

## EXPLANATORY MEMORANDUM

### *Racing and Wagering Western Australia Bill 2003*

#### OVERVIEW

On 21 May 2002 the Government announced the restructuring of the racing industry governance system in Western Australia. It is proposed to merge the principal club functions of The Western Australian Turf Club, Western Australian Trotting Association and Western Australian Greyhound Racing Authority, together with the off-course betting activities of the TAB, into a single controlling authority to be known as *Racing and Wagering Western Australia* (RWVA).

To achieve this restructure, the following principal changes are proposed:

- RWVA will be established as the controlling authority for thoroughbred, harness and greyhound racing in Western Australia.
- The Western Australian Turf Club, the Western Australian Trotting Association, and the Western Australian Greyhound Racing Authority will each remain as racing clubs, responsible for the conduct of racing activities at their respective venues.
- The TAB will be abolished and RWVA will assume responsibility for the conduct of off-course betting.
- The Racecourse Development Trust will be abolished and the development of racing and training infrastructure will become a function of RWVA. The Trust's obligations, unallocated funds and funding source (unclaimed TAB dividends and refunds) will be transferred to RWVA.

To complement this restructure it is proposed to merge the Betting Control Board and the Gaming Commission of Western Australia to form the Gaming and Wagering Commission of Western Australia. The merger of the State's two gambling regulatory authorities was a recommendation of the 1998 Report of the Minister for Racing and Gaming to the Parliament of Western Australia on the review of the *Betting Control Act 1954*. The new authority will be responsible for regulating wagering and gaming in Western Australia on a common platform.

In addition, the opportunity has been taken to include the following initiatives in the legislative package.

- Recommendations emanating from the National Competition Policy Reviews of racing and gambling legislation.
- Provisions to establish controls over the activities of unlicensed offshore gambling operators betting into Western Australia.
- The transfer of provisions relating to the conduct and advertising of gambling from the Police Act to dedicated gambling legislation.

To manage these changes, four separate Bills have been prepared -

- *Racing and Wagering Western Australia Bill 2003*
- *Racing and Gambling Legislation Amendment and Repeal Bill 2003*
- *Racing Restriction Bill 2003*
- *Racing and Wagering Western Australia Tax Bill 2003*

The provisions of each of these Bills are summarised as follows:

## **1. Racing and Wagering Western Australia Bill 2003**

### *Racing and Wagering Western Australia Established*

The *Racing and Wagering Western Australia Bill 2003* (the RWWA Bill) establishes RWWA as the controlling authority for thoroughbred harness and greyhound racing in Western Australia. In terms of its structure, RWWA will not be—

- a Crown agency;
- subject to ministerial direction or the jurisdiction of the Ombudsman ; nor
- a public sector body under the *Public Sector Management Act 1994*.

To ensure that proper accountability mechanisms are in place RWWA will be –

- subject to the *Financial Administration and Audit Act 1985* and the *Freedom of Information Act 1992*;
- required to report to Parliament;
- subject to borrowing restrictions;
- required to provide the responsible Minister with access to information;
- required to prepare and submit for approval an annual strategic development plan; and
- required to prepare and submit for tabling in the Parliament, an annual statement of corporate intent.

### *The RWWA Board of Directors*

RWWA will be governed by a board of directors constituted as follows:

- Chairperson appointed by the Minister for Racing and Gaming.
- Two persons nominated by eligible thoroughbred racing industry bodies.
- Two persons nominated by eligible harness racing industry bodies.
- One person nominated by eligible greyhound racing industry bodies.
- Four persons selected by a selection panel for their expertise, including expertise in management, finance, business or commerce and experience relevant to the functions of RWWA, including one person with knowledge of, and experience in, regional development.

The selection panel is to comprise –

- one person appointed by the Minister for Racing and Gaming, whom the Minister considers has knowledge and experience in human resource management and senior executive recruitment;
- one person nominated by the Board of RWWA (except the first nomination which will be made by the Minister);
- one person nominated by eligible thoroughbred racing industry bodies;
- one person nominated by eligible harness racing industry bodies; and
- one person nominated by eligible greyhound racing industry bodies.

In relation to process, the RWWA Bill provides for the following -

- For the purpose of the RWWA board of directors and the selection panel, member nominations are to be made by eligible thoroughbred, harness and greyhound racing industry bodies as determined by RWWA. For the first appointments to the RWWA board and the selection panel, the eligible bodies are listed in transitional provisions. In this regard consultation has occurred with racing industry bodies. Once RWWA is established, it will nominate the eligible bodies in respect of future appointments.
- Where an eligible industry body or group of eligible industry bodies, as the case may be, fails to nominate a person within 30 days after receiving a request in writing from the Minister, the Minister may appoint an eligible person and the person so appointed shall be deemed for all purposes to have been appointed on the nomination of that eligible body or group of eligible bodies.
- Where a person nominated for appointment to the RWWA board or the selection panel is a member of the committee or other controlling authority of a racing club or of an eligible body, the person must relinquish that membership prior to being appointed.
- Nominations for the RWWA board and the independent selection panel are to-
  - be made in writing to the Minister;
  - take effect on a date approved by the Minister; and
  - be for a term not exceeding three years.

### Racing Industry Governance

With respect to industry governance, the RWWA Bill provides that RWWA will have the following broad duties and responsibilities.

- Control, supervise and regulate racing in the State.
- Foster the development, promote the welfare and ensure the integrity, of metropolitan and country thoroughbred, harness and greyhound racing, in the interests of the long term viability of the racing industry in Western Australia.
- Undertake and manage industry strategic planning, promotion, marketing, sponsorship and administration. (Racing clubs will undertake these roles where it is club specific.)
- Supervise racing clubs and their affairs.
- Make loans or grants to racing clubs and allied bodies (for racecourse development purposes).
- Determine the race meetings on which RWWA will conduct off-course wagering.
- In consultation with racing clubs, establish policies for stake money levels and race conditions and programs.

- Establish policies for, and manage the provision of, programs for apprentice jockey, trainee driver and other industry training requirements.
- To endeavour to ensure that racing industry issues such as insurance, broadcasting of race meetings and the establishment and maintenance of training facilities are carried out in an appropriate and adequate manner.
- Liaise with government and other authorities, whether in or out of Western Australia, with respect to, and represent the interests of, the racing industry in Western Australia.

Insofar as racing regulation is concerned, RWWA will have the following duties.

- To control, supervise and regulate the conduct of thoroughbred, harness and greyhound racing in Western Australia, including responsibility for steward and drug testing activities.
- In conjunction with national rule making authorities, to make rules for the conduct of racing in Western Australia and, in all respects, perform the role of principal club.
- To register racing clubs and racing animals and to license race meetings, race venues and participants.
- To undertake handicapping.
- To set race dates in consultation with racing clubs.

In terms of regulating the conduct of thoroughbred, harness and greyhound racing in Western Australia, the RWWA Bill stipulates that RWWA has all the powers as principal club under the respective national racing rules. As is currently the case with the three principal clubs, the Bill provides RWWA with the authority to make rules of racing which can be a combination of national rules and local rules.

#### *Integrity Assurance Committee*

The RWWA Bill provides for the establishment of an Integrity Assurance Committee within RWWA whose function will be to have primary oversight for such matters as Stewards, drug testing, licensing, handicapping etc.

RWWA is to determine the qualifications and disqualifications for membership of this committee and, in doing so, is to have particular regard to the need to minimise conflicts of interest such as might arise from a person's-

- horse or greyhound ownership;
- professional involvement in race preparation; or
- professional or commercial dealings with any person who holds a licence issued by RWWA .

#### *Off-course Wagering*

The 2001 Report on the Future Governance of the Western Australian Racing. Prepared by the Western Australian Racing Industry Review Committee (chaired by

Mr Ray Turner AM) highlighted the need for a closer relationship between the TAB and the racing clubs in order to overcome a perceived lack of cohesion and strategic direction. The legislation provides for the TAB Board to be abolished and responsibility for the provision of TAB off-course betting services to be assumed by RWWA.

It has been recognised, however, that it may not be practicable for RWWA to assume responsibility for the conduct of off-course betting from commencement. Hence transitional provisions have been drafted so that RWWA can commence its controlling authority functions and responsibility for the distribution of wagering profits to racing clubs when the legislation is proclaimed to come into effect (commencement day) but not assume responsibility for the conduct of off-course betting until a later day determined by the Minister (appointed day).

On the appointed day, all of the TAB's assets and contractual rights and obligations will be transferred to RWWA. The Bill is constructed so that on the appointed day, all employees of the TAB become employees of RWWA. This will mean, however, that TAB employees, who are part of the public sector and have access to the redeployment provisions contained in Part 6 of the *Public Sector Management Act 1994* (PSM Act), will become non-public sector employees of RWWA with no such right.

To address potential concerns in this regard, the Bill provides that the TAB employees may, for a period of two years, elect to be registered for redeployment under the relevant provision of the *Public Sector Management (Redeployment and Redundancy) Regulations 1994*. For this purpose, RWWA will be considered to be an employing authority under part 6 of the PSM Act.

Currently, the TAB board members are chosen and appointed by the Minister and this process provides the assurance of the personal integrity of persons appointed to manage the activities of a major gambling service.

The proposed restructure will see RWWA assume the TAB's role as a major gambling service provider and, given the limited involvement of the Minister for Racing and Gaming in the selection of RWWA board members, the RWWA Bill includes licensing provisions that will require the following persons to be licensed by the Gaming and Wagering Commission:

- members of the RWWA board; and
- any other person employed by RWWA in a managerial capacity or empowered to make decisions in relation to the conduct of the wagering business.

#### TAB Distribution

For the period until 31 July 2005, it is proposed to maintain the current arrangements contained in the *Totalisator Agency Board Betting (Modification of Operation Act) 2000* for the distribution each year of the first \$50 million of wagering profits after taxes and expenses, with the distribution of profits in excess of \$50 million to be at the discretion of RWWA.

The allocation of the \$50 million net profits is currently fixed by the Modification of Operation Act as follows:

- Thoroughbred racing: 55.26 per cent
- Harness Racing: 29.76 per cent

- Greyhound Racing: 14.98 per cent

In terms of distributions to individual thoroughbred and harness racing clubs allocations will be as follows:

- at least 28.09 per cent of the thoroughbred allocation to non-metropolitan thoroughbred racing clubs and the remainder to the Western Australian Turf Club; and
- at least 20 per cent of the harness racing allocation to non-metropolitan harness racing clubs, with 17.5 per cent of the remainder to the Fremantle Trotting Club and the balance remaining to the Western Australian Trotting Association.

Effective from 1 August 2005, the Bill provides that net wagering profits are to be distributed at the discretion of RWWA, with a proviso that RWWA is to use its best endeavours to ensure that no club receives less than the net earnings from off-course wagering on its own races.

#### *Distribution of Sports Betting Revenue*

With respect to wagering on sporting events, the process for the determination and distribution of off-course sports wagering revenue, set out in the Bill, requires 25 per cent of net sports wagering revenue after tax and before expenses, is to be credited to the Sports Betting Account managed by the Gaming Commission from commencement, and then the Gaming and Wagering Commission from the appointed day. This contribution can be varied by regulation in response to any change in circumstances.

These moneys will be available for grants on the direction of the minister of the Crown responsible for sport and recreation.

Basing the return to the Sports Betting Account on a share of net revenue after tax, will mean a guaranteed share of sports betting revenue being available for grants regardless of the level of expenses associated with conducting the activity.

The benefit to RWWA from this arrangement is that it will share in the profits and hence have an incentive to promote sports betting and minimise expenses.

#### *Racecourse Development*

RWWA is to assume responsibility for racecourse development and the Racecourse development Trust is to be abolished through the repeal of the *Racecourse Development Act 1976* on the commencement day. On this day any outstanding grants or loans will become RWWA's responsibility (see comments re Racing and Gambling Legislation Amendment and Repeal Bill 2003).

The Bill provides that, in respect of unclaimed dividends and refunds from wagering on thoroughbred, harness and greyhound racing, these will now become general funds of RWWA.

As the portion of these funds that originate from wagering on thoroughbred and harness racing are currently directed to the Racecourse Development Trust, the Trust will be abolished and responsibility for racecourse development in respect of all three codes of racing will be a function of RWWA.

Unclaimed dividends and refunds originating from wagering on sporting events will be credited to the Sports Wagering Account.

## 2. Racing and Gambling Legislation Amendment and Repeal Bill 2003

The Racing and Gambling Legislation Amendment and Repeal Bill 2003 (the RAGLAR Bill) includes the transitional provisions needed to manage the establishment of RWWA and the consequential amendments needed to other Acts to recognise RWWA and to achieve the complementary aspects of the governance restructure.

**Part 1** provides flexible commencement provisions so that RWWA can assume its functions in a staged basis. This is important to ensure that the continuity of wagering and racing operations is not compromised. Central to the commencement provisions are a “commencement day” on which RWWA will come into being as controlling authority and an “appointed day”, which is a later day fixed by the minister at which time RWWA will assume responsibility for the conduct of off-course TAB wagering.

**Part 2** of the Bill includes transitional provisions that –

- detail the eligible racing industry bodies for the first appointments to the RWWA board and the selection panel;
- allow an acting chief executive officer of RWWA to be appointed by the Minister until the RWWA Board is in a position to undertake the recruitment of an ongoing chief executive officer;
- stipulate that RWWA cannot exercise its wagering functions until the appointed day fixed by the Minister;
- stipulate that RWWA’s first Strategic Development Plan and Statement of Corporate Intent are to be those prepared by the TAB;
- validate the existing rules of racing pertaining to each of the three codes of racing as the first rules of racing under RWWA;
- recognise any licence, permit, authorisation, race date and steward appointment issued or approved by the three principal clubs and in force as at the commencement of RWWA; and
- provide for funds currently held in the TAB Sports Betting Account to be transferred to the Gaming and Wagering Commission’s Sports Wagering Account.

A power to make regulations to deal with any other transitional matter that is not covered by the provisions has been included in this part of the Bill.

**Part 3** deals with consequential amendments to other Acts as a result of the establishment of RWWA. These include amendments to –

- exempt RWWA from the jurisdiction of the Ombudsman;
- include RWWA in schedule 1 of the *Public sector Management Act 1994*;
- make RWWA subject to the *Financial Administration and Audit Act 1985*; and
- make RWWA directors subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

**Part 4** makes consequential amendments to, and transitional amendments in respect of, the *Totalisator Agency Board Betting Act 1960*.

As mentioned in the notes relating to the RWWA Bill, it may not be practicable for RWWA to assume responsibility for the conduct of off-course betting from commencement. Hence transitional provisions have been drafted so that RWWA can commence its controlling authority functions and responsibility for the distribution of

wagering profits to racing clubs when the legislation is proclaimed to come into effect (commencement day) but not assume responsibility for the conduct of off-course betting until a later day determined by the Minister (appointed day).

The provisions contained in this Part amend the *Totalisator Agency Board Betting Act* so that the distribution of TAB profit becomes a responsibility of RWWA from the commencement day, leaving the TAB to continue its activities in relation to off-course wagering until the appointed day at which time the *Totalisator Agency Board Betting Act* is abolished.

On the appointed day, all of the TAB's assets and contractual rights and obligations will transfer to RWWA.

The Bill is constructed so that on the appointed day all employees of the TAB become employees of RWWA. This will mean, however, that TAB employees, who are part of the public sector and have access to the redeployment provisions contained in Part 6 of the *Public Sector Management Act 1994*, will become non-public sector employees of RWWA with no such right.

To address potential concerns in this regard, the Bill provides that the TAB employees may, for a period of two years, elect to be registered for redeployment under the relevant provision of the *Public Sector Management (Redeployment and Redundancy) Regulations 1994*.

This Part also includes transitional provisions to continue in force any rules or regulations made under the *Totalisator Agency Board Betting Act* in relation to the conduct of wagering until such time as Rules of Wagering have been developed by RWWA and approved by the Gaming and Wagering Commission.

**Part 5** of the RAGLAR Bill abolishes the Racecourse Development Trust and repeals the *Racecourse Development Act 1976* on the commencement day.

Uncommitted funds held by the Racecourse Development Trust at the time that it is to cease operations, will be transferred to RWWA. These funds presently accumulate to each code in the same proportion as TAB distributions are made, and are, under the *Racecourse Development Act*, held in a thoroughbred racing allocation and a harness racing allocation.

The Bill provides that these allocations are to be quarantined when the funds are transferred to RWWA and the respective thoroughbred racing allocation and harness racing allocation are to be used only for racecourse development purposes within the relevant code of racing.

Further transitional provisions stipulate that RWWA is to assume any rights and liabilities of the Trust in terms of grants and loans as at the time of handover.

**Part 6** repeals the *Racing Restriction Act 1917* and the *Racing Restriction Act 1927*.

The *Racing Restriction Act 1917* is being repealed and replaced by the *Racing Restriction Act 2003*, which recognises RWWA as the controlling authority of thoroughbred, harness and greyhound racing in Western Australia and implements a number of National competition Policy Review recommendations to provide for the



establishment of controlling authorities for the racing of other horse breeds. (See notes in relation to the Racing Restriction Bill 2003.)

Parliamentary Counsel considered that the extent of the proposed changes warranted the drafting of a the Racing Restriction Act 2003.

The Racing Restriction Act 1927 is redundant and is, therefore, being repealed.

**Part 7** includes amendments to the *Betting Control Act 1954* to recognise that RWWA will assume responsibility for conducting off-course wagering from the TAB on the appointed day.

It also includes the amendments needed to abolish the Betting Control Board and transfer its functions to the Gaming and Wagering Commission of Western Australia. This is accordance with a recommendation of the 1998 Review of the *Betting Control Act*.

Further provisions are inserted by this Part to establish offence provisions in relation to unlicensed offshore betting services operating in Western Australia.

This part of the Bill includes provisions that are modelled on similar provisions in the New South Wales Unlawful Gambling Act. The Bill establishes an offence for a person physically present in Western Australia to make a bet, through electronic means, on an Australian racing event with a betting service that is not licensed by an Australian jurisdiction.

The purpose of these offence provisions is twofold. First, to restrict the outflow from the State of betting revenue that is so critical to the welfare of the racing industry in Western Australia. Second, to ensure that Western Australian punters are not exposed to gambling service operators that have not been subjected to the rigorous integrity processes that are applied by Australian regulators.

Recognising that there are offshore operators that may be licensed by a reputable overseas authority, and operate as good corporate citizens, an offshore operator that is not licensed in Australia may apply to the Gaming and Wagering Commission for an exemption for the purposes of this proposed section.

The Commission may grant an exemption if it is satisfied that the operator is:

1. regulated to similar standards to those that apply in Australia; and
2. has made arrangements with Australian racing organisations in relation to the conduct of betting by the operator on Australian races.

**Part 8** make minor consequential amendments to the Gaming and Betting (Contracts and Securities) Act 1985 to recognise the Gaming and Wagering Commission.

**Part 9** makes transitional and consequential amendments to the *Gaming Commission Act 1985*, principally to recognise, and establish supervisory provisions in relation to RWWA, and to manage the transition of the Gaming Commission to the Gaming and Wagering Commission.

In expanding the Gaming Commission Act to include the regulation of wagering, amendments to the Act have been included in this part to clarify in various sections of the Act to make the distinction between gaming and wagering, being subsets of gambling.

Membership of the Gaming and Wagering Commission will comprise the Chief Executive of the department of the public service principally assisting the Minister in the Chairperson, and up to seven members appointed by the Minister.

The amendments will put the regulation of the Burswood Casino and the specialised gambling functions of RWWA on a similar platform.

The opportunity has been taken to move some provisions relating to the conduct and advertising of gambling and common gambling houses from the *Police Act 1892*. Part 9 establishes those provisions in the *Gaming and Wagering Commission Act* and

**Part 10** repeals them from the *Police Act*.

**Part 11** amends the *Racing Penalties (Appeals) Act 1990* to recognise RWWA as the controlling authority of thoroughbred, harness and greyhound racing in Western Australia and to simplify the funding provisions of the Tribunal as a result of the move to a single controlling authority.

**Parts 12, 13 and 14** amend legislation pertaining to the three principal clubs to reflect the transition from being both a racing club and industry controlling authority to being simply a racing club responsible for conducting racing activities at their respective venues.

**Part 15** makes consequential amendments to the *Workers' Compensation and Rehabilitation Act* to recognise RWWA as the new racing industry controlling authority.

### **3. Racing Restriction Bill 2003**

The *Racing Restriction Bill 2003* is essentially a re-draft of the *Racing Restriction Act 1917*. It stipulates that no thoroughbred, harness or greyhound race for a stake or prize, or for the purpose of betting, may be held unless the race is licensed by RWWA and is held at a racecourse that is licensed by RWWA.

The Bill maintains the present authority in the 1917 Act for the Minister to issue a direction to the relevant controlling authority, which will now be RWWA, arising from a dispute over any proposed change to the program of thoroughbred or harness race meetings customarily conducted in the metropolitan area, that may necessitate a reduction in the number of thoroughbred or harness race meeting conducted outside the metropolitan area.

The *Racing Restriction Bill 2003* also implements a National Competition Policy Review recommendation to provide for the establishment, with the approval of the Minister, of an "approved racing organisation" as the controlling authority for horse racing that is not thoroughbred racing or harness racing.

Under the provisions of the Bill, an organisation may apply to the Minister to be designated an approved racing organisation if the organisation —

- is a body corporate;
- has the capacity to hold horse or pony races for a stake or prize or for the purpose of betting; and
- has the capacity to meet the requirements prescribed by the regulations.

The Minister may approve an applicant as an approved racing organisation if the Minister is satisfied that —

- the applicant meets the eligibility requirements;
- the rules provided by the applicant in relation to the control of racing are suitable; and
- it is not contrary to the public interest to do so.

In determining whether it is contrary to the public interest to approve an applicant as an approved racing organisation, the Bill provides that the Minister may have regard to the capacity of the applicant to control races held by it and to conduct the races honestly and free from criminal influence.

Part 6 of the Racing and Gambling Legislation Amendment and Repeal Bill repeals the *Racing Restriction Act 1917* and the *Racing Restriction Act 1927*.

Parliamentary Counsel considered the extent of these changes justified the drafting of the *Racing Restriction Act 2003*.

#### **4. Racing and Wagering Western Australia Tax Bill 2003**

The *Racing and Wagering Western Australia Tax Bill 2003* proposes to apply the taxation regime that is currently in place in respect of the TAB under the *Totalisator Agency Board Betting Tax Act 1960* to RWWA's off-course wagering turnover.

Under this regime, off-course totalisator wagering on racing and sporting events attracts a five percent tax on turnover, while fixed odds race betting turnover is taxed at two per cent and fixed odds sports turnover at one half of one percent.

The *Racing and Wagering Western Australia Tax Act 2003* will come into operation on the appointed day when RWWA responsibility for the conduct of off-course wagering, at which time the *Totalisator Agency Board Betting Tax Act* will be repealed.

**RACING AND WAGERING WESTERN AUSTRALIA BILL 2003  
CLAUSE NOTES**

**Part 1 - Preliminary**

<u>Clause 1:</u>	Cites the <i>Racing and Wagering Western Australia Act 2003</i> (the RWWA Act) as being the short title of the proposed Act.
<u>Clause 2:</u>	Specifies that the proposed RWWA Act will come into operation on a day fixed by proclamation and that different days may be fixed for the commencement of different provisions, to provide Racing and Wagering Western Australia (RWWA) with sufficient flexibility to adopt the varying responsibilities under the RWWA Act on a staged basis.
<u>Clause 3:</u>	Provides definitions to support the proposed RWWA Act.

**Part 2- Racing and Wagering Western Australia**

*Division 1 – Establishment*

<u>Clause 4:</u>	Establishes RWWA as a body corporate with perpetual succession and provides that proceedings may be taken by or against RWWA in its corporate name.
<u>Clause 5:</u>	Provides that RWWA is not an agent of the Crown and does not have the status, immunity and privileges of the Crown.
<u>Clause 6:</u>	<u>Subclause (1)</u> provides that RWWA is not, and is not to become, a public sector body under the <i>Public Sector Management Act 1994</i> .  <u>Subclause (2)</u> provides that neither the CEO nor any member of staff is to be included in the Senior Executive Service provided for by the <i>Public Sector Management Act 1994</i> .

*Division 2 – Board of directors*

<u>Clause 7:</u>	Provides that RWWA will be governed by a board of directors which shall perform RWWA's functions under the RWWA Act.
<u>Clause 8:</u>	<u>Subclause (1)</u> provides for the RWWA board of directors to be constituted as follows – a) a chairperson; b) two persons nominated by eligible thoroughbred racing bodies; c) two persons nominated by eligible harness racing bodies; d) one person nominated by eligible greyhound racing bodies; and e) four persons experienced in management, finance, business commerce or the functions of RWWA.  <u>Subclause (2)</u> requires that at least one director selected for the purposes of sub-clause 1(e) is to have regional development knowledge and experience.

	<p><u>Subclause (3)</u> indicates that clause 10 specifies those people not eligible for appointment.</p> <p><u>Subclause (4)</u> provides for the chairperson of the board to be appointed by the Minister.</p> <p><u>Subclause (5)</u> stipulates that the directors of the board, other than the chairperson and those directors nominated by eligible racing industry bodies, are to be selected by a selection panel established in accordance with clause 11.</p> <p><u>Subclause (6)</u> provides that a racing body may nominate a person for appointment to the board under clause 1, if it has been declared an eligible body for the purposes of clause 12.</p>
<u>Clause 9:</u>	<p><u>Subclause (1)</u> provides for the Minister to determine the nomination or selection procedures for positions of the RWWA board by publishing an order in the <i>Gazette</i>.</p> <p><u>Subclause (2)</u> provides that a nomination or selection to the RWWA Board takes effect on a day approved by the Minister.</p>
<u>Clause 10:</u>	<p><u>Subclause (1)</u> details those circumstances under which a person is ineligible to be nominated or appointed as a director.</p> <p><u>Subclause (2)</u> provides that a racing club committee member that is nominated for appointment to the RWWA board is required to resign from the position before being appointed.</p>
<u>Clause 11:</u>	<p>Provides for the establishment of a selection panel for the purposes of selecting those members of the RWWA board identified by clause 8(1)(e) of the RWWA Act; and details the composition of the selection panel and the process for the nomination and appointment of panel members.</p>
<u>Clause 12:</u>	<p>Provides that RWWA is to determine those racing industry bodies that are eligible bodies, for the purposes of making nominations to the membership of the RWWA board and the selection panel.</p>
<u>Clause 13:</u>	<p><u>Subclause (1)</u> provides that where –</p> <ul style="list-style-type: none"> <li>• an eligible body has failed to nominate a person for appointment to the RWWA board or the selection panel, or</li> <li>• the RWWA board fails to nominate a person for appointment to the selection panel or appoint a Deputy chairperson,</li> </ul> <p>within 30 days of being requested to do so, the Minister may make the nomination or appointment as the case requires.</p> <p><u>Subclause (2)</u> provides that where a director of RWWA or a member of the selection panel fails to resign from or ceases to hold office as a member of a racing club committee or governing body, the Minister may appoint, nominate or select another eligible person.</p>

<p><u>Clause 14:</u></p>	<p>Provides for the directors of the board to be licensed by the Gaming Commission of Western Australia and also provides the Commission with the authority to conduct investigations in relation to a person’s probity to ensure that they are suitable to be licensed as a director.</p> <p><i>Note: The RWWA Bill refers to the Gaming Commission, as the amendments to establish the Gaming and Wagering Commission do not come into effect until the appointed day. As such the Gaming Commission will need to licence the first RWWA directors.</i></p>
<p><u>Clause 15:</u></p>	<p>Provides that Schedule 1, which establishes the provisions regarding the constitution and proceedings of RWWA, applies to the board of the Directors.</p>
<p><u>Clause 16:</u></p>	<p>Provides the RWWA board with the authority to establish committees and sets out how the committees may function.</p>
<p><u>Clause 17:</u></p>	<p>Provides for the remuneration and allowances of board directors, members of the selection panel and members of a committee established under clauses 16 or 47 to be paid from the funds of the RWWA. It also provides for the amount of remuneration to be determined by the Minister.</p>
<p><u>Clause 18:</u></p>	<p>Seeks to ensure that a director of RWWA places the interests of RWWA before those of any body that may have nominated the director and provides that where a director is also a public service officer, the duties of director prevail.</p>
<p><u>Clause 19:</u></p>	<p>Requires that a director declare a “notifiable interest” in a matter involving RWWA as soon as possible and provides for a penalty of up to \$5,000 for non compliance. Also requires that such declarations be recorded in the minutes and includes a definition of a “notifiable interest”.</p>

Division 3 – Staff

<p><u>Clause 20:</u></p>	<p>Establishes the position of a chief executive officer (CEO). Empowers the board to appoint and remove and determine service terms and conditions of, the CEO.</p>
<p><u>Clause 21:</u></p>	<p>Provides that the CEO is responsible for the day to day operations of RWWA, subject to the control of the board.</p>
<p><u>Clause 22:</u></p>	<p>Provides the board with discretion to engage and manage staff, including the–</p> <ul style="list-style-type: none"> <li>▪ determination of remuneration and conditions of staff;</li> <li>▪ removal, suspension and disciplining of staff; and</li> <li>▪ the termination of employment,</li> </ul> <p>but only to the extent that remuneration and conditions are not less favourable than is provided for by an applicable award, order or agreement under the <i>Industrial Relations Act 1979</i>; or the <i>Minimum Conditions of Employment Act 1993</i>.</p>

<u>Clause 23:</u>	Enables RWWA to grant, or make provision for the grant of, retirement benefits to members or former members of staff, subject to section 30 of the <i>State Superannuation Act 2000</i> , which requires that the Minister and the Treasurer approve the establishment of a superannuation scheme or fund.
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*Division 4 – Conduct and integrity of staff*

<u>Clause 24:</u>	<p><u>Subclause (1)</u> makes provision for the licensing of RWWA key employees by the Gaming and Wagering Commission.</p> <p><u>Subclause 2</u> defines “public interest” and “RWWA key employee” for the purposes of this clause.</p>
<u>Clause 25:</u>	<p><u>Subclause (1)</u> provides that Schedule 2 of the proposed RWWA Act (which details the provisions relating to the CEO and staff) has effect in relation to the CEO, former CEOs, staff members and former staff members.</p> <p><u>Subclause (2)</u> provides for the RWWA Board to have its members nominated as executive officers for the purposes of Schedule 2, which creates penalty provisions for failing to act honestly in the performance of his or her office and imposes a duty to exercise a duty of reasonable care and diligence.</p>

**Part 3- Functions of RWWA**

*Division 1 – General Provisions*

<u>Clause 26:</u>	<p>Provides that RWWA –</p> <ul style="list-style-type: none"> <li>▪ has the functions conferred or imposed by the RWWA Act or any other Act;</li> <li>▪ may affiliate with organisations; and</li> <li>▪ may perform its functions in the State or elsewhere.</li> </ul>
<u>Clause 27:</u>	Provides RWWA with discretion as to how and when it performs its functions.
<u>Clause 28:</u>	Requires that RWWA perform its functions in accordance with its strategic development plan (refer clause 67) and its statement of corporate intent (see clause 76).
<u>Clause 29:</u>	Requires that RWWA perform its functions in accordance with prudent commercial principles and endeavour to make a profit.

*Division 2 – General powers and related provisions*

<u>Clause 30:</u>	<p><u>Subclauses (1) to (3)</u> stipulate that RWWA has all the powers it needs to perform its functions and without limiting the generality of that statement, lists RWWA’s specific powers.</p> <p><u>Subclause (4)</u> authorises RWWA to -</p> <ul style="list-style-type: none"> <li>▪ make gifts for charitable purposes;</li> <li>▪ make ex-gratia payments; and</li> <li>▪ accept any gift or bequest etc.</li> </ul>
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<u>Clause 31:</u>	Enables RWWA to use and operate under any trading name and allows the gambling operations to be carried on under the trading name “TAB”.
<u>Clause 32:</u>	Provides for RWWA to advise the Minister before it acquires a subsidiary or enters into a transaction that will result in the acquisition of a subsidiary.  Requires that the constitution of any such subsidiary that is required to have a constitution under the Corporations Act, complies with Schedule 3 of the RWWA Act.
<u>Clause 33:</u>	Provides RWWA with the ability to delegate to persons identified in subclause (2), in writing, any power or function under the RWWA Act or any other written law.

#### **Part 4- Specialised functions in relation to racing**

##### *Division 1 – General*

<u>Clause 34:</u>	Defines a “person associated with racing” for the purposes of Part 4 of the RWWA Act.
<u>Clause 35:</u>	Details the functions of the RWWA in relation to the conduct of thoroughbred, harness and greyhound racing in Western Australia and includes a provision preventing RWWA from conducting a race meeting on its own behalf.
<u>Clause 36:</u>	Provides for RWWA to assume responsibility for the functions of the principal club and its committee (the Western Australian Turf Club) under the Australian Rules of Racing.
<u>Clause 37:</u>	Provides for RWWA to assume responsibility for the functions of the controlling body (the Western Australian Trotting Association) under the Australian Rules of Harness Racing.
<u>Clause 38:</u>	Provides for RWWA to assume responsibility for the functions of the racing authority (the Western Australian Greyhound Racing Authority) under the Australian Greyhound Racing Rules.  Under the RAGLAR Bill the Western Australian Greyhound Racing Authority will change to the Australian Greyhound Racing Association in recognition of the removal of its principal club functions, with effect from the commencement date of the RAGLAR Bill. The RWWA Bill has therefore been drafted to reflect this change.
<u>Clause 39:</u>	Enables RWWA to consider and determine licence applications, impose licence conditions and suspend or cancel a licence in relation to race courses, race meetings, races and tracks.
<u>Clause 40:</u>	Enables RWWA to consider and determine applications for the registration of race clubs, impose registration conditions, and suspend or cancel the registration of a racing club.
<u>Clause 41:</u>	Enables RWWA to consider and determine applications for the registration of thoroughbred and harness racing horses and greyhounds, impose registration conditions and cancel a registration.



<u>Clause 42:</u>	Enables RWWA to consider and determine licence applications, impose licence conditions and suspend or cancel a licence in relation to owners, trainers, jockeys, drivers and other associated persons.
<u>Clause 43:</u>	Provides RWWA with the authority to give directions to a racing club or allied body to carry out works to improve safety at a racecourse or training track and requires such a club or body to comply.
<u>Clause 44:</u>	Details the disciplinary action that may, under the rules of racing, be taken by RWWA in relation to racing activities in Western Australia.
<u>Clause 45:</u>	<p>Enables RWWA to make rules of racing in relation to the control, regulation and supervision of racing in Western Australia and details the types of rules that may be made.</p> <p><u>Subclause (7)</u> provides that notice of the making of rules of racing is to be published in the Gazette.</p> <p><u>Subclause (10)</u> provides that section 41, 42 and 43(6) of the <i>Interpretations Act 1984</i> will not apply to the rules of racing.</p>
<u>Clause 46:</u>	Enables RWWA to give a direction to a racing club or the officer of a racing club requiring the production of records which relate directly or indirectly to the affairs of the club and provides for a penalty of up to \$5,000 for non-compliance.

*Division 2 – Integrity Assurance Committee*

<u>Clause 47:</u>	Provides for the board to establish, alter or reconstitute the Integrity Assurance Committee (the IAC).
<u>Clause 48:</u>	Provides for the board to determine the qualifications and disqualifications for the membership of the IAC; and details the types of issues that may be necessary to consider so as to avoid a conflict of interest.
<u>Clause 49:</u>	Details the functions of the IAC as having primary oversight of aspects of RWWA's functions that directly relate to the integrity of racing.

**Part 5 – Specialised functions in relation to gambling**

*Division 1 – General*

<p><u>Clause 50:</u></p>	<p><u>Subclause (1)</u> - Details the functions of RWWA in relation to gambling, which include –</p> <ul style="list-style-type: none"> <li>▪ ensuring that on-course wagering complies with the <i>Betting Control Act 1954</i> and the rules of wagering;</li> <li>▪ carrying on the business of an off-course totalisator wagering service;</li> <li>▪ carrying on the business of an on-course totalisator wagering service on behalf of racing clubs;</li> <li>▪ carrying on the business of setting, accepting and making fixed odds wagers in relation to races and sporting and other events;</li> <li>▪ carrying on any business considered by the Board to be conducive to the success of or incidental to the business of gambling, except where such business is to the detriment of that gambling business or in manner that confers an unfair commercial advantage; and</li> <li>▪ the development and implementation of a scheme for the distribution of net profits and the negotiation of funding arrangements with individual racing clubs.</li> </ul> <p><u>Subclause (2)</u> - Provides that RWWA cannot exercise its functions under Part 5 of the proposed Act until a date fixed by the Minister (ie: the appointed day)</p>
<p><u>Clause 51:</u></p>	<p>Provides for RWWA to –</p> <ul style="list-style-type: none"> <li>▪ establish offices and totalisator agencies ;</li> <li>▪ purchase or lease building/premises etc; and</li> <li>▪ enter into agency contracts or arrangements,</li> </ul> <p>for the purposes of wagering</p>
<p><u>Clause 52:</u></p>	<p>Requires RWWA to give written notice to the Gaming Commission of Western Australia before establishing a totalisator agency and provides that the Gaming Commission may direct that the agency be closed or not established if it is considered to be detrimental to the public interest.</p>
<p><u>Clause 53:</u></p>	<p>Provides for RWWA to pay a fee to the Gaming Commission of WA to meet the costs of regulating RWWA's wagering activities, with such fee to be determined by the Gaming Commission and approved by the Minister.</p>

*Division 2 – Conduct of wagering*

<p><u>Clause 54:</u></p>	<p>Authorises RWWA to conduct totalisator wagering and fixed odds wagering on races, sporting events and other events in accordance with the rules of wagering, except where, in the opinion of the Gaming Commission of Western Australia, it would not be in the public interest to do so.</p> <p>A specific definition of race is included so that wagering is not permitted on a trial or training race.</p>
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<u>Clause 55:</u>	<p>Provides for offices and totalisator agencies, established by RWWA under the clause 51, to be used for the –</p> <ul style="list-style-type: none"> <li>▪ lodgement and receipt of totalisator and fixed odds wagers;</li> <li>▪ the transmission of those wagers to a combined totalisator scheme or a joint fixed odds betting arrangement; and</li> <li>▪ payment of dividends and winnings arising from totalisator wagers and fixed odds wagers.</li> </ul>
<u>Clause 56:</u>	<p>Provides that it is not an offence to wager on a RWWA totalisator or with RWWA.</p>
<u>Clause 57:</u>	<p>Enables RWWA to choose not to accept a bet and allows for the refund of wagers in accordance with the rules of wagering or the regulations.</p>

*Division 3 – Totalisator wagering*

<u>Clause 58:</u>	<p>Provides for a racing club to transmit a wager to RWWA for inclusion in a totalisator pool and requires that such wagers be received and dealt with in accordance with the rules of wagering or the regulations.</p>
<u>Clause 59:</u>	<p>Sets out the procedures and approval requirements for RWWA to participate in a combined totalisator pool scheme. Authorises RWWA to adopt and operate under the rules of a combined totalisator pool scheme despite the provisions of the rules of wagering or the regulations. Provides for racing clubs to pay charges incurred in relation to the operation of a combined totalisator pool scheme.</p>
<u>Clause 60:</u>	<p>Sets the procedures to be observed by RWWA in relation to the payment of dividends and refunds where a totalisator bet is placed in a totalisator pool operated by RWWA or included in a combined totalisator pool scheme. Requires that dividends and refunds be paid by RWWA if the wager is placed in a totalisator pool –</p> <ul style="list-style-type: none"> <li>▪ conducted and operated by RWWA; or</li> <li>▪ operated under a combined totalisator scheme pool.</li> </ul> <p>Specifies the manner in which dividends are to be calculated and paid and where dividends and refunds may be claimed.</p>

*Division 4 – Fixed odds wagering*

<u>Clause 61:</u>	<p>Sets out the procedures and approval requirements for RWWA to participate in a jointly operated fixed odds wagering system. Authorises RWWA to adopt and operate under the rules of the jointly operated fixed odds wagering system in respect of wagers despite any provision of the rules of wagering.</p> <p>Provides for a racing club to transmit a fixed odds wager to RWWA for inclusion in a jointly operated fixed odds wagering system.</p> <p>Provides for racing clubs to pay charges incurred in relation to the operation of a jointly fixed odds wagering system.</p>
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<u>Clause 62:</u>	Requires that RWWA pay all fixed odds wager winnings in accordance with the fixed odds offered at the time the wager was accepted.
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*Division 5 – Miscellaneous*

<u>Clause 63:</u>	Outlines the requirements relating to the acceptance of wagers by RWWA and sets out the type of payment that may be made before a wager is accepted. The principal effect of this clause is that wagering on credit is not permitted.
<u>Clause 64:</u>	Provides for wagering accounts to be established with RWWA and makes provision for RWWA to charge fees for the management and maintenance of that account.
<u>Clause 65:</u>	Provides that the minimum amount of a wager may be prescribed in the regulations and that different amounts may apply to different types of wagers.

**Part 6 – Accountability**

*Division 1 – Strategic Development Plans*

<u>Clause 66:</u>	Requires that the board prepare and submit to the Minister for approval each year, a draft strategic development plan.
<u>Clause 67:</u>	Provides that a strategic development plan is for a period of five years unless otherwise approved by the Minister.
<u>Clause 68:</u>	Details those matters that are required to be addressed and included in the strategic development plan.
<u>Clause 69:</u>	Requires that the Minister and the board try to reach agreement on the draft strategic development plan.
<u>Clause 70:</u>	Establishes the Minister’s powers in relation to the draft strategic development plan of the RWWA.
<u>Clause 71:</u>	Provides for the latest draft of the strategic development plan, before the start of a financial year, to be accepted as the strategic development plan of RWWA, until such time as the Minister and board reach agreement in accordance with clause 72.
<u>Clause 72:</u>	Provides for the draft strategic development plan to come into effect upon the agreement of the Minister and the board.
<u>Clause 73:</u>	Provides for the modification of the strategic development plan – <ul style="list-style-type: none"> <li>▪ by the board, subject to the agreement of the Minister;</li> <li>▪ by written direction of the Minister.</li> </ul>
<u>Clause 74:</u>	Requires that the Minister obtain the prior agreement of the Treasurer to the acceptance or modification of the strategic development plan.

*Division 2 – Statement of Corporate Intent*

<u>Clause 75:</u>	Requires that the board prepare and submit to the Minister for approval each year, a statement of corporate intent. The plan is to be submitted not later than 14 days after agreement has been reached on the strategic plan.
<u>Clause 76:</u>	Provides that a statement of corporate intent is to cover a financial year.
<u>Clause 77:</u>	Details those matters that are required to be addressed and included in the statement of corporate intent.
<u>Clause 78:</u>	Enables the Minister to request that the statement of corporate intent be revised.
<u>Clause 79:</u>	<p><u>Subclause (1)</u> requires that the Minister table the statement of corporate intent in Parliament.</p> <p><u>Subclause (2)</u> provides for the board to request that the Minister delete from the statement of corporate intent, a matter that is commercially sensitive.</p> <p><u>Subclause (3)</u> provides that a deletion referred to in subclause 2 be accompanied by a written explanation.</p>
<u>Clause 80:</u>	Provides for the modification of the statement of corporate intent by the board.

*Division 3 – Directions, consultation and provision of information*

<u>Clause 81:</u>	Provides that RWWA is not subject to Government direction, unless otherwise required by the RWWA Act or other written law.
<u>Clause 82:</u>	Requires that the RWWA board and the Minister consult in relation to any aspects of the operations of RWWA and requires that the RWWA board consult with prescribed racing bodies in relation to prescribed operations.
<u>Clause 83:</u>	Provides that the Minister is entitled to access information in relation to RWWA.
<u>Clause 84:</u>	Requires that RWWA keep the Minister informed in relation to the operations of RWWA.
<u>Clause 85:</u>	Requires that the board of RWWA notify the Minister in writing if RWWA experiences financial difficulties.
<u>Clause 86:</u>	Details the requirements for the retention and storage of RWWA records and provides for the Gaming Commission to access RWWA records upon written request.

*Division 4 – Protection from liability*

<u>Clause 87:</u>	Provides protection from liability in respect of claims arising from the disclosure of information or documents under the proposed Act.
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**Part 7 – Financial Provisions**

*Division 1 - General*

<u>Clause 88:</u>	Provides for RWWA to establish bank accounts.
<u>Clause 89:</u>	Provides for RWWA to invest funds.
<u>Clause 90:</u>	Provides for RWWA to establish separate accounts for the purpose of establishing reserves.
<u>Clause 91:</u>	Provides for outgoings and expenses to be paid from revenue arising from any RWWA operations.

*Division 2 – Loans and grants*

<u>Clause 92:</u>	Provides for RWWA to lend or grant money to assist racing clubs and allied bodies in relation to the establishment or improvement of racecourse facilities and for other purposes.
<u>Clause 93:</u>	Enables the board to impose terms and conditions on a loan or grant to a racing club or allied body.  Provides that the terms and conditions of a loan may be less onerous than those applicable to a commercial loan.
<u>Clause 94:</u>	Provides for RWWA to take remedial action where a racing club or allied body fails to comply with the terms and conditions of a loan or grant.
<u>Clause 95:</u>	Enables RWWA to require forms and documentation in respect of applications for loans or grants and provides for RWWA to obtain security in relation to a loan.
<u>Clause 96:</u>	Requires that RWWA provide a racing club or an allied body with an opportunity to make representations in writing prior to – <ul style="list-style-type: none"> <li>▪ the determination of an application for a loan or grant; or</li> <li>▪ taking remedial action under clause 94.</li> </ul>

*Division 3 – Borrowing*

<u>Clause 97:</u>	Provides that RWWA may borrow moneys and obtain credit.
<u>Clause 98:</u>	<u>Subclause (1)</u> provides that the Minister may impose borrowing limits on RWWA, with the concurrence of the Treasurer.

	Subclause (2) obligates RWWA to comply with those limits and if no limit is in place, restricts RWWA from exercising the power conferred by clause 97(1)(a), except with the Treasurer's approval.
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<u>Clause 99:</u>	Enables RWWA to undertake hedging transactions for the purposes of managing perceived risks or anticipated costs in relation to agreements or arrangements that involve a foreign transaction, where borrowings are involved.
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*Division 4 – Guarantees*

<u>Clause 100:</u>	Provides for the Treasurer to guarantee in the name and on behalf of the State, the performance by RWWA under any financial obligation of RWWA arising from clause 97, with the concurrence of the Minister, subject to such terms and conditions as determined.
<u>Clause 101:</u>	Provides for charges to be fixed in respect of any guarantee given under clause 100.

*Division 5 – Financial provisions in relation to wagering*

<u>Clause 102:</u>	<p>Sub clause (1) requires RWWA to make returns of money received in respect of wagers.</p> <p>Sub clause (2) requires that RWWA pay tax imposed by sections 3 and 4 of the <i>Racing Wagering Western Australia Tax Act 2003</i>, on those wagers.</p>
<u>Clause 103:</u>	Provides that RWWA may set aside funds to supplement amounts in a totalisator pool.
<u>Clause 104:</u>	<p>Subclauses (1) and (2) make provision for dividends, fixed odds winnings and refunds that are unclaimed after the expiration of seven months to be paid by RWWA into the Sports Wagering Account under section 110A of the <i>Gaming Commission Act 1987</i> and provides that a claim is not enforceable following the transfer of the funds.</p> <p>Subclause (4) provides for any other moneys payable by way of dividends, fixed odds winnings or refunds in respect of wagers not claimed within seven months, become part of the funds of RWWA and any subsequent claim is unenforceable.</p>

<u>Clause 105:</u>	Details the requirements for the application/distribution of RWWA's funds
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	<p>before 1 August 2005.</p> <p>The first \$50 million of funds after the deduction of the outgoings and expenses incurred by RWWA, is to be paid or credited by RWWA as follows:</p> <ul style="list-style-type: none"> <li>▪ 55.26% to thoroughbred racing clubs registered with RWWA, of which at least 28.09% is to be distributed to clubs conducting races outside the metropolitan area;</li> <li>▪ 29.76% to harness racing clubs registered with RWWA, of which at least 20% is to be distributed to clubs conducting races outside the metropolitan area and 17.5% of the remaining balance is payable to the Fremantle Trotting Club;</li> <li>▪ 14.98 % to WAGRA;</li> </ul> <p>with the funds in excess of \$50 million to be distributed at the discretion of RWWA.</p> <p><u>Subclause (6)</u> provides for funds to be paid or credited by periodical payment or in such other manner as determined by RWWA.</p>
<p><u>Clause 106:</u></p>	<p>Details the requirements for the application/distribution of RWWA's funds after 31 July 2005.</p> <p>Provides that RWWA is to pay or credit the balance of the funds, after the deduction of the outgoings and expenses and other statutory outgoings, in amounts as it determines, to –</p> <ul style="list-style-type: none"> <li>▪ thoroughbred racing clubs registered with RWWA;</li> <li>▪ harness racing clubs registered with RWWA; and</li> <li>▪ greyhound racing clubs registered with RWWA;</li> </ul> <p>and in doing so is required to use its best endeavours to ensure that the amount paid or credited to each racing club in each racing year is not less than the net revenue generated from wagering conducted by RWWA on races conducted at that club during that year.</p> <p><u>Subclause (4)</u> provides for funds to be paid or credited by periodical payment or in such other manner as determined by RWWA.</p>
<p><u>Clause 107:</u></p>	<p>Details how RWWA is to deal with revenue generated from wagering conducted on sporting events.</p> <p><u>Subclause (1)</u> requires RWWA to pay 25% (or such other percentage as may be prescribed) of net commission, after tax, generated from wagering on sporting events into the Sports Wagering Account established under section 110A of the Gaming Commission Act.</p> <p><u>Subclause (2)</u> provides that the remaining revenue from sports wagering forms part of RWWA's general funds to be treated in accordance with clauses 105 and 106.</p>



Division 6 - General

<u>Clause 108:</u>	<p>Subclause (1) provides that the <i>Financial Administration and Audit Act 1985</i> applies in relation to the operations of RWWA.</p> <p>Subclause (2) provides that the financial year of RWWA ends on 31 July.</p>
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**Part 8 - Miscellaneous**

Division 1 – Protection of people dealing with RWWA

<u>Clause 109:</u>	Provides that people who have dealings with RWWA may make certain assumptions as detailed in clause 111.
<u>Clause 110:</u>	Provides that people who have acquired or purports to acquire title to property from RWWA may make assumptions as detailed in clause 111.
<u>Clause 111:</u>	Details those matters that may be assumed by a person for the purposes of the clauses 109 and 110.
<u>Clause 112:</u>	Details those matters that cannot be assumed despite the proposed clauses 109 and 110.

Division 2 – Other provisions

<u>Clause 113</u>	<p>Provides for inspections to be conducted and for an authorised person to enter and inspect premises.</p> <p>Details the powers of an authorised person in relation to entering premises and conducting an inspection.</p> <p>Creates an offence for</p> <ul style="list-style-type: none"> <li>▪ failing to comply with a request for information by an authorised person; or</li> <li>▪ giving false and misleading information; or</li> <li>▪ preventing an authorised officer from carrying out their functions.</li> </ul>
<u>Clause 114:</u>	Enables the Commissioner of State Revenue and persons authorised to enter and inspect totalisators, totalisator agencies and other premises of RWWA.
<u>Clause 115:</u>	Creates an offence and penalty provisions in relation to the obstruction, or interference with the doing of a thing under the Act and in relation to the use of threatening language.
<u>Clause 116:</u>	Provides no claim can be made against RWWA and its officers in relation to a wager that has been accepted by or on behalf of RWWA, otherwise than in accordance with a written law.
<u>Clause 117:</u>	Details the requirements relating to the tabling of documents by the Minister before a House of Parliament that is not sitting.
<u>Clause 118:</u>	Provides that RWWA is to have a common seal and details the requirements relating to the execution of documents.

<p><u>Clause 119:</u></p>	<p>Details the requirements relating to the making, varying or discharging of contracts by RWWA.</p>
<p><u>Clause 120:</u></p>	<p>Provides for RWWA to make rules in relation to</p> <ul style="list-style-type: none"> <li>▪ on-course wagering;</li> <li>▪ powers and duties of stewards in relation to totalisators on racecourses and persons licensed under the <i>Betting Control Act 1954</i>;</li> <li>▪ off-course wagering;</li> <li>▪ fixed odds wagering;</li> <li>▪ custody of property;</li> <li>▪ duties of officers, agents and employees relating to wagering; and</li> <li>▪ such other purposes as are necessary for the carrying out of RWWA's functions in respect of wagering,</li> </ul> <p>subject to the approval of the Gaming Commission of Western Australia.</p>
<p><u>Clause 121:</u></p>	<p>Enables the Governor to make regulations for the purposes of supporting the proposed RWWA Act.</p>
<p><u>Clause 122:</u></p>	<p>Provides for the Minister to carry out a review of the operation and effectiveness of the Act.</p>

**Schedule 1 – Provisions about the constitution and proceedings of RWWA’s board of directors.**

<u>Clause 1:</u>	Provides that the term of office for a director is three years.
<u>Clause 2:</u>	Details the circumstances under which the office of a director becomes vacant and also provides for the Minister to remove a director for incapacity, incompetence or misbehaviour.
<u>Clause 3</u>	Provides for the appointment of a deputy chairperson.
<u>Clause 4</u>	Provides for the appointment of an alternate director for a director.
<u>Clause 5</u>	Details the requirements relating to the conduct of meetings.
<u>Clause 6</u>	Provides for a meeting to be conducted by telephone or audio visual.
<u>Clause 7</u>	Provides for resolutions to be passed without the need to have a meeting.
<u>Clause 8</u>	Details the requirements relating to voting by directors that have a material personal interest in respect of a matter under consideration.
<u>Clause 9</u>	Requires that the board keep an accurate record of meetings and resolutions.
<u>Clause 10</u>	Provides for the board to grant a director a leave of absence from meetings.
<u>Clause 11</u>	Provides for the board to establish its own procedures.

**Schedule 2 – Provisions about CEO and staff**

*Division 1 – General duties of CEO*

<u>Clause 1:</u>	Provides that the CEO has the same fiduciary relationship with RWWA and the same duties to RWWA to act with loyalty and in good faith as a director of a company incorporated under the Corporations Act.
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*Division 2 – Particular duties stated*

<u>Clause 2:</u>	Defines “officer” and “summary conviction penalty” for the purposes of Division 2 of Schedule 2 of the proposed <i>Racing and Wagering Western Australia Act 2003</i> .
<u>Clause 3:</u>	Requires that the CEO and a person designated as an executive officer by the RWWA Board act honestly in the performance of their functions and creates offence and penalty provisions for deceitful or fraudulent actions.
<u>Clause 4</u>	Requires that the CEO or an executive officer exercise due care and diligence in the performance of their functions and creates a penalty for non-compliance.
<u>Clause 5</u>	Creates an offence and penalty for the improper use of information acquired by virtue of an officer’s position within RWWA.
<u>Clause 6</u>	Creates an offence and penalty for an officer of RWWA to improperly use

	their position to gain personal advantage or to cause detriment to RWWA.
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*Division 3 - Compensation*

<u>Clause 7</u>	Provides for a court to order the payment of compensation where it is satisfied that RWWA has suffered loss or damage as a result of a person being convicted of an offence for a contravention of the proposed clauses 3,4,5 or 6.
<u>Clause 8</u>	Provides that RWWA may take civil proceedings to recover monies arising from the actions of a person who contravenes proposed clauses 3,4,5 or 6, notwithstanding that the person may not have been convicted.

*Division 4 – Relief from liability*

<u>Clause 9</u>	Makes provision for a court to relieve a person from liability.
<u>Clause 10</u>	Provides for an application for relief to be made with the Supreme Court in relation to a claim being made against a person under the proposed clauses 1, 7 or 8.
<u>Clause 11</u>	Provides that a jury may be withdrawn in relation to a case to which the proposed clause 9 applies.
<u>Clause 12</u>	Provides that a person does not contravene the proposed clauses 1, 3 or 4 of schedule 2 if their actions were in accordance with a direction received in the course of their employment.

*Division 5 – Restrictions on indemnities and exemptions*

<u>Clause 13</u>	Details those circumstances where RWWA is not authorised to exempt a person from liability.
<u>Clause 14</u>	Provides that an insurance premium should not be paid to insure the CEO or an executive officer against a liability that arises out of conduct involving a wilful breach of duty or a contravention of the proposed clauses 5 or 6.
<u>Clause 15</u>	Provides that indemnities, exemptions, payments, documents and agreements not authorised under clauses 13 and 14 are void.

**Schedule 3 – Provisions to be included in constitution of subsidiaries**

<u>Clause 1</u>	<p><u>Sub clause (1)</u> provides that RWWA is not to sell or otherwise dispose of shares in subsidiary, unless otherwise approved by the Minister.</p> <p><u>Sub clause (2)</u> empowers the Minister to execute a transfer of shares in the subsidiary held by RWWA.</p>
<u>Clause 2</u>	<p>Provides for the appointment of subsidiary directors by RWWA, subject to the prior written approval of the Minister.</p>
<u>Clause 3</u>	<p>Provides that shares may not be issued or transferred except with the prior written approval of the Minister.</p>
<u>Clause 4</u>	<p>Provides for a subsidiary to acquire or form a subsidiary subject to the prior approval of the Minister and the Treasurer's concurrence.</p>