



New South Wales

Betting and Racing Regulation 2022

under the

Betting and Racing Act 1998

His Honour the Administrator, with the advice of the Executive Council, has made the following Regulation under the *Betting and Racing Act 1998*.

KEVIN ANDERSON, MP
Minister for Hospitality and Racing

Explanatory note

The object of this Regulation is to remake, with changes, the *Betting and Racing Regulation 2012* which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

This Regulation provides for the following—

- (a) the prescription of persons or bodies as the sports controlling body for a sporting event,
- (b) the changes a sports controlling body must notify the Minister of,
- (c) the regulation of race field information use approvals granted by the relevant racing control body to betting service providers, including by prescribing—
 - (i) requirements for fees imposed as conditions on approvals, and
 - (ii) permissible conditions that may be imposed on approvals, and
 - (iii) the grounds for cancelling or varying approvals, and
 - (iv) requirements for applications for approvals, and
 - (v) the criteria the relevant racing control body must take into account when determining applications for approvals,
- (d) the regulation of responsible gambling practices,
- (e) the prescription of certain fees payable under the Act,
- (f) the exemption of a person who is a member of the Communications Alliance from an offence prohibiting a person from providing online access to—
 - (i) unauthorised gambling operations, or
 - (ii) information about unauthorised gambling operations,
- (g) the prescription of offences for which a court may impose certain remedial orders in relation to a person found guilty of the offence,
- (h) requirements imposed on a sports controlling body that enters into certain integrity agreements,
- (i) the offences under the *Gaming and Liquor Administration Act 2007*, the *Betting and Racing Act 1998* and this Regulation for which penalty notices may be issued, including the amounts payable.

The exemption specified at paragraph (f) is arguably made under a Henry VIII provision because the exemption impliedly amends the *Betting and Racing Act 1998* by affecting the application of the Act.

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
Part 2 Sports controlling bodies—the Act, s 17B(3) and (4)	
4 Application to be sports controlling body	5
5 Sports controlling body to inform Minister of change in circumstances	5
Part 3 Use of NSW race field information	
6 Definitions	6
7 Meaning of “close associate”	6
8 Fees for approvals—the Act, s 33A	7
9 Permissible conditions for approvals—the Act, s 33A	7
10 Permissible conditions to preserve integrity of racing in New South Wales—the Act, s 33A	8
11 Grounds for cancelling or varying approvals—the Act, s 33A	9
12 Applications for approvals—the Act, s 33B	9
13 Criteria for determining applications—the Act, s 33B	10
Part 4 Responsible gambling practices	
14 Definition	11
15 Advisory statement—the Act, s 33H	11
16 Problem gambling information brochures—the Act, s 37	11
17 Counselling and gambling help notices to be displayed—the Act, s 37	11
18 Gambling information and warnings—the Act, s 37	12
Part 5 Miscellaneous	
19 Fees—the Act, ss 17B, 18 and 19	13
20 Exemption from offence for giving access to unlicensed betting service providers—the Act, s 30	13
21 Remedial orders—the Act, s 35A	13
22 Notice of integrity agreement—the Act, s 37	13
23 Savings	13
Schedule 1 Penalty notice offences	14
Schedule 2 Fees	16

Betting and Racing Regulation 2022

under the

Betting and Racing Act 1998

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Betting and Racing Regulation 2022*.

2 Commencement

This Regulation commences on 1 September 2022.

Note— This Regulation replaces the *Betting and Racing Regulation 2012*, which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

In this Regulation—

applicant, for Part 3—see section 6.

approval, for Part 3—see section 6.

approval application, for Part 3—see section 6.

approval holder, for Part 3—see section 6.

close associate, for Part 3—see section 6.

CPI number, for Schedule 2—see Schedule 2, section 1.

fee unit, for Schedule 2—see Schedule 2, section 2(1).

financial year, for Schedule 2—see Schedule 2, section 1.

key employee, for Part 3—see section 6.

Liquor & Gaming NSW, for Part 4—see section 14.

Secretary means the Secretary of the Department of Enterprise, Investment and Trade.

the Act means the *Betting and Racing Act 1998*.

wagering turnover, for Part 3—see section 6.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

Part 2 Sports controlling bodies—the Act, s 17B(3) and (4)

4 Application to be sports controlling body

- (1) A person or body may apply to the Minister to be prescribed as the sports controlling body for a sporting event.
- (2) The application must—
 - (a) be in the form approved by the Minister, and
 - (b) specify the sporting event to which the application relates, and
 - (c) be accompanied by the fee specified in Schedule 2, Part 1, Item 1.
- (3) The Minister may request further information from the applicant for the purposes of assessing the application.
- (4) The Minister must consider the following when assessing the application—
 - (a) if the applicant is the most appropriate person or body to be the sports controlling body for the sporting event,
 - (b) the degree of the applicant’s control over the organisation of the event,
 - (c) how the applicant intends to ensure betting services are conducted responsibly and with integrity,
 - (d) the applicant’s level of experience in managing sporting events,
 - (e) the public interest.

5 Sports controlling body to inform Minister of change in circumstances

- (1) A sports controlling body must give the Minister written notice of the following changes within 14 days of the change—
 - (a) a change in the degree of the body’s control over the organisation of the sporting event,
 - (b) a change in the membership of the body’s board of directors,
 - (c) a change in the body’s financial circumstances, including insolvency,
 - (d) a change in the persons or bodies with a controlling interest in the body,
 - (e) the commencement of criminal proceedings against the body.Maximum penalty—50 penalty units.
- (2) For subsection (1), if the sports controlling body is not a person, each member of the sports controlling body’s governing body must ensure the Minister is given written notice of the change.

Part 3 Use of NSW race field information

6 Definitions

In this Part—

applicant means an applicant for an approval.

approval means a race field information use approval.

approval application means an application for a race field information use approval.

approval holder means a person who holds an approval.

close associate—see section 7(1).

key employee, for an applicant or an approval holder, means a person, whether or not appointed under a contract of service, who—

- (a) manages or supervises the applicant's or approval holder's wagering operations, or
- (b) is authorised to make decisions regulating the applicant's or approval holder's wagering operations, or
- (c) is concerned or engaged in the applicant's or approval holder's wagering operations.

wagering turnover, in relation to a race or class of races, means the total amount of wagers made on the backers side of a wagering transaction in connection with the race or class of races.

7 Meaning of “close associate”

(1) For this Part, a person is a **close associate** of an applicant or an approval holder if the person—

- (a) is or will be able, in the opinion of the relevant racing control body, to exercise significant influence over the applicant's or approval holder's business because the person—
 - (i) holds or will hold a relevant financial interest in the business, or
 - (ii) is or will be entitled to exercise a relevant power in the business, or
- (b) holds or will hold a relevant position, whether in the person's own right or on behalf of another person, in the applicant's or approval holder's business.

(2) In this section—

relevant financial interest, in a business, means—

- (a) a share in the capital of the business, or
- (b) an entitlement to receive income derived from the business, whether the entitlement is at law, in equity or otherwise.

relevant position means—

- (a) the position of director, manager or secretary, or
- (b) another executive position, however described.

relevant power means a power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

- (a) to participate in the making of a decision that may only be made by a person in a relevant position, or
- (b) to elect or appoint a person to a relevant position.

8 Fees for approvals—the Act, s 33A

- (1) For the Act, section 33A(2)(a), a relevant racing control body may impose a condition for an approval holder to pay the following fees—
 - (a) a fee to cover the cost of assessing the approval application,
 - (b) a fee for the use of NSW race field information—
 - (i) in Australia in the course of providing a betting service, or
 - (ii) for a commercial purpose, other than in the course of providing a betting service.
- (2) A fee imposed for the use of NSW race field information in the course of providing a betting service—
 - (a) must not exceed 4% of the approval holder's wagering turnover if the holder's wagering turnover is from wagers laid by the holder—
 - (i) at totalizator derived odds, and
 - (ii) at races to which the approval relates, and
 - (b) if the holder's wagering turnover is not from wagers laid by the holder at totalizator odds—
 - (i) must not exceed 3% of the holder's wagering turnover for a race to which the approval relates at a race meeting where the total value of all prizes for at least 1 race is \$1,000,000 or more, and
 - (ii) must not exceed 2.5% of the holder's wagering turnover for any other race to which the approval relates, and
 - (c) must include GST.
- (3) In this section—

GST has the same meaning as in the *A New Tax System (Goods and Services) Tax Act 1999* of the Commonwealth.

totalizator derived odds means odds derived from or contingent on totalizator odds, but does not include totalizator odds.

totalizator odds means odds dependent on the outcome of a totalizator.

9 Permissible conditions for approvals—the Act, s 33A

For the Act, section 33A(2)(b), the following kinds of conditions are prescribed as permissible conditions—

- (a) conditions specifying the duration of the approval, including a condition that the approval operates until it expires or is cancelled,
- (b) conditions specifying the way in which NSW race field information may be used under the approval,
- (c) conditions requiring the approval holder to notify the relevant racing control body of certain matters, including the following—
 - (i) a change in the persons or bodies with a controlling interest in the approval holder,
 - (ii) a change in the approval holder's financial circumstances, including insolvency or a significant improvement in wagering turnover,
 - (iii) the commencement of proceedings, including disciplinary action, against the approval holder in New South Wales or elsewhere under legislation or rules in relation to betting or racing,
- (d) conditions requiring the approval holder to give the relevant racing control body information, including the approval holder's financial and wagering

records, to enable the body to audit and assess the holder's compliance with the approval,

- (e) conditions specifying the times within which the approval holder must pay fees due under the approval,
- (f) conditions requiring the approval holder to give the relevant racing control body information about the approval holder's wagering turnover in the way and within the times specified in the condition,
- (g) if the approval holder conducts wagering operations in Australia—conditions requiring the approval holder to hold, and continue to hold, a licence or authority, however described, under a relevant State or Territory law that authorises the approval holder to carry out wagering operations.

Note— An approval may be given for a single race or class of races—see the Act, section 33A(1). A class may be defined in many ways, including by geography or time.

10 Permissible conditions to preserve integrity of racing in New South Wales—the Act, s 33A

- (1) In addition to this Regulation, section 9, for the Act, section 33A(2)(b), conditions to preserve the integrity and reputation of the relevant kind of racing in New South Wales are prescribed as permissible conditions, including the following conditions requiring the approval holder—
 - (a) to give the relevant racing control body access to all the approval holder's betting information and analyses in relation to the races covered by the approval,
 - (b) to give information to an inquiry or investigation specified by the relevant racing control body, within the time specified by the body,
 - (c) to permit the relevant racing control body to monitor wagering activity that relates to the races covered by the approval,
 - (d) to cooperate with either of the following, including by providing requested details of a betting account to the inquiry—
 - (i) an inquiry carried out by the relevant racing control body,
 - (ii) an inquiry or investigation carried out by a racing control body in another jurisdiction,
 - (e) not to open or maintain an account for a person who has been—
 - (i) warned off, or prohibited from attending, a racecourse by a relevant racing control body, or
 - (ii) disqualified from participating in racing activities by a relevant racing control body,
 - (f) not to open an account for a person who has not provided sufficient evidence of the person's identity,
 - (g) to use a secure system to record the holder's wagering operations to ensure a proper audit trail is kept,
 - (h) to participate in an online wagering monitoring system specified by the relevant racing control body,
 - (i) to accept a bet, up to a maximum amount specified in the condition, at odds that are publicly displayed by the approval holder, including by requiring the approval holder to—
 - (i) do anything to comply with the condition, or
 - (ii) not do anything to avoid compliance with the condition, for example closing or placing restrictions on a person's betting account.

- (2) In this section—
publicly display, in relation to odds, means to display odds to the public generally including—
- (a) on a semaphore board, or
 - (b) at an electronic betting terminal, or
 - (c) on a website, without requiring a person to identify themselves, for example, by requiring a person to log in or to provide personal information.

11 Grounds for cancelling or varying approvals—the Act, s 33A

- (1) For the Act, section 33A(4), the following grounds for cancelling or varying an approval are prescribed—
- (a) the breach of a condition of the approval,
 - (b) a change in the persons who have a controlling interest in the approval holder,
 - (c) the conviction of the approval holder or a key employee of an offence, in New South Wales or elsewhere,
 - (d) the taking of disciplinary action against the approval holder or a key employee under legislation in relation to betting or racing, in New South Wales or elsewhere,
 - (e) the employment of a person as a key employee if the person has—
 - (i) a criminal record, or
 - (ii) been subject to disciplinary action under legislation in relation to betting or racing, in New South Wales or elsewhere.
- (2) The following grounds for varying an approval are prescribed—
- (a) the relevant racing control body considers it necessary to do either of the following to preserve the integrity and reputation of the type of racing that is the subject of the approval in New South Wales—
 - (i) impose a condition specified in section 10(1)(i),
 - (ii) if the approval holder is already subject to the condition—vary the maximum amount specified in the condition,
 - (b) a change in the approval holder's financial circumstances, including insolvency or a significant improvement in wagering turnover,
 - (c) an amendment to section 8(2) that changes the way in which a fee imposed for the use of NSW race field information in the course of providing a betting service is calculated.

12 Applications for approvals—the Act, s 33B

- (1) For the Act, section 33B(2)(a), an approval application must be made—
- (a) in writing, and
 - (b) in the form published by the relevant racing control body, and
 - (c) at least 30 days before—
 - (i) the race to which the approval relates, or
 - (ii) if the approval relates to a class of races—the first race in the class of races to which the approval relates.
- (2) For the Act, section 33B(2)(b), the application must be accompanied by the following information—
- (a) the name and contact details of the applicant,

- (b) how the applicant intends to use NSW race field information, including the following—
 - (i) the race or class of races to which the application relates,
 - (ii) the types of wagering to which the NSW race field information relates,
 - (iii) if the information is intended to be published—when and how the applicant intends to publish the information,
- (c) the applicant's licence number, whether issued in New South Wales or elsewhere,
- (d) the types of wagering provided by the applicant,
- (e) the applicant's history of providing betting services and using NSW race field information, including information about the applicant's wagering turnover in relation to racing in New South Wales,
- (f) the criminal history, if any, of the applicant and the applicant's key employees and close associates, if known to the applicant,
- (g) disciplinary action, if any, taken against the applicant and the applicant's key employees and close associates under legislation in relation to betting or racing, whether in New South Wales or elsewhere, if known to the applicant,
- (h) copies of policies and procedures required by the relevant racing control body for dealing with racing integrity issues in New South Wales.

13 Criteria for determining applications—the Act, s 33B

- (1) For the Act, section 33B(3)(b) and (4)(a), the relevant racing control body must take into account the following criteria when determining an approval application—
 - (a) whether the applicant is a fit and proper person to hold the approval,
 - (b) whether granting the approval would undermine the integrity of the race for which the approval is sought,
 - (c) whether the applicant holds a licence, however described, under the legislation of another State or Territory to carry out wagering operations.
- (2) For the Act, section 33B(3)(b) and (4)(b), the relevant racing control body must not take into account the following criteria in determining an approval application—
 - (a) if the applicant is an individual—the location of the individual's residential premises or office premises,
 - (b) if the applicant is a corporation—the location of the corporation's head office,
 - (c) whether the applicant is licensed under New South Wales legislation, rather than the legislation of another State or Territory.

Part 4 Responsible gambling practices

14 Definition

In this Part—

Liquor & Gaming NSW means the part of the Department of Enterprise, Investment and Trade comprising the group of staff who are principally involved in administering the Act.

15 Advisory statement—the Act, s 33H

For the Act, section 33H(3), the prescribed advisory statement is—

Help is close at hand

www.gambleaware.nsw.gov.au

1800 858 858

16 Problem gambling information brochures—the Act, s 37

- (1) For the Act, section 37(3), a non-proprietary association that conducts a race meeting at a licensed racecourse must—

- (a) ensure copies of a problem gambling information brochure are available in each part of the racecourse in which betting service providers conduct a betting service, and
- (b) position the copies in a way that is reasonable to expect that a person in that part of the premises would be alerted to the copies, and
- (c) in response to a request for a copy of a foreign language problem gambling information brochure—give a copy of the brochure to the person, in the language requested, as soon as possible after receiving the request.

Maximum penalty—50 penalty units.

- (2) In this section—

foreign language problem gambling information brochure means a brochure containing the telephone number for GambleAware in a language other than English—

- (a) approved by the Secretary, and
- (b) published on the Liquor & Gaming NSW website.

GambleAware means the counselling and support service funded by the Responsible Gambling Fund.

problem gambling information brochure means a brochure containing the telephone number for GambleAware—

- (a) approved by the Secretary, and
- (b) published on the Liquor & Gaming NSW website.

Responsible Gambling Fund means the Fund established under the *Casino Control Act 1992*, section 115.

17 Counselling and gambling help notices to be displayed—the Act, s 37

- (1) For the Act, section 37(3) and (4)(c), a non-proprietary association that conducts a race meeting at a licensed racecourse must—

- (a) display a copy of the counselling notice near the main entrance to the racecourse and in each part of the racecourse in which betting is conducted, and

- (b) position a copy of the counselling notice in a way that it is reasonable to expect a person in that part of the racecourse would be alerted to the contents of the notice, and
- (c) display a copy of the gambling help notice on each automatic teller machine (*ATM*) and electronic funds transfer (*EFT*) facility at the racecourse.

Maximum penalty—50 penalty units.

- (2) A gambling help notice displayed on an ATM or EFT facility may consist of a permanently visible light emitting display.

- (3) In this section—

counselling notice means a notice approved by the Secretary—

- (a) containing a statement about problem gambling help options, and
- (b) published on a website maintained by Liquor & Gaming NSW.

gambling help notice means a notice approved by the Secretary—

- (a) containing a statement about problem gambling help options for the purposes of ATMs and EFT facilities, and
- (b) published on a website maintained by Liquor & Gaming NSW.

18 Gambling information and warnings—the Act, s 37

For the Act, section 37(3) and (4)(d), a licensed bookmaker must ensure that each ticket sold or given to a person for the purposes of placing a bet contains the following information—

Help is close at hand

www.gambleaware.nsw.gov.au

1800 858 858

Maximum penalty—50 penalty units.

Part 5 Miscellaneous

19 Fees—the Act, ss 17B, 18 and 19

- (1) For the Act, sections 17B(3), 18(6) and 19(3), the fees specified in Schedule 2, Part 1, are prescribed.
- (2) The fees are to be adjusted for inflation in accordance with Schedule 2, Part 2.

20 Exemption from offence for giving access to unlicensed betting service providers—the Act, s 30

For the Act, section 30(4), a person who is a member of the Communications Alliance is exempt from the operation of the Act, section 30(3).

21 Remedial orders—the Act, s 35A

For the Act, section 35A(1), the following offences are prescribed—

- (a) offences under the Act, sections 29, 30, 33, 33H and 33J,
- (b) offences under this Regulation, sections 16(1), 17(1) and 18.

22 Notice of integrity agreement—the Act, s 37

- (1) This section applies for the Act, section 37(3).
- (2) A sports controlling body must, as soon as possible after entering into an integrity agreement referred to in the Act, section 18A or 18C, give the Minister written notice of the day on which the agreement was entered into.
- (3) The Minister may require a sports controlling body to publish a notice, in the way determined by the Minister, stating that the body has entered into an integrity agreement referred to in the Act, section 18C.

23 Savings

An act, matter or thing that, immediately before the repeal of the *Betting and Racing Regulation 2012*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

1 Application of Schedule

- (1) For the Act, section 35AA—
- (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
- (a) that limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Provision	Penalty—individuals	Penalty—corporations
Offences under the Gaming and Liquor Administration Act 2007 as applied by the Act, section 33O		
Section 34(4)	\$1,100	\$1,100
Offences under the Act		
Section 14(1)	\$220	\$220
Section 17	\$550	\$1,100
Section 18C(1)	\$550	\$2,750
Section 19(1)	\$550	\$2,750
Section 26GA	\$1,100	\$1,100
Section 26GB	\$1,100	\$1,100
Section 26GC	\$1,100	\$1,100
Section 29(1)	\$550	\$2,750
Section 30(1) and (3)	\$550	\$2,750
Section 31(1)	\$550	\$2,750
Section 33H(1), (4) and (5)	\$5,500	\$15,000
Section 33HA	\$5,500	\$15,000
Section 33I(2)	\$2,750	\$13,750
Section 33J	\$2,750	\$13,750
Section 33JA	\$5,500	\$15,000
Section 33JB	\$5,500	\$15,000
Section 33JC	\$5,500	\$15,000
Section 33JG	\$5,500	\$15,000
Section 33JK	\$5,500	\$15,000
Offences under this Regulation		
Section 5(1)	\$550	\$550
Section 16(1)	\$550	—

Provision	Penalty—individuals	Penalty—corporations
Section 17(1)	\$550	—
Section 18	\$550	\$550

Schedule 2 Fees

section 19

Part 1 Fees payable

Item	Type of fee	Fee (in fee units)
1	Application to be prescribed as sports controlling body—this Regulation, s 4(2)(c)	5.2
2	Application under the Act, s 18(4) for an order prescribing a declared betting event—the Act, s 18(6)	10
3	Application for grant of a declared betting event authority—the Act, s 19(3)	1

Part 2 Adjustment of fees for inflation

1 Definitions

In this Part—

CPI number means the Consumer Price Index, All Groups Index, for Sydney published by the Australian Bureau of Statistics in the latest published series of the index.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit for purposes of Regulation

- (1) For this Regulation, a **fee unit** is—
 - (a) in the financial year 2022–23—\$500, and
 - (b) in each subsequent financial year—the amount calculated as follows—

$$\$500 \times \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2022.

- (2) The amount of a fee unit is to be rounded to the nearest cent, and an amount of 0.5 cent is to be rounded down.
- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

3 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit is to be rounded to the nearest dollar, and an amount of 50 cents is to be rounded down.

4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Bureau of Statistics, the Secretary is required to—

- (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of the amount can be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Part.
- (2) This Part operates to change an amount of a fee that is calculated by reference to a fee unit and the change is not dependent on the notification or other notice required by this section.