

[Act 2002 No 15]



New South Wales

Racing Legislation Amendment (Bookmakers) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Greyhound Racing Authority Act 1985*, the *Harness Racing New South Wales Act 1977* and the *Thoroughbred Racing Board Act 1996* to allow eligible proprietary companies to be authorised as bookmakers under those Acts, and
- (b) to provide that any debt that is incurred by a company in carrying on business as a bookmaker so authorised is enforceable jointly and severally against all persons who are directors of the company at the time the debt is incurred, and
- (c) to amend the *Racing Administration Act 1998* to provide that any debt that is incurred by a company in carrying on business as a sports betting bookmaker authorised under that Act is enforceable jointly and severally against all

* Amended in committee—see table at end of volume.

- persons who are directors of the company at the time the debt is incurred, and
- (d) to provide for separate individual and corporate penalties in relation to certain offences under the *Racing Administration Act 1998* and the *Unlawful Gambling Act 1998* involving authorised bookmakers, and
 - (e) to make consequential and ancillary amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Greyhound Racing Authority Act 1985* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Harness Racing New South Wales Act 1977* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to the *Thoroughbred Racing Board Act 1996* set out in Schedule 3.

Clause 6 is a formal provision giving effect to the amendments to the *Racing Administration Act 1998* set out in Schedule 4.

Clause 7 is a formal provision giving effect to the amendments to the *Unlawful Gambling Act 1998* set out in Schedule 5.

Schedule 1 Amendment of Greyhound Racing Authority Act 1985

Schedule 1 [1] inserts a new section 9AA. The section provides that proprietary companies (as well as natural persons) may apply for registration as a bookmaker under the principal Act. However, the Greyhound Racing Authority must refuse to grant an application to register a company as a bookmaker unless satisfied it is an *eligible company*. The proposed section sets out the relevant criteria in this regard, including the following:

- (a) the company must be taken to be registered in New South Wales for the purposes of the *Corporations Act 2001* of the Commonwealth,
- (b) each director must be registered as an individual as a bookmaker under the Act,

- (c) each shareholder or person concerned in the management of the company who is not a director must, in the opinion of the Authority, be a fit and proper person to be so registered (with the proposed section also providing that it is a condition of the company's registration as a bookmaker that such persons not be registered as individuals as bookmakers under the Act),
- (d) each shareholder who is not a director must be a close family member of a director.

The proposed section sets out certain conditions imposed on a company's registration as a bookmaker. Broadly, these relate to the extent to which persons who are directors, shareholders or persons concerned in the management of a company registered as a bookmaker under the Act are prohibited from operating or participating in the operation of, or having a financial interest in, other bookmaking and related businesses in New South Wales, the States and Territories, and other countries.

The proposed section also provides that any debt that is incurred by a company in carrying on business as a bookmaker registered under the Act is enforceable jointly and severally against all persons who are directors of the company at the time the debt is incurred.

Schedule 1 [2] amends Schedule 3 to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed amending Act.

Schedule 2 Amendment of Harness Racing New South Wales Act 1977

Schedule 2 [1] inserts a new section 9A which mirrors section 9AA of the *Greyhound Racing Authority Act 1985* (as outlined above).

Schedule 2 [2] amends Schedule 5 to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed amending Act.

Schedule 3 Amendment of Thoroughbred Racing Board Act 1996

Schedule 3 [1] inserts a new section 14A which mirrors proposed section 9AA of the *Greyhound Racing Authority Act 1985* (as outlined above) and proposed section 9A of the *Harness Racing New South Wales Act 1977*.

Schedule 3 [2] amends Schedule 1 to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed amending Act.

Schedule 4 Amendment of Racing Administration Act 1998

Schedule 4 [1] amends the penalty provision applying to the offence of conducting unauthorised telephone or electronic betting by a licensed bookmaker. The proposed amendment applies the existing penalty to individual offenders and provides for a monetary penalty (twice that applying to individuals) for corporate offenders.

Schedule 4 [2] inserts a new section 19A which provides that any debt that is incurred by a company in carrying on business as a sports betting bookmaker authorised under the Act is enforceable jointly and severally against all persons who are directors of the company at the time the debt is incurred. (The principal Act currently provides for the authorisation of bookmakers registered under the *Greyhound Racing Authority Act 1985* or the *Harness Racing New South Wales Act 1977*, or licensed under the *Thoroughbred Racing Board Act 1996*, to take bets on specified sports betting events.)

Schedule 4 [3] and **[4]** substitute sections 26D (4) and 26E, respectively, in order to provide for further grounds on which the Bookmakers Revision Committee may refuse to issue a State bookmakers tax authority to an applicant, or revoke such an authority once issued. These further grounds take into account the proposed company operating structure for bookmakers.

Schedule 4 [5] inserts a new section 36B which makes directors and managers of a corporation liable for the corporation's contravention of the Act or the regulations unless they satisfy the court that they had no knowledge of the contravention, were not in a position to influence the conduct of the corporation in relation to the contravention or that they used all due diligence to prevent the contravention. This provision does not affect the liability of corporations.

The new section also provides that evidence that an officer, employee or agent of a corporation had, at any particular time, a particular intention, is evidence that the corporation had that intention.

Schedule 4 [6] amends Schedule 1 to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed amending Act.

Schedule 5 Amendment of Unlawful Gambling Act 1998

Schedule 5 [1] amends the penalty provision applying to the offence of unlawful bookmaking by a licensed bookmaker. The proposed amendment applies the existing penalty to individual offenders and provides for a monetary penalty (twice that applying to individuals) for corporate offenders.

Schedule 5 [2] amends Schedule 1 to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed amending Act.