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| ***Racing Act 2002* (Section 68)** |  |

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| **Form 8: Notice of** **whether an approved control body has been an eligible corporation for the year** | PRIVATE AND CONFIDENTIAL |

**Instructions**

This form must be completed by an executive officer of a control body and lodged **within 14 days** after the day that is the anniversary of the day on which the approved control body’s approval took effect. Please attach additional pages to this form, if needed.

Please lodge the completed notice and any supporting documentation to the address below:

Director

Office of Racing

Department of Education

PO Box 15033

CITY EAST QLD 4002

Alternatively, the form and supporting documentation may be emailed to OfficeofRacing@qed.qld.gov.au.

Enquiries can be emailed to OfficeOfRacing@qed.qld.gov.au.

**Purpose of this form**

Section 68 of the *Racing Act 2002* (the Act) provides that within 14 days after each anniversary day for an approved control body, the approved control body must give the chief executive a notice about whether the approved control body has been an eligible corporation as defined in Schedule 1 of the Act for the year before the anniversary day and is an eligible corporation on that anniversary day.

Section 68 of the Act defines ‘anniversary day’ as each day that is the anniversary of the day on which the approved control body’s approval took effect.

Schedule 1 of the Act defines an ‘eligible corporation’ as a corporation that-

1. is registered under the *Corporations Act 2001* (Cwlth); and
2. has a constitution under the Corporations Act that, at all times, requires –

* at least three (3) directors; and
* the people appointed or employed as executive officers of the corporation to be eligible individuals; and

1. has not, at any time, had a licence cancelled under the Act or the *Racing Integrity Act 2016*.

An ‘eligible individual’ is defined in Schedule 1 of the Act as a person who-

1. is not affected by bankruptcy action; and
2. does not have a disqualifying conviction; and
3. is not subject to exclusion action; and
4. is not licensed by, or is not an executive officer of a corporation that is licensed by, the Queensland Racing Integrity Commission; and
5. is not a member of a committee, or employee, of-
   1. a licensed club; or
   2. an association formed in Australia to promote the interests of one (1) or more participants in a code of racing; and
6. is not disqualified from managing corporations, under the Corporations Act, part 2D.6; and
7. has not, at any time, had a licence cancelled under the Act or the *Racing Integrity Act 2016*.

Schedule 1 of the Act defines ‘executive officer’ as–

(a) of a corporation - a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director of the corporation or the person’s position is given the name of executive officer; or

(b) of the board – a member, the chief executive officer or another person who is concerned with, or takes part in, the board’s management.

Reference to ‘chief executive’ in this form and with respect to the Act, is to the chief executive of the Department of Education.

**False or misleading information**

Under section 151 of the Act it is a criminal offence for a person to knowingly make a false statement –

(a) in an application for a licence or approval application; or

(b) in a document the person is required to keep, or to give to the Minister, the chief executive, a control body or another person, under the Act.

The maximum penalty for knowingly making a false statement under the Act is 200 penalty units or two (2) years imprisonment.

**Making the statutory declaration under Part 3**

You can print this document and sign it on paper before any authorised witness.

You can only electronically sign the declaration if it is witnessed by a *special witness*.

You can only have this document witnessed over audio visual link (e.g. videoconference) if it is witnessed by a *special witness*.

You may direct another person to sign the document for them (a *substitute signatory*) provided the witness observes the direction.

At the end of this form, you will find an explanatory guide about who can witness your declaration. In some

cases, you may need a *special witness* to witness your declaration.

**Privacy Statement**

The Department of Education (the Department) is committed to protecting your personal information.

As part of the Queensland Government, the Department has responsibilities under the *Information Privacy Act 2009* (the Privacy Act) regarding the collection, use, storage and disclosure of your personal information. The Privacy Act and the *Right to Information Act 2009* also provide access and amendment rights for information held by the Department.

The Department is collecting the personal information you provide on this form in accordance with section 68 of the Act. The information will be used to inform the Minister whether the approved control body has been an eligible corporation, for the year before the anniversary day and on that anniversary day for the purposes of the Act. This information will only be accessed by authorised employees within the Department. Your information will not be disclosed to any other person or agency unless we have your consent or are required or authorised by law to do so.

**Part 1 Control body’s details**

Name of control body:

Address:

(Line 1):

(Line 2):

(City/Town – State - Postcode):

Contact name:

Telephones: Business

Mobile

Facsimile:

Email:

Date when control body approval took effect: (DD / MM / YYYY):

**Part 2 Control body’s status as an eligible corporation**

Please refer to Schedule 1 of the Act for defined terms in this Part 2.

1. I advise that for the approved control body’s anniversary day in the year of (year) , the following statements were true for the year preceding the anniversary day and on the anniversary day (please tick applicable items):

The approved control body was a registered corporation under the *Corporations Act 2001*

The approved control body had a constitution under the Corporations Act that, at all times, required at least 3 directors and required the people appointed or employed as executive officers of the corporation to be eligible individuals.

The approved control body did not have a licence cancelled under the *Racing Act 2002* or the *Racing Integrity Act 2016*

Please provide details if any of the above items were not true for the whole of the year preceding the anniversary day and on the anniversary day:

Details:

1. I further advise that for the approved control body’s anniversary day in the year of (year) the following statements were true for all executive officers of the control body, for the year preceding the anniversary day and on the anniversary day(please tick applicable items):

None of the control body’s executive officers:

Were disqualified from managing corporations under the *Corporations Act 2001*

Were affected by bankruptcy action

Were subject to an exclusion action

Were members of committees or employees of (i) licensed clubs or (ii) associations formed in Australia to promote the interests of one or more participants in a code of racing

Had had a licence cancelled under the *Racing Act 2002* or the *Racing Integrity Act 2016*

Had a disqualifying conviction

Were licensed by, or were an executive officer of a corporation that is licensed by, the Queensland Racing Integrity Commission.

Please provide details if any of the above items were not true for the whole of the year preceding the anniversary day and on the anniversary day:

Details:

**Part 3 Statutory Declaration – *Oaths Act 1867* (Qld)**

I, , of do solemnly and sincerely declare that:

(full name of executive officer lodging the notice) (address)

1. I hold the position of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

(position) (name of control body)

1. I am an executive officer of the control body who has knowledge of the relevant facts.
2. I am duly authorised by the control body to make this declaration and complete this form.
3. All the information stated on or attached to this form is true and correct in every particular and is not misleading in any way.
4. I understand that a person who provides a false matter in this declaration commits an offence and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.
5. I state that:

A. This declaration was made in the form of an electronic document. (Cross-out if not applicable)

B. This declaration was electronically signed. (Cross-out if not applicable)

C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*. (Include this if the document made over audio visual link. Cross-out if not applicable)

Signed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (location)

On / / {date (DD / MM / YYYY)

Signature of declarant .........................................................................................................................................

***Use this panel if signature witnessed on paper in person – DELETE OR CROSS OUT IF NOT APPLICABLE***

|  |  |
| --- | --- |
| In the presence of:  ……………………………………………….….  [insert full name of witness] | .………………..………….…………………. [signature of witness]  ………..………………………….  [date] |

|  |  |  |
| --- | --- | --- |
| ***Use this panel if a substitute signatory signs – DELETE OR CROSS OUT IF NOT APPLICABLE*** | | |
| **Signed for and at the direction of the declarant by**  ………………………………………………..…  [insert full name of substitute signatory] | .……..……..………………………………….  [signature of substitute signatory]  …………….………………………….  [date] |
|  |  |

***Use this panel if special witness signs – DELETE OR CROSS OUT IF NOT APPLICABLE***

In the presence of:

|  |  |  |  |
| --- | --- | --- | --- |
| ……………………………………………….….  [insert full name of special witness]  ……………………………………………….  [insert type of special witness] [[1]](#endnote-1)  Special witness under the *Oaths Act 1867*  ……………………………………………….  [insert witness’s place of employment or name of law practice][[2]](#endnote-2) | | .………………..………….………………….  [signature of witness]  ………..………………………….  [date] | |
| ***For special witness to complete - Tick as applicable*** | | |
| 🞏  🞏  🞏  🞏 | This declaration was made in the form of an electronic document.  This declaration was electronically signed by the signatory or substitute signatory.  I electronically signed this document. (Tick this box if you electronically signed the document or if you physically signed the document and sent a scanned copy of that document to the declarant).  I meet the requirements to be a **special witness** under the *Oaths Act 1867*.  *(see section 12 of the Oaths Act 1867)* | |
| 🞏 | This statutory declaration was made, signed and witnessed over audio-visual link under Part 6A of the *Oaths Act 1867.* | |
| 🞏 | I understand the requirements for witnessing a document by audio visual link and have complied with those requirements. | |

**\*\* IMPORTANT NOTE \*\***

**PLEASE COMPLETE THE NEXT PAGE TITLED**

**“*HOW THIS DOCUMENT WAS MADE*”.**

**HOW THIS DOCUMENT WAS MADE**

***The signatory and the witness must complete this page by ticking the appropriate boxes below.***

|  |  |  |
| --- | --- | --- |
| *The signatory or substitute signatory must complete this section* | **SIGNATORY / SUBSTITUTE SIGNATORY to complete** | |
| **Who signed this declaration?** | |
|  | the signatory |
|  | a substitute signatory |
| **How did the signatory/substitute signatory sign?** | |
|  | on paper |
|  | electronically |
| **How was this declaration witnessed?** | |
|  | in person |
|  | over audio visual link |

|  |  |  |
| --- | --- | --- |
| *The witness must complete this section* | **WITNESS to complete** | |
| **How did you (the witness) sign this document?** | |
|  | on paper |
|  | electronically |
| **What document did you (the witness) sign?** | |
|  | The same physical (paper) document that was signed in the presence of the signatory/substitute signatory |
|  | A copy of the document that was signed by the signatory/substitute signatory  (e.g. a scanned copy of a paper signed document, a photocopy or printout) |
|  | A counterpart of the document (a copy of the document without the signature of the signatory/substitute signatory) |
| **What form of document did you (the witness) sign?** | |
|  | paper |
|  | electronic (tick this if you electronically signed the document or if you physically signed a copy of the document signed by the signatory/substitute signatory and then sent a scanned copy of that document to the signatory or other person) |
| **How was the substitute signatory directed to sign (if applicable)?** | |
|  |  | in person by the signatory |
|  | over audio visual link by the signatory |

This is a guide only and is intended to provide general information. Please delete once complete.

**WHO CAN WITNESS A STATUTORY DECLARATION**

**IN QUEENSLAND**

A statutory declaration under the *Oaths Act 1867* in Queensland must be signed in the presence of an eligible witness. Who can witness a statutory declaration depends on how the document is signed (whether on paper or electronically), and whether the witness is present in person or by audio visual link.

**Signing on paper in the physical presence of witness**

If the statutory declaration is to be signed on paper and in person, the witness can be:

* a justice of the peace (JP)
* a commissioner for declarations (Cdec)
* a notary public
* a lawyer
* a licensed conveyancer in another State or Territory
* any person who is authorised by law to administer an oath in another State or Territory
* another person prescribed by regulation.

**Signing electronically or witnessing over audio visual link**

If the statutory declaration is to be:

* signed electronically (whether witnessed in person or by audio visual link); or
* witnessed over audio visual link (whether signed on paper or electronically),

the witness must be a **special witness**.

A **special witness** is:

* an Australian legal practitioner (i.e. a lawyer with a current practising certificate)
* a government legal officer who is an Australian lawyer and who witnesses documents in the course of the government work engaged in by the officer
* an **approved** JP
* an **approved** Cdec
* if the document was prepared by a law practice – a JP or Cdec who is employed by the law practice and who witnesses documents in the course of that employment
* a notary public
* another person prescribed by regulation.

This is a guide only and is intended to provide general information. Please delete once complete.

**WHO CAN SIGN A STATUTORY DECLARATION AS A SUBSTITUTE SIGNATORY**

A substitute signatory is a person directed by the signatory to sign the statutory declaration on their behalf. The person who witnesses the statutory declaration must also observe the signatory giving the direction to the substitute signatory – this may occur in person or by audio visual link.

**Who can’t be a substitute signatory**

* The person who witnesses the statutory declaration
* A person excluded under any other law from signing the document as a substitute signatory

**Who can be a substitute signatory**

* Any adult (aged 18 years or over) with capacity can be a substitute signatory, except for those persons excluded above,
* However, if the signatory directs the substitute signatory over audio visual link to sign the document (i.e. they are not physically in each other’s presence when the direction is given), then the substitute signatory must be:
  + any Australian legal practitioner
  + a government legal officer who is an Australian lawyer and who witnesses documents in the course of the government work engaged in by the officer
  + an employee of the Public Trustee of Queensland.

Note that whenever audio visual links are used to make a document (regardless of whether the witness or substitute signatory are present by audio visual link), the document must be witnessed by a **special witness** (refer above).

1. Insert the witness’ capacity that makes them eligible to witness the statutory declaration, including as a special witness under section 16C or part 6A of the *Oaths Act 1867*. For example, Australian legal practitioner, lawyer, justice of the peace, commissioner for declarations, notary public, a justice of the peace or commissioner for declarations approved by the Chief Executive under section 12(2) of the *Oaths Act 1867*, government legal officer, etc. [↑](#endnote-ref-1)
2. For example, the name of the place of employment or law practice for the Australian legal practitioner, the name of the government department of the government legal officer, the name of the law practice for a justice of the peace who witnesses documents for a law practice, etc. [↑](#endnote-ref-2)