queensland Racing Integrity Commission are not limited by sections 44 and 45 of the Act. The commission should take further action to inform the Minister and report if necessary.

Division 2 Annual reports

Clause 47 provides that an annual report is to be prepared in accordance with the requirements of the *Financial Accountability Act 2009,* which requires statutory bodies to provide annual reports to the appropriate Minister. In addition to the *Financial Accountability Act 2009* requirements, this report is to also detail the work (a review and a forecast) of the Queensland Racing Integrity Commission and any proposals for improving the operations of the commission. This will assist the Minister in being aware of the ongoing actions of the commission and results of work being undertaken.

This provision clarifies that the annual report means the Queensland Racing Integrity Commission's annual report required under the *Financial Accountability Act 2009,* which applies to statutory bodies.

Division 3 Strategic and operational plans

Clause 48 clarifies that any strategic and operational planning as required by this division, are in accordance with or additional to, the *Financial Accountability Act 2009.* Where this division and the *Financial Accountability Act 2009* require the same thing to be done, compliance with this division is sufficient to show compliance with the *Financial Accountability Act 2009.* If there is inconsistency, a provision of this division will prevail to the extent of the inconsistency.

Clause 49 requires the Queensland Racing Integrity Commission to provide a draft strategic plan and a draft operational plan to the responsible Minister for agreement before 31 March each year. While the commission and Minister are encouraged to reach agreement on the plan as soon as possible, they must by no later than the start of the financial year.

Clause 50 outlines procedures for the return of a draft plan to the Queensland Racing Integrity Commission by the Minister. A draft can be returned to the commission in order to further consider a stated thing and or revise the plan. The commission must comply with the request from the Minister as a matter of urgency. If agreement with the Minister cannot be reached on the draft plan by 1 month before the start of the financial year, the Minster may direct the commission to take certain steps or make modifications to the draft plan. This direction must be complied with immediately.

Clause 51 provides that if the draft strategic or operational plan is not agreed to by the start of the financial year, the last plan given to the Minister (including any modifications made by the Queensland Racing Integrity Commission before or after it was submitted to the Minister) will be taken to be the commission's strategic or operational plan until a plan is agreed by the Minister under clause 52.

Clause 52 states that the draft strategic or draft operational plan becomes the strategic or operational plan for the relevant financial year, when written agreement with the Minister has been reached.

Clause 53 provides that the Queensland Racing Integrity Commission must comply with its strategic and operational plans.

Clause 54 allows the Queensland Racing Integrity Commission to amend its strategic or operational plan, with written agreement from the Minister. The Minister is able to direct the commission (in writing) to make such amendments.

Clause 55 states that regulation will provide for the things that must be included in the Queensland Racing Integrity Commission's operational and strategic plan for a financial year.

Part 7 Administration

Clause 56 requires the control bodies to mainly fund the Queensland Racing Integrity Commission in performing its duties and allows the chief executive to invoice a control body for this purpose.

Clause 57 allows the State to recover as debt, any moneys due under the previous clause which is not paid.

Chapter 3 Commission's functions in relation to codes of racing and licensed clubs

Part 1 Preliminary

Clause 58 states the main purposes of the chapter, to provide for the way the Queensland Racing Integrity Commission may perform its functions in relation to each code of racing and licensed clubs and states generally the things it will do to perform these functions.

Part 2 Standards

Division 1 General provisions about standards

Clause 59 provides that the Queensland Racing Integrity Commission may make standards for a code of racing for the reason stated. Regulation can also prescribe that a standard must be made about a particular matter and any provisions to be included.

Clause 60 specifies that a standard must be provided in the necessary form, and state the listed information. These standards are required to be approved by the Queensland Racing Integrity Commission, and cannot come into effect retrospectively. Any amendments to existing standards need to be progressed as a new standard.

Clause 61 provides that the Queensland Racing Integrity Commission must make each standard publicly available and do the other things stated in the clause.

Clause 62 clarifies that a standard can apply to animals, clubs, participants or venues, even if these were not licensed when the standard was made. This ensures any licensed after the standard was made, must comply with the relevant standards.

Clause 63 provides that a standard is a statutory instrument.

Division 2 Standards about licensing schemes

Clause 64 states the purposes of a licensing scheme for a code of racing. These focus on upholding the integrity of activities, safety of persons and welfare of animals.

Clause 65 requires the Queensland Racing Integrity Commission to consider the privileges and duties which will attach to a licence, in developing standards for licensing schemes.

Clause 66 provides the mandatory matters which must be provided for in a standard for a licensing scheme.

Clause 67 provides discretion to the Queensland Racing Integrity Commission when creating a standard for a licensing scheme to determine whether the listed matters are applicable for that standard.

Clause 68 details the licence application process which must be incorporated into the standard for a licensing scheme including how a licence must be applied for; and allows the application for a national police certificate to be a part of the process and defines national police certificate for the purpose of this requirement.

Clause 69 states that a licence may not be transferred, and that this limitation should be incorporated into the standard for the licensing scheme.

Division 3 Other matters about policies

Clause 70 specifies that this proposed Racing Integrity Act does not prevent an animal, participant or venue licensed for a code of racing being licensed for another code of racing.

Part 3 Disciplinary action taken against licensed clubs

Clause 71 provides the grounds available to cancel or suspend a licensed club's licence.

Clause 72 allows the Queensland Racing Integrity Commission to provide a notice to the club (show cause notice) upon believing a ground to cancel or suspend a licensed club's licence exists. The notice provides information on the alleged ground to cancel or suspend, the action the commission proposes to take as a result, and an invitation to reply with why the proposed action should not be taken. The period of the show cause notice must end at least 28 days after the club is given the notice.

Clause 73 allows the licensed club given a show cause notice, to respond to the notice via a submission. This provides an initial avenue of appeal against the proposed action to suspend

or cancel. The club has 28 days at least (the minimum period of the show cause notice as per clause 72) to make the submission. A submission must be considered by the commission.

Clause 74 provides an expedited process for suspending a licensed club's licence if the Queensland Racing Integrity Commission believes the circumstances are so extraordinary as to require immediate action. The public interest and conduct of racing are to be considered in this assessment. This process requires an information notice by the commission to be provided to the club, with a show cause notice; effectively suspending or cancelling the licence until the show cause notice has been finalised.

Clause 75 allows the Queensland Racing Integrity Commission to take alternative action if it believes there are grounds to cancel or suspend which doesn't warrant a show cause notice; or if a submission received for a show cause notice indicates that cancellation or suspension is not warranted. The commission can then censure a licensed club through an information notice, informing the club of the disapproval of the commission.

Clause 76 provides another avenue for the Queensland Racing Integrity Commission, when deciding whether to suspend or cancel a licence. After submissions on a show cause notice have been considered, the commission is able to direct a club to rectify the matter. This would only be appropriate in situations where the commission believes the matter is capable of being rectified, and that the opportunity should be given to the club to pursue this avenue. If such a direction is made, the club must comply and rectify the matter, or may face a penalty of up to 400 penalty units, if no reasonable excuse is given.

Clause 77 allows the Queensland Racing Integrity Commission to cancel or suspend a club's licence. An information notice must be given to the licensed club about the decision , which takes effect on the day the club is given the notice, or the day of effect stated in the notice (whichever is later).

Part 4 Other provisions applying to licensed clubs

Clause 78 provides grounds for suspending or cancelling a licensed club's licence. A contravention of a provision of this Part by a club is considered grounds for suspension or cancellation. It clarifies that this part does not limit the matters that a control body's standard for its licensing scheme may provide as grounds for disciplinary action relating to the licence of a club.

Clause 79 stipulates the requirements for a licensed club when holding a race or betting meeting. Failure to comply with this provision constitutes an offence.

Chapter 4 Racing bookmakers

Part 1 Requirements for racing bookmakers' licences and for related matters

Clause 80 makes it an offence to carry on bookmaking for any code of racing at a licensed venue not managed by the control body for the code of racing, not under the control of the Queensland Racing Integrity Commission at the time, and without a bookmakers licence. This is to ensure that all betting is monitored and to eliminate any bookmaking being carried

out at a licensed venue without the presence of the control body to monitor bookmakers activities. It also permits a licensed racing bookmaker who holds an offcourse approval to carry on bookmaking at a place that is not a licensed venue but is an approved place for the bookmaking. The clause also requires a bookmaker (whether an individual or executive officer of a corporation) to have their license and or approval with them at all times when bookmaking at a licensed venue or approved place. Not having it is not permitted without reasonable excuse.

Clause 81 makes it a requirement that a bookmaker cannot employ someone else unless the person is a racing bookmaker's clerk and unless the licensed venue is managed by the control body and under the control of the Queensland Racing Integrity Commission, at the time. At an approved place the licensed bookmaker must not employ a person unless the person holds a bookmaker's clerk license. Under this clause it is not an offence for a licensed executive officer of a corporation to carry on bookmaking.

Clause 82 makes it an offence for a person in the conduct of racing to be employed by a licensed racing bookmaker as a clerk unless the person has a license as a bookmaker's clerk for that code of racing, or if the bookmaker is a corporation the person is a licensed executive officer. It is also an offence to be employed by a licensed bookmaker who holds an offcourse approval unless the person employed has a bookmaker's clerk licence for the code of racing or for a corporation is a licensed executive officer. It is an offence if without reasonable excuse the racing bookmaker's clerk does not have their licence with the person at all times at a licensed venue or at the approved place that has been approved under the offcourse approval.

Clause 83 is a requirement for a racing bookmaker, a licensed executive officer of a corporation and a racing bookmaker's clerk who is or appears to be carrying on bookmaking at a licensed venue and is requested to do so must produce their licence (or certified copy of a corporation's licence) to an official of the Queensland Racing Integrity Commission or the control body. A racing bookmaker or licensed executive officer who holds an off-course approval and at an approved place is or appears to be carrying on bookmaking must produce the persons licence (or certified copy of a corporation's licence) if requested by an official of the commission if asked to do so, unless the person has a reasonable excuse.

Clause 84 places responsibility on the Queensland Racing Integrity Commission to ensure that a person without a current appropriate licence with them at the time at a race meeting held at a licensed venue under the control of the commission is not permitted to carry on bookmaking or be employed by a racing bookmaker.

Clause 85 specifies that a bookmaker for a code of racing may only carry on bookmaking at a place if the place is a licensed venue managed by the control venue, and is under the control of the Queensland Racing Integrity Commission. The place must also be a place where a race under this Act is being held and the bookmaker has been directed to do so by the steward in charge of the race meeting. Failure to comply with this provision constitutes an offence. However, an offence is not committed if the racing bookmaker holds an offcourse approval and the bookmaking is carried on at an approved place at the permitted time under the offcourse approval.

Clause 86 provides that a racing bookmaker at a licenced venue managed by the control body and under the control of the Queensland Racing Integrity Commission may only make a bet

on a contest, contingency declared under clause 158 or event under the circumstances stated in the provision; or make a bet with a person not at the licensed venue unless clause 152 applies. Failure to comply with this provision constitutes an offence.

Clause 87 provides that a racing bookmaker for a code of racing who holds an offcourse approval may only make a bet on a contest, contingency declared under clause 158 or event under the circumstances stated in the provision. Failure to comply with this provision constitutes an offence.

Part 2 Licensing of persons as racing bookmakers

Clause 88 provides that an applicant for a racing bookmaker's licence must hold an eligibility certificate.

Clause 89 requires a racing bookmaker's licence issued to a corporation to state the name of each executive officer who may carry on bookmaking on behalf of the corporation.

The Queensland Racing Integrity Commission must not state the name of an executive officer in a racing bookmaker's licence unless the person has been identified in an eligibility certificate for the corporation and the commission believes the person has the experience and knowledge to carry on bookmaking.

This provision ensures that only persons who have undergone probity and criminal history checks and have the necessary skills and experience are able to carry on bookmaking for a corporation.

Part 3 Eligibility certificates

Division 1 Suitability of applicants and business and executive associates

Clause 90 provides the matters the gaming executive may have regard to when deciding whether an applicant is a suitable person to hold an eligibility certificate.

The *gaming executive* is defined in the dictionary of this Bill as the chief executive of the department administering the *Wagering Act 1998*.

Clause 91 provides the matters to which the gaming executive may have regard when deciding whether a business or executive associate of an applicant for an eligibility certificate is a suitable person to be associated with the applicant.

Business associate and *executive associate* are defined in the dictionary of the Bill.

Clause 92 states that clauses 90 and 91 do not limit the matters to which the gaming executive may have regard when considering whether to issue an eligibility certificate.

Division 2 Applications for, and issue of, eligibility certificates

Clause 93 provides that an application for an eligibility certificate may only be made by an adult or a corporation.

Clause 94 provides that an application for an eligibility certificate is to be made to the gaming executive and be accompanied by an application fee which will be prescribed by regulation. It also requires applicants who are individuals, business associates and executive associates of applicants, who are corporations, are agreeable to having their fingerprints taken by or for the gaming executive; and consent to their background being investigated by the gaming executive.

An applicant which is a corporation must also agree to obtain the consent of a person whom the gaming executive believes to be an executive officer or a business or executive associate.

Clause 95 provides that the gaming executive may give notice to an applicant, requiring further information. The gaming executive may only require information that is necessary and reasonable to help the gaming executive decide the application. The gaming executive must allow the applicant at least twenty-eight days to provide the further information, and must warn the applicant that the application for the eligibility certificate will not be considered further until the requirement is complied with (unless a reasonable excuse is provided for the failure to comply).

Clause 96 requires the gaming executive to take the fingerprints of an individual who is an applicant for an eligibility certificate and the fingerprints of any executive associates and business associates of a corporation that is an applicant for an eligibility certificate.

Clause 97 requires the consideration and granting or refusal of, the eligibility certificate application by the gaming executive.

Clause 98 provides that the gaming executive may only grant an eligibility certificate if the gaming executive is satisfied that the applicant is suitable to hold an eligibility certificate and any business or executive associates of the applicant are suitable to be associated with the applicant.

Clause 99 allows the gaming executive to investigate an applicant to decide whether the applicant is a suitable person to be a certificate holder and to investigate a business associate or executive associate of an applicant to decide whether the associate is a suitable person to be associated with the applicant.

The gaming executive may also investigate an executive officer to decide whether to amend an eligibility certificate of a corporation to acknowledge a change in executive officers.

Clause 100 requires the gaming executive to ask the police commissioner about the applicant or certificate holder (as per the matters listed in the provision). The police commissioner must give the gaming executive the requested information, which can only be used by the gaming executive in the process of deciding whether eligibility should be granted, or should be cancelled.

Clause 101 requires the commissioner of the Queensland Police Service to provide a criminal history report to the gaming executive if so requested.

Clause 102 provides that the gaming executive may by notice given to a business or executive associate of an applicant require the person to give the gaming executive information or a document relevant to the investigation. The gaming executive must allow the person at least twenty-eight days notice to provide the information requested.

Clause 103 provides that the gaming executive may ask the Queensland Racing Integrity Commission to provide information or a document the gaming executive believes is relevant to the investigation.

Clause 104 requires the gaming executive to notify an applicant as soon as practicable after making a decision, either by giving a certificate to the applicant if the decision is to grant the application for an eligibility certificate or an information notice if the decision is to refuse the application.

Clause 105 provides that an eligibility certificate is to be in a form approved by the gaming executive.

An eligibility certificate for a corporation must state the names of the executive officers of the corporation who have undergone probity checks and found to be suitable to be associated with the certificate holder.

Clause 106 provides that an eligibility certificate continues to have effect unless the certificate lapses as a result of the certificate holder failing to apply for a racing bookmaker's licence within two months after the certificate is granted; the certificate is cancelled by the gaming executive; or the certificate is surrendered.

Clause 107 provides that an eligibility certificate lapses after two (2) months if an application is not made to the Queensland Racing Integrity Commission for a racing bookmaker’s licence. In order to balance the need to provide a reasonable period of time in which to apply for a racing bookmaker's licence, after obtaining an eligibility certificate with the need to ensure that the eligibility certificate is based is current information, it is considered that two (2) months is a reasonable time period in which to apply for a racing bookmaker's licence.

Clause 108 requires a certificate holder that is a corporation to advise the gaming executive of any change in executive officers of the corporation or change to the persons who have substantial holdings in the corporation, within fourteen (14) days of the change. This requirement is necessary to ensure that the gaming executive can investigate all executive officers to determine whether they are suitable to be associated with the racing bookmaker.

Similar notice is also required of a change in a substantial holding in the corporation or its holding company.

Clause 109 provides that a bookmaker that is a corporation may request the gaming executive to amend an eligibility certificate to include or omit the names of executive officers. The gaming executive may only include the names of executive officers who have been investigated by the gaming executive and found to be suitable persons to be associated with the certificate holder.

This provision is linked to clause 89 which states that the Queensland Racing Integrity Commission that licenses a corporation as a racing bookmaker must state the names of those persons carrying on bookmaking for the corporation on the racing bookmaker's licence. The only persons who may be named as executive officers on a corporation's eligibility certificate are persons who the commission believes have the necessary skills and experience to carrying on bookmaking.

Division 3 Investigations of certificate holders and their business and executive associates

Clause 110 allows the gaming executive to approve an audit program for investigations. The gaming executive is responsible for ensuring that investigations are conducted under the approved audit program in accordance with the program. A person may only be investigated under an audit program once every three (3) years.

Clause 111 provides that the gaming executive may only investigate a certificate holder if the gaming executive reasonably suspects the certificate holder is not, or is no longer suitable to hold an eligibility certificate or the investigation is made under an audit program approved by the gaming executive.

Clause 112 gives the gaming executive power to investigate a business associate or executive associate of a certificate holder for the purpose of determining whether the person is suitable to be or continue to be associated with bookmaking operations and provides the circumstances in which such investigations may be carried out.

Clause 113 provides that the commissioner of the Queensland Police Service must, upon request, provide a criminal history report to the gaming executive and specifies the information it must contain.

Clause 114 provides that the gaming executive may, by written notice, require a certificate holder, or business or executive associate of a certificate holder to give information or a document for the purposes of an investigation. The gaming executive must allow the person at least twenty-eight (28) days to provide the information.

Clause 115 provides that failure to comply with a requirement under clause 114 without reasonable excuse is an offence. This clause has been drafted to comply with fundamental legislative principles by providing that it is a reasonable excuse not to comply, if the requirement would tend to incriminate the person and that it is not an offence if the information or document sought by the gaming executive is not in fact relevant to the investigation.

Clause 116 provides that the gaming executive may, by written notice, require the Queensland Racing Integrity Commission to give information or a document they believe is relevant for the purposes of an investigation. The gaming executive must state in the notice a reasonable period of at least 28 days for the commission to comply with the requirement.

Division 4 Cancellation of eligibility certificates

Clause 117 states the grounds that exist for cancellation of an eligibility certificate.

Clause 118 provides for the immediate (after granting) cancellation of an eligibility certificate where the gaming executive is advised by the police commissioner that the certificate holder is a participant in organised crime or an unsuitable corporation as defined in schedule 1 of the Bill. This clause also requires the gaming executive to give the holder of the certificate, an information notice about the decision to cancel the certificate. This allows the gaming executive to cancel without an obligation to undertake a show cause process in these two circumstances.

Clause 119 outlines when the gaming executive must issue a show cause notice and the content of the notice. This clause also allows the certificate holder to make written representations about the show cause notice to the gaming executive in the show cause period.

Clause 120 provides that the gaming executive must give a copy of the show cause notice to the Queensland Racing Integrity Commission, and allows the commission to make representations to the gaming executive in the show cause period.

Clause 121 provides that the gaming executive must consider all written representations made by the certificate holder or the Queensland Racing Integrity Commission.

Clause 122 provides that if after considering all representations the gaming executive considers no ground exists to cancel the eligibility certificate, the gaming executive must give notice to the certificate holder and the Queensland Racing Integrity Commission that no further action is to be taken.

Clause 123 provides that the gaming executive may cancel the eligibility certificate where no submissions for a show cause notice are made; and in specified circumstances after submissions received are considered. If the certificate holder is a corporation, the gaming executive must in specified circumstances cancel the eligibility certificate. This clause requires the gaming executive to notify the holder of the decision via an information notice. The notice is to include the date of effect of the decision, a direction to return the certificate and a warning that failure to comply with this direction (without a reasonable excuse) constitutes an offence.

Clause 124 makes it an offence to fail to comply with clause 118(4)(a) or 123(4)(a). If the inability to comply is due to a lost or destroyed eligibility certificate, the person has 14 days after cancellation to give the gaming executive a statutory declaration stating details of the loss or destruction. A failure to make this declaration constitutes an offence.

Clause 125 provides for the automatic concurrent cancellation of a bookmakers licence if the racing bookmaker is the holder of the eligibility certificate that was cancelled under clause 118 or 123.

Clause 126 provides that the gaming executive can take alternative action if they believe grounds exist to cancel an eligibility certificate, however after considering submissions believes a show cause notice is not warranted. The gaming executive can then censure a licensed club through an information notice, informing the club of the disapproval. The section does not apply where the holder is no longer a suitable person for specified reasons.

Clause 127 provides for the process of notification of a cancellation under clause 123 or 128 or a censure under clause 126 to both the Queensland Racing Integrity Commission and each control body.

Division 5 Other matters relating to eligibility certificates

Clause 128 provides that a certificate holder may surrender the holder's eligibility certificate by notice to the gaming executive. The gaming executive must give written notice about the surrender to the Queensland Racing Integrity Commission and each control body.

Clause 129 provides for the destruction of fingerprints by the gaming executive as soon as practicable after the gaming executive refuses to grant an application or if the gaming executive is satisfied that an individual is no longer a business or executive associate.

Division 6 Review of decisions relating to eligibility certificates

Clause 130 provides that a decision made by the gaming executive about an eligibility certificate and given to an applicant is subject to external review by the tribunal (the Queensland Civil and Administrative Tribunal), on application by the applicant for a review of the gaming executive decision.

Clause 131 provides for the confidentiality of criminal intelligence in an application for review in the Queensland Civil and Administrative Tribunal (QCAT) or the Supreme Court where an application for an eligibility certificate was refused or cancelled on the basis that the person or corporation is not a suitable person as being identified as a participant in a criminal organisation. The Commissioner of Police is to be a party to any proceedings, and in any proceedings relating to a review of a decision about an identified participant, the QCAT or the Supreme Court must be given a statement of reasons by the Commissioner of Police about the identification of the person by the Commissioner of Police as an identified participant in a criminal organisation. Furthermore, QCAT or the Supreme Court may review the identification by the Commissioner of the Police of the person as an identified participant in a criminal organisation. As it considers appropriate to protect the confidentiality of criminal intelligence, the QCAT or the Supreme Court may receive evidence and hear argument in the absence of parties to the proceeding and their representatives. QCAT or the Supreme Court, as it considers appropriate, may take evidence consisting of criminal intelligence by way of an affidavit of a police officer of or above the rank of superintendent. If the QCAT or Supreme Court considers information has been incorrectly categorised by the Commissioner of Police as criminal intelligence the Commissioner of Police may withdraw the information from consideration by the QCAT or the court. Information that has been withdrawn must not be disclosed to any person or taken into consideration by the QCAT or the Supreme Court.

Clause 132 states the *Judicial Review Act 1991*, part 4 does not apply to a decision in clause 131(1) made by the gaming executive. Unless the Supreme Court decides that the decision is affected by jurisdictional error, the decision is final and conclusive and cannot be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity). Also except for jurisdictional error, the decision is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or

another entity on any ground. The *Judicial Review Act 1991*, part 5 applies to the decision mentioned in subsection (2) to the extent it is affected by jurisdictional error.

Part 4 Offcourse approvals for racing bookmakers

Division 1 Applications for, and granting of, offcourse approvals

Clause 133 provides that a racing bookmaker may apply to the Minister for an offcourse approval to carry on bookmaking at a place (for example, their home office), other than a licensed venue (i.e. at a race track), using a telecommunications system. *Telecommunications system* is defined in the dictionary.

Clause 134 provides that the Minister may issue a notice requiring an applicant to give the Minister further documents or information within a period of at least 28 days, and if the applicant does not comply with the requirement the application is taken to be withdrawn.

Clause 135 provides that the Minister may issue a notice requiring the Queensland Racing Integrity Commission to give the Minister documents or information the Minister reasonably believes is relevant to deciding the application. The documents or information must be given within a period of at least 28 days. The commission must comply with the notice.

Clause 136 requires the Minister in considering any application to have regard for the things specified and allows the Minister to ask an applicant to review the undertaking accompanying the application. If an applicant does not comply with the notice, the application is taken to be withdrawn. The purpose of this provision is to ensure that the granting of an off-course approval will not adversely impact on the Queensland racing industry where the offcourse approval will reduce the occasions the bookmaker will carry on bookmaking in person on course at a racing meeting.

Clause 137 requires the Minister to consider an application for an off-course approval and either grant or refuse the approval. An off-course approval is subject to the *mandatory conditions* stated in clause 138 and may also be subject to other conditions that the Minister imposes.

Clause 138 specifies the automatic mandatory conditions that will be imposed on the offcourse approval and allows the Minister to impose conditions additional to the mandatory conditions. The stated mandatory conditions ensure that the granting of an off-course approval does not detract from the conduct of bookmaking in person by a racing bookmaker and prevents the establishment of betting shops.

Clause 139 defines the *accepted undertaking* that is considered under clause 136, and allows the Minister to vary the accepted undertaking if the racing bookmaker applies to have the undertaking varied.

Clause 140 requires the Minister, as soon as practicable after deciding an application for offcourse approval, to give both the applicant and the Queensland Racing Integrity Commission a notice of the decision.

Division 2 Cancellation of offcourse approval

Clause 141 specifies the grounds for cancelling a racing bookmaker's offcourse approval.

Clause 142 provides for the show cause process if the Minister believes that a ground exists to cancel an off-course approval; and the reason the ground exists is of a serious or fundamental nature; and the public interest may be affected in an adverse and material way. This clause states the matters that the Minister include in the show cause notice and the timeframe on which the show cause process ends (28 days after the racing bookmaker is given the notice). Within the show cause period the racing bookmaker may make a submission about the notice to the Minister.

Clause 143 requires the Minister to give a copy of a show cause notice to the Queensland Racing Integrity Commission and allows the commission to make written representations about the matters identified in the notice during the show cause period, to the Minister.

Clause 144 requires the Minister to consider all submissions made by the racing bookmaker or the Queensland Racing Integrity Commission during the show cause period.

Clause 145 provides that if, after considering submissions under clause 144, the Minister forms the view that a ground to cancel an off-course approval no longer exists, the Minister must take no further action about the show cause notice and give a notice to the racing bookmaker and the Queensland Racing Integrity Commission that no further action is to be taken regarding the show cause notice.

Clause 146 allows the Minister to cancel the offcourse approval if either no submissions were received or after considering submissions for the show cause notice the Minister still believes a ground exists to cancel an offcourse approval. The reason the ground exists is to be of a serious or fundamental nature; where the public interest may be affected in an adverse and material way; and cancellation of the offcourse approval is warranted. If the Minister cancels an offcourse approval, an information notice about the decision must be immediately provided to the racing bookmaker. This notice must include the timeframe (within 14 days) in which the racing bookmaker must return the offcourse approval to the Minister and a warning to the racing bookmaker that it is an offence not to comply without reasonable excuse.

Clause 147 creates an offence for a person to fail to comply with a direction to return an off-course approval to the Minister within 14 days after it has been cancelled (as under section 146) unless the person has a reasonable excuse. This clause provides that if a person is unable to return an off-course approval to the Minister because it has been lost or destroyed, the bookmaker must within 14 days after the cancellation of the offcourse approval give the Minister a statutory declaration outlining the details of the loss or destruction of the offcourse approval. Failure to provide this declaration constitutes an offence.

The person does not commit an offence against subsection (1) if the direction issued under section 146 did not contain a warning that it is an offence to fail to comply with the direction (unless the person has a reasonable excuse).

Clause 148 provides for the automatic cancellation or suspension of an off-course approval if the racing bookmaker's eligibility certificate or racing bookmaker's licence is cancelled or suspended. This provision reflects that a person must hold a current eligibility certificate

before they can apply for a racing bookmaker's licence and a person must hold a racing bookmaker's licence before they can apply for an off-course approval.

Clause 149 applies in circumstances where the Minister believes that the giving of a show cause notice is not warranted, despite a ground existing to cancel the offcourse approval held by the bookmaker. The Minister may censure the bookmaker for a matter relating to the existing ground for cancellation of the offcourse approval by providing the bookmaker with an information notice about the decision to censure.

Clause 150 provides that if the Minister decides to cancel an offcourse approval under clause 146 or censure the racing bookmaker under clause 149, the Minister must give notice of the decision to the Queensland Racing Integrity Commission and each control body.

Division 3 Immediate suspension of offcourse approval

Clause 151 empowers the Minister to immediately suspend an offcourse approval if the Minister believes that a ground exists to cancel the offcourse approval; and the circumstances are so extraordinary that it is imperative to suspend the offcourse approval immediately to ensure the public interest in a code of racing is not adversely affected. The suspension is effected only by the Minister giving the racing bookmaker an information notice about the decision to suspend the offcourse approval, together with a show cause notice. The suspension is operational immediately on the racing bookmaker being given the information notice and the suspension continues to operate until the show cause notice is finally dealt with.

Part 5 Other provisions about racing bookmakers

Clause 152 allows a racing bookmaker at a race meeting to take bets from a person who is not present at the licensed venue where the race meeting is being held, if the bet is made through a telecommunications system (see definition of *telecommunications system* in dictionary) for bookmaking that was approved by the Queensland Racing Integrity Commission (as per the approval requirements in this provision). This clause allows the Minister to give a direction about a telecommunications system to the commission if it is in the best interest of the racing industry to have the system independently audited and give the result of audit to the Minister and the commission must comply this direction given.

Clause 153 protects persons betting with racing bookmakers by providing that racing bookmakers must maintain a policy of insurance or a bond to indemnify bettors against default of payment by the bookmaker. This policy or bond must include conditions required by the Queensland Racing Integrity Commission.

Clause 154 provides that the Queensland Racing Integrity Commission must not licence a racing bookmaker or renew a licence unless the commission is satisfied the racing bookmaker has a policy of insurance or a bond or under clause 153. Failure to comply with this provision constitutes an offence. The clause allows the commission to make enquires to reach satisfaction that the bookmaker has an accepted insurance policy or bond; and for renewal of a licence, gives power to the commission to immediately suspend a racing bookmaker licence until it is satisfied an insurance policy or bond has been accepted by the racing bookmaker.

The intent of this clause is to support the requirement under clause 156 in protecting persons who place bets with bookmakers.

Clause 155 creates an offence for a racing bookmaker or an agent or employee of a racing bookmaker to bet with a minor or with a person that the racing bookmaker or an agent or employee knows is betting for a minor. It is a defence to this offence if the defendant (bookmaker, agent, employee etc.) honestly and reasonably believed the person (either placing the bet or who the person was placing a bet for) was an adult. It is also an offence for a minor or person placing a bet for a minor, to bet with a racing bookmaker or agent or employee of a racing bookmaker.

Clause 156 provides that a lawful bet made by a racing bookmaker is a valid contract. This allows a racing bookmaker to sue or be sued on the contract.

Clause 157 provides for a regulation to prescribe a place for the payment and settlement of a lawful bet at a licensed venue. For a lawful bet made by a racing bookmaker who holds an offcourse approval where a telecommunications system was used to make the bet, the place to settle and pay a bet may be a place stated on the offcourse approval, providing it is not an illegal betting place.

Part 6 Miscellaneous

Clause 158 provides for a control body to declare an event to be a declared sporting contingency for which racing bookmakers may carry on bookmaking (the schedule 1 dictionary further defines *sporting contingency*). It also provides the matters that the control body must consider before declaring an event to be a sporting contingency and the requirement for the control body to give notice of the declaration and where it must be published.

This clause makes it an offence for a racing bookmaker who holds an offcourse approval to carry on bookmaking other than at an approved place for the offcourse approval and at the times approved by the Minister.

Clause 159 allows a racing bookmaker's clerk as authorised by the Queensland Racing Integrity Commission to carry on the racing bookmaker's business. A signed application must be made by the racing bookmaker to the commission, requesting the person to act as the bookmakers' agent for a period not exceeding twelve (12) weeks if the racing bookmaker is incapacitated through illness or accident; or is on vacation or for other reasons acceptable to the commission.

Clause 160 requires the Queensland Racing Integrity Commission to give notice within 14 days to the gaming executive as to the granting, or refusal of a racing bookmakers licence; or the disciplinary action taken by the commission, relating to a bookmaker's licence. If the notice is in regards to disciplinary action or refusal of a licence, the notice must state the reasons. A copy of a notice detailing disciplinary action must also be provided to each control body.

Clause 161 provides that the gaming executive may give information to the Queensland Racing Integrity Commission about a racing bookmaker if the gaming executive considers it appropriate.

Clause 162 allows the gaming executive to delegate the gaming executive's powers under this chapter to an appropriately qualified public service employee.

Clause 163 provides that the gaming executive may approve forms for this chapter.

Chapter 5 Investigation and enforcement

Part 1 General provisions about authorised officers

Division 1 Appointment

Clause 164 provides an overview of the purposes of the provisions in this Chapter which is to appoint and give powers to authorised officers and to ensure the commissioner of the Queensland Racing Integrity Commission has suitably qualified persons available to assist him or her deal with issues of compliance under this chapter.

Clause 165 states the functions of an authorised officer. These are to investigate, monitor and enforce compliance with the proposed Racing Integrity Act and the *Racing Act 2002* and where it has arisen, to provide for the exercise of powers under those Acts. This clause also provides for things an authorised officer may do in the course of fulfilling its functions.

Clause 166 provides that the commissioner may appoint a public service employee or a person or class of persons as prescribed by regulation, as an authorised officer. The appointment must be done in writing. The power to appoint is limited to a person the commissioner is satisfied is appropriately qualified based on expertise, experience or standing. This is to avoid general employees or persons prescribed under regulation being appointed if they do not meeting the appropriate standard of qualifications and expertise to properly carry out the functions or powers vested in authorised officers under the proposed Racing Integrity Act.

Clause 167 states that the authorised officer holds office on any conditions stated in the authorised officer's instrument of appointment, a signed notice given to the authorised officer, or by regulation. The provision also specifies that the instrument of appointment, signed notice given to the authorised officer or anything prescribed in a regulation may limit the authorised officer's powers. The limitation may be required where an authorised officer will be dedicated to a particular matter for which the authorised officer has expertise.

Clause 168 specifies the circumstances that end an office of a person as an authorised officer. These circumstances do no limit the ways the office of a person as an authorised officer can end.

Clause 169 specifies the method and condition of resignation of an authorised officer.

Division 2 Identity cards

Clause 170 requires the commissioner of the Queensland Racing Integrity Commission to issue an identity card to each authorised officer. The purpose of this provision is to ensure that an authorised officer can be easily identified whilst conducting investigations or

exercising their powers. It does not prevent the issue of card to another person for this proposed Racing Integrity Act and other purposes.

Clause 171 requires all authorised officers to produce their identity card for inspection by a person before exercising a power or to clearly display their identity card when exercising a power. However, in circumstances where it is impractical for an authorised officer to produce their card before or when exercising the power, they must do so at the first reasonable opportunity. An authorised officer under this clause does not exercise a power merely because the authorised officer has entered a place.

Clause 172 requires an authorised officer to return their identity card to the commissioner within 21 days after the office ends under clause 168. Failure to comply without a reasonable excuse constitutes an offence.

Division 3 Miscellaneous provisions

Clause 173 provides that in in a provision for this chapter that refers to the exercise of power by an authorised officer or in the absence of a reference to a specific power, the reference stated in any provision is to all powers of an authorised officer under the Act to the extent the power is relevant.

Clause 174 provides that anything that can be or has been produced from an electronic device is the document as referenced in this chapter. e.g. a photo produced from a device is a document for the purpose of this chapter.

Part 2 Entry of places by authorised officers

Division 1 Power to enter

Clause 175 provides an authorised officer with the power to enter places. This clause specifies circumstances and the conditions attaching to an authorised officer's general power to enter a place.

Clause 176 allows for follow up entry by an authorised officer to a place where the occupier of the place was given an animal welfare direction under clause 214, to ascertain whether the action is or has been taken. Entry must be at a reasonable time and is subject to clause 175 and procedure of entry under clause 184.

Clause 177 allows an authorised officer entry to a place (subject to clause 175 and 184) if the officer reasonably suspects an animal has recently sustained a severe injury and that injury is likely to go untreated indefinitely or for an unreasonable period.

Clause 178 provides the power to an authorised officer to enter a place where the officer reasonably suspects that an animal welfare offence or accident has occurred and there is an imminent risk of death or injury. The power also applies to an authorised officer who reasonably suspects any delay in entering the place may lead to the death, concealment or destruction of anything at the place that is evidence or is used for committing, continuing or repeating the animal welfare offence. The entry is subject to clause 175 and 184.

Clause 179 allows an authorised officer to enter a place (other than a vehicle) if the officer reasonably suspects an animal has a lack of food or water or is entangled; and the person in charge of the animal is not or does not appear to be, at the place at the time. The officer can stay at this place while it is reasonably necessary to provide the food or water or to disentangle the animal. This power of entry only applies if the animal in question is not at a part of the place at which a person resides or apparently resides. After the power of entry is used, an officer may exercise any of the general powers listed in clause 196, which includes taking reasonable measure to relieve the pain of an animal.

This clause also gives an authorised officer power to enter a vehicle where the officer reasonably suspects there is a need to relieve an animal in pain, or prevent the animal from suffering pain. On entering the vehicle, the officer may take the necessary steps to relieve the pain of the animal. This clause enables an authorised officer in the course of their appointed duties who discovers a situation even if it is not related to the racing industry, to enter a person's land but not a dwelling (the place where the person resides) on the property, to exercise the powers stated in the this clause.

Division 2 Entry by consent

Clause 180 explains the application of the division in relation to an authorised officer's intention to ask for consent to enter a place.

Clause 181 provides for the entry to the land around a premises or the part of the place if it is where member of the public are ordinarily allowed, without the consent of the occupier to do so, for the purpose of enabling the authorised officer to contact the occupier of the place.

Clause 182 requires an authorised officer to give reasonable explanation to the occupier about the purpose of entry. This includes the powers the authorised officer intends to exercise; that the occupier is not obliged to consent; that the consent, if given, may be subject to conditions; and the consent may be withdrawn at any time.

Clause 183 provides for consent by the occupier to be acknowledged via a signed document if the authorised officer asks the occupier to do so. If the acknowledgement is signed, a copy must immediately be given to the occupier. The acknowledgment must state the matters in clause 182 (matters authorised officers must tell an occupier); the inclusion of the consent by the occupier to allow the authorised officer who asked for consent or another authorised officer, to enter the place at the time the consent was given; and if any the conditions of the consent. In the circumstance of a proceeding that is about whether the occupier consented and no acknowledgement is produced as evidence, the authorised officer or other person (not the occupier) is responsible for proving the occupier consented to the entry.

Division 3 Entry for particular purposes

Clause 184 provides the authorised officer with the power to enter a property for the purposes set out in clauses 176 to 178, if before entering the place all reasonable attempts were made to locate the occupier and obtain consent in the first instance but the occupier could not be located or did not provide consent. A failure to locate an occupier or obtain consent does not preclude the authorised officer from entering the place. In this circumstance the authorised officer must take reasonable steps to produce their identity card for inspection by the occupier

who does not give consent or if after entering the place the authorised officer finds an occupier present that was not located before entering; and state the reason for entry and that the authorised officer is allowed to enter without permission of the occupier under this Act.

Division 4 Entry under warrant

Subdivision 1 Obtaining warrant

Clause 185 allows an authorised officer to apply for a warrant to enter a place. The application must be made in writing, state the grounds for which the warrant is sought, and be sworn. The magistrate may ask for further information in determining the application before making a determination.

Clause 186 provides for the magistrate to issue a warrant only if there are reasonable grounds that within a 7 day period a thing or activity may provide evidence of an animal welfare offence or offence against this Act or the *Racing Act 2002.* The matters that must be stated in the warrant are provided by this provision. The clause also provides that if the warrant is not issued allowing re-entry, then the warrant ends on the day stated in the warrant that is within 14 days after issue.

Clause 187 allows an authorised officer in urgent circumstances or because of special circumstances such as the remote location of the officer, to make an application for a warrant under clause 185, electronically. A written application must still be prepared before the electronic application is made (this will ultimately need to be provided to the magistrate as per clause 188); however the electronic application can be made before the written application is sworn. This means that not swearing that the information in the application is true and correct does not prevent the warrant being given under this clause.

Clause 188 provides the process that must be undertaken if a warrant is applied for under clause 187 (via electronic means) and the magistrate is satisfied that it was necessary and appropriate to make the application that way. After issuing the warrant (the original warrant), if there is a reasonably practical way of giving a copy of the original warrant to the authorised officer the magistrate must do so. If not, the magistrate must tell the authorised officer the information required to be stated in a warrant under clause 186. This information is then to be included in a completed form of warrant (the duplicate warrant) by the authorised officer, which is taken to be the duplicate of and as effectual as, the original warrant. At the first reasonable opportunity the authorised officer must provide the written application for the warrant (as required by clause 187) and the form of warrant (duplicate warrant) to the magistrate. The magistrate must attach these documents to the original warrant as produced by the magistrate and provide all documents to the clerk of the relevant magistrate's court. Similar to clause 183 it is the authorised officer or another person that is responsible for proving that the warrant issued, authorised the exercise of power in a proceeding where the warrant is not produced as evidence.

Clause 189 provides that a warrant (or duplicate warrant) is not invalidated by a defect in the warrant or compliance with this subdivision, unless the defect affects the substance of the warrant in a material particular.

Subdivision 2 Entry procedure

Clause 190 provides the matters required to be done (or reasonable attempt made) if an authorised officer intends to enter a place under a warrant. Compliance with this provision is not necessary if the authorised officer believes that on reasonable grounds the entry without compliance was required, to ensure execution of the warrant is not frustrated. This may be to seize evidence that is being destroyed or tampered with in the course of complying with the matters stated.

Part 3 Other authorised officers' powers and related matters

Division 1 Stopping or moving vehicles

Clause 191 provides for the application of this division to things in or on a vehicle which an authorised officer is aware of or reasonably suspects to be, evidence of an animal welfare offence or offence against this proposed Racing Integrity Act or the *Racing Act 2002*.

Clause 192 allows the authorised officer to signal a person in a moving vehicle to stop the vehicle and or bring the vehicle to a convenient place for the authorised officer to exercise their powers. An authorised officer can direct the person in control of the vehicle to not move the vehicle, or to move and keep the vehicle at a reasonable place, until the powers have been exercised by the authorised officer. The authorised officer must alert the person in control of the vehicle that it is an offence for not following the direction.

Clause 193 provides that the authorised officer must clearly identify themselves if a direction is being given in relation to a moving vehicle. Once the vehicle has stopped the authorised officer must produce and show the person operating the vehicle their identity card to inspect. Clause 171 does not apply to the production of the authorised officer's identity card in this clause.

Clause 194 provides that without reasonable excuse, a person in control of the vehicle that is given a direction under clause 192 must comply. A failure to comply constitutes an offence. It is reasonable excuse not to comply if the authorised officer did not identify themselves; or if complying with the direction immediately will in doing so endanger someone else or cause damage or loss to property, and the person instead complies as soon as possible to do so. If a direction is given under clause 192(2) the person in control of the vehicle does not commit an offence for not complying with the direction given if the authorised officer fails to give an offence warning for this type of direction.

Division 2 General powers of authorised officers after entering places

Clause 195 provides for the application of powers where an authorised officer enters a place (whether conditions are or are not attached) or stops or moves a vehicle.

Clause 196 provides for the general powers (listed in the clause) of an authorised officer that can be exercised once a place or vehicle has been entered. It also provides for an authorised officer to take the necessary steps to exercise these general powers. An authorised officer in the course of taking a document or device to copy or extract a document must afterwards

return the document or device as soon as possible after the information is extracted. Only an authorised officer who is appropriately qualified can take the sample or thing under subsection (1)(f) and upon taking the sample or thing must give a receipt entered in the approved form to the person in charge of the animal or place from which the thing or sample was taken; or if this is not possible leave it in a safe, reasonably secure way in a conspicuous position and if it was a thing or sample taken and it has fundamental value within 6 months after it was taken be returned to the person who appears to be the owner or the person in charge of the animal or owner from where it was taken.

Clause 197 empowers an authorised officer to require reasonable help from the occupier or a person at the place being entered by the authorised officer to give reasonable help as is necessary to exercise a general power on making the help requirement request the authorised officer must give the person an offence warning.

Clause 198 makes it an offence for a person to fail to comply with the requirement unless the person has a reasonable excuse as specified but it is not a reasonable excuse not to comply if the subject of the help requirement is required to be held by the person under this Act or the *Racing Act 2002*.

Division 3 Seizure by authorised officers and forfeiture

Subdivision 1 Power to seize

Clause 199 allows for the seizure of things from a place entered by an authorised officer where consent was not required by the authorised officer when the authorised officer reasonably believes that the thing is evidence of an animal welfare offence or another offence against the proposed Racing Integrity Act or *Racing Act 2002*.

Clause 200 applies where an authorised officer has obtained the consent of the occupier to enter a place or has a warrant to enter a place. If an authorised officer enters on the basis of consent, the authorised officer may only seize a thing if the authorised officer reasonably believes it is evidence of an animal welfare offence or another offence against the proposed Racing Integrity Act or the *Racing Act 2002* and the seizure is consistent with the purpose of entry as explained to the occupier. If entry to a place is via a warrant the authorised officer may seize a thing for which the warrant was issued.

In both cases of entry, the authorised officer may also size any other thing at the place that the authorised officer reasonably believes is evidence of an animal welfare offence or another offence against the proposed Racing Integrity Act or the *Racing Act 2002;* and seizure is necessary to protect the evidence against loss, concealment or destruction. A thing can also be seized if the officer reasonable believes it has just been used in committing an animal welfare offence or another offence against the proposed Racing Integrity Act or *Racing Act 2002*.

Clause 201 provides that seizure of a thing is still permitted regardless of any claim by someone else to a debt owing for the thing being seized that any sort of security has been placed. However, the seizing of the thing by the authorised officer does not affect the claim against a person other than an authorised officer of someone acting under the direction of the authorised officer by the person who has a claim to any security for the thing.

Subdivision 2 Powers to support seizure

Clause 202 provides an authorised officer the power to secure a thing seized under this division at either the place that was entered to seize the thing or move it from the place of seizure it specifies the things that may be done to secure the seized thing and or require the person in control of the place or thing to do the things specified or any other thing able to be done by the authorised officer under this clause.

Clause 203 makes it an offence to not comply with a direction given by an authorised officer under clause 202(2)(c) unless the person has reasonable excuse.

Clause 204 makes it an offence for a person to tamper with a seized thing or anything used to secure and restrict access to the thing or enter the place where access has been restricted unless the person has approval from an authorised officer or has reasonable excuse for the action.

Subdivision 3 Safeguards for seized things

Clause 205 requires an authorised officer unless the reason for not doing so meets the reasons specified must as soon as practicable after the thing is seized give to the person in control of thing or the owner before it was seized a receipt for the thing stating the matters specified in the clause and an information notice about the decision to seize it or if the person is not present to give the receipt and information notice to at the time of the seizure, it may be given by leaving them in a conspicuous reasonably secured position at the place at which the thing was seized. It provides that the receipt and information notice can be one document and be for more than one seized thing, it allows the authorised officer to delay giving the documents if giving them may hinder the investigation by the authorised officer, but may only be delayed while the authorised officer is in the vicinity and is observing the place and maintains reasonable suspicion.

Clause 206 provides for the owner while a thing remains seized to inspect it, and if it is a document, to copy it free of charge. Inspection or copy of a thing seized is not applicable if it would be impractical or unreasonable to do so.

Clause 207 provides that a thing must be returned to the owner and specifies the requirements for return or retention of the thing by the Queensland Racing Integrity Commission if after 3 months the owner applies to the commission for its return the commissioner within 30 days after receiving the application believes grounds exist to retain the thing must give notice of this decision to the owner, otherwise return the thing to the owner.

Subdivision 4 Forfeiture

Clause 208 sets out the circumstances and the matters that regard must be had before the Queensland Racing Integrity Commission may decide to forfeit the seized thing to the State.

Clause 209 provides that an information notice about the forfeiture that states the owner may apply for a stay of the decision if an appeal about the decision is lodged by the owner must be given to the owner that was the owner of the thing immediately before the seizure as soon as possible and be left at the place in a conspicuous reasonably secure position. The above is not

required if the place is a public place or the place where the notice is left is unlikely to be read by the former owner.

Subdivision 5 Dealing with property forfeited or transferred to the State

Clause 210 specifies when a thing becomes the property of the State.

Clause 211 provides that the commissioner may deal with as they consider appropriate, a thing that has been forfeited to and becomes the property of, the State. Dealing with the thing must not prejudice an appeal against the forfeiture of the thing. If the dealing with the thing is to sell the thing, the commissioner may return to the former owner the remaining proceeds after deduction of costs stated. This clause is subject to any disposal order under clause 212.

Division 4 Disposal orders

Clause 212 allows the court to issue a disposal order for any of the things specified and owned by a person who is convicted of an animal welfare offence or another offence against the proposed Racing Integrity Act or the *Racing Act 2002.* In deciding whether to make a disposal order, the court may provide notice to persons it considers appropriate and must hear any submissions by a person claiming to have any property in the thing may wish to make.

This clause provides the court with the power to enforce the disposal order and does not limit the courts power under another law.

Division 5 Animal welfare directions

Clause 213 provides for the application of an authorised officer to issue a direction when the officer reasonably believes a person has committed, is committing or is about to commit, an animal welfare offence or for an animal the other reasons specified. The term *veterinary treatment* is defined for the particular reasons. The power to give directions under this division extends to an animal that has been seized under division 3, subdivision 1.

Clause 214 provides power to an authorised officer to give a written animal welfare direction. I specifies those actions that may be required to be taken by the person as stated in the direction and may also state how the person may show that an action has been taken an action to be taken may only be required if the authorised officer considers is necessary and reasonable in the interest of the welfare of the animal and include a direction about a seized animal.

Clause 215 specifies the requirement for an animal welfare direction issued under clause 214 to be in the approved form and state the information specified in this provision. It allows for a direction to be given orally if it is considered by the authorised officer to be in the best interest of the animal to give the direction immediately and it is not practicable to give the direction in the approved form and if given orally an offence warning is given to the person by the authorised officer.

Clause 216 makes it an offence if a person does not comply with a direction given under clause 214 and provides that the executive officer of a corporation is also taken to have committed the offence under this clause as provided for in clause 285.

Division 6 Authorised officer's power to destroy animals

Clause 217 gives an authorised officer the power to destroy an animal directly or have it destroyed if the animal was seized by the authorised officer or the person in charge of the animal has given consent for the destruction and the authorise officer reasonably believes that the animal is in pain to the extent that it is cruel to keep it alive.

Division 7 Other information-obtaining powers of authorised officers

Clause 218 empowers an authorised officer to require a person's name and address in certain circumstances. When making such a requirement, the inspector must warn the person that it is an offence to fail to state their name and address, unless the person has a reasonable excuse. If the authorised officer reasonably suspects that the name and address stated is false, the inspector may require the person to give evidence of the correctness of the stated name or address.

Clause 219 makes it an offence for a person to fail to comply with a requirement to give their name and address unless the person has a reasonable excuse. However, a person does not commit an offence by not complying with such a requirement, if the requirement was given where an authorised officer suspected the person had committed an offence against the proposed Racing Integrity Act and the person is proven not to have committed that offence.

Clause 220 empowers an authorised officer to require a person to make available for inspection a document which is required to be kept for inspection. The authorised officer may keep the document and copy it but must return it as soon as practicable after copying.

Clause 221 makes it an offence for a person to fail to make a document available for inspection as requested by an authorised officer under clause 220, unless the person has a reasonable excuse. Not complying on the grounds of self-incrimination or exposure to a penalty is not a reasonable excuse for the purposes of this clause. It requires the authorised officer to inform the person in a reasonable way of this fact and that there is however, limited immunity against future use of information given in compliance with the requirement if the authorised officer fails to do so; a person cannot be convicted of the noncompliance (see clause 231).

Clause 222 makes it an offence for a person to fail to comply with the requirement to certify a document without reasonable excuse and it is not reasonable excuse on the basis that complying will possibly incriminate the person or expose them to a penalty. It requires the authorised officer to inform the person in a reasonable way of this fact and that there is however, limited immunity against future use of information given in compliance with the requirement if the authorised officer fails to do so, a person cannot be convicted of the noncompliance (see clause 231).

A person cannot be convicted of the offence under this clause if the authorised officer does not inform the person of the self-incrimination and limited immunity under section 222(3).

Clause 223 provides that an authorised officer may require a person who the authorised officer believes may be able to give information about a contravention of an animal welfare offence or offence against this proposed Racing Integrity Act or the *Racing Act 2002*, to give information at a time and place stated in a notice that is reasonable. For information that is an electronic document, the giving of a clear image or written version of the electronic document is required.

Clause 224 makes it an offence for a person to fail to comply with a requirement under clause 223(2) however it is a reasonable excuse for an individual not to give information if the giving of the information might tend to incriminate or expose the person to a penalty because they are not subject to the same immunity under clause 231.

Part 4 Miscellaneous provisions relating to authorised officers

Division 1 Damage

Clause 225 provides that an authorised officer must take all reasonable steps to cause as little inconvenience and do as little damage as possible when exercising a power.

Clause 226 applies when an authorised officer or someone acting under the direction of an authorised officer, in the course of exercising or purporting to exercise a power, damages a thing. The authorised officer must give notice with the matters stated in the provision to the person that seems to be in control or the owner of the thing. If the immediate giving of the notice is not practicable; the authorised officer must leave the notice at the place where the damage happened in a conspicuous and reasonably secure position. The giving of the notice may be delayed if the authorised officer reasonably suspects it will hinder the performance of the authorised officer's functions and may only delay while at the vicinity and while the authorised officer maintains reasonable suspicion.

Division 2 Compensation

Clause 227 provides for a person to claim compensation from the Queensland Racing Integrity Commission for a loss incurred because of an authorised officer exercising or purporting to exercise a power. This includes a loss because of compliance with a requirement under this chapter, excluding a lawful forfeiture. The provision states that clause 225 does not provide for a statutory right to compensation outside this provision.

Division 3 Other offences relating to authorised officers

Clause 228 makes it an offence for a person to give information to an authorised officer that the person knows is false or misleading in a material particular whether or not it was given in response to a specific power under the proposed Racing Integrity Act or the *Racing Act 2002*. It is not considered an offence however, if the person at the time of giving the information tells the authorised officer how it is false or misleading and gives the correct information (if the person has or can reasonable obtain the information).

Clause 229 makes it an offence to obstruct (as defined for this clause) an authorised officer or someone helping an authorised officer in the exercise of a power unless the person has a reasonable excuse. If after an obstruction by a person an authorised officer or someone helping decides to proceed with the exercise of power must warn the person that the obstruction is an offence and the conduct of the person is an obstruction.

Clause 230 makes it an offence to impersonate an authorised officer.

Division 4 Other provisions

Clause 231 provides immunity for an individual who gives or produces information or a document to an authorised officer under clause 198, 221 or 222 that it will not be uses as evidence in any proceeding if it tends to incriminate or expose the person to penalty in the proceeding but the immunity does not extend to a proceeding about false or misleading information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.

Chapter 6 General

Part 1 Offences

Division 1 Offences relating to administration of Act

Clause 232 defines certain words for the purpose of this division. A definition is provided for *Act document* and *confidential information.*

Clause 233 makes it an offence for a person who, in the course of administrating the proposed Racing Integrity Act, obtained confidential information or gained access to a background document about someone else without reasonable excuse, to disclose the confidential information to anyone else, or copy a background document, or give anyone else access to a background document. The provision also states the circumstances that give rise to reasonable excuse for a person's action under this clause.

Clause 234 makes it an offence for a person to forge an 'Act document' (defined in clause 232); knowingly utter an 'Act document' that is forged; or pretend to be a person named in an 'Act document', such as an authorised officer or a person named in an identity card.

Clause 235 makes it an offence for a person to knowingly make a false statement in a licence application, an application for an eligibility certificate, approval application, or a document that the person is required to keep, or give to the Minister, chief executive, the gaming executive, the Queensland Racing Integrity Commission or another person, under the proposed Racing Integrity Act. A monetary or imprisonment penalty is attached to the offence.

Division 2 Offences relating to racing contingencies

Clause 236 makes it an offence for a person to conduct a racing contingency and for the occupier of a place to allow a racing contingency to be conducted at the place. This clause defines *conduct* and *racing contingency*, for the purposes of the provision.

The intent of this provision is to prohibit betting on races at a place that are not held at a licenced venue and when the venue is under the control of the Queensland Racing Integrity Commission at the time. The integrity of racing of animal on which bets may be made can only be assured if it is conducted under the proposed Racing Integrity Act if the commission is controlling the race meeting by undertaking the necessary function required.

Division 3 Offences relating to prohibited things or interfering with licensed animals, persons or things

Clause 237 defines certain words for the purpose of this division. A definition is provided for *interfere with, prohibited thing* and *use.*

Clause 238 makes it an offence for a person to have a prohibited thing without a reasonable excuse at a licensed venue, a place where a trial is or to be held, a place used for the purpose of training a licensed animal, a stable or kennel used for sheltering a licensed animal, in or about a vehicle being used or about to be used to transport a licensed animal or another place where a licensed animal is located. A monetary or imprisonment penalty is attached to this offence.

For example, depending on the particular circumstances it would be likely that a trainer who had been supplied a drug by a veterinary surgeon to treat a condition or injury to a licensed animal would have a reasonable excuse for having the drug at a stable.

Clause 239 makes it an offence without a reasonable excuse for a person to use a prohibited thing or otherwise interfere with a licensed animal. A monetary or imprisonment penalty attaches to the offence. It is a reasonable excuse for a veterinary surgeon to use a prohibited thing on or otherwise interfere with a licensed animal to treat a condition or injury of the animal, or to do something else which accords with normal veterinary practice. As public confidence in the racing industry relies on animals being allowed to compete on their ability in accordance with the rules of racing for the code, it is considered appropriate for a substantial penalty to be imposed for a breach of this provision. Therefore, a maximum penalty of six hundred penalty units has been provided.

Clause 240 makes it an offence without a reasonable excuse for a person to interfere with a licence holder in relation to the licence holder's performance of an activity for which the licence holder is licensed. Similarly, it is an offence to interfere with an official of the Queensland Racing Integrity Commission or of a control body when they are performing a function or exercising a power under the proposed Racing Integrity Act or the *Racing Act 2002*. A monetary or imprisonment penalty is attached to the offence. The intent of this provision is to deter unlawful activities that may affect the outcome of a race. For example, to deter persons from attempting to 'fix' races by threatening or otherwise causing injury to a jockey or other person involved with a licensed animal such as a strapper or trainer.

Division 4 Unlawful bookmaking, places where betting done unlawfully and other provisions

Clause 241 states that this division does not apply to lawful conduct, that is, wagering conducted under the *Wagering Act 1998* or betting by or with a racing bookmaker a licensed

executive officer of a corporation and a racing bookmaker's clerk. This provision also lists various legislation that the division does not limit in any way.

Clause 242 states that a person must not carry on bookmaking unless the person is a racing bookmaker, or an executive officer of a corporation that is a racing bookmaker or a racing bookmaker's clerk. A failure to comply with this provision constitutes an offence under clause 245.

Clause 243 state when a place opened, kept or used wholly or partly is an *illegal betting place*. This does not include licensed venues where the listed activities are being undertaken under the control of the Queensland Racing Integrity Commission for a race meeting; or where another Act allows the place to be lawfully used for the activity.

Clause 244 prohibits a person from opening, keeping, using , promoting or assisting in the operating of an illegal betting place whether an occupier is or isn't present. A person who is the occupier of the illegal betting place, or acting for the occupier of the illegal betting place, or in any way helping in operating an illegal betting place, must not directly or indirectly, receive money or other property as a bet, deposit on a bet, or for consideration for any other undertaking or promise etc. in relation to a race or sporting contingency or give acknowledgment on the receipt of money or property for the above purposes entitling the bearer or other person to receive money or other property in relation to a race or sporting contingency. Failure to comply with this provision constitutes an offence under clause 245.

Clause 245 sets the penalty for failing to comply with clauses 242(unlawful bookmaking) and 244 (prohibition on illegal betting places). These penalties range from six hundred penalty units or 1 year's imprisonment for a first offence to four thousand penalty units or 5 years imprisonment for a third or subsequent offence. While these penalties are high, there are considered justified and necessary to deter illegal bookmaking in Queensland, particularly by offshore betting operators who may otherwise operate through offices set up in Queensland.

Clause 246 makes it an offence for a person to use a service or facility at an illegal betting place without reasonable excuse.

Clause 247 makes it an offence to bet at a public place unless the betting is lawfully conducted under the proposed Racing Integrity Act or another Act.

Division 5 Other offences

Clause 248 makes it an offence to interfere with the things prescribed in the clause at a licensed venue or place for holding trials, without permission from the responsible person for the licensed venue or place. This provision also defines certain words for the purpose of this division and has a monetary or imprisonment penalty attached.

Clause 249 makes it an offence to attempt to commit an animal welfare offence or offence against the proposed Racing Integrity Act or the *Racing Act 2002*.

Part 2 Evidentiary and legal proceedings

Division 1 Evidence

Clause 250 states that this division applies to a proceeding for an offence under this Act.

Clause 251 states that the appointment of and the authority of the commissioner, deputy commissioner or authorised officer must be presumed unless a party to a proceeding, by notice, requires proof of it. This also applies to the power of the chief executive and gaming executive to do anything under this Act.

Clause 252 lists what is considered to be evidence of particular matters.

Clause 253 lists what is considered to be evidence in complaint or indictment matters.

Division 2 Offence proceedings

Clause 254 provides that an offence against the proposed Racing Integrity Act is a simple offence except for offences under clause 242 (unlawful bookmaking other than by racing bookmakers) or 244 (prohibition on opening, keeping, using or promoting an illegal betting place), which are indictable offences and misdemeanours.

Clause 255 provides when an indictable offence can be dealt with summarily.

Clause 256 states that a proceeding must be heard before a magistrate if it is a proceeding for a summary conviction on a charge for an indictable offence or on an examination of witnesses on a charge for an indictable offence. The jurisdiction of a justice who is not a magistrate is limited to making or taking a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Clause 257 provides a time limitation on simple offence matters. It requires proceedings for simple offences to start within 1 year after the offence is committed, or 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed. This is in accordance with the *Justices Act 1886.*

Clause 258 states that a conviction against the proposed Racing Integrity Act, the *Racing Act 2002*, or the repealed *Racing and Betting Act 1980* is not receivable in evidence against the person after ten years, for the purpose of subjecting the person to an increased penalty.

Division 3 Remedies

Clause 259 allows the Queensland Racing Integrity Commission to recover costs incurred for seizure, compliance and destruction, in the circumstances provided in the provision.

Clause 260 specifies that a court may order a person convicted of an animal welfare offence to pay compensation or an amount for costs incurred, in the circumstances provided in the provision. These orders do not apply in favour of the Queensland Racing Integrity Commission. The commission has other avenues of seeking remedy for costs incurred.

Clause 261 allows compensation or costs to be recovered under this division or clause 227 (where a person can claim compensation from the Queensland Racing Integrity Commission), to be claimed and ordered in a proceeding brought in court or investigation, as specified in the provision. A court may make the compensation order only if it is satisfied it is just to do so, in the circumstances of the case. Relevant offences committed by the claimant are relevant in the courts consideration of whether an order of compensation is just.

Division 4 Reviews and appeals for original decisions

Subdivision 1 Preliminary

Clause 262 lists the types of decisions under this proposed Racing Integrity Act that are considered to be an *original decision*. Another decision can be prescribed by regulation to be an *original decision.* This provision explicitly states particular decisions which are not considered original decisions, including a decision to the eligibility of an animal to race or the conditions under which an animal can race.

Clause 263 defines an *interested person,* for the purposes of an original decision. The scope of this definition differs depending on whether the decision to be reviewed is an original decision in relation to the seizure or forfeiture of an animal or other thing; is for an original decision about a decision other than to seize or forfeit an animal or other thing. This is because the external review process for an original decision in regards to seizure and or forfeiture is required to progress straight to the Magistrates Court (where applicable), unlike the external review for other original decisions which can proceed firstly to the Queensland Civil and Administrative Tribunal.

Subdivision 2 Internal reviews

Clause 264 provides that a person may not apply for or appeal against an original decision, e.g. directly to QCAT unless there has been an internal review of the decision.

Clause 265 states that an interested person for an original decision may apply for an internal review of the decision. Applications are made to the Queensland Racing Integrity Commission, in accordance with the listed requirements. An application must be made in the approved form, supported by enough information, and made within 14 days of the applicant receiving the information notice of the decision in question; or if no notice is given, of the applicant becoming aware of the decision. This provision provides discretion to the commission to extend the time for making an internal review application.

Clause 266 clarifies that there is no automatic stay to a decision which is subject to an internal review application. If a stay is believed necessary, the applicant can apply to the relevant body (i.e. the court for decisions of seizure or forfeiture of animals, or QCAT for other original decisions) for a stay of the original decision. The relevant body will then determine whether a stay should be granted and if so, on what conditions and for how long (not extending past when an internal review decision is made about the decision and any later period allowed for the applicant to appeal against or apply for external review of the internal review decision).

Clause 267 requires the Queensland Racing Integrity Commission to conduct an internal review of a decision (which complies with the application requirements), within 20 days of receiving the application. The commission must make a decision (the *internal review decision*) to either confirm, amend or substitute the original decision. This clause stipulates it must be considered by a person other than the person who made the original decision, and hold a more senior office than the original decision-maker. It clarifies that this applies despite the *Acts Interpretation Act 1954,* section 27A, however does not apply to an original decision made personally by the commissioner (as there is no higher office within the commission to perform the review).

A notice of the internal review decision is required to be provided to the applicant. If the decision made is not the applicant's sought result, the notice must include things such as the reasons for the decision, that the applicant may take further appeal to the court, how to appeal , and that an application may also be made for a stay of the decision. If the decision is in relation to an original decision other than for seizure or forfeiture of an animal or thing, the notice must comply with the requirements of the QCAT Act, section 157(2). A failure by the Queensland Racing Integrity Commission to provide a notice of the internal review decision within 20 days after receiving the application, will be taken to be a confirmation of the original decision.

Subdivision 3 External review

Clause 268 applies to a person who has applied for review of an *original decision* (defined in clause 262) and is to receive a review notice as required by clause 267(6) complying with the *Queensland Civil and Administrative Tribunal Act 2009*, Section 157(2). The person may then apply to the Queensland Civil and Administrative Tribunal (QCAT) for external review. This corresponds with the application requirements in the *Queensland Civil and Administrative Tribunal Act 2009.* An application for a stay of the internal review decision may be made by the person or on QCAT's own initiative. The ability for review under this provision does not apply to decisions to seize or forfeit an animal or other thing.

Subdivision 4 Appeals

Clause 269 provides that an *interested person* (defined in clause 263) may appeal to a court against an internal review decision in regards to a decision to seize or forfeit an animal or other thing.

A written notice, fully stating the grounds of appeal, must be filed with the registrar of the Court within 28 days after the appellant receives notice of the internal review decision. The clause gives the court the discretion to extend the period for filing a notice of appeal.

A copy of the appeal, and any application for extension of time to file the notice of appeal, is to be given by the applicant, to the Queensland Racing Integrity Commission. This application for appeal does not affect the operation of the internal review decision, or prevent the decision being implemented.

Clause 270 gives the court power to stay an internal review decision appealed against on such conditions and for such period as the court determines (but no longer than when the court decides the appeal). The court may stay the decision to secure the effectiveness of the appeal.

Clause 271 states the powers of the court on appeals of internal review decisions. The appeal will be by way of re-hearing the matter appealed against. The Court is not bound by the rules of evidence and must observe natural justice. The Court has the same powers as the Queensland Racing Integrity Commission in making the internal review decision.

The Court may:
- confirm the internal review decision appealed against;
- set aside the internal review decision and substitute another decision; or
- set aside the internal review decision and return the matter to the commission with directions the Court considers appropriate.

Clause 272 specifies the effect of a court's decision. Where the internal review decision is substituted by the court, the court's decision is taken to be a decision of the Queensland Racing Integrity Commission. This allows the commission to give effect to the decision. If the internal review decision is set aside by the court and the matter is returned to the commission with directions, any decision by the commission made in accordance with these directions cannot be reviewed or appealed against, under this division.

Clause 273 provides the court with further powers for appeals of seizure and forfeiture decisions. If the court confirms the forfeiture, it may also give directions about the sale or disposal of the thing. If the court sets aside the seizure or forfeiture, it may also make an order for the return of the thing, for disposal of the thing or for compensation.

Clause 274 allows for an appeal to the District Court for any person dissatisfied by a decision of the court. The appeal can only be on a question of law.

Chapter 7 Miscellaneous provisions

Part 1 Miscellaneous provisions relating to racing and betting

Clause 275 states that betting on a race or sporting contingency which is conducted in accordance with the proposed Racing Integrity Act, is considered to be lawful. This provision does not limit the *Wagering Act 1998.*

Clause 276 prescribes the commencement of a race meeting is taken to be at the time the steward in charge of the meeting directs that betting with racing bookmakers may commence.

Clause 277 provides that, subject to section 156 (lawful bet by racing bookmaker taken to be a valid contract) and clause 278, the following agreements are void:
- a contract relating to betting,
- a promise to pay money to a person, by way of commission, fee, reward, payment for services rendered or otherwise, in relation to a contract relating to betting.

An action cannot be brought in a court to recover money or other property in relation to these void agreements.

Clause 278 states a bet or other activity which would otherwise be void under clause 277, is not if it is lawful betting permitted under the *Wagering Act 1988* or other Queensland gaming

legislation. Clause 277 also does not apply to a subscription or contribution, or agreement to subscribe or contribute for a prize, amount or plate to be awarded to the winner of a lawful game, sport, pastime, or exercise, e.g. agreement to contribute prize money for a race.

Part 2 Other miscellaneous provisions

Clause 279 allows the chief executive or commissioner to approve forms for use under the proposed Racing Integrity Act.

Clause 280 allows the Minister to delegate to the chief executive or appropriately qualified person, any of the powers of the Minister's office given under this proposed Racing Integrity Act. It also allows the chief executive to further delegate these powers and the chief executive's powers as given under this proposed Racing Integrity Act to an appropriately qualified person (including an employee of the Queensland Racing Integrity Commission or of a department). *Appropriately qualified* is defined in the *Acts Interpretation Act 1954* in regards to a function or power as 'having the qualifications, experience or standing appropriate to perform the function or exercise the power'.

Clause 281 provides protection to stated persons from civil liability for an act done or an omission made honestly and without negligence under the proposed Racing Integrity Act and in certain circumstances, shifts liability to the State. Protection is provided to the commissioner, a deputy commissioner, a steward, someone who has been requested to and is helping an authorised officer and persons complying with requirements under stated provisions of the proposed Racing Integrity Act.

Clause 282 provides protection to persons for giving information. This protection is for a person who gives information to an authorised officer, honestly and in good faith, to help with an investigation of an animal welfare offence. The provision states that in this situation, the person is not liable (in any sense – criminally, civilly, or under an administration process), for giving the information. This includes not breaching professional etiquette or professional codes of conduct. The intent of this provision is to support people to come forward with information which may help to identify and or prove an animal welfare offence.

Clause 283 inserts a new provision to allow the sharing of information by an authorised officer. Under the proposed Racing Integrity Act, authorised officers are allowed to provide information they reasonably believe helpful in relation to an animal or animal welfare offence, gathered as part of their authorised officer functions, to a police officer or authorised person under the *Animal Care and Protection Act 2001.* This is to improve compliance and allow for proper enforcement and or action to be taken for criminal offences or offences under the *Animal Care and Protection Act 2001,* by the relevant authority.

Clause 284 clarifies that clauses 282 and 283 in relation to information sharing, do not limit a power or obligation under another Act or law in relation to providing information on animals or animal welfare offences. This provision explicitly states that the information sharing as provided for in this proposed Racing Integrity Act is intended to apply despite other law that would otherwise prohibit or restrict the giving of the information, for example, the *Police Service Administration Act 1990,* section 10.1. Or in general, that if an inconsistency arises as to the providing of information relating to animals or animal welfare offences as covered by this proposed Racing Integrity Act, this proposed Act is to prevail to the extent of the

inconsistency (providing the information is gathered under an authorised officer's powers given by the proposed Racing Integrity Act).

Clause 285 provides that if a corporation commits an offence against clause 216 (failure to comply with animal welfare direction) each executive officer of the corporation also commits an offence, namely, the offence of failing to ensure that the corporation complies with the animal welfare direction as provided by the Bill.

This provision allows for a proceeding against an executive officer, whether or not the corporation has been proceeded against or convicted of, the offence.

Clause 286 allows for information to be given by the health chief executive to the Queensland Racing Integrity Commission relating to a controlled drug, restricted drug or poison obtained by a veterinary surgeon; or a record under the Health (Drugs and Poisons) Regulation 1996 which a veterinary surgeon is required to keep under the *Health Act 1937*. A definition is provided for the relevant terms used in the clause.

Clause 287 allows the State to recover as debt, any moneys due and payable under the proposed Racing Integrity Act.

Clause 288 provides matters which may be prescribed by regulation.

Chapter 8 Transitional provisions

Part 1 Purposes and definitions

Clause 289 states the main purposes of this part. The transitional provisions have been provided to ensure the continuation of matters dealt with under particular provisions of the *Racing Act 2002,* as well as providing appropriate replacement of certain provisions and new provisions for matters which are dealt with under the proposed Racing Integrity Act.

Clause 290 inserts the definitions for words and terms used in this chapter of the Bill. This clause also clarifies that provisions are still considered substantially the same as the previous provision if they provide functions and powers which were previously provided to the chief executive, all-codes board, control body or Racing Integrity Commissioner; and are now provided to the Queensland Racing Integrity Commission or Racing Integrity Commissioner. This is to emphasise one of the main focuses of the Bill, which is to reassign responsibilities previously provided under the *Racing Act 2002,* with the newly established commission.

Similarly, an authorised officer may perform a function or exercise a power if, under the previous provision, was given to a compliance officer, integrity officer, or authorised officer.

Part 2 General approach for existing matters under previous provisions

Clause 291 provides a transitional provision to allow the continuation of certain existing matters (defined in this clause), which were previously dealt with under the unamended *Racing Act 2002* and are not otherwise specifically dealt with in the Bill.

Clause 292 supports the previous clause (clause 291) in continuing certain terminology as if it were under the amended *Racing Act 2002*.

Clause 293 clarifies that timeframes for doing things started but not finished before commencement of this clause continue if corresponding provisions in this Bill provide for the same timeframe. The starting point is considered to be when the thing was started under the previous provision.

Clause 294 clarifies that the timeframes or days stated in documents before commencement of this clause continue if corresponding provisions in this Bill provide for the same timeframe. The starting point is considered to be when the thing was started under the previous provision.

Clause 295 states that action or right to take action on existing matters under clause 291 that constituted grounds for suspension or cancellation of a licence before commencement of provisions under this proposed Racing Integrity Act, or proceedings relating to contraventions (including an alleged contravention) of provisions of this Act for omissions or actions after commencement, may still be considered relevant.

Part 3 Examples of continuing matters for previous provisions

Clause 296 provides examples of continuing matters dealt with under previous sections 47 to 51, to assist in the interpretation of this part of the Bill. This list is not intended to be exhaustive.

Clause 297 provides examples of continuing matters dealt with under previous chapter 3, to assist in the interpretation of this part of the Bill. This list is not intended to be exhaustive.

Clause 298 provides examples of continuing matters dealt with under previous chapter 3A. part 3, to assist in the interpretation of this part of the Bill. This list is not intended to be exhaustive.

Clause 299 provides examples of continuing matters dealt with under previous chapter 6, to assist in the interpretation of this part of the Bill. This list is not intended to be exhaustive.

Clause 300 provides examples of continuing matters dealt with under previous chapter 7, to assist in the interpretation of this part of the Bill. This list is not intended to be exhaustive.

Part 4 Other matters

Clause 301 assists in the relocation of licensing matters to the proposed Racing Integrity Act. This clause provides for the continuation of a control body's policy for a licensing scheme, current licenses and certain documents, actions, obligations, rights or protections in relation to a licence as specified in this provision. These continue to have effect to the same extent as it did under the unamended Racing Act.

Clause 302 provides that new section 493 of the *Racing Act 2002* (Act previously in force to apply to offences) does not limit the application of clause 295(1)(b). Clause 295(1)(b) allows

the consideration of existing matters (defined in clause 291) in regards to acts or omissions which happened before commencement.

Clause 303 clarifies that the provisions under this chapter do not in any way limit the *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.).

Part 5 Regulation-making power for transitional purposes

Clause 304 provides a power to make a transitional regulation for a period of one year from the commencement of this clause, if it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the previous provisions to this Bill. A transitional regulation expires one year after its enactment.

Chapter 9 Amendment of Acts

Part 1 Amendment of this Act

Clause 305 states that this part will amend the Racing Integrity Act, once enacted.

Clause 306 states that after the enactment of the Racing Integrity Act, the long title will be amended.

Part 2 Amendment of Animal Care and Protection Act 2001

Clause 307 states that this part of the Bill amends the *Animal Care and Protection Act 2001*.

Clause 308 replaces existing section 7(1) (relationship with certain other Acts) to include the proposed Racing Integrity Act in the list of Acts whose application is not affected by the Animal Care and Protection Act.

Clause 309 replaces existing section 115 (functions) to expand the functions of an inspector to include investigation and enforcement of compliance with an animal welfare direction given by an authorised officer under the proposed Racing Integrity Act, clause 216.

Clause 310 inserts new section 215A and 215B to expand the protection from liability to include the giving and sharing of information in certain situations. The protection provided under new section 215A is for a person who gives information to an authorised officer, honestly and in good faith, to help with an investigation of an animal welfare offence. The provision states that in this situation, the person is not liable (in any sense – criminally, civilly, or under an administration process), for giving the information. This includes not breaching professional etiquette or professional codes of conduct. The intent of this provision is to support people to come forward with information which may help to identify and or prove an animal welfare offence. This clause mirrors the provision providing protection for giving information under the proposed Racing Integrity Act, in clause 282 of this Bill.

The protection afforded in new section 215B allows the sharing of information by an authorised officer. Authorised officers are allowed to provide information they reasonably believe helpful in relation to an animal or animal welfare offence, gathered as part of their

authorised officer functions, to a police officer or an authorised officer of the Queensland Racing Integrity Commission. This is to improve compliance and allow for proper enforcement and disciplinary action to be taken by the relevant agency under the legislation that they administer. For example, police officers for criminal offences or authorised officers for offences under the proposed Act. This clause is similar to the provision providing protection for sharing information under the proposed Act, in clause 283 of this Bill. Clause 283 provides a reciprocal power which allows an authorised officer of the commission to share the information with an authorised person under the Animal Care and Protection Act.

New section 215C states that new sections 215A and 215B do not limit powers or obligations under another Act or law in relation to providing information about an animal or animal welfare offence. This provision explicitly states that the information sharing as provided for in this amendment is intended to apply despite other law that would otherwise prohibit or restrict the giving of the information, for example, the *Police Service Administration Act 1990*, section 10.1. Or in general, that if an inconsistency arises as to the providing of information relating to animals or animal welfare offences as covered by the Animal Care and Protection Act, the Animal Care and Protection Act is to prevail to the extent of the inconsistency (providing the information is gathered under an authorised officer's powers given by the proposed amendment).

Clause 311 amends the dictionary to modify the definition of *animal welfare offence.* This will now reference relevant section of the proposed Racing Integrity Act.

Part 3 Amendment of Racing Act 2002

Clause 312 states that this part of the Bill amends the *Racing Act 2002.*

Clause 313 amends the long title of the Racing Act.

Clause 314 replaces section 4, to provide the new main purpose of the Racing Act and states the ways it is to be achieved.

Clause 315 removes current section 6 'Betting under this Act is lawful' now provided for under clause 275.

Clause 316 removes current chapter 2, part 1 of the Act ('preliminary') now provide for by the new main purpose of the Racing Act, provided in clause 314.

Clause 317 replaces the heading from chapter 2, part 1A and section 9AA. This section referred to the establishment of the Queensland All Codes Racing Industry Board, which has been reconstituted as the Racing Queensland Board. This clause establishes the Racing Queensland Board, continuing the existence of the Queensland All Codes Racing Industry Board under this new name.

Clause 318 replaces sections 9AD to 9AG and inserts new section 9ACA. The previous sections 9AD to 9AG detailed the functions and status of the Queensland All Codes Racing Industry Board. The clause now provides new sections 9AD to 9AG. These sections state the functions and powers of the Racing Queensland Board, which have been modified to align with the establishment of the Queensland Racing Integrity Commission and its responsibilities. The Racing Queensland Board's primary function is to be the control body

for each code of racing (currently - thoroughbred, harness and greyhound) and manage its codes of racing.

The clause goes further to clarify that the board is not a body corporate and does not represent the State, through the insertion of 9ACA.

New section 9AE provides the powers of the board which include the power of an individual to do the things stated.

New section 9AG states that the board must pay an amount that is at least 5.32% share of net UNiTAB product fee as prize money. This clarifies the statutory minimum amount and does not prohibit the board from providing more than 5.32% of the net UBET product fee on prize-money for non-UBET thoroughbred clubs. Nor does it prohibit the board from providing a higher amount than 5.32% of the net UBET product fee to support non-UBET thoroughbred clubs.

The provision has also been amended to reflect the change in corporation names from UNiTAB and TABQ to UBET.

Clause 319 replaces sections 9AI and 9AJ to provide the number of members which will constitute the Racing Queensland Board and their appointment. It also defines a *non-industry member* and *racing industry member.*

Clause 320 amends section 9AK to remove references to the 'all-codes board' which has reconstituted by this Bill. This clause also makes minor amendments by clarifying the difference between when a non-industry member of the board and a racing-industry member of the board becomes vacant and renumbers sections as a result. A *non-industry member* and *racing-industry member* are defined in new section 9AI.

Clause 321 amends section 9AL to remove a reference to the 'all-codes board' and to clarify that the chairperson and deputy chairperson of the board to be appointed by the Governor in Council, is to be a non-industry member.

Clause 322 amends section 9AS to remove a reference to the 'all-codes board' and to increase the minimum number of members required for a board meeting to 4.

Clause 323 amends section 9AT to remove a reference to the 'all-codes board' and to insert subsection (3) which allows a non-industry board member to preside at the meeting if both the chairperson and deputy chairperson are absent.

Clause 324 amends section 9AU to remove references to the 'all-codes board' and to provide that the person presiding at a meeting of the board will have a casting vote if all votes are equal.

Clause 325 amends section 9AZ to remove references to the 'all-codes board' and to clarify eligibility for appointment to be the chief executive officer. This provision states that to be eligible, a person must not be a member of the board; a commissioner, deputy commissioner or employee of the Queensland Racing Integrity Commission; and must not during the 2 years prior to the appointment, have been a member, commissioner, deputy commissioner or employee of the commission.

Clause 326 amends section 9BC to remove a reference to the 'all-codes board' and replaces the responsibility of the all-codes board with the Governor in Council, who will decide the terms and conditions for which this Act does not stipulate, for the chief executive officer to hold office. This includes remuneration and allowances.

Clause 327 amends section 9BH to provide a definition for *candidate*. This is to help with the interpretation of the section.

Clause 328 amends section 9BI to remove references to the 'all-codes board'.

Clause 329 amends section 9BJ to remove references to the 'all-codes board' and to redefine an *interested member* as being a member who is present at a meeting of the board, having an interest in a matter at that meeting; rather than a member of the board having an interest at a meeting.

This clause also creates a penalty for a failure of an interested member to disclose an interest at a meeting under section 9BJ(1), as soon as possible after the relevant facts have come to the interested member's knowledge.

Since the member must be at the meeting in which the interest lies (by definition of *interested member)*, it would be appropriate to disclose such an interest at the same meeting, if during that meeting the relevant facts have come to the interested member's knowledge.

This clause also amends section 9BJ(8) to apply to a racing-industry member (rather than a chairperson). This allows the member to act in the interests of or have regard to, the relevant board code of racing.

Clause 330 amends section 9BK to remove references to the 'all-codes board' and creates an offence for failure to disclose a conflict of interest, as required under 9BK(1). This creates a stronger deterrence for members of the board to fail to quickly and fully divulge conflicts of interest.

This clause also inserts new subsection 2A, which requires the board to give the Queensland Racing Integrity Commission notice within 14 days of a member's disclosure of a conflict of interest, and any directions given by the board under this provision.

Clause 331 amends section 9BM to remove references to the 'all-codes board' and modifies the matters the Minister is not allowed to provide directions to the board about. Previously decisions with rights of appeal to the disciplinary board were included in this list. However, as the Bill removes the disciplinary board and replaces it with an internal review process, these matters are redundant and have been omitted. This clause also makes it explicit that the Minister is not able to intervene in races and race meetings as the Minister will not be able to issue a direction to stop, restart, rerun, postpone or abandon a race. The decision to stop, restart, rerun, postpone or abandon a race is a matter for the Queensland Racing Integrity Commission. The control bodies may also elect to cancel, abandon or postpone a race as it deems appropriate.

Clause 332 removes division 10 of chapter 2, part 1A; and part 1B which related to control boards.

Clause 333 amends section 10, to clarify that an eligible corporation may apply to the Minister for approval as a control body for a proposed code of racing only. Previously this section applied to proposed codes of racing and 'a code of racing'. However, the option of 'a' code of racing has been removed, as the intent is that there will only be 1 control body for a code of racing. Since Racing Queensland is the control body for the current three codes of racing (thoroughbred, harness and greyhound), this provision provides an avenue for future control bodies of a different code (the proposed code of racing).

Clause 334 amends section 11 to correct a minor drafting error and inserts new sections 11(1)(f). New 11(1)(f) amends the requirement to provide the approval applicant's plans by limiting the plans to managing the application code and a timetable for implementing the plans. This is a minor clarifying amendment as the previous section required the plans to contain information about how the control body planned to develop, operate and manage its code of racing.

This clause also amends section 11 to remove matters previously dealt with by control bodies, which are now provided by the Queensland Racing Integrity Commission, under the establishment and functions provisions of the proposed Racing Integrity Act in this Bill.

Section 11(3) is amended to require a draft strategic and operational plan which complies with the requirements under section 45K (the content of the operational plan and strategic plan) for the relevant financial year, to be included with an approval application.

Clause 335 amends section 12 to modify the necessary skills and experience an executive officer must have. Additions have been made to include the areas of animal welfare, accounting (to replace financial management generally) and commercial development; while retaining the existing categories of law, application code, business and marketing.

Clause 336 amends section 13 to redirect an approval application for referral. The approval application is to be referred by the Minister to the chief executive for assessment under the Racing Act, and to the Queensland Racing Integrity Commission for assessment under the proposed Racing Integrity Act. Previously this referral was to the chief executive of the Racing Act alone, however the further referral is now necessary as a result of the establishment of the Queensland Racing Integrity Commission, under the proposed Racing Integrity Act covered by the Bill.

Clause 337 amends section 14 to apply this section so it applies to the Queensland Racing Integrity Commission as well as the chief executive under the Racing Act. Section 14 sets out requirements for the Queensland Racing Integrity Commission or chief executive when advertising an application for approval. Advertisements must state that persons can object by making a written submission to the chief executive or commission.

Clause 338 amends section 15 so it applies to the Queensland Racing Integrity Commission as well as the chief executive under the Racing Act. A person may now provide an objection to an approval application (as per the requirements listed in this section) to either the chief executive or the Queensland Racing Integrity Commission. This clause also inserts a further responsibility for the chief executive to provide the commission with a copy of any given submission under this process.

Clause 339 amends section 17 to include the Queensland Racing Integrity Commission. The chief executive must now call a meeting of both applicants and the commission, with notice given to each of the applicants and commission. It is necessary to include the commission in this process, in order to assist the commission in providing its functions as established under the proposed Racing Integrity Act, under this Bill.

Clause 340 amends section 24 to include the Queensland Racing Integrity Commission's requirement to provide an assessment report to the Minister. When considering and deciding an approval application, the Minister must consider the assessment report provided to the Minister by the chief executive under sections 18 or 19 of the Racing Act or by the commission under section 30 of the proposed Racing Integrity Act.

This clause also replaces section 24(3)(c) so that it applies to an application relating to a code of racing generally (rather than distinguishing between an existing code of racing and a proposed code of racing).

Clause 341 amends section 26 to remove inconsequential wording.

Clause 342 amends section 32B to include the Queensland Racing Integrity Commission. A control body must now give a notice about an event resulting in ineligibility, to both the chief executive and the commission.

Clause 343 amends section 32C to clarify that the Minister can provide the control body a direction in relation to the welfare of licensed animals. This clarification is required as the control body will no longer be the entity responsible for licensing animals.

Clause 344 amends section 32F to include the proposed Racing Integrity Act and the Queensland Racing Integrity Commission in the provision. Grounds for disciplinary action (relating to an approval of a control body for its code of racing) have been amended to include when a control body contravenes a provision of the proposed Racing Integrity Act (in addition to the *Racing Act 2002*). Notices and or documents required by this section must be given to the Minister, chief executive or commission. Section 32F(1)(g) has been removed as the licensing provisions are now provided for in the proposed Racing Integrity Act.

Clause 345 amends section 32I(b)(i) to clarify that the section refers to the safety of persons, or welfare of animals, at a race meeting which is managed by the control body.

Clause 346 amends section 34 to include the proposed Racing Integrity Act in regards to obligations of a control body. A control body is stated to have the powers necessary for performing its function, and all other powers necessary for discharging the obligations imposed on the control body under the Racing Act and the proposed Racing Integrity Act.

Section 34(2) is also amended by this clause to modify what a control body may do for its codes of racing. This has been modified to align with the establishment and powers of the Queensland Racing Integrity Commission in the proposed Racing Integrity Act. The commission is now responsible for a range of duties previously conducted by control bodies.

Clause 347 amends section 35 to remove a reference to fees charged by control bodies for matters relating to licensing. Licensing matters are now the responsibility of the Queensland

Racing Integrity Commission, as established and provided for under the proposed Racing Integrity Act. This clause also amends section 35(3) to include the commission as an entity which a control body cannot charge, a fee for a service.

Clause 348 removes section 37 which is now redundant, due to the shift in duties to the Queensland Racing Integrity Commission as established and provided for under the proposed Racing Integrity Act. This section previously required a control body to have sufficient internal controls to enable it to perform its functions, including information systems that separated the control body's commercial and regulatory functions and record information relating to licensing. Licensing matters are now governed by the proposed Racing Integrity Act.

Clause 349 amends section 38 to replace a reference to a 'sporting contingency under section 355' with a declaration of a sporting contingency within the meaning of the proposed Racing Integrity Act.

Clause 350 removes sections 39 and 40. These sections related to audit programs of licensed animals, clubs, participants and venues; and obligations to enter into agreements about scientific and professional services. These requirements are now provided in the proposed Racing Integrity Act, as obligations of the Queensland Racing Integrity Commission, so are no longer applicable under the Racing Act.

Clause 351 replaces the heading of division 3, in part 3 of chapter 2, to align it with the relevant amendments.

Clause 352 removes section 41 (plan for managing code of racing) as this is now redundant due to new sections about strategic and operational plans.

Clause 353 amends section 44 to make it an offence to fail to comply with section 44, which requires an executive officer to give notice about an event which causes them to no longer be an eligible individual.

Clause 354 inserts new divisions 4 and 5 into chapter 2, part 3; to provide for reporting processes to the Minister. These requirements are similar to the requirements of the Queensland Racing Integrity Commission, as established under the proposed Racing Integrity Act.

New Division 4 Reporting generally to Minister

New section 45 provides for the giving of quarterly reports about a control body's operations to the responsible Minister. The information comprised in the quarterly report is to be as per the control body's operational plan.

New section 45A requires a control body to continually inform the responsible Minister of its operations, performance and financial position.

New section 45B allows the Minister to request the control body to report to the chief executive, for the purposes of section 45A. The control body must comply with this request.

New section 45C clarifies that reporting and accountability requirements for a control body are not limited by sections 45 and 45A of the Act. The control body should take further action to inform the Minister and report to the department, if necessary.

New Division 5 Strategic and operational plans

New section 45D clarifies that any strategic and operational planning as required by this division, are in accordance with or additional to, the *Financial Accountability Act 2009.* Where this division and the *Financial Accountability Act 2009* require the same thing to be done, compliance with this division is sufficient to show compliance with the *Financial Accountability Act 2009.* If there is inconsistency, a provision of this division will prevail to the extent of the inconsistency.

New section 45E requires a control body to provide a draft strategic plan and a draft operational plan to the responsible Minister for agreement before 31 March each year. While the control body and Minister are encouraged to reach agreement on the plan as soon as possible, they must by no later than the start of the financial year.

New section 45F outlines procedures for the return of a draft plan to the control body by the Minister. A draft can be returned to the control body in order to further consider a stated thing and or revise the plan. The control body must comply with the request from the Minister as a matter of urgency. If agreement with the Minister cannot be reached on the draft plan by 1 month before the start of the financial year, the Minster may direct the control body to take certain steps or make modifications to the draft plan. This direction must be complied with immediately and a copy included in the plan.

New section 45G provides that if the draft strategic or operational plan is not agreed by the start of the financial year, the last plan given to the Minister (including any modifications made by the control body before or after it was submitted to the Minister) will be taken to be the control body's strategic or operational plan until a plan is agreed by the Minister under new section 45H.

New section 45H states that the draft strategic or draft operational plan becomes the strategic or operational plan for the relevant financial year, when written agreement with the Minister has been reached.

New section 45I provides that the control body must comply with its strategic and operational plans.

New section 45J allows the control body to amend its strategic or operational plan, with written agreement from the Minister. The Minister is able to direct the control body (by notice) to make such amendments.

New section 45K states that the control body's operational and strategic plan for a financial year must also comply with any requirements prescribed by regulation.

A heading for new division 6 is inserted (Executive officers of control body to disclose interest in licensed animals).

Clause 355 removes the heading of division 1, in part 4 of chapter 2, which is now redundant.

Clause 356 amends section 60A to modify the disclosure of information requirements for a control body. As per the unamended provision, a control body must make available to any person on request, information disclosed in accordance with section 60A(2). This clause inserts a further requirement where the control body must provide a notice about the disclosure to the Minister, chief executive and the Queensland Racing Integrity Commission within 14 days after the disclosure.

Clause 357 amends section 78 to replace the main purposes the chapter. The main purposes have been simplified to now provide for the way a control body may perform its function of managing its code of racing; and that this function includes making policies about the management of its code of racing, and making rules of racing. Other provisions relating to licensed clubs have been removed as these sections are now governed by the proposed Racing Integrity Act.

Clause 358 removes sections 80 to 82 and inserts new section 80 which states the matters for which a control body may have a policy. It also allows for a regulation to prescribe that a control body must make a policy for a particular matter and provisions to be included in the policy.

Clause 359 removes divisions 2 and 3 from part 2 of chapter 3 which related to policies.

Clause 360 replaces sections 91 and 94, to split and reorder them into sections 91 to 94.

Section 91 places an obligation on a control body to have rules of racing for the good management of its code of racing. These rules must be made in accordance with new section 92.

Section 92 provides the process for making rules of racing. The control body must prepare and provide a draft to the chief executive and Commission, and accept comments within the period given. Agreement is to be reached on how any comments will be reflected in the draft rules.

Section 93 requires a control body to have sufficient regard to the matters listed in this section. This includes fundamental legislative principles, the rights and liberties of individuals as mentioned in the *Legislative Standards Act 1992*. The rules must not be inconsistent with the Racing Act, the proposed Racing Integrity Act, a policy of the control body, or a standard of the Queensland Racing Integrity Commission (if relevant). If inconsistency does occur, the rules of racing which are affected are considered to have no effect to the extent of the inconsistency (i.e. the other Acts, policies and or standard listed in the provision will prevail).

Section 94 requires the rules of racing to be publicly available, including on the control body's website. A copy of the rules must also be given to the chief executive and the Queensland Racing Integrity Commission, free of charge, within 14 days after making a rule.

Clause 361 removes divisions 1 and 2 from chapter 3, part 4 and part 5. These provisions relate to actions control bodies can take against licensed clubs, including suspension or cancellation of a club's licence; show cause notices; and directions to clubs. The division on Race meetings has also been removed. These provisions have been removed as the matters are now governed under the proposed Racing Integrity Act.

Clause 362 amends section 110 to clarify exactly what is required to be provided to a control body by a licensed club, in relation to audited accounts. The audited statements for the financial year must be provided by a licensed club to the control body for the code of racing in relation to which the club was licensed, within three (3) months after the end of each financial year. Previously the provision referred to only the 'club statements', rather than the 'club statements for the financial year'.

Clause 363 inserts new section 110A. This section requires a control body to report to the Minister at the end of each financial year, regarding the audited statements provided under section 110. This report is to include whether the audited information has been provided; whether issues have arisen following the assessment of the information; and any further information relating to actions taken by the licensed club, or directions given by the control body to rectify identified issues; and any other matter which is prescribed by regulation.

Clause 364 amends section 111 to replace the definition of *relevant control body*, to provide a definition more appropriate for the purposes of this division. The heading is also renamed.

Clause 365 amends section 113AB to replace the definition of *licensed wagering operator* to provide a definition more appropriate for the purposes of this part. It now explicitly includes a licensed bookmaker, holders of oncourse wagering permits or race wagering licences under the *Wagering Act 1998;* as well as retaining the general provision stating the inclusion of a wagering operator who holds a licence or other authority under a law of a State or foreign country; or issued by a principal racing authority of another State or a foreign country, to conduct a wagering businesses.

Clause 366 amends section 113AF. Section 113AF(2) is replaced to state that an information notice is required to be given to an applicant if the control body decides to either refuse to grant or grant with conditions, the application for a race information authority.

Clause 367 amends section 113AH to include the Queensland Racing Integrity Commission and the proposed Racing Integrity Act in the scope of the provision. 113AH(2) now provides that 113AH(1) does not prevent the control body from providing the documents or information to the chief executive, the commission, or another person if required under the Racing Act or another Act (for example, the proposed Racing Integrity Act).

Clause 368 amends section 113AJ to replace the term *notice* with *information notice* and change *under regulation* to *by regulation*.

Clause 369 removes chapters 3A to 7 from the Act. These chapters included relevant provisions for the Racing Integrity Commissioner; Integrity control; Racing Disciplinary Board; review of decisions by tribunal; Racing bookmakers and authorised officers. These provisions, or amendments or alternatives to these processes, are now provided for in either the proposed Racing Integrity Act or amendments under this Bill for the Racing Act.

This clause also inserts new chapter 4 to provide for new provisions in relation to reviewable decisions and appeals.

New Chapter 4 Review of decisions

New section 114 lists decisions considered to be an original decision and the decision maker for those decisions. This provision also defines *decision-maker* for the purpose of an original decision.

New section 115 defines an *interested person,* for the purposes of an original decision.

New section 116 provides that external review must start with internal review, before an interested person may apply to the Queensland Civil and Administrative Tribunal for review.

New section 117 states that an interested person for an original decision may apply for an internal review of the decision. Applications are made to the decision-maker, in accordance with the listed requirements. An application must be made in the correct form, supported by enough information, and made within 14 days of the applicant receiving the information notice of the decision in question; or if no notice is given, of the applicant becoming aware of the decision. This provision provides discretion to the decision-maker to extend the time for making an internal review application.

New section 118 clarifies that there is no automatic stay to a decision which is subject to an internal review application. If a stay is believed necessary, the applicant can apply to the Queensland Civil and Administrative Tribunal (QCAT) for a stay of the original decision. QCAT may determine whether a stay should be granted and if so, on what conditions and for how long (not extending past when an internal review decision is made about the decision and any later period allowed for the applicant to appeal against or apply for external review of the internal review decision).

New section 119 requires the decision-maker within 20 days of receiving the application to conduct an internal review of the original decision and make a decision to either confirm, amend or substitute the original decision. This clause stipulates it must be considered by a person other than the person who made the original decision, and the reviewer holds a more senior office than the person who made the original decision. It clarifies that this applies despite the *Acts Interpretation Act 1954,* section 27A, however does not apply to an original decision made by the control body at a meeting.

A notice of the internal review decision is required to be provided to the applicant. If the decision made is not the applicant's sought result, the notice must comply with the requirements of the *Queensland Civil and Administrative Tribunal Act 2009,* section 157(2). A failure by the decision-maker to provide a notice of the internal review decision within 20 days after receiving the application, will be taken to be a confirmation of the original decision.

New section 120 applies to a person who has applied for review of an *original decision* and is to receive a review notice as required under section 119 that complies with the *Queensland Civil and Administrative Tribunal Act 2009,* Section 157(2). The person may then apply to the Queensland Civil and Administrative Tribunal (QCAT) for external review of the internal review decision. This corresponds with the application requirements in the *Queensland Civil and Administrative Tribunal Act 2009.* An application for a stay of the internal review decision may be made by the person or on QCAT's own initiative.

Clause 370 removes the heading of chapter 8, part 1, division 1. This omission is to align with the amendment of sections, as per this Bill.

Clause 371 amends section 310 to align its description with the removal of the heading under clause 370 and inserts definitions for *Act document* and *background document.*

Clause 372 removes section 312(2) examples. These examples related to authorised officers which are now administered under the proposed Racing Integrity Act. The offence itself has not been modified.

Clause 373 amends wording in section 313(a) and removes the gaming executive in 313(b) about the making of false statement in applications; or in documents as provided for in section 313(b). 313(a) previously included accreditation applications, licence applications and eligibility certificate applications. These applications are now administered under the proposed Racing Integrity Act, which provides a relevant offence.

Clause 374 omits divisions 2 to 4, division 5 heading and section 327 from chapter 8 part 1. These offences will be administered by the proposed Racing Integrity Act.

Clause 375 amends section 330 to replace the list of what must be presumed, unless a party to the proceeding requires proof (by reasonable notice). Previously this section included the appointment and authority of the gaming executive or authorised officer to do anything under this Act; and the accreditation or a facility as an accredited facility and statements by its analysts. These have been removed as these matters are now governed by the proposed Racing Integrity Act. Section 330 now applies only to the appointment and authority of the Minister and chief executive to do anything under the Racing Act; the appointment of a person as a member, chairperson, deputy chairperson or chief executive officer; and the approval of a corporation as a control body.

Clause 376 amends section 331 to remove reference to specific persons no longer referred to under the Racing Act and to include specific references to others.

Clause 377 replaces sections 332 and 333. Section 332 has been amended to provide only the evidentiary aids relevant to matters under the Racing Act. Other matters previously covered by this section are now governed by the proposed Racing Integrity Act, which includes its own evidentiary provisions.

Section 333 has been removed as it no longer applies to matters governed under the Racing Act. Bookmaking provisions and their evidentiary requirements are now provided for under the proposed Racing Integrity Act.

Clause 378 amends section 334 to remove references to sections which are no longer part of the Racing Act. Bookmaking and illegal betting provisions are now provided for under the proposed Racing Integrity Act.

Clause 379 removes the heading for parts 1 and 2 of chapter 9. These parts have been merged due to amendments made to this chapter.

Clause 380 removes sections 344 to 347. Provisions relating to electronic applications are provided for in the proposed Racing Integrity Act, as the Queensland Racing Integrity Commission will now receive the applications to which the section previously referred.

Clause 381 removes sections 348 and 349 and their heading (part 3 of chapter 9). Section 348 provided for protection from liability which has been amended and is now provided for in the proposed Racing Integrity Act. Section 349 which clarified that things should be done as soon as practicable has been removed as it is considered to be a general and usual interpretation of legislation and is provided for in the *Acts Interpretation Act 1954*.

Clause 382 removes the example for section 350(2). This example related to authorised officers which are now administered under the proposed Racing Integrity Act, not the Racing Act. The provision itself has not been modified.

Clause 383 amends section 351 to remove references to entities no longer administered by the *Racing Act 2002.* This section now applies if, under the Racing Act, an entity is required to consider that a particular matter is appropriate.

Clause 384 removes sections 352 and 352A and the heading for part 4 in chapter 9. Section 352 related to records about drugs and veterinary surgeons, which is now provided for in the proposed Racing Integrity Act while 352A provided for the integrity of analysis of a thing. Matters relating to the accreditation of facilities and the analysis of things have been removed from the legislative framework.

Clause 385 amends the regulation-making power to remove a reference to the way a thing may be taken or dealt with for analysis; and to update section numbers to correctly reference the Act.

Clause 386 inserts section 355A to renumber the provisions of the Racing Act, to better align the numbering with amendments made through this Bill. This clause clarifies that each reference in the Racing Act and references to the Racing Act in other legislation, are amended upon commencement of this provision.

Clause 387 removes the listed sections from chapter 10. These sections have either become redundant, been amended, or been relocated.

Clause 388 inserts a new chapter 11, to provide for the transitional provisions for the proposed Racing Integrity Act.

New Chapter 11 Transitional provisions for Racing Integrity Act 2015

New Part 1 Preliminary

New section 464 defines certain words for the purpose of this chapter.

New section 465 states the main purpose of the chapter. This chapter does not limit the *Acts Interpretation Act 1954,* part 6 unless there is a statement to the contrary.

New Part 2 Provisions relating to chapter 2

New section 466 provides the formula for working out the net UBET product fee for the year of commencement.

New section 467 clarifies that members of the all-codes board immediately prior to the amendments in this Bill taking effect, will stop being members upon commencement of this Bill. This section will apply despite the *Acts Interpretation Act 1954*, section 20B.

New section 468 provides a sunset provision for the eligibility of an individual in regards to appointment to the Racing Queensland Board. For the purpose of commencement, the eligibility criteria applying to an appointment of an individual to the board (as per section 9AJ), will also continue to apply after the commencement of this provision. This means that if someone was a member of an entity under 9AJ one year before commencement, it will be another year before they are eligible for appointment to the board. This clause expires 2 years after commencement.

New section 469 clarifies that the chief executive of the all-codes board who immediately before commencement was the chief executive, will immediately after commencement continue to be the chief executive with their existing terms and conditions of appointment until different terms are decided under clause 9BC(2).

New section 470 applies if at any time during 2 years after commencement it is necessary to appoint a chief executive to the board. The chief executive can only be appointed if in the 2 years before commencement the person was not a member of the all codes board. This clause expires 2 years after commencement.

New section 471 abolishes the control boards as established under section 9BO of the unamended Act. This section also states that members of the control boards immediately prior to the amendments in this Bill taking effect, will stop being members upon commencement of this Bill.

New section 472 retains the application of section 9CN of the unamended Act. Although the control boards have been abolished by new section 471, it is necessary to retain the effect of section 9CN. Section 9CN provides immunity for members of control boards, for civil liability of acts done or omissions made, honestly and without negligence under the *Racing Act 2002*. This section allowed civil liability to instead attach to the all-codes board. Now the liability will attach to the Racing Queensland Board.

New section 473 allows applications for approval as a control body, which have been initiated but not decided before commencement of the Bill, to continue under the previous chapter 2, part 2 (Approved control bodies). This allows the application process to be finalised.

New section 474 provides a transitional provision to allow the control body to comply with its obligations of quarterly reporting, upon commencement of the Bill. A control body's quarterly reporting obligations will not begin until the first quarter of the control body's first operational plan, as agreed to by the Minister.

New section 475 assists with the control body's compliance with the strategic and operational plan requirements, upon commencement of the Bill. A control body must prepare a draft

strategic and operational plan within 1 month after commencement of the Bill. If agreement with the Minister has not occurred within a month after being given the draft, the Minister may provide a direction under clause 45F(3).

New section 476 continues the application of existing policies, in force before commencement of this provision. If amendments by this Bill separate previous obligations to make a policy, the current policy is valid only to the extent of the new obligations. The continuation of existing policies (or parts thereof), expires 1 year after commencement. This will require the control body to have policies aligning with the new requirements under this Bill within the year.

New Part 3 Provisions relating to chapter 3

New section 477 states that if a person is an existing Racing Integrity Commissioner immediately before commencement of the amended Racing Act, the person stops holding the office of Racing Integrity Commissioner upon commencement of this provision.

New section 478 allows for the continuation of the effect of section 113BA, which provides for the liability of payment by the control bodies to fund the Racing Integrity Commissioner. The power for the chief executive to provide an invoice continues for a period of 28 days after commencement. Any invoice provided under previous section 113BA via this continuation, or invoice provided before commencement, continues to be payable in accordance with that section.

New section 479 allows the State to recover a debt via previous section 113BB, for an invoice issued in accordance with new section 478.

New Part 4 Provisions relating to chapter 4

New section 480 abolishes the Racing Animal Welfare and Integrity Board as established under section 114 of the unamended Racing Act. This section also states that a members of this board immediately before commencement of the amended Racing Act stops being a member.

New section 481 provides that an accredited facility (excluding a facility which is the subject of suspension) or another facility as provided in section 143(4)(b), continues to be an accredited facility and the same conditions applying to the facility before commencement of still apply. A thing taken to the facility in accordance with the unamended Act, will continue to be subject to previous sections 146 to 149 (provisions relating to analysing things delivered for analysis).

New Part 5 Provisions relating to previous chapter 4A

New section 482 states the purpose of this part is to provide for decisions made immediately before commencement of the Act that were appellable decision of a control body.

New section 483 defines certain words for the purposes of this part.

New Division 2 If notice of appeal given to registrar before commencement

New section 484 states that this division applies if before commencement a notice of appeal for an appellable decision was given to the registrar of the Racing Disciplinary Board by a person (defined in clause 483).

New section 485 states that in the event the notice of appeal has been received by the registrar, then the notice of appeal and matters relevant to the notice of appeal will continue to apply. The matters will continue to be dealt with by the relevant parties which include the registrar, Racing Disciplinary Board chairperson and either existing members or a constituted board after commencement. The Queensland Racing Integrity Commission will take the place of the relevant control body.

New section 486 if a notice of appeal to an appellable decision is rejected by the chairperson after commencement (as provided under unamended section 149V), the chairperson must give the aggrieved person for the appellable decision a notice for the decision. This notice must be in accordance with the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act), Section 157(2). The aggrieved person may apply directly to QCAT for a review of the decision (as per the QCAT Act), who may review the chairperson's decision to reject the appeal. This is to allow for natural justice principles to apply so that the rights of appeal are maintained.

New section 487 provides for continuation of previous chapter 4A for a matter mentioned in this part. If the continuation of the matter applies to a relevant control body, the Queensland Racing Integrity Commission will take the place of the relevant control body. The control body involved must provide all documents and information that the commission requests.

New Division 3 If notice of appeal not given to registrar before commencement

New section 488 states that this division applies if before commencement, a notice of appeal for an appellable decision was not given to the registrar of the Racing Disciplinary Board by a person.

New section 489 provides that if an aggrieved person for an appellable decision which is an original decision under the proposed Racing Integrity Act, had not given a notice of appeal to the registrar of the Racing Disciplinary Board or the relevant control body, the aggrieved person may apply under the proposed Racing Integrity Act to the Queensland Racing Integrity Commission for an internal review of the decision, and then to QCAT for an external review if applicable.

New Part 6 Provisions relating to previous chapter 5

New section 490 allows for previous chapter 5 to continue in the event that the chairperson referred a matter to the *Queensland Civil and Administrative Tribunal* (QCAT) before commencement as per the process in section 15 of the pre-amended *Racing Act 2002*; or in accordance with section 485 of this Act, the chairperson refers an appeal on or after commencement.

New section 491 applies to an appeal made under previous section 155 (on a question of law) by a control body before commencement; or an appeal of a decision of the racing disciplinary board by the Queensland Racing Integrity Commission following commencement. For these appeals, the commission is to take the place of the relevant control body for the appellable decision. The clause also requires the control body to provide the commission with all relevant documentations and information to allow it to deal with the appeal. The previous provisions contained in chapter 5 of the *Racing Act 2002* will continue to apply to the commission and QCAT for these appeals.

New section 492 states that the purpose of the continuation of the previous chapter 5 to a matter as mentioned in this part, the previous chapter 5 is taken not to have been repealed.

New Part 7 Provisions relating to offences before commencement

New section 493 addresses provisions under the *Racing Act 2002*, as in force before the commencement, which made an action or omission an offence. These provisions continue to be an offence after commencement and a person may be charged for the offence after commencement even if the act or omission under the amended Act or another Act, would not constitute an offence under the same circumstances. If a person is convicted after commencement the person cannot be punished to any greater extent than was authorised under the pre-amended Act. This provision applies despite section 11 of the Criminal Code but does not limit sections 295 and 296 of the proposed Racing Integrity Act.

New Part 8 Regulation-making power for transitional purposes

New section 494 provides the power to make a transitional regulation that expires one year after the commencement of this clause, if it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition to the operation of the proposed Act. It may have retrospective operation to a day not earlier than the commencement.

Clause 389 replaces the dictionary with schedule 1 dictionary and inserts schedule 2.

New Schedule 1 Dictionary

New Schedule 1 inserts the words and terms for the dictionary.

New Schedule 2 Renumbered cross-references

New Schedule 2 renumbers cross references to provisions of the Act, to align the listed legislation with amendments made through this Bill.

Part 4 Amendment of Acts

Clause 391 states that schedule 2 amends the Acts it mentions.

Schedule 1 Dictionary

Schedule 1 contains the dictionary, to provide for words and terms used in the Bill.

Schedule 2 Amendment of Acts

Schedule 2 amends the Acts mentioned. This includes minor or consequential amendments of the *Racing Act 2002*; and amendments to other various Acts. Amendments include removing or replacing references to the 'all-codes board' and renumbering of sections. References to the proposed Racing Integrity Act has been inserted into relevant sections of the *Bail Act 1980, Criminal Organisation Act 2009, Interactive Gambling (Player Protection) Act 1998, Liquor Act 1992, Police Powers and Responsibilities Act 2000, Public Service Act 2008, Trading (Allowable Hours) Act 1990* and the *Wagering Act 1998.*