

[Act 1998 No 66]



New South Wales

Thoroughbred Racing Board Amendment Bill 1998

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Thoroughbred Racing Board Act 1996* to clarify that the NSW Thoroughbred Racing Board has a discretion in deciding whether to conduct proceedings in respect of its inquiries in public or in private.
- (b) to amend the *Thoroughbred Racing Board Act 1996* and the *Racing Appeals Tribunal Act 1983* to provide a right of direct appeal to the Racing Appeals Tribunal from certain decisions of the Board (relating to disciplinary matters such as disqualification or warning off, revocation or suspension of licence, and imposition of a penalty), and to remove the present right of appeal from such decisions to the Appeal Panel,

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

- (c) to amend the *Defamation Act 1974* to clarify that certain defences (including absolute privilege) are available in defamation actions that concern publications in the course of proceedings with respect to inquiries conducted by the Board, and reports published in respect of such inquiries.

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 *Thoroughbred Racing Board Act 1996* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Racing Appeals Tribunal Act 1983* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to the *Defamation Act 1974* set out in Schedule 3.

Schedule 1 Amendment of Thoroughbred Racing Board Act 1996

Schedule 1 [1] amends section 19 of the *Thoroughbred Racing Board Act 1996* to clarify that the Board has a discretion to decide whether to conduct its inquiries in public or in private, or partly in public and partly in private.

Schedule 1 [2] amends section 42 of the Act to remove the right of appeal to the Appeal Panel that currently lies from certain decisions of the Board. This amendment is consequential on **Schedule 2 [1]** to the proposed Act which provides for a right of direct appeal to the Racing Appeal Tribunal from such decisions.

Schedule 1 [3] enables regulations of a savings and transitional nature to be made as a consequence of the amendments made by the proposed Act.

Schedule 1 [4] inserts a savings and transitional provision (relating to pending appeals) as a consequence of the amendments made by the proposed Act.

Schedule 2 Amendment of Racing Appeals Tribunal Act 1983

Schedule 2 [1] amends section 15 of the *Racing Appeals Tribunal Act 1983* to provide for a direct appeal to the Tribunal from decisions of the Board. The *Racing Appeals Tribunal Regulation 1994* currently provides that the Tribunal may hear an appeal only in respect of certain decisions (being decisions that relate to specified disciplinary matters such as disqualification or warning off, revocation or suspension of licence, or imposition of a penalty).

Schedule 2 [2] inserts a formal provision giving effect to proposed Schedule 1.

Schedule 2 [3] inserts Schedule 1 into the Act. Clause 1 of that Schedule enables regulations of a savings or transitional nature to be made as a consequence of the amendments made by the proposed Act. Clause 2 of that Schedule is a savings and transitional provision (relating to pending appeals) that is consequential on the amendments made by the proposed Act.

Schedule 3 Amendment of Defamation Act 1974

Schedule 3 [1] inserts section 17DB into the *Defamation Act 1974* to clarify that a defence of absolute privilege is available to a claim for defamation involving:

- (a) a publication in the course of proceedings in respect of an inquiry the Board conducts, or
- (b) publication by the Board of a report it makes in respect of such an inquiry.

Currently, a publication may occur by reports, articles, letters, notes, pictures, spoken words, or any other thing, to any recipient.

Schedule 3 [2] amends clause 2 of Schedule 2 to the Act to include proceedings at an inquiry conducted by the Board in the definition of *protected report*. The Act provides a defence to a claim for defamation in relation to the fair publication of such a report. The defence extends to the later publication of a copy of the report and an extract or summary of the report.