

**GAMING AND BETTING (BROKEN HILL) AMENDMENT
ACT 1992 No. 63**

NEW SOUTH WALES



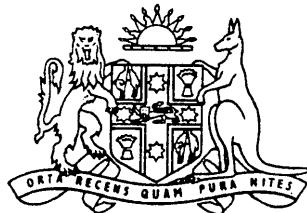
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SCHEDULE 1—AMENDMENTS

**GAMING AND BETTING (BROKEN HILL) AMENDMENT
ACT 1992 No. 63**

NEW SOUTH WALES



Act No. 63, 1992

An Act to amend the Gaming and Betting Act 1912 to legalise the conduct of certain games of two-up in the City of Broken Hill. [Assented to 3 November 1992]

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Gaming and Betting (Broken Hill) Amendment Act 1992.

Commencement

2. This Act commences on the date of assent.

Amendment of Gaming and Betting Act 1912 No. 25

3. The Gaming and Betting Act 1912 is amended as set out in Schedule 1.

SCHEDULE I—AMENDMENTS

(Sec. 3)

(1) Section 20C:

After section 20B, insert:

Two-up in Broken Hill

20C. (1) A game of two-up played in the City of Broken Hill is not an unlawful game for the purposes of this Act or any other law if the game is conducted in accordance with Part 3A.

(2) For the purposes of this Act or any other law, it is declared that two-up premises (within the meaning of Part 3A) are not a gaming-house.

(2) Part 3A:

After Part 3, insert:

**PART 38—LAWFUL GAMES OF TWO-UP IN
CITY OF BROKEN HILL****Division 1—Preliminary****Operation of Part**

50A. This Part authorises the lawful conduct of games of two-up by or on behalf of the Council of the City of Broken Hill at a single location in that City specified in the authorisation given to the Council under this Part.

SCHEDULE 1—AMENDMENTS—continued

Definitions

50B. In this Part:

“**City of Broken Hill**” means the local government area of the City of Broken Hill;

“**Council**” means the Council of the City of Broken Hill;

“**inspector**” means a person appointed under section 50K;

“**key employee**” means a person (whether or not employed under a contract of service) who is:

(a) employed in a managerial or supervisory capacity in relation to the conduct of games of two-up **by** or on behalf of the Council; or

(b) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of games of two-up conducted by or on behalf of the Council; or

(c) concerned or engaged, in any manner prescribed by the regulations, in the conduct of games of two-up by or on behalf of the Council;

“**rules**” means the rules, made by the Council and approved by the Minister, relating to games of two-up conducted by or on behalf of the Council and which are in force under section 50Q;

“**two-up premises**” means the location at which the Council is authorised under section 50D to conduct games of two-up in accordance with this Part.

Division 2—Authorisation to conduct two-up
Lawful games of two-up

50C. A game of two-up played in the City of Broken Hill is lawful if the game is conducted by or on behalf of the Council:

(a) at the location specified in the Minister’s authorisation given under section 50D; and

(b) in accordance with any conditions specified in the authorisation.

SCHEDULE 1—AMENDMENTS—*continued***Authorisation for Council to conduct games of two-up**

50D. (1) The Minister may authorise the Council to conduct games of two-up at a single location in the City of Broken Hill specified in the authorisation.

(2) The authorisation:

- (a) is to be in writing; and
- (b) may be given subject to such conditions as the Minister thinks fit to impose; and
- (c) cannot be transferred to another person.

(3) The authorisation remains in force for such period as is specified in the authorisation, unless it is sooner suspended or revoked under this Part.

(4) Despite the provisions of any other law, the Council, if so authorised, may:

- (a) conduct games of two-up in the City of Broken Hill in accordance with this Part; and
- (b) subject to the conditions of the authorisation, enter into arrangements with other persons for conducting games of two-up on behalf of the Council; and
- (c) charge and receive payment from any person for the right to enter the two-up premises and to participate in such a game or games; and
- (d) receive a commission on, percentage of or fee for bets or winnings in respect of such a game or games.

Conditions of authorisation

50B. The conditions that the Minister can impose when authorising the Council to conduct games of two-up may include conditions relating to any one or more of the following:

- (a) the approval by the Minister of persons who may conduct games of two-up on behalf of the Council, including the approval of the terms and conditions of any arrangements between the Council and such persons;

SCHEDULE 1—AMENDMENTS—continued

- (b) the manner in which any funds received by the Council in connection with games of two-up are to be applied and the giving of information by the Council to the Minister relating to such funds;
- (c) the payment by the Council to the Minister (as duty to be paid by the Minister into the Consolidated Fund) of an amount from the funds received in connection with games of two-up conducted by or on behalf of the Council;
- (d) the two-up premises;
- (e) the days on which, and the times when, games of two-up may be conducted and played;
- (f) the rules in accordance with which games of two-up are to be conducted;
- (g) the display in two-up premises of any such rules and other information relevant to the conduct and playing of games of two-up;
- (h) the giving of information (whether in the form of statements, returns or otherwise) by the Council or by a person conducting games of two-up on behalf of the Council to the Minister relating to the conduct of games of two-up, including the operating and other costs incurred by the Council or person in conducting such games;
- (i) the auditing of the financial records of the Council, or of a person conducting games of two-up on behalf of the Council, relating to the conduct of games of two-up, including records of the operating and other costs incurred by the Council or person in conducting such games;
- (j) the security requirements in respect of games of two-up;
- (k) such other matters as the Minister thinks fit.

Withdrawal of Minister's approval of persons who may conduct two-up on Council's behalf

50F. (1) The Minister may withdraw the Minister's approval of a person who may conduct games of two-up on behalf of the Council if the Minister is of the opinion that the

SCHEDULE 1—AMENDMENTS—continued

integrity or apparent integrity of a game or games of two-up conducted by or behalf of the Council is likely to be seriously prejudiced because of the criminal record, character or reputation of the person.

(2) The Minister is not to withdraw the Minister's approval of any such person unless the Minister:

- (a) has given the Council and the person notice, in writing, of the proposed withdrawal; and
- (b) has invited the Council and the person to make representations to the Minister, within such period as is specified in the notice, concerning the proposed withdrawal; and
- (c) has, after the expiration of that period, considered any such representations.

(3) The withdrawal of the Minister's approval takes effect:

- (a) on the day that is 14 days after the day on which a notice, signed by the Minister, advising the Council and the person of the withdrawal is given to the Council and the person; or
- (b) if a later day is specified in the notice—on that day.

Alterations of conditions of authorisation

50G. (1) The conditions that the Minister can impose when authorising the Council to conduct games of two-up may be amended by the Minister by being substituted, varied, revoked or added to.

(2) The Minister may not make such an amendment unless the Minister has:

- (a) given the Council notice in writing setting out the terms of the proposed amendment and inviting the Council to make submissions to the Minister (within such period as is specified in the notice) concerning the proposed amendment; and
- (b) after the expiration of that period, considered any such submissions.

SCHEDULE 1—AMENDMENTS—*continued*

(3) Such an amendment takes effect:

- (a) on the day that is 7 days after the day on which a notice, signed by the Minister, advising the Council of the amendment is given to the Council; or
- (b) if a later day is specified in the notice, on that day.

Revocation or suspension of authorisation

50H. (1) The Minister may, by notice in writing given to the Council, revoke or suspend the authorisation to conduct games of two-up if:

- (a) any game of two-up conducted by or on behalf of the Council is not conducted in accordance with this Part, the rules or the conditions of the authorisation; or
- (b) the Council or a person conducting a game on behalf of the Council fails to comply with any direction given to the Council or the person under section 50I or 50J.

(2) The Minister may, by notice in writing given to the Council, revoke the authorisation if the Council applies to the Minister to have the authorisation revoked.

(3) The Minister may suspend the authorisation, by notice in writing given to the Council, if the Minister considers it necessary or expedient to do so in order to secure compliance by the Council with a direction given to the Council under section 50I or 50J. The authorisation remains suspended:

- (a) until the date specified in the notice of suspension; or
- (b) if the notice so specifies—until the Minister is satisfied that the relevant direction has been complied with and the Minister further notifies the Council.

(4) Any revocation or suspension under this section takes effect:

- (a) on the day on which a notice of revocation or suspension is given to the Council; or
- (b) if a later day is specified in the notice—on that day.

SCHEDULE 1—AMENDMENTS—*continued***Division 3—Other controls in relation to two-up
Directions to Council and persons conducting games on
Council's behalf**

50I. (1) The Minister may, by notice in writing, direct the Council or any person conducting games of two-up on the Council's behalf to take, or to refrain from taking, such action as may be specified in the notice in relation to any game of two-up conducted by or on behalf of the Council.

(2) The Minister is to give such a direction if the Minister is of the opinion that the integrity or apparent integrity of any game of two-up conducted by or on behalf of the Council is likely to be seriously prejudiced:

- (a) by any irregularity or alleged irregularity of any kind; or
- (b) by the character or reputation of any person concerned in the conduct of any such game; or
- (c) by any other fact or circumstance reported to the Minister.

Directions concerning key employees

50J. (1) If the Minister is of the opinion that the integrity or apparent integrity of any game of two-up conducted by or on behalf of the Council is likely to be seriously prejudiced:

- (a) because of the criminal record of a key employee; or
- (b) because of the character or reputation of a key employee,

the Minister may, by notice in writing, give a direction to the Council or other appropriate person that the employment or association by reason of which the key employee is a key employee of the Council or that other person be terminated immediately and not be renewed.

(2) If a key employee refuses or fails to comply with a requirement of a notice served on the key employee under section 50P, the Minister may, by notice in writing, give a direction to the Council or other appropriate person that the employment or association by reason of which the key employee is a key employee of the Council or that other person be terminated immediately and not be renewed.

SCHEDULE 1—AMENDMENTS—*continued*

(3) The Council or other person to whom a direction is given under this section must give effect to the direction.

(4) It is taken to be a condition of any agreement or other arrangement entered into between the Council or other person to whom a direction is given under this section and a key employee that the Council or other person has such rights as may be necessary to enable the Council or other person to give effect to the direction.

(5) The termination of an employment or association in accordance with this section has effect despite any other Act or law, or any contract, award or enterprise or other agreement, and the Crown does not incur any liability because of such a termination.

(6) The Minister may, by notice in writing served on the Council or other person to whom a direction is given under this section, revoke or vary the direction.

(7) The Minister may, by notice in writing served on the Council or a person, require the Council or the person to furnish to the Minister returns containing:

- (a) the names of any key employees of the Council or of the person and the positions held by them; and
- (b) any other relevant particulars specified in the notice in relation to key employees.

Appointment etc. of inspectors

50K. (1) The Minister may appoint persons who are employed under Part 2 of the Public Sector Management Act 1988 to be inspectors for the purposes of this Part.

(2) An inspector is not authorised to exercise the functions of an inspector unless he or she is in possession of an identification card issued by the Minister.

(3) An inspector must produce his or her identification card to any person in respect of whom the inspector proposes to exercise the functions of an inspector if requested to do so by that person.

Functions of inspectors

50L. (1) An inspector may, at any reasonable time, enter and remain on the two-up premises for the purpose of doing any one or more of the following things:

SCHEDULE 1—AMENDMENTS—continued

- (a) observing the conduct and playing of a game of two-up;
- (b) ascertaining whether the game is being properly conducted;
- (c) ascertaining whether the provisions of this Part are being complied with;
- (d) in any other respect, exercising his or her functions under this Part.

(2) An inspector who enters the two-up premises is not authorised to remain on the premises if the inspector does not show his or her identification card if requested to do so by a person conducting a game of two-up or a key employee of that person.

(3) An inspector may do any one or more of the following:

- (a) require any person in possession of, or having control of, any documents relating to the conduct of a game of two-up to produce those documents for inspection and to answer questions or provide information relating to the documents;
- (b) inspect any documents relating to the conduct of a game of two-up and take copies of, extracts from, or notes relating to, the documents;
- (c) by notice in writing require a key employee or any other person concerned, in any capacity, in the conduct of a game of two-up, to attend before the inspector at a specified time and place and answer questions, or provide information, with respect to the conduct of any such game;
- (d) exercise such other functions as may be prescribed by the regulations.

Offences relating to obstruction etc. of inspectors

50M. A person must not:

- (a) obstruct or hinder an inspector when the inspector is exercising or attempting to exercise his or her functions as an inspector; or
- (b) fail to produce for inspection any documents relating to the conduct of a game of two-up in the possession, or under the control, of the person when required so to do

SCHEDULE 1—AMENDMENTS—continued

by an inspector in the exercise of his or her functions as an inspector; or

- (c) fail without reasonable excuse to attend before an inspector and answer questions or supply information when required so to do by the inspector in the exercise of his or her functions as an inspector; or
- (d) provide to an inspector (whether in answer to a question asked by the inspector or otherwise) information which the person knows is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

Information concerning conduct of games of two-up

50N. (1) The Minister may, by notice in writing, require a key employee or any person conducting a game of two-up by or on behalf of the Council:

- (a) to provide the Minister or an inspector, in accordance with directions in the notice, with such information and documents relevant to the conduct of games of two-up by or on behalf of the Council as are specified in the notice; or
- (b) to attend before the Minister or an inspector for examination in relation to any matters relevant to the conduct of such games and to answer any question relating to those matters.

Maximum penalty: 20 penalty units.

(2) A person is not excused from complying with a notice under this section on the ground that compliance might tend to incriminate the person but, if the person claims, before complying with the notice, that compliance might tend to incriminate the person, information provided in compliance with the notice is not admissible in evidence against the person in any criminal proceedings.

(3) If documents are produced under this section, the Minister or inspector to whom they are produced may retain possession of the documents for such period as may reasonably be necessary to permit examination of the documents, the taking of extracts from the documents and the making of copies of the documents.

SCHEDULE 1—AMENDMENTS—*continued*

(4) At any reasonable times during the period for which documents are retained under subsection (3), the Minister or inspector may permit inspection of the documents by a person who would be entitled to inspect them if they were not in the possession of the Minister or an inspector.

(5) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

Investigations

50O. (1) The Minister may appoint a person to investigate and report on such matters and circumstances as are specified by the Minister and which relate to:

- (a) the conduct of a game of two-up; or
- (b) any person who, in the opinion of the Minister, is an associate of a person conducting a game of two-up on behalf of the Council; or
- (c) a specified person who, or a specified class of persons which includes persons who, in the opinion of the Minister, could affect the conduct of a game of two-up; or
- (d) a specified person who, or a specified class of persons which includes persons who, in the opinion of the Minister, could be in a position to exercise direct or indirect control over the Council in relation to the conduct of games of two-up by the Council or over a person conducting such games on behalf of the Council.

(2) A person appointed to carry out an investigation may, for the purposes of the investigation, exercise:

- (a) the functions conferred by section 50N on the Minister; and
- (b) such other functions of the Minister as are specified by the Minister in the instrument of appointment, as if the person were the Minister.

(3) The exercise of functions under subsection (2) by a person other than the Minister has effect as if the functions had been exercised by the Minister.

SCHEDULE 1—AMENDMENTS—*continued***Information relating to key employees**

50P. (1) The Minister may, by notice in writing served on a key employee, require the key employee:

- (a) to consent, in accordance with directions in the notice, to having his or her photograph, finger prints and palm prints taken; and
- (b) to provide, in accordance with directions in the notice, such information (verified by statutory declaration) relevant to the key employee as is specified in the notice; and
- (c) to produce, in accordance with directions in the notice, such documents relevant to the key employee as are specified in the notice and to permit examination of the documents, the taking of extracts from them and the making of copies of them; and
- (d) to furnish such authorities and consents as the Minister may require for the purpose of obtaining further information (including financial and other confidential information) from other persons and institutions.

(2) The Minister is to refer to the Commissioner of Police copies of any photographs, finger prints and palm prints taken in respect of a key employee under this section and any supporting information that the Minister considers to be appropriate for referral to the Commissioner.

(3) The Commissioner of Police is to inquire into, and report to the Minister on, such matters concerning the key employee as the Minister may request.

(4) A key employee is not excused from complying with a requirement of a notice under this section on the ground that compliance might tend to incriminate the employee. However, if the employee claims, before complying with the requirement, that compliance might tend to incriminate the employee, information provided in compliance with the requirement is not admissible in evidence against the employee in any criminal proceedings.

(5) A key employee who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

SCHEDULE 1—AMENDMENTS—continued

Division 4—Miscellaneous**Rules**

50Q. (1) The Council may make rules for or with respect to the conduct of games of two-up by or on behalf of the Council. The rules are not to be inconsistent with this Part, the regulations or the conditions (if any) imposed by the Minister when authorising the Council to conduct games of two-up.

(2) Any such rule must, before it is made, be approved in writing by the Minister. When it is so approved, the rule:

- (a) is required to be published in the Gazette; and
- (b) takes effect on and from the date of publication (or such later date as may be specified in the rule).

(3) The power to make rules includes a power to amend or repeal a rule made in accordance with this section.

Delegation

50R. The Minister may delegate to an officer of the Public Service any of the Minister's functions under this Part, other than this power of delegation.

Prohibition on betting with minors

50RA. (1) Without limiting section 10, any person concerned in the conduct or playing of a game of two-up under this Part must not make or accept any bet or wager, or permit any bet or wager to be made or accepted, with or from a minor in relation to any such game.

Maximum .penalty: 50 penalty units.

(2) It is a defence to a prosecution for an offence under this section if it is proved that, before any such bet or wager was made or accepted, acceptable proof of age for the minor was produced to the person concerned in the 'conduct or playing of the game.

(3) Nothing in this Part affects any offence involving betting or wagering by a minor.

(4) In this section:

“acceptable proof of age” for a person means documentary evidence that might reasonably be

SCHEDULE 1—AMENDMENTS—continued

accepted as applying to the person and as proving that the person is at least 18 years of age;

“minor” means a person who is under the age of 18 years.

Destruction of finger and palm prints

50RB. (1) Any finger prints or palm prints obtained under this Part, and any copies of them, are to be destroyed if the key employee from whom they were obtained is no longer a key employee.

(2) A person who has possession of any such finger prints or palm prints, or copies of them, must deliver them to the Minister, in accordance with the written directions of the Minister, to enable subsection (1) to be complied with.

Maximum penalty (subsection (2)): 20 penalty units.

Secrecy

50RC. (1) A person who acquires information in the exercise of functions under this Part must not, directly or indirectly, make a record of the information or divulge the information to another person, except in the exercise of functions under this Part.

Maximum penalty: 50 penalty units.

(2) Despite subsection (1), information may be divulged:

- (a) to a particular person or persons, if the Minister certifies that it is necessary in the public interest that the information be divulged to the person or persons; or
- (b) to a person prescribed by the regulations or an authority prescribed by the regulations; or
- (c) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates.

(3) It is not an offence under this section if, in any legal proceedings, a person divulges the information:

- (a) in answer to a question that the person is compellable to answer; or
- (b) by providing a document or other thing that the person is compellable to produce.

SCHEDULE 1—AMENDMENTS—continued

(4) An authority or person to whom information is divulged under this section, and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as they would be if that authority, person or employee were a person exercising functions under this Part and had acquired the information in the exercise of those functions.

(5) This section does not apply to the divulging of information to, or the production of any document or other thing to, any of the following:

- the Independent Commission Against Corruption;
- the National Crime Authority;
- the New South Wales Crime Commission;
- the Ombudsman;
- any other person or body prescribed by the regulations for the purposes of this subsection.

(6) This section does not prevent a person being given access to a document in accordance with the Freedom of Information Act 1989, unless the document:

(a) contains matter the disclosure of which could reasonably be expected to do any of the following:

- prejudice the investigation of any contravention or possible contravention of the law (including any revenue law) whether generally or in a particular case;
- enable the existence or identity of any confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
- prejudice the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law (including any revenue law); or

(b) is a document the disclosure of which would disclose any of the following information:

SCHEDULE 1—AMENDMENTS—continued

- information concerning the business, commercial, professional or financial affairs of the Council in relation to the conduct of games of two-up, a key employee or a person conducting games of two-up on behalf of the Council;
- information obtained in the course of an investigation of a key employee or any such person.

(7) In this section, a reference to the divulging of information includes a reference to the production of a document or other thing and the provision of access to the document or other thing.

*[Minister's second speech made in—
Legislative Assembly on 15 October 1992
Legislative Council on 28 October 1992]*