

**Racing Legislation Amendment (Racing Integrity Assurance) Act 2009**  
**No. 52 of 2009**

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Victoria

# **Racing Legislation Amendment (Racing Integrity Assurance) Act 2009<sup>†</sup>**

**No. 52 of 2009**

[Assented to 8 September 2009]

**The Parliament of Victoria enacts:**

## **PART 1—PRELIMINARY**

### **1 Purposes**

The main purposes of this Act are—

- (a) to amend the **Racing Act 1958**—
  - (i) to provide for the Racing Integrity Commissioner;

- (ii) to establish Racing Appeals and Disciplinary Boards for Greyhound Racing Victoria and Harness Racing Victoria;
  - (iii) to repeal Part IIIB of the **Racing Act 1958** which relates to the Racing Appeals Tribunal;
- (b) to repeal provisions of the **Gambling Regulation Act 2003** banning the transmission of betting odds from racecourses during a race meeting.

## 2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 September 2010, it comes into operation on that day.

## 3 Principal Act

In this Act, the **Racing Act 1958** is called the Principal Act.

See:  
Act No.  
6353.  
Reprint No. 13  
as at  
31 December  
2005  
and  
amending  
Act Nos  
45/2003,  
40/2006,  
80/2006,  
18/2007,  
12/2008,  
71/2008,  
73/2008 and  
3/2009.  
LawToday:  
www.  
legislation.  
vic.gov.au

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**PART 2—RACING INTEGRITY COMMISSIONER**

**4 Definitions**

In section 3(1) of the Principal Act—

(a) **insert** the following definitions—

**"Racing Integrity Commissioner** means the  
Racing Integrity Commissioner  
appointed under section 37A;"

(b) for the definition of **controlling body substitute**—

**"controlling body** means—

(a) in the case of horse racing, Racing  
Victoria;

(b) in the case of harness racing,  
Harness Racing Victoria;

(c) in the case of greyhound racing,  
Greyhound Racing Victoria;"

(c) for the definition of **steward substitute**—

**"Steward** means a person appointed as such  
in accordance with the rules of a  
controlling body or a person so  
appointed as a Deputy Steward;"

**5 New Part IA inserted**

After Part I of the Principal Act **insert**—

**"PART IA—THE RACING INTEGRITY  
COMMISSIONER**

**37A Racing Integrity Commissioner**

(1) There is to be a Racing Integrity  
Commissioner.

- (2) The Racing Integrity Commissioner is appointed by the Governor in Council on the recommendation of the Minister.
- (3) The Racing Integrity Commissioner—
  - (a) is to hold office for a term, not exceeding 5 years, specified in the instrument of his or her appointment; and
  - (b) is eligible for re-appointment.
- (4) The Racing Integrity Commissioner is entitled to receive any remuneration or allowances from time to time fixed by the Governor in Council.
- (5) The appointment of the Racing Integrity Commissioner is on the terms and conditions determined by the Governor in Council.
- (6) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to the Racing Integrity Commissioner in respect of the office of Commissioner.

### **37B Functions of the Racing Integrity Commissioner**

- (1) The functions of the Racing Integrity Commissioner are to—
  - (a) conduct annual audits of the internal integrity processes and systems, in whole or in part, of each controlling body in areas identified—
    - (i) by the Racing Integrity Commissioner; or
    - (ii) by the Racing Integrity Commissioner in consultation with each controlling body;



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- (b) conduct audits outside the subject matter of the annual audit if a controlling body requests that such an audit be conducted;
  - (c) investigate complaints made about the integrity processes and systems of a controlling body;
  - (d) refer complaints to—
    - (i) if the complaint relates to a criminal matter, Victoria Police;
    - (ii) if the complaint relates to an alleged or apparent contravention of the rules of a controlling body, the relevant controlling body;
    - (iii) if the complaint relates to an alleged or apparent contravention of the **Gambling Regulation Act 2003**, the Commission;
    - (iv) if the complaint relates to an alleged or apparent contravention of any Act or subordinate instrument in connection with the integrity of racing, the relevant government agency;
    - (v) if the complaint relates to an internal integrity matter, the integrity sub-committee of the Board of the relevant controlling body;
  - (e) investigate matters referred by the Minister or a controlling body;
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- (f) report the findings of any investigations conducted into complaints that have not been referred to other bodies to—
    - (i) the person that made the complaint; and
    - (ii) with or without identifying the person that made the complaint or the person that is the subject of the complaint, the Minister or the relevant controlling body (as the Racing Integrity Commissioner considers appropriate);
  - (g) conduct own motion inquiries that do not relate to any specific complaint and may include an investigation into systemic issues in racing;
  - (h) make recommendations (if appropriate) following the investigation of any complaint, inquiry or matter to (as the Racing Integrity Commissioner considers appropriate)—
    - (i) the Minister; or
    - (ii) the relevant controlling body;
  - (i) direct a Racing Appeals and Disciplinary Board to hear and determine an appeal made by a person against a penalty imposed on the person under the rules of a controlling body if—
    - (i) the penalty imposed is a fine of not more than \$250; and
    - (ii) the Racing Integrity Commissioner considers that it is in the public interest for the appeal to be heard;
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- (j) perform any other functions conferred on the Racing Integrity Commissioner under this Act.
- (2) The Racing Integrity Commissioner may advise the Minister of any failure by a controlling body to implement or act on a recommendation made by the Racing Integrity Commissioner to that controlling body under subsection (1)(h) if—
- (a) before advising the Minister, the Racing Integrity Commissioner notifies the controlling body of the Commissioner's intention to advise the Minister of the failure by the controlling body to implement or act on the recommendation; and
  - (b) the Racing Integrity Commissioner advises the controlling body that the controlling body may, within 14 days of receiving the notification made under paragraph (a), respond in writing to the Commissioner in respect of that notification.
- (3) The Racing Integrity Commissioner must provide the Minister with any written response made by the controlling body under subsection (2)(b).

**37C Powers of the Racing Integrity Commissioner**

For the purposes of his or her functions, the Racing Integrity Commissioner—

- (a) has such powers as are conferred on him or her by this Act; and

- (b) may do all other things necessary or convenient to be done for or in connection with, or as incidental to, the performance of his or her functions.

### **37D Staff**

There may be employed under Part 3 of the **Public Administration Act 2004** any employees that are necessary to enable the Racing Integrity Commissioner to perform his or her functions and exercise his or her powers.

### **37E Disclosure of information**

- (1) The Racing Integrity Commissioner may disclose integrity related information to, as appropriate—
    - (a) a controlling body including its integrity sub-committee and Stewards; or
    - (b) the Commission; or
    - (c) a Racing Appeals and Disciplinary Board; or
    - (d) the Chief Commissioner of Police or a member of the police force authorised in writing by the Chief Commissioner of Police; or
    - (e) the Commissioner of the Australian Federal Police or a member of the Australian Federal Police authorised in writing by the Commissioner of the Australian Federal Police; or
    - (f) the Minister; or
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- (g) a person or body that, in the opinion of the controlling body, controls, organises or administers an approved betting event; or
- (h) the Australian Transaction Reports and Analysis Centre; or
- (i) the Commissioner of Taxation of the Commonwealth; or
- (j) a person or body that—
- (i) has any regulatory or administrative functions in respect of racing, bookmaking or betting in Victoria or in another State or a Territory of the Commonwealth; and
  - (ii) is specified by the Minister, by Order published in the Government Gazette, for the purposes of this section.
- (2) In this section—
- integrity related information*** is information the Racing Integrity Commissioner has collected or been given in the performance of his or her functions and includes, but is not limited to, information in relation to—
- (a) the contravention, or the alleged contravention, of the rules of a controlling body;
  - (b) the identity of persons alleged to have contravened the rules of a controlling body;
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(c) complaints investigated under this Part;

(d) audits conducted under this Part.

**37F Annual report**

- (1) On or before 31 August each year, the Racing Integrity Commissioner must submit to the Minister, for the year ending on 30 June that year, a report on—
  - (a) the performance of his or her functions or the exercise of his or her powers; and
  - (b) any integrity-related issue he or she determines is in the public interest.
- (2) The Minister must cause each annual report submitted to him or her under this section to be laid before each House of Parliament within 7 sitting days after receiving it.

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**PART 3—RACING APPEALS AND DISCIPLINARY BOARDS**

**Division 1—Racing Appeals and Disciplinary Boards**

**6 Definitions**

**Insert** the following definitions in section 3(1) of the Principal Act—

***"GRV Racing Appeals and Disciplinary Board***  
has the same meaning as it has in section 83A;

***HRV Racing Appeals and Disciplinary Board***  
has the same meaning as it has in section 50A;

***RV Racing Appeals and Disciplinary Board***  
means the Racing Appeals and Disciplinary Board established under the rules of Racing Victoria;

***Racing Appeals and Disciplinary Board*** means—

- (a) in the case of hearings and appeals relating to harness racing, the HRV Racing Appeals and Disciplinary Board; and
- (b) in the case of hearings and appeals relating to greyhound racing, the GRV Racing Appeals and Disciplinary Board; and
- (c) in the case of hearings and appeals relating to horse racing, the RV Racing Appeals and Disciplinary Board;".

**Division 2—HRV Racing Appeals and Disciplinary Board**

**7 New Part IIA inserted**

After section 50 of the Principal Act **insert**—

**"PART IIA—RACING APPEALS AND  
DISCIPLINARY BOARD FOR HARNESS  
RACING VICTORIA**

**50A Definitions**

(1) In this Part—

*Australian lawyer* has the same meaning as  
in the **Legal Profession Act 2004**;

*Boards Registrar* means the Boards  
Registrar referred to in section 83OE;

*Chairperson* means the Chairperson of the  
HRV Racing Appeals and Disciplinary  
Board appointed under section 50E;

*Deputy Chairperson* means the Deputy  
Chairperson of the HRV Racing  
Appeals and Disciplinary Board  
appointed under section 50F;

*Harness Racing Victoria* has the same  
meaning as Board has in section 38;

*HRV Racing Appeals and Disciplinary  
Board* means the Racing Appeals and  
Disciplinary Board for Harness Racing  
Victoria established under section 50B;

*investigator* means a person appointed under  
the rules by Harness Racing Victoria to  
investigate matters in respect of the  
enforcement of, and compliance with,  
the rules;



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*penalty* means—

- (a) the imposition of any fine under the rules relating to any participation in racing in any capacity; or
- (b) any—
  - (i) suspension; or
  - (ii) disqualification; or
  - (iii) warning off—  
imposed under the rules from participating in racing in any capacity;

*rules* has the same meaning as it has in section 38;

*serious offence* means an offence under the rules that is specified in the rules to be a serious offence.

- (2) In this Part, a reference to a member of the HRV Racing Appeals and Disciplinary Board includes a reference to the Chairperson and the Deputy Chairperson, unless the contrary intention appears.

**50B Establishment of the HRV Racing Appeals and Disciplinary Board**

There is established a Board to be known as the Racing Appeals and Disciplinary Board for Harness Racing Victoria.

**50C Functions of HRV Racing Appeals and Disciplinary Board**

The functions of the HRV Racing Appeals and Disciplinary Board are to—

- (a) hear and determine appeals made under section 50J in relation to decisions made under the rules to impose penalties on persons;
- (b) hear and determine charges made against persons for serious offences;
- (c) hear and determine appeals in relation to decisions made under the rules following a direction made by the Racing Integrity Commissioner under section 50K;
- (d) hear and determine any matter referred to the HRV Racing Appeals and Disciplinary Board by Harness Racing Victoria—
  - (i) on Harness Racing Victoria's own motion; or
  - (ii) on the recommendation of the Stewards.

**50D Members of the HRV Racing Appeals and Disciplinary Board**

- (1) The HRV Racing Appeals and Disciplinary Board consists of a Chairperson, Deputy Chairperson and not less than 5, and not more than 15, other members.
- (2) A member of the HRV Racing Appeals and Disciplinary Board, other than the Chairperson and Deputy Chairperson, is to be appointed by Harness Racing Victoria.

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- (3) Harness Racing Victoria must not appoint a person to be a member of the HRV Racing Appeals and Disciplinary Board under subsection (2) if the person holds an office in—
    - (a) Racing Victoria; or
    - (b) Harness Racing Victoria; or
    - (c) Greyhound Racing Victoria.
  - (4) A member of the HRV Racing Appeals and Disciplinary Board, other than the Chairperson or Deputy Chairperson, must be appointed for a period, not exceeding 3 years, specified in his or her instrument of appointment and is eligible for re-appointment.
  - (5) A member of the HRV Racing Appeals and Disciplinary Board, other than the Chairperson and Deputy Chairperson, may resign from office by delivering a signed letter of resignation to the Chairperson of Harness Racing Victoria.
  - (6) A member of the HRV Racing Appeals and Disciplinary Board is entitled to the remuneration and allowance fixed in respect of the member by the Governor in Council.

**50E Chairperson of the HRV Racing Appeals and Disciplinary Board**

- (1) The Minister must appoint an eligible person to be Chairperson of the HRV Racing Appeals and Disciplinary Board.
  - (2) A person is an eligible person under subsection (1) if he or she—
    - (a) is an Australian lawyer of no less than 7 years standing; and
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- (b) is not registered as a licensed person under the rules of a controlling body; and
  - (c) does not have a financial or proprietary interest in a racehorse or greyhound; and
  - (d) does not hold an office in—
    - (i) Racing Victoria; or
    - (ii) Harness Racing Victoria; or
    - (iii) Greyhound Racing Victoria; or
    - (iv) any racing club; or
    - (v) any organisation that may, in the opinion of the Minister, give rise to a conflict of interest.
- (3) The Chairperson—
- (a) holds office for the period, not exceeding 3 years, specified in the instrument of his or her appointment; and
  - (b) is eligible for re-appointment.
- (4) The Chairperson may resign from office by delivering a signed letter of resignation to the Minister.
- (5) The Chairperson must resign from office if—
- (a) he or she obtains a financial or proprietary interest in a racehorse or greyhound;
  - (b) he or she becomes registered as a licensed person under the rules;
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- (c) he or she accepts an office in—
- (i) Racing Victoria; or
  - (ii) Harness Racing Victoria; or
  - (iii) Greyhound Racing Victoria; or
  - (iv) any racing club; or
  - (v) any organisation that may, in the opinion of the Minister, give rise to a conflict of interest.

**Note**

The Minister may remove a Chairperson from office in accordance with section 50H.

**50F Deputy Chairperson of the HRV Racing Appeals and Disciplinary Board**

- (1) The Minister, on the recommendation of Harness Racing Victoria, must appoint an eligible person to be the Deputy Chairperson of the HRV Racing Appeals and Disciplinary Board.
- (2) A person is an eligible person under subsection (1) if he or she—
  - (a) is an Australian lawyer of no less than 7 years standing; and
  - (b) is not registered as a licensed person under the rules of a controlling body; and
  - (c) does not have a financial or proprietary interest in a racehorse or greyhound; and
  - (d) does not hold an office in—
    - (i) Racing Victoria; or
    - (ii) Harness Racing Victoria; or
    - (iii) Greyhound Racing Victoria; or

- (iv) any racing club; or
  - (v) any organisation that may, in the opinion of the Minister, give rise to a conflict of interest.
- (3) The Deputy Chairperson—
- (a) holds office for the period, not exceeding 3 years, specified in the instrument of his or her appointment; and
  - (b) is eligible for re-appointment.
- (4) The Deputy Chairperson may resign from office by delivering a signed letter of resignation to the Minister.
- (5) The Deputy Chairperson must resign from office if—
- (a) he or she obtains a financial or proprietary interest in a racehorse or greyhound;
  - (b) he or she becomes registered as a licensed person under the rules;
  - (c) he or she accepts an office in—
    - (i) Racing Victoria; or
    - (ii) Harness Racing Victoria; or
    - (iii) Greyhound Racing Victoria; or
    - (iv) any racing club; or
    - (v) any organisation that may, in the opinion of the Minister, give rise to a conflict of interest.

**Note**

The Minister may remove a Deputy Chairperson from office in accordance with section 50H.

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**50G Acting appointments**

- (1) The Deputy Chairperson must act as Chairperson if—
  - (a) the office of Chairperson is vacant; or
  - (b) the Chairperson is absent from Victoria or is unable, for any reason, to perform the duties of the office.
- (2) While the Deputy Chairperson is acting as Chairperson, he or she has and may exercise all the powers, and must perform all the duties, of the Chairperson.
- (3) The Minister may appoint a member of the HRV Racing Appeals and Disciplinary Board to act as Deputy Chairperson—
  - (a) during a vacancy in the office of Deputy Chairperson; or
  - (b) during any period, or during all periods, when the Deputy Chairperson is acting as Chairperson or is unable, for any reason, to perform the duties of the Deputy Chairperson.
- (4) Harness Racing Victoria may appoint a person to be a member of the HRV Racing Appeals and Disciplinary Board (other than the Chairperson or Deputy Chairperson) during any period, or during all periods, when a member is acting as Deputy Chairperson or is unable, for any reason, to perform the duties of office.

**50H Removal from office**

The Minister may remove a member of the HRV Racing Appeals and Disciplinary Board from office as a member if the Minister is satisfied that the member—

- (a) is not acting in his or her office responsibly; or
- (b) is not avoiding any conflicts of interest; or
- (c) is not mentally or physically capable of satisfactorily performing the functions of the office; or
- (d) has become an insolvent under administration.

**50I Constitution of HRV Racing Appeals and Disciplinary Board for hearing appeals**

For the purposes of hearing and determining a matter under section 50C, the HRV Racing Appeals and Disciplinary Board is to be constituted by—

- (a) the Chairperson and up to 4 other members of the HRV Racing Appeals and Disciplinary Board selected by, and at the discretion of, the Chairperson; or
- (b) the Deputy Chairperson and up to 4 other members of the HRV Racing Appeals and Disciplinary Board selected by, and at the discretion of, the Chairperson.

**50J Appeals to HRV Racing Appeals and Disciplinary Board**

- (1) A person may appeal to the HRV Racing Appeals and Disciplinary Board against a decision made under the rules to impose a penalty on the person if—
    - (a) the penalty is a suspension, disqualification or warning off; or
    - (b) the penalty is a fine of more than \$250.00.
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- (2) An appeal made by a person under subsection (1) must—
    - (a) be in the prescribed form; and
    - (b) be lodged with the Boards Registrar by 5.00 p.m. on the third day after the day the appellant receives notice of the decision that the appellant is appealing.
  - (3) The Boards Registrar must give the Chairperson a copy of an appeal lodged under subsection (2) as soon as reasonably practicable.
  - (4) The HRV Racing Appeals and Disciplinary Board must hear an appeal made by a person under this section.
  - (5) As soon as is reasonably practicable after the Chairperson receives a copy of an appeal under subsection (3), the HRV Racing Appeals and Disciplinary Board must advise, in writing, the appellant and the person or body that imposed the penalty in respect of which the appeal is being made, of—
    - (a) the date and time of the hearing of the appeal; and
    - (b) the venue at which the hearing will be held.

**50K Racing Integrity Commissioner may direct that certain appeals be heard**

- (1) This section applies to a person in respect of whom a decision has been made under the rules to impose a penalty that is a fine of not more than \$250.00.

- (2) A person to whom this section applies may apply, in writing, to the Racing Integrity Commissioner requesting that the Commissioner consider directing the HRV Racing Appeals and Disciplinary Board to hear an appeal made by the person against a decision made under the rules despite the fact that the decision relates to the imposition of a fine of not more than \$250.00.
- (3) An application made by a person under subsection (2) must be made by 5.00 p.m. on the day after the day the person receives notice of the decision that the person would like to appeal.
- (4) If the Racing Integrity Commissioner considers that it is in the public interest for an appeal to be heard in respect of a decision made against a person who has applied under subsection (2), the Commissioner may direct the HRV Racing Appeals and Disciplinary Board to hear and determine that appeal.
- (5) The HRV Racing Appeals and Disciplinary Board must hear an appeal made in respect of a decision to impose a penalty that is a fine of not more than \$250.00 if the Racing Integrity Commissioner makes a direction under subsection (4).
- (6) As soon as is reasonably practicable after the Racing Integrity Commissioner makes a direction under subsection (4), the HRV Racing Appeals and Disciplinary Board must advise, in writing, the appellant and the person or body that made the decision in respect of which the appeal is being made, of—

- (a) the date and time of the hearing of the appeal; and
- (b) the venue at which the hearing will be held.

**50L HRV Racing Appeals and Disciplinary Board may grant an extension of time**

The HRV Racing Appeals and Disciplinary Board may grant leave to appeal out of time under section 50J(2) if the Board—

- (a) is of the opinion that the applicant has provided a satisfactory explanation for his or her failure to institute the appeal within the period specified in section 50J(2); and
- (b) considers that it would be unjust to refuse leave to appeal out of time.

**50M Hearing of serious offences by HRV Racing Appeals and Disciplinary Board**

- (1) If a person has been charged with a serious offence under the rules, the HRV Racing Appeals and Disciplinary Board must hear and determine the serious offence.
- (2) The person who, or body that, has charged a person with a serious offence must provide the Boards Registrar with prescribed details of the charge not more than 2 days after the person charged has been given those prescribed details.
- (3) The Boards Registrar must give the Chairperson a copy of the prescribed details of the charge as soon as reasonably practicable.

- (4) As soon as is reasonably practicable after the Chairperson receives the prescribed details of the charge, the HRV Racing Appeals and Disciplinary Board must advise, in writing, the person charged with a serious offence and the person or body that charged the person, of—
- (a) the date and time of the hearing of the charge; and
  - (b) the venue at which the hearing will be held.

**50N Hearings of HRV Racing Appeals and Disciplinary Board**

- (1) Subject to this Part, the HRV Racing Appeals and Disciplinary Board—
- (a) may, if the parties have been advised of the date, time and venue of the hearing, conduct the hearing in the presence of the parties or representatives of the parties, or with only some of the parties or representatives of the parties or without any of the parties or representatives of the parties; and
  - (b) may hear evidence by telephone, closed circuit television or video links; and
  - (c) may allow the evidence of a Steward or an investigator to be given on the notes of evidence taken by the Steward or investigator; and
  - (d) may conduct a proceeding on the case stated by the parties to the proceeding; and
  - (e) may conduct the re-hearing of a matter by affidavit, statutory declaration or oral evidence; and
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- (f) is not required to conduct a hearing as a de novo hearing; and
  - (g) may conduct a proceeding in private if the HRV Racing Appeals and Disciplinary Board considers that it is in the public interest or in the interests of justice, but must otherwise hold its hearing in public; and
  - (h) may review a decision being appealed in full including in circumstances where only part of the decision has been objected to, sought to be reviewed or appealed; and
  - (i) may make interim orders; and
  - (j) must give reasons for any decision it makes; and
  - (k) is bound by the rules of natural justice; and
  - (l) may otherwise regulate its own procedure.
- (2) The HRV Racing Appeals and Disciplinary Board may dismiss a proceeding without hearing if the Board is satisfied that the proceeding is frivolous, vexatious, misconceived or lacking in substance.
  - (3) A party to a proceeding before the HRV Racing Appeals and Disciplinary Board is entitled to be represented by an Australian lawyer or any other person.
  - (4) The Chairperson or Deputy Chairperson may give directions in relation to the operation or procedure of the HRV Racing Appeals and Disciplinary Board.
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- (5) Directions made under subsection (4) must not be inconsistent with this Act, regulations or the rules.

**50O Decisions of HRV Racing Appeals and Disciplinary Board**

- (1) In the determination of any matter before the HRV Racing Appeals and Disciplinary Board, the Board may—
- (a) decide all questions of fact; and
  - (b) make any decision or order that the Board considers is required in the interests of justice, including the imposition of any penalty under the rules.
- (2) In determining an appeal the HRV Racing Appeals and Disciplinary Board may—
- (a) affirm, set aside or vary the decision appealed against; or
  - (b) quash, set aside, mitigate, reduce, vary or increase the penalty imposed on the appellant under the rules; or
  - (c) refer the matter back for reconsideration by the person who, or body that, made the decision appealed against.

**50P Reasons for decision**

- (1) The reasons for decision made by the HRV Racing Appeals and Disciplinary Board—
- (a) may be given in writing or orally; and
  - (b) form part of the record of the proceeding in respect of which the decision was made.
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- (2) If the HRV Racing Appeals and Disciplinary Board gives its reasons orally, a party to the proceeding may, within 28 days of the decision being given, request the HRV Racing Appeals and Disciplinary Board to give written reasons for the decision.
- (3) If a request is made by a party under subsection (2), the HRV Racing Appeals and Disciplinary Board must provide written reasons for its decision within 28 days of the request.

**50Q Contempt of HRV Racing Appeals and Disciplinary Board**

A person must not—

- (a) insult, threaten or intimidate a member of the HRV Racing Appeals and Disciplinary Board in the performance of functions or the exercise of powers as a member at a proceeding before the HRV Racing Appeals and Disciplinary Board; or
- (b) repeatedly interrupt a proceeding before the HRV Racing Appeals and Disciplinary Board; or
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where the HRV Racing Appeals and Disciplinary Board is conducting a proceeding; or
- (d) do any other act that would, if the HRV Racing Appeals and Disciplinary Board were the Supreme Court, constitute contempt of that court.

Penalty: 10 penalty units.

### **50R Regulations**

The Governor in Council may make regulations for or with respect to prescribing—

- (a) forms for the purposes of this Part; and
- (b) generally prescribing any other matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.

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## **Division 3—GRV Racing Appeals and Disciplinary Board**

### **8 New Part IIIA inserted**

After section 83 of the Principal Act **insert**—

#### **"PART IIIA—RACING APPEALS AND DISCIPLINARY BOARD FOR GREYHOUND RACING VICTORIA**

### **83A Definitions**

- (1) In this Part—

*Australian lawyer* has the same meaning as in the **Legal Profession Act 2004**;

*Boards Registrar* means the Boards Registrar referred to in section 83OE;

*Chairperson* means the Chairperson of the GRV Racing Appeals and Disciplinary Board appointed under section 83E;

*Deputy Chairperson* means the Deputy Chairperson of the GRV Racing Appeals and Disciplinary Board appointed under section 83F;



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***Greyhound Racing Victoria*** has the same meaning as Board has in section 51;

***GRV Racing Appeals and Disciplinary Board*** means the Racing Appeals and Disciplinary Board for Greyhound Racing Victoria established under section 83B;

***investigator*** means a person appointed under the rules by the Greyhound Racing Victoria to investigate matters in respect of the enforcement of, and compliance with, the rules;

***penalty*** means—

- (a) the imposition of any fine under the rules relating to any participation in racing in any capacity; or
- (b) any—
  - (i) suspension; or
  - (ii) disqualification; or
  - (iii) warning off—  
imposed under the rules from participating in racing in any capacity;

***rules*** has the same meaning as it has in section 51;

***serious offence*** means an offence under the rules that is specified in the rules to be a serious offence.

- (2) In this Part, a reference to a member of the GRV Racing Appeals and Disciplinary Board includes a reference to the Chairperson and the Deputy Chairperson of the Board, unless the contrary intention appears.

**83B Establishment of the GRV Racing Appeals and Disciplinary Board**

There is established a Board to be known as the Racing Appeals and Disciplinary Board for Greyhound Racing Victoria.

**83C Functions of GRV Racing Appeals and Disciplinary Board**

The functions of the GRV Racing Appeals and Disciplinary Board are to—

- (a) hear and determine appeals made under section 83J in relation to decisions made under the rules to impose penalties on persons;
  - (b) hear and determine charges made against persons for serious offences;
  - (c) hear and determine appeals in relation to decisions made under the rules following a direction made by the Racing Integrity Commissioner under section 83K;
  - (d) hear and determine any matter referred to the GRV Racing Appeals and Disciplinary Board by Greyhound Racing Victoria—
    - (i) on Greyhound Racing Victoria's own motion; or
    - (ii) on the recommendation of the Stewards.
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**83D Members of the GRV Racing Appeals and Disciplinary Board**

- (1) The GRV Racing Appeals and Disciplinary Board consists of a Chairperson, Deputy Chairperson and not less than 5, and not more than 15, other members.
  - (2) A member of the GRV Racing Appeals and Disciplinary Board, other than the Chairperson and Deputy Chairperson, is to be appointed by Greyhound Racing Victoria.
  - (3) Greyhound Racing Victoria must not appoint a person to be a member of the GRV Racing Appeals and Disciplinary Board under subsection (2) if the person holds an office in—
    - (a) Racing Victoria; or
    - (b) Harness Racing Victoria; or
    - (c) Greyhound Racing Victoria.
  - (4) A member of the GRV Racing Appeals and Disciplinary Board, other than the Chairperson or Deputy Chairperson, must be appointed for a period, not exceeding 3 years, specified in his or her instrument of appointment and is eligible for re-appointment.
  - (5) A member of the GRV Racing Appeals and Disciplinary Board, other than the Chairperson and Deputy Chairperson, may resign from office by delivering a signed letter of resignation to the Chairperson of Greyhound Racing Victoria.
  - (6) A member of the GRV Racing Appeals and Disciplinary Board is entitled to the remuneration and allowance fixed in respect of the member by the Governor in Council.
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**83E Chairperson of the GRV Racing Appeals and Disciplinary Board**

- (1) The Minister must appoint an eligible person to be Chairperson of the GRV Racing Appeals and Disciplinary Board.
  - (2) A person is an eligible person under subsection (1) if he or she—
    - (a) is an Australian lawyer of no less than 7 years standing; and
    - (b) is not registered as a licensed person under the rules of a controlling body; and
    - (c) does not have a financial or proprietary interest in a greyhound or racehorse; and
    - (d) does not hold an office in—
      - (i) Racing Victoria; or
      - (ii) Harness Racing Victoria; or
      - (iii) Greyhound Racing Victoria; or
      - (iv) any racing club; or
      - (v) any organisation that may, in the opinion of the Minister, give rise to a conflict of interest.
  - (3) The Chairperson—
    - (a) holds office for the period, not exceeding 3 years, specified in the instrument of his or her appointment; and
    - (b) is eligible for re-appointment.
  - (4) The Chairperson may resign from office by delivering a signed letter of resignation to the Minister.
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- (5) The Chairperson must resign from office if—
- (a) he or she obtains a financial or proprietary interest in a greyhound or racehorse;
  - (b) he or she becomes registered as a licensed person under the rules;
  - (c) he or she accepts an office in—
    - (i) Racing Victoria; or
    - (ii) Harness Racing Victoria; or
    - (iii) Greyhound Racing Victoria; or
    - (iv) any racing club; or
    - (v) any organisation that may, in the opinion of the Minister, give rise to a conflict of interest.

**Note**

The Minister may remove a Chairperson from office in accordance with section 83H.

**83F Deputy Chairperson of the GRV Racing Appeals and Disciplinary Board**

- (1) The Minister, on the recommendation of Greyhound Racing Victoria, must appoint an eligible person to be the Deputy Chairperson of the GRV Racing Appeals and Disciplinary Board.
  - (2) A person is an eligible person under subsection (1) if he or she—
    - (a) is an Australian lawyer of no less than 7 years standing; and
    - (b) is not registered as a licensed person under the rules of a controlling body; and
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- (c) does not have a financial or proprietary interest in a greyhound or racehorse; and
  - (d) does not hold an office in—
    - (i) Racing Victoria; or
    - (ii) Harness Racing Victoria; or
    - (iii) Greyhound Racing Victoria; or
    - (iv) any racing club; or
    - (v) any organisation that may, in the opinion of the Minister, give rise to a conflict of interest.
  - (3) The Deputy Chairperson—
    - (a) holds office for the period, not exceeding 3 years, specified in the instrument of his or her appointment; and
    - (b) is eligible for re-appointment.
  - (4) The Deputy Chairperson may resign from office by delivering a signed letter of resignation to the Minister.
  - (5) The Deputy Chairperson must resign from office if—
    - (a) he or she obtains a financial or proprietary interest in a racehorse or greyhound;
    - (b) he or she becomes registered as a licensed person under the rules;
    - (c) he or she accepts an office in—
      - (i) Racing Victoria; or
      - (ii) Harness Racing Victoria; or
      - (iii) Greyhound Racing Victoria; or
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- (iv) any racing club; or
- (v) any organisation that may, in the opinion of the Minister, give rise to a conflict of interest.

**Note**

The Minister may remove a Deputy Chairperson from office in accordance with section 83H.

**83G Acting appointments**

- (1) The Deputy Chairperson must act as Chairperson if—
  - (a) the office of Chairperson is vacant; or
  - (b) the Chairperson is absent from Victoria or is unable, for any reason, to perform the duties of the office.
- (2) While the Deputy Chairperson is acting as Chairperson, he or she has and may exercise all the powers, and must perform all the duties, of the Chairperson.
- (3) The Minister may appoint a member of the GRV Racing Appeals and Disciplinary Board to act as Deputy Chairperson—
  - (a) during a vacancy in the office of Deputy Chairperson; or
  - (b) during any period, or during all periods, when the Deputy Chairperson is acting as Chairperson or is unable, for any reason, to perform the duties of the Deputy Chairperson.
- (4) Greyhound Racing Victoria may appoint a person to be a member of the GRV Racing Appeals and Disciplinary Board (other than the Chairperson or Deputy Chairperson) during any period, or during all periods, when a member is acting as Deputy

Chairperson or is unable, for any reason, to perform the duties of office.

**83H Removal from office**

The Minister may remove a member of the GRV Racing Appeals and Disciplinary Board from office as a member if the Minister is satisfied that the member—

- (a) is not acting in his or her office responsibly; or
- (b) is not avoiding any conflicts of interest; or
- (c) is not mentally or physically capable of satisfactorily performing the functions of the office; or
- (d) has become an insolvent under administration.

**83I Constitution of GRV Racing Appeals and Disciplinary Board for hearing appeals**

For the purposes of hearing and determining a matter under section 83C, the GRV Racing Appeals and Disciplinary Board is to be constituted by—

- (a) the Chairperson and up to 4 other members of the GRV Racing Appeals and Disciplinary Board selected by, and at the discretion of, the Chairperson; or
- (b) the Deputy Chairperson and up to 4 other members of the GRV Racing Appeals and Disciplinary Board selected by, and at the discretion of, the Chairperson.



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**83J Appeals to GRV Racing Appeals and Disciplinary Board**

- (1) A person may appeal to the GRV Racing Appeals and Disciplinary Board against a decision made under the rules to impose a penalty on the person if—
  - (a) the penalty is a suspension, disqualification or warning off; or
  - (b) the penalty is a fine of more than \$250.00.
- (2) An appeal made by a person under subsection (1) must—
  - (a) be in the prescribed form; and
  - (b) be lodged with the Boards Registrar by 5.00 p.m. on the third day after the day the appellant receives notice of the decision that the appellant is appealing.
- (3) The Boards Registrar must give the Chairperson a copy of an appeal lodged under subsection (2) as soon as reasonably practicable.
- (4) The GRV Racing Appeals and Disciplinary Board must hear an appeal made by a person under this section.
- (5) As soon as is reasonably practicable after the Chairperson receives a copy of an appeal, the GRV Racing Appeals and Disciplinary Board must advise, in writing, the appellant and the person or body that imposed the penalty in respect of which the appeal is being made, of—
  - (a) the date and time of the hearing of the appeal; and

- (b) the venue at which the hearing will be held.

**83K Racing Integrity Commissioner may direct that certain appeals be heard**

- (1) This section applies to a person in respect of whom a decision has been made under the rules to impose a penalty that is a fine of not more than \$250.00.
  - (2) A person to whom this section applies may apply, in writing, to the Racing Integrity Commissioner requesting that the Commissioner consider directing the GRV Racing Appeals and Disciplinary Board to hear an appeal made by the person against a decision made under the rules despite the fact that the decision relates to the imposition of a fine of not more than \$250.00.
  - (3) An application made by a person under subsection (2) must be made by 5.00 p.m. on the day after the day the person receives notice of the decision that the person would like to appeal.
  - (4) If the Racing Integrity Commissioner considers that it is in the public interest for an appeal to be heard in respect of a decision made against a person who has applied under subsection (2), the Commissioner may direct the GRV Racing Appeals and Disciplinary Board to hear and determine that appeal.
  - (5) The GRV Racing Appeals and Disciplinary Board must hear an appeal made in respect of a decision to impose a penalty that is a fine of not more than \$250.00 if the Racing Integrity Commissioner makes a direction under subsection (4).
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- (6) As soon as is reasonably practicable after the Racing Integrity Commissioner makes a direction under subsection (4), the GRV Racing Appeals and Disciplinary Board must advise, in writing, the appellant and the person or body that made the decision in respect of which the appeal is being made, of—
- (a) the date and time of the hearing of the appeal; and
  - (b) the venue at which the hearing will be held.

**83L GRV Racing Appeals and Disciplinary Board may grant an extension of time**

The GRV Racing Appeals and Disciplinary Board may grant leave to appeal out of time under section 83J(2) if the Board—

- (a) is of the opinion that the applicant has provided a satisfactory explanation for his or her failure to institute the appeal within the period specified in section 83J(2); and
- (b) considers that it would be unjust to refuse leave to appeal out of time.

**83M Hearing of serious offences by GRV Racing Appeals and Disciplinary Board**

- (1) If a person has been charged with a serious offence under the rules, the GRV Racing Appeals and Disciplinary Board must hear and determine the serious offence.
- (2) The person who or body that has charged a person with a serious offence must provide the Boards Registrar with prescribed details of the charge not more than 2 days after the

person charged has been provided those prescribed details.

- (3) The Boards Registrar must give the Chairperson a copy of the prescribed details of the charge as soon as reasonably practicable.
- (4) As soon as is reasonably practicable after Chairperson receives the prescribed details of the charge, the GRV Racing Appeals and Disciplinary Board must advise, in writing, the person charged with a serious offence and the person or body that charged the person, of—
  - (a) the date and time of the hearing of the charge; and
  - (b) the venue at which the hearing will be held.

### **83N Hearings of GRV Racing Appeals and Disciplinary Board**

- (1) Subject to this Part, the GRV Racing Appeals and Disciplinary Board—
    - (a) may, if the parties have been advised of the date, time and venue of the hearing, conduct the hearing in the presence of the parties or representatives of the parties, or with only some of the parties or representatives of the parties or without any of the parties or representatives of the parties; and
    - (b) may hear evidence by telephone, closed circuit television or video links; and
    - (c) may allow the evidence of a Steward or an investigator to be given on the notes of evidence taken by the Steward or investigator; and
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- (d) may conduct a proceeding on the case stated by the parties to the proceeding; and
  - (e) may conduct the re-hearing of a matter by affidavit, statutory declaration or oral evidence; and
  - (f) is not required to conduct a hearing as a de novo hearing; and
  - (g) may conduct a proceeding in private if the Board considers that it is in the public interest or in the interests of justice, but must otherwise hold its hearing in public; and
  - (h) may review a decision being appealed in full including in circumstances where only part of the decision has been objected to, sought to be reviewed or appealed; and
  - (i) may make interim orders; and
  - (j) must give reasons for any decision it makes; and
  - (k) is bound by the rules of natural justice; and
  - (l) may otherwise regulate its own procedure.
- (2) The GRV Racing Appeals and Disciplinary Board may dismiss a proceeding without hearing if the Board is satisfied that the proceeding is frivolous, vexatious, misconceived or lacking in substance.
- (3) A party to a proceeding before the GRV Racing Appeals and Disciplinary Board is entitled to be represented by an Australian lawyer or any other person.
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- (4) The Chairperson or Deputy Chairperson may give directions in relation to the operation or procedure of the GRV Racing Appeals and Disciplinary Board.
- (5) Directions made under subsection (4) must not be inconsistent with this Act, regulations or the rules.

**830 Decisions of GRV Racing Appeals and Disciplinary Board**

- (1) In the determination of any matter before the GRV Racing Appeals and Disciplinary Board, the Board may—
  - (a) decide all questions of fact; and
  - (b) make any decision or order that the Board considers is required in the interests of justice, including the imposition of any penalty under the rules.
- (2) In determining an appeal the GRV Racing Appeals and Disciplinary Board may—
  - (a) affirm, set aside or vary the decision appealed against; or
  - (b) quash, set aside, mitigate, reduce, vary or increase the penalty imposed on the appellant under the rules; or
  - (c) refer the matter back for reconsideration by the person who, or body that, made the decision appealed against.

**830A Reasons for decision**

- (1) The reasons for a decision made by the GRV Racing Appeals and Disciplinary Board—
    - (a) may be given in writing or orally; and
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- (b) form part of the record of the proceeding in respect of which the decision was made.
  - (2) If the GRV Racing Appeals and Disciplinary Board gives its reasons orally, a party to the proceeding may, within 28 days of the decision being given orally, request the GRV Racing Appeals and Disciplinary Board to give written reasons for the decision.
  - (3) If a request is made by a party under subsection (2), the GRV Racing Appeals and Disciplinary Board must provide written reasons for its decision within 28 days of the request.

**83OB Contempt of GRV Racing Appeals and Disciplinary Board**

A person must not—

- (a) insult, threaten or intimidate a member of the GRV Racing Appeals and Disciplinary Board in the performance of functions or the exercise of powers as a member at a proceeding before the GRV Racing Appeals and Disciplinary Board; or
- (b) repeatedly interrupt a proceeding before the GRV Racing Appeals and Disciplinary Board; or
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where the GRV Racing Appeals and Disciplinary Board is conducting a proceeding; or

- (d) do any other act that would, if the GRV Racing Appeals and Disciplinary Board were the Supreme Court, constitute contempt of that court.

Penalty: 10 penalty units.

### **830C Regulations**

The Governor in Council may make regulations for or with respect to prescribing—

- (a) forms for the purposes of this Part; and  
(b) generally prescribing any other matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.

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## **Division 4—Boards Registrar for Racing Appeals and Disciplinary Boards and VCAT appeals**

### **9 Part IIIB substituted**

For Part IIIB of the Principal Act **substitute—**

#### **"PART IIIB—COMMON BOARDS REGISTRAR FOR ALL RACING APPEALS AND DISCIPLINARY BOARDS**

### **830D Definitions**

In this Part—

*serious offence* means an offence that is—

- (a) a serious offence within the meaning of the rules of Racing Victoria;



- (b) a serious offence within the meaning of section 50A; or
- (c) a serious offence within the meaning of section 83A.

**83OE Boards Registrar**

- (1) For the purposes of assisting in the administration of the Racing Appeals and Disciplinary Boards there is to be appointed a Boards Registrar.
- (2) The Boards Registrar is to be appointed by a controlling body on the agreement of the controlling bodies.

**83OF Functions of Boards Registrar**

- (1) The Boards Registrar must—
  - (a) keep a register in the prescribed form containing the prescribed particulars of—
    - (i) appeals lodged with the Racing Appeals and Disciplinary Boards; and
    - (ii) serious offences to be heard and determined by the Racing Appeals and Disciplinary Boards; and
    - (iii) determinations made by the Racing Appeals and Disciplinary Boards as a result of any hearings;
  - (b) issue summonses, in the prescribed form, to witnesses and other process as directed by the Racing Appeals and Disciplinary Boards;
  - (c) perform any other functions as directed by the Racing Appeals and Disciplinary Boards.

- (2) The Boards Registrar must keep and make available for inspection any prescribed forms or any prescribed documents.
- (3) As soon as practicable after the end of each quarter, the Boards Registrar must give to the Racing Integrity Commissioner, a report setting out the details recorded in the register kept by the Registrar under subsection (1)(a).

### **83OG Regulations**

The Governor in Council may make regulations for or with respect to prescribing—

- (a) forms (including the form of a summons) for the purposes of this Part; and
- (b) the form and content of the register; and
- (c) generally prescribing any other matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.

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## **PART IIIBA—REVIEW BY VCAT—DECISIONS OF RACING APPEALS AND DISCIPLINARY BOARDS**

### **83OH Review by VCAT of decisions of Racing Appeals and Disciplinary Boards**

- (1) A person whose interests are affected by a decision made by a Racing Appeals and Disciplinary Board may apply to VCAT for review of that decision.
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- (2) A Steward may apply to VCAT for review of a decision made by a Racing Appeals and Disciplinary Board.

**83OI Time limit for applying for review**

An application for review must be made within 28 days after the later of—

- (a) the day on which the decision is made; or
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

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**10 Transitional provisions**

After section 96C of the Principal Act insert—

**"96D Transitional provision for Racing Appeals Tribunal proceedings—Racing Legislation Amendment (Racing Integrity Assurance) Act 2009**

- (1) In this section—

*commencement day* means the day on which section 9 of the **Racing Legislation Amendment (Racing Integrity Assurance) Act 2009** comes into operation.

- (2) If a hearing of an appeal by the Racing Appeals Tribunal under Part IIIB has begun and is not completed before the commencement day, on and after that day, Part IIIB is to continue to apply with respect

to that appeal as if Part IIIB had not been repealed by section 9 of the **Racing Legislation Amendment (Racing Integrity Assurance) Act 2009**.

- (3) If an appeal has been made to the Racing Appeals Tribunal under Part IIIB before the commencement day, and the hearing of that appeal has not commenced before that day, on and after that day, the appeal is taken to be an application for review by VCAT under Part IIIBA."
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**PART 4—CONSEQUENTIAL AMENDMENTS AND REPEALS**

**11 Repeal of provisions relating to appeals to HRV Board**

Sections 49A, 49B, 49C and 50(1)(a) of the Principal Act are **repealed**.

**12 Repeal of provisions relating to appeals to GRV Board**

Sections 80, 81, 81A and 83(1)(c) of the Principal Act are **repealed**.

**13 Repeal of definition**

In sections 83P and 84 of the Principal Act, the definition of *controlling body* is **repealed**.

**14 Amendment of heading to Part IIIC**

In the heading to Part IIIC of the Principal Act, for "VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL" substitute "VCAT—OCCUPATIONAL RACING AND BOOKMAKING LICENCES".

**15 Consequential amendment**

In sections 83Q and 83R of the Principal Act, for "the Victorian Civil and Administrative Tribunal" (wherever occurring) substitute "VCAT".

**PART 5—AMENDMENT OF OTHER ACTS**

**16 Amendment of Gambling Regulation Act 2003**

Section 2.5.18 of the **Gambling Regulation Act 2003** is repealed.

**17 Amendment of Confiscation Act 1997—  
consequential amendment**

Item 10(j) of Schedule 1 to the **Confiscation Act 1997** is repealed.

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**PART 6—REPEAL OF AMENDING ACT**

**18 Repeal of amending Act**

This Act is **repealed** on 1 September 2011.

**Note**

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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**Endnotes**

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**ENDNOTES**

† *Minister's second reading speech—*

*Legislative Assembly: 29 July 2009*

*Legislative Council: 13 August 2009*

The long title for the Bill for this Act was "A Bill for an Act to amend the **Racing Act 1958** and the **Gambling Regulation Act 2003** and for other purposes."