



Queensland

Racing and Other Legislation Amendment Act 2010

Act No. 22 of 2010



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Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Racing Act 2002	
3	Act amended	6
4	Amendment of s 7 (Main purposes of ch 2 and how they generally are achieved)	6
5	Amendment of s 10 (An eligible corporation may apply for approval as a control body)	7
6	Replacement of s 28 (Approval has effect for 6 years unless it is cancelled or suspended)	7
	28 Approval continues in force unless cancelled or suspended	7
7	Amendment of s 33 (Function of control body)	7
8	Amendment of s 34 (Powers of control body for its code of racing)	7
9	Insertion of new s 34A	9
	34A Control body approved for more than one code of racing	9
10	Amendment of s 45 (Minister may give a direction to control body about its policies or rules)	9
11	Insertion of new s 60B	9
	60B Payment of share of net UNiTAB product fee as prize money	9
12	Omission of ch 2, pt 5 (Provisions relating to entities involved in thoroughbred racing)	10
13	Amendment of s 78 (Purposes of ch 3)	10
14	Amendment of s 81 (Matters for which a control body must have a policy)	10

Contents

15	Amendment of s 91 (Obligation to have rules of racing for code of racing)	10
16	Omission of ss 92 and 93.	11
17	Amendment of s 100 (Form of decisions of appeal committee) . .	11
18	Amendment of s 111 (Definitions for div 4)	11
19	Amendment of s 113 (Prohibition of disposal of assets etc. of non-proprietary entity)	11
20	Insertion of s 113AA.	11
	113AA Dealing with assets of non-proprietary entity	12
21	Amendment of s 351 (Matters must be considered appropriate on grounds that are reasonable in the circumstances).	12
22	Amendment of s 352A (Integrity of analysis of thing).	12
23	Insertion of new ch 10, pt 6	13
	Part 6 Transitional provisions for the Racing and Other Legislation Amendment Act 2010	
427	Definitions for pt 6.	13
428	Cancellation of old approvals and issue of new approval	13
429	Assets and liabilities etc.	14
430	Provision taken to be included in constitutions of former control bodies	14
431	Displacement provisions for Corporations legislation.	15
432	Employees of former control bodies	15
433	Proceedings	16
434	Things done by former control bodies	16
435	Rights and obligations of former control bodies under this Act	17
436	Application of audit regime to new control body.	17
437	Net UNiTAB product fee paid before commencement	17
438	Appeals	18
439	Continuation of action started against licensed club under ch 3, pt 4	18
440	Pt 6 does not affect existing legal relationships	19
441	Dissolution of Queensland Country Racing Committee and country racing associations.	19
442	No compensation payable	20
443	References to former control bodies	20
444	Amendment of regulation by Racing and Other Legislation Amendment Act 2010.	20

24	Amendment of sch 3 (Dictionary)	20
Part 3	Amendment of Racing Regulation 2003	
25	Regulation amended	22
26	Omission of pts 3 and 6	22
27	Omission of sch 1 (Clubs nominating members of country racing associations)	22
Part 4	Amendment of Gaming Machine Act 1991	
28	Act amended	22
29	Amendment of s 322 (Disposition of fees etc.)	22
Part 5	Amendment of Wagering Act 1998	
30	Act amended	23
31	Amendment of s 169 (Application of wagering tax)	23
32	Insertion of new pt 17, div 4	24
	Division 4 Transitional provision for Racing and Other Legislation Amendment Act 2010	
	339 Amendment of regulation by Racing and Other Legislation Amendment Act 2010	24
Part 6	Amendment of Wagering Regulation 1999	
33	Regulation amended	24
34	Replacement of s 9 (Percentage of wagering tax for community investment fund—Act, s 169(3)	24
	9 Percentage of wagering tax for community investment fund—Act, s 169.	25



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Racing and Other Legislation Amendment Act 2010

Act No. 22 of 2010

An Act to amend the Racing Act 2002, the Racing Regulation 2003, the Gaming Machine Act 1991, the Wagering Act 1998 and the Wagering Regulation 1999 for particular purposes

[Assented to 7 June 2010]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Racing and Other Legislation Amendment Act 2010*.

2 Commencement

This Act commences on 1 July 2010.

Part 2 Amendment of Racing Act 2002

3 Act amended

This part amends the *Racing Act 2002*.

4 Amendment of s 7 (Main purposes of ch 2 and how they generally are achieved)

(1) Section 7(1)(b), ‘each control body’—

omit, insert—

‘the control body’.

(2) Section 7(1)(c) and (2)(f)—

omit.

(3) Section 7(2)(a), ‘control bodies’—

omit, insert—

‘a control body’.

5 Amendment of s 10 (An eligible corporation may apply for approval as a control body)

- (1) Section 10(4)—
omit.
- (2) Section 10(5)—
renumber as section 10(4).

6 Replacement of s 28 (Approval has effect for 6 years unless it is cancelled or suspended)

Section 28—
omit, insert—

‘28 Approval continues in force unless cancelled or suspended

- ‘(1) A control body’s approval continues in force until the approval is cancelled.
- ‘(2) However, if a control body’s approval is suspended, the approval does not have effect for the period of the suspension.’.

7 Amendment of s 33 (Function of control body)

- (1) Section 33(2)(a), ‘stated in this Act’—
omit, insert—
‘necessary’.
- (2) Section 33(2)(b), ‘exercising the powers stated in this Act or’—
omit.

8 Amendment of s 34 (Powers of control body for its code of racing)

- (1) Section 34(1)(a), ‘, under its policies,’—
omit.

[s 8]

- (2) Section 34(1)(b), ‘against the relevant policies of the control body’—
omit.
- (3) Section 34(1)(f)—
omit, insert—
- ‘(f) distribute an amount—
- (i) as prize money for races; or
 - (ii) to a licensed club, on conditions the control body considers appropriate, for a purpose relating to the operations of the club; or
 - (iii) for undertaking research and analysis for the code.’.

(4) Section 34(1)(g), ‘and allocate’—
omit, insert—

‘and, on conditions the control body considers appropriate, allocate’.

(5) Section 34(1)(i), ‘issuing’—
omit, insert—

‘issue’.

(6) Section 34(1)—
insert—

‘(j) establish committees or other entities responsible for providing advice to, and carrying out administrative functions for, the control body in relation to non-TABQ races.’.

(7) Section 34—
insert—

‘(5) In this section—
non-TABQ races means races on which the TABQ does not, or is unlikely to, offer wagering.’.

9 Insertion of new s 34A

After section 34—

insert—

‘34A Control body approved for more than one code of racing

- ‘(1) This section applies to a control body that has approval as the control body for more than 1 code of racing.
- ‘(2) In making a decision under this Act, the control body must make a decision that is in the best interests of all the codes of racing for which the control body holds an approval while having regard to the interests of each individual code.’

10 Amendment of s 45 (Minister may give a direction to control body about its policies or rules)

- (1) Section 45(1)(e), ‘, as authorised by its policies,’—

omit.

- (2) Section 45(2)(c), ‘, as authorised by the control body’s policies’—

omit.

11 Insertion of new s 60B

Chapter 2, part 4, division 4—

insert—

‘60B Payment of share of net UNiTAB product fee as prize money

- ‘(1) A control body must pay 5.32% of its net UNiTAB product fee for a year as prize money for non-TABQ thoroughbred races conducted by non-TABQ thoroughbred clubs in the year.
- ‘(2) If, at the end of a year, a control body has not paid 5.32% of its net UNiTAB product fee for the year as prize money as required under subsection (1), the control body must use the

[s 12]

remaining amount of the 5.32% for supporting non-TABQ thoroughbred racing.

Example of use of remaining amount of the 5.32% for supporting non-TABQ thoroughbred racing—

carrying out maintenance at a non-TABQ thoroughbred club’.

12 Omission of ch 2, pt 5 (Provisions relating to entities involved in thoroughbred racing)

Chapter 2, part 5—

omit.

13 Amendment of s 78 (Purposes of ch 3)

Section 78(2)(b), ‘about things dealt with in a policy’—

omit.

14 Amendment of s 81 (Matters for which a control body must have a policy)

Section 81(h), ‘its policies provide that it is authorised to have’—

omit, insert—

‘the control body has’.

15 Amendment of s 91 (Obligation to have rules of racing for code of racing)

Section 91(4)—

omit, insert—

‘(4) A control body’s rules of racing must be consistent with this Act and, for a rule about a matter for which the control body has a policy, the control body’s policy.’.

16 Omission of ss 92 and 93

Sections 92 and 93—

omit.

17 Amendment of s 100 (Form of decisions of appeal committee)

Section 100—

insert—

- ‘(2) As soon as practicable after receiving the information notice, the control body must publish details of the decision on its website.’.

18 Amendment of s 111 (Definitions for div 4)

Section 111—

insert—

‘*deal with*, an asset, includes grant a right in relation to the asset, mortgage, lend, lease or register a charge over the asset, but does not include dispose of the asset.’.

19 Amendment of s 113 (Prohibition of disposal of assets etc. of non-proprietary entity)

Section 113—

insert—

- ‘(5) A relevant control body may grant an approval mentioned in subsection (4)(b) on conditions the control body considers appropriate including a condition requiring a stated portion of the proceeds of the disposal of the asset to be paid to the control body for use by the control body for the benefit of its code of racing.’.

20 Insertion of s 113AA

Chapter 3, part 5, division 4—

[s 21]

insert—

‘113AA Dealing with assets of non-proprietary entity

‘A non-proprietary entity must not deal with an asset of the entity other than under—

- (a) a policy of the relevant control body; or
- (b) a written approval of the relevant control body, obtained before the dealing and relating to that asset.’.

21 Amendment of s 351 (Matters must be considered appropriate on grounds that are reasonable in the circumstances)

(1) Section 351(1)(c)—

omit.

(2) Section 351(1)(d)—

renumber as section 351(1)(c).

22 Amendment of s 352A (Integrity of analysis of thing)

Section 352A(2) and (3)—

omit, insert—

- ‘(2) In making the decision, it is enough for the decision maker to be satisfied that the method of taking and dealing with the thing for analysis was in compliance with the requirements of section 143(3) to the extent that the integrity of the analysis was not adversely affected (*substantial compliance*).
- ‘(3) Evidence of an accredited analyst or accredited veterinary surgeon, for an accredited facility, that the method of taking and dealing with the thing for analysis was in substantial compliance with the requirements of section 143(3) is evidence of that fact and, in the absence of evidence to the contrary, conclusive evidence of that fact.’.

23 Insertion of new ch 10, pt 6

Chapter 10—

insert—

**‘Part 6 Transitional provisions for the
Racing and Other Legislation
Amendment Act 2010**

‘427 Definitions for pt 6

‘In this part—

commencement means 1 July 2010.

former control body means each of the following—

- (a) Queensland Racing Limited ACN 116 735 374;
- (b) Greyhounds Queensland Limited ACN 128 067 247;
- (c) Queensland Harness Racing Limited ACN 128 036 000.

new control body means Racing Queensland Limited ACN 142 786 874.

‘428 Cancellation of old approvals and issue of new approval

- ‘(1) The approvals held by the former control bodies are cancelled at midnight on 30 June 2010.
- ‘(2) On 1 July 2010, the Minister must give an approval to the new control body to be the control body for the following codes of racing—
 - (a) thoroughbred racing;
 - (b) harness racing;
 - (c) greyhound racing.
- ‘(3) An approval given under subsection (2)—
 - (a) is taken to have been given under section 26; and

[s 23]

- (b) has effect from the beginning of the day it is given; and
- (c) is subject to the conditions imposed by the Minister by notice given to the new control body.

‘429 Assets and liabilities etc.

- ‘(1) On the commencement—
 - (a) anything that was an asset or liability of a former control body immediately before the commencement becomes an asset or liability of the new control body; and
 - (b) an agreement or arrangement in force immediately before the commencement between a former control body and another entity is taken to be an agreement or arrangement between the new control body and the other entity; and
 - (c) any property that was, immediately before the commencement, held by a former control body on trust or subject to conditions continues to be held by the new control body on the same trusts or subject to the same conditions.
- ‘(2) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by the new control body, record the vesting of property under this section in the new control body.

‘430 Provision taken to be included in constitutions of former control bodies

‘Each former control body’s constitution is taken to include, and to have always included, a provision allowing a director of the former control body to give the former control body’s agreement to the enactment of provisions having the effect of provisions set out in this part, in particular, provisions—

- (a) cancelling the former control body’s approval and giving, to the new control body, an approval as the control body for all codes of racing; and

- (b) divesting the former control body of its assets and liabilities and vesting the assets and liabilities in the new control body; and
- (c) stating that no compensation is payable to the former control body or its members or directors for any action taken under this part.

‘431 Displacement provisions for Corporations legislation

‘Sections 429 and 430 are declared to be Corporations legislation displacement provisions for the Corporations Act, section 5G.

‘432 Employees of former control bodies

- ‘(1) This section applies to a person who, immediately before the commencement, was an employee of a former control body.
- ‘(2) On the commencement—
 - (a) the person becomes an employee of the new control body on the same terms and conditions of employment as applied to the person immediately before the commencement; and
 - (b) the person remains entitled to all rights of employment existing or accruing immediately before the commencement.
- ‘(3) Subsection (4) applies if the person was, immediately before the commencement, entitled to a remuneration package of not more than \$100000 a year.
- ‘(4) For 2 years from the commencement, the terms and conditions of the person’s employment must be at least equivalent to the terms and conditions applying to the person immediately before the commencement.
- ‘(5) In this section—
remuneration package, for a person, means the cost to the person’s employer of employing the person, including the cost

[s 23]

of making contributions to a superannuation scheme for the person and providing for the person's leave entitlements.

'433 Proceedings

'(1) A proceeding that could have been started by or against a former control body before the commencement may be started by or against the new control body.

'(2) From the commencement, an existing proceeding may be continued and finished by or against the new control body.

'(3) In this section—

existing proceeding means a proceeding that—

(a) was taken by or against one of the following before the commencement—

(i) a former control body;

(ii) a person who was a member of a former control body, in the person's capacity as a member; and

(b) has not been finished before the commencement.

'434 Things done by former control bodies

'(1) Anything done by a former control body under this Act—

(a) continues to have effect; and

(b) from the commencement, is taken to have been done by the new control body.

'(2) Without limiting subsection (1), on the commencement—

(a) a policy of a former control body in effect immediately before the commencement continues as if it were a policy of the new control body; and

(b) rules of racing made by a former control body and in force immediately before the commencement continue as if they were rules of racing made by the new control body; and

- (c) a licence issued or taken to be issued by a former control body before the commencement and in force immediately before the commencement continues as if it had been issued by the new control body; and
- (d) a racing calendar prepared by a former control body for a period ending after the commencement continues as if it had been prepared by the new control body.

‘435 Rights and obligations of former control bodies under this Act

‘Without limiting any other provision in this part, a right or obligation of a former control body under this Act immediately before the commencement becomes a right or obligation of the new control body.

‘436 Application of audit regime to new control body

‘From the commencement, a program approved by the Minister under section 46(3) for 2010 applies to the new control body to the extent it is stated to apply to a former control body.

‘437 Net UNiTAB product fee paid before commencement

‘(1) This section applies to an amount of the former control body’s net UNiTAB product fee paid, before the commencement, by the former control body under section 68M, in the year in which the commencement falls.

‘(2) On the commencement, the amount is taken to have been paid by the new control body under section 60B.

‘(3) In this section—

former control body means the former control body for thoroughbred racing.

[s 23]

‘438 Appeals

- ‘(1) This section applies to an appeal committee established by a former control body (the *relevant former control body*) and in existence immediately before the commencement.
- ‘(2) On the commencement, the appeal committee—
 - (a) continues in existence only for the purpose of dealing with an appeal under consideration immediately before the commencement; and
 - (b) must deal with the appeal under the relevant former control body’s rules of racing in existence before the commencement.
- ‘(3) Subsection (4) applies in relation to an appeal—
 - (a) against a reviewable decision, within the meaning of section 95, made before the commencement; and
 - (b) started after the commencement.
- ‘(4) The appeal may be dealt with by an appeal committee established by the new control body.
- ‘(5) For subsection (4), the steward’s decision appealed against is taken to be a decision made by the steward for the new control body.
- ‘(6) This section does not limit section 434(1).

‘439 Continuation of action started against licensed club under ch 3, pt 4

- ‘(1) This section applies if, before the commencement, a former control body—
 - (a) gave a licensed club a show cause notice under chapter 3, part 4; and
 - (b) has not decided whether to take action under the part in relation to the club.
- ‘(2) From the commencement, chapter 3, part 4 continues to apply in relation to the show cause notice as if the notice had been

given by the new control body.

‘(3) This section does not limit section 434(1).

‘440 Pt 6 does not affect existing legal relationships

‘Nothing done under this part in relation to a former control body—

- (a) places the new control body in breach of a contract, trust or confidence or otherwise makes the new control body guilty of a civil wrong; or
- (b) makes the new control body in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, transfer or assumption of a right or liability; or
- (c) is taken to fulfil a condition or otherwise constitute an event—
 - (i) allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation; or
 - (ii) requiring money to be paid, or anything else to be done, before its stated maturity; or
- (d) releases a surety or other obligee, wholly or partly, from an obligation.

‘441 Dissolution of Queensland Country Racing Committee and country racing associations

‘(1) On the commencement—

- (a) the following entities are dissolved—
 - (i) the Queensland Country Racing Committee;
 - (ii) all country racing associations; and
- (b) the members of the entities go out of office.

[s 24]

‘(2) No compensation is payable to a member because of subsection (1).

‘442 No compensation payable

‘No compensation is payable to any person, including a former control body, or a member or director of a former control body, for—

- (a) the cancellation of an approval or the vesting or divesting of assets or liabilities or rights or obligations; or
- (b) anything else done under this part.

‘443 References to former control bodies

‘In an Act or document, a reference to a former control body may, if the context permits, be taken as a reference to the new control body.

‘444 Amendment of regulation by *Racing and Other Legislation Amendment Act 2010*

‘The amendment of the *Racing Regulation 2003* by the *Racing and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

24 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *chairperson, committee, committee member, country racing association, Intercode Agreement, member club, net UNiTAB product fee, non-TABQ clubs, non-TABQ races* and *thoroughbred entity*—
omit.
- (2) Schedule 3—
insert—

'former control body see section 427.

net UNiTAB product fee, in relation to a control body, means the amount of the product fee paid to the control body less the following amounts—

- (a) the amount paid by the control body to Queensland Race Product Co Ltd (ACN 081 743 722) for administrative costs;
- (b) the amount paid by the control body to an accredited facility under an agreement entered into under section 40 by the control body with the accredited facility.

new control body see section 427.

non-TABQ thoroughbred club means a club for which the TABQ does not, or is unlikely to, offer wagering on the majority of the club's races of thoroughbred horses.

non-TABQ thoroughbred race means a race of thoroughbred horses on which the TABQ does not, or is unlikely to, offer wagering.'

- (3) Schedule 3, definition *commencement*—

insert—

'(c) for chapter 10, part 6—see section 427.'

- (4) Schedule 3, definition *disqualifying conviction*, paragraph (a), after 'for an offence'—

insert—

'under'.

- (5) Schedule 3, definition *disqualifying conviction*, paragraph (a)(i), 'under'—

omit.

- (6) Schedule 3, definition *information notice*, after 'control body'—

insert—

', an appeal committee'.

[s 25]

Part 3 **Amendment of Racing Regulation 2003**

25 **Regulation amended**

This part amends the *Racing Regulation 2003*.

26 **Omission of pts 3 and 6**

Parts 3 and 6—
omit.

27 **Omission of sch 1 (Clubs nominating members of country racing associations)**

Schedule 1—
omit.

Part 4 **Amendment of Gaming Machine Act 1991**

28 **Act amended**

This part amends the *Gaming Machine Act 1991*.

29 **Amendment of s 322 (Disposition of fees etc.)**

(1) Section 322(5)—
insert—

‘(ea) a scheme for providing capital works for the racing industry;’.

(2) Section 322—

insert—

- ‘(5A) Amounts paid out under subsection (5)(ea) must not be more than the amounts paid into the community investment fund under the *Wagering Act 1998*, section 169(1)(b).’.

Part 5 **Amendment of Wagering Act 1998**

30 Act amended

This part amends the *Wagering Act 1998*.

31 Amendment of s 169 (Application of wagering tax)

- (1) Section 169(1)—

omit, insert—

- ‘(1) Each month, the Minister must pay into the community investment fund—
- (a) a percentage, prescribed under a regulation, of all amounts received by the chief executive as wagering tax for the previous month; and
 - (b) for the period from 1 July 2010 until 30 June 2014, a further percentage, prescribed under a regulation, of all amounts received by the chief executive as wagering tax for the previous month.

Note—

See the *Gaming Machine Act 1991*, section 322(5A).’.

- (2) Section 169(3)—

omit, insert—

- ‘(3) In this section—

[s 32]

community investment fund means the fund established under the *Gaming Machine Act 1991*, section 314(1).’.

32 Insertion of new pt 17, div 4

Part 17—

insert—

‘Division 4 Transitional provision for Racing and Other Legislation Amendment Act 2010

‘339 Amendment of regulation by *Racing and Other Legislation Amendment Act 2010*

‘The amendment of the *Wagering Regulation 1999* by the *Racing and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

Part 6 Amendment of Wagering Regulation 1999

33 Regulation amended

This part amends the *Wagering Regulation 1999*.

34 Replacement of s 9 (Percentage of wagering tax for community investment fund—Act, s 169(3))

Section 9—

omit, insert—

‘9 Percentage of wagering tax for community investment fund—Act, s 169

- ‘(1) For section 169(1)(a) of the Act, the percentage is 8.5%.
- ‘(2) For section 169(1)(b) of the Act, the percentage is 45.75%.’.

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