



New South Wales

Racing Legislation Amendment Act 2009 No 21

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New South Wales

Racing Legislation Amendment Act 2009 No 21

Act No 21, 2009

An Act to repeal the *Greyhound and Harness Racing Administration Act 2004*, the *Greyhound Racing Act 2002* and the *Harness Racing Act 2002*; to amend other Acts and instruments consequentially; and for other purposes. [Assented to 15 May 2009]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Racing Legislation Amendment Act 2009*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Repeal of Acts

- (1) The *Greyhound and Harness Racing Administration Act 2004* is repealed.
- (2) The *Greyhound Racing Act 2002* is repealed.
- (3) The *Harness Racing Act 2002* is repealed.

Schedule 1 Amendment of Racing Appeals Tribunal Act 1983 No 199

[1] Long title

Insert “and appeals from certain decisions under the *Greyhound Racing Act 2009* and the *Harness Racing Act 2009*” after “*Thoroughbred Racing Act 1996*”.

[2] Section 4 Definitions

Omit the definition of *assessor* from section 4 (1).

[3] Section 4 (1)

Insert in alphabetical order:

GRNSW means Greyhound Racing New South Wales constituted under the *Greyhound Racing Act 2009*.

HRNSW means Harness Racing New South Wales constituted under the *Harness Racing Act 2009*.

[4] Section 8 Harness Racing Appeals Tribunal may be appointed as Tribunal

Omit the section.

[5] Section 8A

Omit the section. Insert instead:

8A Expert advice

The Tribunal may seek expert advice in connection with the hearing of an appeal from any person who, in its opinion, has special knowledge of, and experience in, the racing industry.

[6] Section 8B Functions of assessors

Omit the section.

[7] Section 10 Term of office

Omit section 10 (b).

[8] Section 12

Omit the section. Insert instead:

12 Remuneration

A person (not being a judge of any court) holding office as, or acting as, the Tribunal is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

[9] Section 13 Vacation of office

Omit “or a person holding office as an assessor” from section 13 (2).

[10] Section 13 (3) (b)

Omit the paragraph.

[11] Section 14 Effect of certain other Acts

Omit section 14 (1). Insert instead:

- (1) The *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a person as, or to act as, the Tribunal and a person holding office as, or acting as, the Tribunal is not, as the Tribunal, subject to that Act.

[12] Part 3, Division 1, heading

Insert before section 15:

Division 1 Appeals relating to thoroughbred racing

[13] Part 3, Division 2

Insert after section 15:

Division 2 Appeals relating to greyhound racing or harness racing

15A Appeals to Tribunal relating to greyhound racing

- (1) Any person who is aggrieved by any of the following decisions may, in accordance with the regulations, appeal against the decision to the Tribunal:
- (a) a decision of a greyhound racing club (within the meaning of the *Greyhound Racing Act 2009*) or a steward of a greyhound racing club,
 - (b) a decision of a steward of GRNSW.

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- (2) Any of the following persons or bodies that are aggrieved by a decision of GRNSW may, in accordance with the regulations, appeal against the decision to the Tribunal:
- (a) any person,
 - (b) a greyhound racing club (within the meaning of the *Greyhound Racing Act 2009*).

15B Appeals to Tribunal relating to harness racing

- (1) Any person who is aggrieved by any of the following decisions may, in accordance with the regulations, appeal against the decision to the Tribunal:
- (a) a decision of a harness racing club (within the meaning of the *Harness Racing Act 2009*),
 - (b) a decision of a steward of HRNSW.
- (2) Any of the following persons or bodies that are aggrieved by a decision of HRNSW may, in accordance with the regulations, appeal against the decision to the Tribunal:
- (a) any person,
 - (b) a harness racing club (within the meaning of the *Harness Racing Act 2009*).

Division 3 Procedure and regulations relating to appeals

[14] Section 17 Determination of appeals relating to thoroughbred racing

Insert “under section 15” after “appeal” where firstly occurring in section 17 (1).

[15] Section 17A

Insert after section 17:

17A Determination of appeals relating to greyhound racing or harness racing

- (1) The Tribunal may do any of the following in respect of an appeal under section 15A or 15B:
- (a) dismiss the appeal,
 - (b) confirm the decision appealed against or vary the decision by substituting any decision that could have been made by the steward, club or GRNSW or HRNSW (as the case requires),

- (c) make such other order in relation to the disposal of the appeal as the Tribunal thinks fit.
- (2) The decision of the Tribunal is final and is taken to be a decision of the person or body whose decision is the subject of the appeal.

[16] Section 20

Omit the section. Insert instead:

20 Expenses of Tribunal

- (1) Unless the Minister otherwise determines, the expenses (including remuneration payable to an expert under section 8A or payable under section 12) incurred by the Tribunal in the exercise of the functions of the Tribunal under this Act are to be met:
 - (a) by Racing NSW in relation to an appeal to the Tribunal under section 15, or
 - (b) by GRNSW in relation to an appeal to the Tribunal under section 15A, or
 - (c) by HRNSW in relation to an appeal to the Tribunal under section 15B.
- (2) If Racing NSW, GRNSW or HRNSW fails to meet any expenses it is required to meet under subsection (1), the Minister may recover the amount of those expenses from Racing NSW, GRNSW or HRNSW (as the case may be) as a debt in any court of competent jurisdiction.

[17] Schedule 1 Savings and transitional provisions

Insert before clause 1:

Part 1 General

[18] Schedule 1, clause 1

Insert at the end of clause 1 (1):

Racing Legislation Amendment Act 2009

[19] Schedule 1, Part 2, heading

Insert before clause 2:

Part 2 Provisions consequent on enactment of Thoroughbred Racing Board Amendment Act 1998

[20] **Schedule 1, Part 3, heading**

Insert before clause 3:

**Part 3 Provisions consequent on enactment of
Thoroughbred Racing Legislation
Amendment Act 2004**

[21] **Schedule 1, Part 4**

Insert after clause 3:

**Part 4 Provisions consequent on enactment of
Racing Legislation Amendment Act 2009**

4 Definitions

In this Part:

former Act means the *Greyhound and Harness Racing Administration Act 2004*.

former Authority means the Greyhound and Harness Racing Regulatory Authority constituted by the former Act.

former Tribunal means the Greyhound and Harness Racing Appeals Tribunal constituted by the former Act.

5 Pending proceedings before former Tribunal

- (1) If proceedings were commenced but not heard by the former Tribunal before its dissolution, the proceedings are taken to have been duly commenced in the Racing Appeals Tribunal.
- (2) If the former Tribunal had commenced to hear (but had not determined) a matter before its dissolution, the person or persons hearing the matter:
 - (a) are to continue to hear the matter, and to determine the matter, sitting as the Racing Appeals Tribunal, and
 - (b) have and may exercise, while sitting as the Racing Appeals Tribunal under this clause, all the functions that the former Tribunal had immediately before its dissolution.
- (3) A reference in section 20:
 - (a) to an appeal to the Tribunal under section 15A includes a reference to proceedings dealt with in accordance with this clause that relate to greyhound racing, and

(b) to an appeal to the Tribunal under section 15B includes a reference to proceedings dealt with in accordance with this clause that relate to harness racing.

(4) This clause applies despite any contrary provision of this Act.

6 Pending proceedings before Greyhound and Harness Racing Regulatory Authority

If an appeal was made to the former Authority under section 19 of the former Act before the repeal of that section and was not determined by that Authority before its dissolution, the appeal is taken to have been made to the Racing Appeals Tribunal under this Act and is to be determined by that Tribunal in accordance with this Act.

7 Regulations relating to greyhound racing and harness racing appeals

(1) The provisions of the *Greyhound and Harness Racing Administration (Appeals) Regulation 2004* (as in force immediately before the repeal of section 19 of the former Act) are taken to apply to appeals relating to greyhound racing and harness racing dealt with by the Tribunal under this Act until regulations are made under this Act in relation to those appeals.

(2) Despite subclause (1), those provisions apply with the following modifications:

(a) clause 6 of that Regulation is taken to provide for an appeal to the Tribunal in relation to a decision specified in that clause,

(b) a reference to the Tribunal is taken to be a reference to the Racing Appeals Tribunal,

(c) a reference to a provision of the former Act is taken to be a reference to the corresponding provision of this Act (if any),

(d) such other modifications as the Tribunal considers necessary.

(3) This clause extends to proceedings referred to in clause 5.

8 Special inquiries under former Act

A special inquiry that was commenced under section 24 of the former Act but was not completed before the repeal of that section is not to be continued after that repeal.

9 Orders

- (1) An order made under the former Act by the former Tribunal, being an order having effect immediately before the dissolution of the former Tribunal, is taken to be an order made by the Racing Appeals Tribunal under the corresponding provision of this Act.
- (2) Any application for an order made to the former Tribunal under the former Act and not determined before the dissolution of the former Tribunal is to continue to be dealt with as if made under this Act (but only if there is a corresponding provision of this Act under which the order could be made).

10 General savings

If anything done or commenced under the former Act in relation to the former Tribunal before its dissolution and still having effect or not completed immediately before that dissolution is something that could be done or commenced under this Act:

- (a) the thing done continues to have effect, or
- (b) the thing commenced may be completed, as if it had been done or commenced under this Act.

11 Assessors

On the repeal of section 8A by the *Racing Legislation Amendment Act 2009*, any person who immediately before that repeal held the position of assessor ceases to hold that position. No remuneration or compensation is payable to any such person as a result of the operation of this clause.

Schedule 2 Amendment of Sporting Venues (Pitch Invasions) Act 2003 No 44

[1] Long title

Insert “and racecourses” after “playing fields”.

[2] Section 1 Name of Act

Omit “*Pitch*”.

[3] Section 3 Interpretation

Insert in alphabetical order in section 3 (1):

controlling body for a race meeting or trial meeting means:

- (a) in the case of a race meeting or trial meeting for horse racing, Racing New South Wales constituted under the *Thoroughbred Racing Act 1996*, or
- (b) in the case of a race meeting or trial meeting for harness racing, Harness Racing New South Wales constituted under the *Harness Racing Act 2009*, or
- (c) in the case of a race meeting or trial meeting for greyhound racing, Greyhound Racing New South Wales constituted under the *Greyhound Racing Act 2009*.

race meeting has the same meaning as in the *Racing Administration Act 1998*.

racecourse means a racecourse licensed under the *Racing Administration Act 1998*.

sporting venue means a designated sporting venue or a racecourse.

trial meeting has the same meaning as in the *Racing Administration Act 1998*.

[4] Section 3 (1), definition of “designated sporting venue”

Omit “sporting” where firstly occurring.

[5] Section 3 (1), definition of “designated sporting venue”

Omit “sporting venue” from paragraph (c) of the definition.

Insert instead “venue for sporting activities”.

[6] Section 3 (1), definition of “venue director”

Omit the definition. Insert instead:

venue director means:

- (a) in the case of a designated sporting venue, the occupier of the venue and includes, in respect of a match at the venue, any person authorised by the occupier of the venue to be the venue director in respect of the match, or
- (b) in the case of a racecourse, the controlling body for the race meeting or trial meeting taking place at the racecourse.

[7] Part 2, heading

Omit the heading. Insert instead:

Part 2 Invasions at sporting venues

[8] Section 4A

Insert after section 4:

4A Racecourse invasions prohibited

- (1) A person must not enter or remain in or on a restricted area of a racecourse during a race meeting or trial meeting unless the person:
 - (a) is a rider or harness racing driver participating in the race meeting or trial meeting, or
 - (b) is authorised to do so by the controlling body for the race meeting or trial meeting or an authorised officer, or
 - (c) is engaged in the control or management of the race meeting or trial meeting, or
 - (d) is an authorised officer.Maximum penalty: 50 penalty units.
- (2) In this section, *restricted area of a racecourse* means:
 - (a) any racetrack, course proper or other racing surface, parade ring, race day tie-up stall, kennel or swabbing area, including any pathways connecting any of those places, or
 - (b) any other area of a racecourse that is prescribed by the regulations as a restricted area for the purposes of this section.

[9] Section 5 12-month ban for invasion of sporting venue

Omit “designated sporting venue for a contravention of section 4”.

Insert instead “sporting venue for a contravention of section 4 or 4A”.

[10] Section 6 Life ban for further invasion or entry of sporting venue when banned

Omit “designated” from section 6 (1).

[11] Section 6 (1) (a)

Insert “or 4A” after “section 4”.

[12] Section 13 Penalty notice amounts

Insert “or 4A” after “section 4” in section 13 (a).

Schedule 3 Amendment of other Acts and Regulations

3.1 Companion Animals Regulation 2008

Clause 16 Exemptions from registration requirement

Omit “*Greyhound and Harness Racing Administration Act 2004*”.

Insert instead “*Greyhound Racing Act 2009*”.

3.2 Defamation Act 2005 No 77

[1] Schedule 1 Additional publications to which absolute privilege applies

Insert at the end of clause 11 (b):

, or

- (c) in the course of proceedings in respect of an investigation conducted by the Integrity Assurance Committee under the *Thoroughbred Racing Act 1996* or by that Committee in a report that it makes in respect of such an investigation.

[2] Schedule 1, clause 12

Omit the clause. Insert instead:

12 Matters relating to GRNSW and HRNSW

Without limiting section 27 (2) (a)–(c), matter that is published:

- (a) by Greyhound Racing New South Wales in an official report of its decision in respect of any appeal relating to greyhound racing under the *Racing Appeals Tribunal Act 1983* or of the reasons for its decision, or
- (b) by Harness Racing New South Wales in an official report of its decision in respect of any appeal relating to harness racing under the *Racing Appeals Tribunal Act 1983* or of the reasons for its decision, or
- (c) in the course of proceedings in respect of an investigation conducted by the Greyhound Racing Integrity Auditor under the *Greyhound Racing Act 2009* or the Harness Racing Integrity Auditor under the *Harness Racing Act 2009* or by the Integrity Auditor in a report that he or she makes in respect of such an investigation.

[3] Schedule 3 Additional proceedings of public concern

Omit clause 4.

3.3 Fines Act 1996 No 99

Schedule 1 Statutory provisions under which penalty notices issued

Omit “*Sporting Venues (Pitch Invasions) Act 2003*”.

Insert instead “*Sporting Venues (Invasions) Act 2003*”.

3.4 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit “Greyhound and Harness Racing Regulatory Authority”.

3.5 Government and Related Employees Appeal Tribunal Act 1980 No 39

Schedule 4 Employing authorities

Omit “Greyhound and Harness Racing Regulatory Authority”.

3.6 New South Wales Retirement Benefits Act 1972 No 70

Schedule 2

Omit the matter relating to the Greyhound and Harness Racing Regulatory Authority.

3.7 Public Authorities Superannuation Act 1985 No 41

Schedule 3 Employers

Omit “The Greyhound and Harness Racing Regulatory Authority.” from Part 2.

3.8 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Greyhound and Harness Racing Regulatory Authority”.

3.9 Public Sector Employment and Management Act 2002 No 43

Schedule 1 Divisions of the Government Service

Omit the matter relating to the Greyhound and Harness Racing Regulatory Authority Division in Part 2.

3.10 Racing Administration Act 1998 No 114

[1] Section 4 Definitions

Omit the definition of *controlling body* from section 4 (1).

Insert instead:

controlling body means:

- (a) in relation to horse racing other than harness racing—
Racing New South Wales, and
- (b) in relation to harness racing—Harness Racing New South
Wales, and
- (c) in relation to greyhound racing—Greyhound Racing New
South Wales.

[2] Section 4 (2)

Omit the subsection.

[3] Section 15 Harness racing on showgrounds

Omit “the Greyhound and Harness Racing Regulatory Authority” from section 15 (1).

Insert instead “Harness Racing New South Wales”.

[4] Section 26C Bookmakers Revision Committee

Omit section 26C (1) (c). Insert instead:

- (c) the chief executive officer of Greyhound Racing New
South Wales,

[5] Schedule 1 Savings and transitional provisions

Insert after Part 6:

Part 7 Provisions consequent on enactment of Racing Legislation Amendment Act 2009

13 Existing approvals under section 15

An approval given for the purposes of section 15 (1) by the Greyhound and Harness Racing Regulatory Authority constituted under the *Greyhound and Harness Racing Administration Act 2004* before its dissolution is taken to have been given by Harness Racing New South Wales under that subsection.

3.11 Sporting Venues (Pitch Invasions) Regulation 2006

[1] Clause 1 Name of Regulation

Omit “*Pitch*”.

[2] Clause 2 Definition

Omit “*Pitch*”.

3.12 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers

Omit “Greyhound and Harness Racing Regulatory Authority” from Part 1.

3.13 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit “Greyhound and Harness Racing Regulatory Authority” from Part 1.

3.14 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit “Greyhound and Harness Racing Regulatory Authority” from Part 1.

3.15 Thoroughbred Racing Act 1996 No 37

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

GRNSW means Greyhound Racing New South Wales constituted under the *Greyhound Racing Act 2009*.

HRNSW means Harness Racing New South Wales constituted under the *Harness Racing Act 2009*.

IA Committee means the Integrity Assurance Committee established under this Act.

***rac*ing official** means a member of Racing NSW, the Chief Executive or a steward appointed by Racing NSW or other member of staff of Racing NSW.

[2] Section 6 Membership

Omit section 6 (2) (d). Insert instead:

- (d) is registered by or with GRNSW under the *Greyhound Racing Act 2009* or HRNSW under the *Harness Racing Act 2009*, or

[3] Section 18A

Insert after section 18:

18A Arrangements for use of staff and facilities of HRNSW or GRNSW

- (1) Racing NSW may arrange for the use of the services of any staff or facilities of HRNSW or GRNSW.
- (2) For the purposes of this Act, a person whose services are utilised by Racing NSW under this section is taken to be a member of staff of Racing NSW in the exercise of functions by the person under this Act.
- (3) Without limiting subsection (1), Racing NSW may arrange for a steward appointed by HRNSW or GRNSW to perform the functions of a steward under this Act. Any such person is taken to have been appointed by Racing NSW as a steward for the purposes of this Act while exercising functions under this Act in accordance with those arrangements.
- (4) Without limiting subsection (1), Racing NSW may arrange to share with HRNSW or GRNSW any equipment, information technology (such as computer software) or office, or any administrative system relating to licensing or registration.
- (5) Racing NSW is not authorised to enter into an arrangement under this section in relation to stewards, licensing or registration without the consent of the Minister.
- (6) The consent of the Minister under subsection (5):
 - (a) may be given in relation to a particular arrangement or a class of arrangements, and
 - (b) may be subject to conditions, and
 - (c) may be amended from time to time.

[4] Section 23 Integrity Assurance Committee

Insert “or as are conferred on it by this Act” after “confer on it” in section 23 (1).

[5] Sections 23A and 23B

Insert after section 23:

23A Inquiries and investigations by Integrity Assurance Committee in relation to complaint

- (1) A person may make a complaint to the IA Committee in respect of the exercise of functions by a racing official relating to horse racing.
- (2) On receiving a complaint from a person under this section, the IA Committee must investigate the complaint with due diligence unless the Committee considers that the complaint:
 - (a) is frivolous, vexatious or not made in good faith, or
 - (b) is trivial, or
 - (c) does not relate to the exercise of functions by a racing official in a corrupt, improper or unethical manner.
- (3) If the IA Committee decides to investigate a complaint, the Committee must inform the racing official concerned of the substance of the complaint and give the racing official a reasonable opportunity to respond to it.
- (4) The IA Committee may, by notice in writing, require a racing official who is the subject of an investigation under this section to do one or more of the following things:
 - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as, in the opinion of the Committee, is relevant to the investigation and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Committee, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Committee such authorisations and consents as the Committee requires for the purpose of enabling the Committee to obtain information (including financial and other confidential information) from other persons concerning the person under investigation.

- (5) A person who complies with a requirement of a notice under subsection (4) does not on that account incur a liability to another person.
- (6) A person must not fail to comply with a requirement of the IA Committee contained in a notice under subsection (4).
Maximum penalty (subsection (6)): 20 penalty units.

23B Action after investigation of complaint

- (1) The IA Committee must provide a report in writing of the results of the investigation of a complaint to Racing NSW and the Minister if satisfied that those results indicate that there has been a contravention of this or any other Act in relation to the conduct of horse racing or a contravention of the code of conduct adopted by Racing NSW under section 11A.
- (2) If such a report identifies any racing official in an adverse manner, the IA Committee must also give a copy of the report to the racing official.
- (3) The IA Committee must inform the person who made the complaint of whether a report has been made under this section or whether the Committee considers that the complaint does not warrant such a report being made.

3.16 Totalizator Act 1997 No 45

[1] Section 105 Secrecy

Omit “the Greyhound and Harness Racing Regulatory Authority,” from section 105 (2) (c).

[2] Schedule 2 Savings, transitional and other provisions

Omit “the Greyhound and Harness Racing Regulatory Authority,” from clause 11 (5) (e).

[Agreement in principle speech made in Legislative Assembly on 2 April 2009

Second reading speech made in Legislative Council on 12 May 2009]

BY AUTHORITY