



New South Wales

# Racing Administration Amendment Act 2008 No 96

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New South Wales

# **Racing Administration Amendment Act 2008 No 96**

Act No 96, 2008

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*An Act to amend the *Racing Administration Act 1998* and the *Racing Administration Regulation 2005* with respect to the publication of betting information, the advertising of betting information and betting services and the use of race field information; and for other purposes. [Assented to 3 December 2008]*

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

**1 Name of Act**

This Act is the *Racing Administration Amendment Act 2008*.

**2 Commencement**

This Act commences on the date of assent to this Act.

**3 Amendment of Racing Administration Act 1998 No 114**

The *Racing Administration Act 1998* is amended as set out in Schedule 1.

**4 Amendment of Racing Administration Regulation 2005**

The *Racing Administration Regulation 2005* is amended as set out in Schedule 2.

**5 Repeal of Act**

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

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## Schedule 1      **Amendment of Racing Administration Act 1998**

(Section 3)

### [1]    **Section 27 Definitions**

Insert in alphabetical order:

***betting exchange*** means a facility, electronic or otherwise, that enables persons:

- (a) to place or accept, through the operator of the facility, wagers with other persons, or
- (b) to place with the operator of the facility wagers that, on acceptance, are matched with opposing wagers placed with and accepted by the operator,

but does not include a facility, electronic or otherwise, that enables persons to place wagers only with a bookmaker or a totalizator.

***licensed wagering operator*** means a wagering operator that holds a licence or authority (however described) under the legislation of this or any other State or Territory to carry out its wagering operations (whether in that State or Territory or elsewhere).

***totalizator*** has the same meaning as in section 6 of the *Totalizator Act 1997*.

***wagering operator*** means a bookmaker, a person who operates a totalizator or a person who operates a betting exchange.

### [2]    **Section 27**

Omit the definition of *NSW race field*. Insert instead:

***NSW race field information*** means information that identifies, or is capable of identifying, the name or number of a horse or greyhound:

- (a) as a horse or greyhound that has been nominated for, or is otherwise taking part in, an intended race to be held at any race meeting on a licensed racecourse in New South Wales, or
- (b) as a horse or greyhound that has been scratched or withdrawn from an intended race to be held at any race meeting on a licensed racecourse in New South Wales.

**[3] Section 27**

Omit “*publication*” from the definition of *race field publication approval*.  
Insert instead “*information use*”.

**[4] Section 28 Publication or advertising of certain dividends or betting odds not affected**

Omit the section.

**[5] Section 29 Publication of betting information**

Omit section 29 (2). Insert instead:

- (2) Subsection (1) does not operate to prohibit the publication of:
  - (a) betting information relating to a licensed wagering operator, or
  - (b) betting information (of the kind prescribed by the regulations) relating to a wagering operator (other than a licensed wagering operator) prescribed by the regulations.

**[6] Section 30 Advertising betting information and betting services**

Omit section 30 (2). Insert instead:

- (2) Subsection (1) does not operate to prohibit the publication of an advertisement relating to a licensed wagering operator.
- (2A) This section does not limit the operation of any regulations relating to responsible practices in the conduct of betting, including regulations restricting or prohibiting the conduct of promotions or other activities (including advertising).

**[7] Section 30 (3) (a)**

Omit the paragraph. Insert instead:

- (a) to access the gambling operations carried on by any person other than a licensed wagering operator, or

**[8] Section 31 Premises used for publishing betting information or betting services**

Omit section 31 (2). Insert instead:

- (2) Subsection (1) does not apply in relation to:
  - (a) information of the kind referred to in section 29 (2), or
  - (b) any advertisement of the kind referred to in section 30 (2).

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**[9] Section 32 Betting information provided by authorised persons**

Omit the section.

**[10] Part 4, Division 3, heading**

Omit the heading to the Division. Insert instead:

**Division 3 Use of NSW race field information**

**[11] Sections 32A and 33**

Omit section 33. Insert instead:

**32A Meaning of “use NSW race field information”**

For the purposes of this Division, a person *uses NSW race field information* only if the person, whether in Australia or elsewhere:

- (a) publishes any NSW race field information, or
- (b) communicates any NSW race field information to a person (regardless of whether the person already knew the information), or
- (c) acknowledges or confirms any NSW race field information communicated to the person (including acknowledging or confirming the information by accepting, or facilitating the making of, a bet), or
- (d) makes a written or electronic record (such as a betting ticket, statement of account or notice) that contains or refers to any NSW race field information (regardless of whether the record is communicated to any person), or
- (e) uses any NSW race field information in a manner prescribed by the regulations, or
- (f) causes any of the activities referred to in paragraphs (a)–(e) to occur.

**33 Use of NSW race field information restricted**

- (1) A wagering operator or prescribed person must not use NSW race field information unless the wagering operator or person:
  - (a) is authorised to do so by a race field information use approval and complies with the conditions (if any) to which the approval is subject, or
  - (b) is authorised to do so by or under the regulations.

**Note.** In this Division, a *wagering operator* is defined to include a bookmaker, a person who operates a totalizator or a person who

operates a betting exchange (see section 27). **Bookmaker** is defined in section 4 to include any person who:

- (a) carries on the business of, or who acts as, a bookmaker, bookmaker's clerk or turf commission agent, or
- (b) gains, or endeavours to gain, a livelihood wholly or partly by betting or making wagers.

Maximum penalty:

- (a) in the case of a corporation—500 penalty units, or
  - (b) in any other case:
    - (i) for a first offence—50 penalty units or imprisonment for 12 months (or both), and
    - (ii) for a second or subsequent offence—100 penalty units or imprisonment for 2 years (or both).
- (2) It is a defence to a prosecution for an offence against this section if a wagering operator proves that the use of NSW race field information:
- (a) did not occur in connection with the making or accepting of a bet (or the offer to make or accept a bet), and
  - (b) did not occur in the course of the business of the wagering operator.
- (3) In this section, **prescribed person** means a person (or a person belonging to a class of persons) prescribed by the regulations.

**[12] Sections 33A–33D and 33F**

Omit “race field publication approval”, “race field publication approvals” and “publication of race fields” wherever occurring.

Insert instead “race field information use approval”, “race field information use approvals” and “the use of race field information”, respectively.

**[13] Sections 33A (1) and 33B (1)**

Omit “publish a NSW race field” wherever occurring.

Insert instead “use NSW race field information”.

**[14] Section 33B Applications for race field information use approvals**

Omit “the field” from section 33B (1). Insert instead “the information”.

**[15] Section 33F Effect of race field information use approval limited**

Omit “publish the NSW race field”.

Insert instead “use the NSW race field information”.

**[16] Section 36 Evidence**

Insert after section 36 (2):

- (2A) If a written publication or communication (including on the Internet) of NSW race field information refers to a person as being the person by whom or on whose behalf the publication or communication is made, the person so referred to is, in the absence of proof to the contrary, taken to have published or communicated the information.

**[17] Section 36 (3)**

Omit “subsection (2)”. Insert instead “subsections (2) and (2A)”.

**[18] Section 36 (3) and (4)**

Insert “or written publication or communication” after “advertisement” wherever occurring.

**[19] Section 40**

Insert after section 39:

**40 Certificate evidence**

In proceedings for an offence under section 33, a certificate purporting to be given by a relevant racing control body certifying that:

- (a) a specified wagering operator or other person was or was not the holder of a race field information use approval at a specified time or during a specified period, or
- (b) specified information is NSW race field information, is admissible and is prima facie evidence of the particulars certified in and by the certificate.

**[20] Schedule 1 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*the Racing Administration Amendment Act 2008*

**[21] Schedule 1, Part 6**

Insert after Part 5:

**Part 6 Provisions consequent on enactment of  
Racing Administration Amendment Act  
2008**

**11 Definition**

In this Part:

*amending Act* means the *Racing Administration Amendment Act 2008*.

**12 Race field publication approvals deemed to be race field  
information use approvals**

- (1) A race field publication approval in force immediately before the commencement of the amending Act is taken, with all necessary modifications but subject to the regulations, to be a race field information use approval.
- (2) Without limiting subclause (1), such a race field publication approval that authorises a person to publish a NSW race field in respect of a specified race or class of races is taken to authorise the person to use NSW race field information in respect of that race or class of races.

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## Schedule 2      Amendment of Racing Administration Regulation 2005

(Section 4)

**[1] Clause 12 Prohibitions on gambling-related advertising**

Omit “licensed bookmaker” wherever occurring.

Insert instead “licensed wagering operator”.

**[2] Clause 12 (1) (h)**

Insert at the end of clause 12 (1) (g):

, or

- (h) that offers any credit, voucher or reward as an inducement to participate, or to participate frequently, in any gambling activity (including as an inducement to open a betting account).

**[3] Clause 12 (3)**

Omit “(a)–(g)”. Insert instead “(a)–(h)”.

**[4] Part 3, heading**

Omit the heading to Part 3. Insert instead:

### **Part 3      Use of NSW race field information**

**[5] Clause 14 Interpretation**

Omit “race field publication approval” from the definition of *approval* in clause 14 (1).

Insert instead “race field information use approval”.

**[6] Clause 14 (1)**

Omit the definitions of *betting exchange*, *licensed wagering operator*, *totalizator* and *wagering operator*.

**[7] Clause 15 Authorisations to use NSW race field information: section 33 (1) (b)**

Omit “following publications of NSW race fields, whether in New South Wales or elsewhere,” from clause 15 (1).

Insert instead “following uses of NSW race field information, whether in Australia or elsewhere,”.

- [8] Clause 15 (1) (a)–(e)**  
Omit “publication” and “publications” wherever occurring.  
Insert instead “use” and “uses” respectively.
- [9] Clause 16 Fees for race field information use approvals: section 33A (2) (a)**  
Omit “publication in Australia of a NSW race field” in clause 16 (2) (a).  
Insert instead “use in Australia of NSW race field information”.
- [10] Clause 16 (2) (b)**  
Omit “publication of a NSW race field”.  
Insert instead “use of NSW race field information”.
- [11] Clause 16, note**  
Omit “publications”. Insert instead “information use”.
- [12] Clause 17 Other conditions on race field information use approvals: section 33A (2) (b)**  
Omit “publication” from clause 17 (b). Insert instead “use”.
- [13] Clause 19 Applications for race field information use approvals: section 33B (2)**  
Omit clause 19 (1) (c) (ii). Insert instead:  
(ii) details of the proposed use or uses of NSW race field information (including the race or class of races to which the approval is to relate and the time and manner of use), and
- [14] Clause 19 (1) (d) (iii)**  
Omit the subparagraph. Insert instead:  
(iii) details of the applicant’s history of wagering operations and uses of NSW race field information (including details of the applicant’s past wagering turnover in relation to racing in New South Wales),

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**[15] Clause 21 Exemption from prohibition on publication of information relating to dividends or betting odds: section 28 (2) and (3)**

Omit the clause.

[Agreement in principle speech made in Legislative Assembly on 29 October 2008  
Second reading speech made in Legislative Council on 25 November 2008]

BY AUTHORITY