



New South Wales

# Racehorse Legislation Amendment (Welfare and Registration) Bill 2021

## 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 prohibit the carrying or use of a whip, or the wearing of spurs, by persons who ride or drive a horse at certain horse races,
- (b) to prohibit the riding or driving of a horse that is fitted with a tongue tie during certain horse races,
- (c) to establish a registration scheme for horses that are owned, bred or kept by horse racing industry participants under the *Thoroughbred Racing Act 1996*,
- (d) to prohibit the racing of a horse unless the horse is registered under the *Thoroughbred Racing Act 1996* and is at least 3 years old,
- (e) to prohibit the slaughtering of horses registered under the *Thoroughbred Racing Act 1996*,
- (f) to establish a rehoming scheme for horses that are registered under the *Thoroughbred Racing Act 1996* that are not used or intended to be used for horse racing.

## 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 the date of assent to the proposed Act.

## Schedule 1 Amendment of Acts

### Animal cruelty offences

**Schedule 1.1[1]** inserts the definition of *meeting for horse racing* into the *Prevention of Cruelty to Animals Act 1979*. *Meeting for horse racing* has the same meaning as in the *Betting and Racing Act 1998* and means any meeting, other than a meeting for harness racing, at which horse racing is carried on. A *horse race* means a race conducted at a meeting for horse racing.

**Schedule 1.1[2]** extends a reference to an act of cruelty upon an animal to include a reference to an act or omission as a consequence of which the animal is unreasonably, unnecessarily or unjustifiably whipped.

**Schedule 1.1[3]** inserts proposed sections 17A–17D into Part 2 of the *Prevention of Cruelty to Animals Act 1979*.

**Proposed section 17A** provides that it is an offence punishable with a maximum penalty of \$5,500 or 6 months imprisonment, or both, for a person to use a whip to hit a part of a horse, while the person is riding or driving a horse during a horse race. It also provides that it is an offence punishable with a maximum penalty of \$2,750 for the person to carry a whip during a horse race. A director of a corporation must ensure that a person employed by the corporation to ride or drive a horse at a horse race does not carry a whip during the race. It is an offence for a director to fail to do so, punishable with a maximum penalty of \$27,500.

**Proposed section 17B** makes it an offence with a maximum penalty of \$5,500 or 6 months imprisonment, or both, for a person to ride or drive a horse at a horse race fitted with a strap or band that fixes the horse's tongue to a part of the horse's lower jaw or mouth.

**Proposed section 17C** makes it an offence with a maximum penalty of \$5,500 or 6 months imprisonment, or both, for a person to wear spurs while the person is riding or driving a horse during a horse race.

**Proposed section 17D** makes it an offence with a maximum penalty of \$5,500 or 6 months imprisonment, or both, for a person to cause or arrange for a horse that is registered under the *Thoroughbred Racing Act 1996* to be slaughtered.

### Registration and rehoming of horses

**Schedule 1.2** inserts proposed Part 4A into the *Thoroughbred Racing Act 1996*, comprising proposed sections 49B–49L.

**Proposed section 49B** sets out the definitions used in proposed Part 4A.

**Proposed section 49C** provides that a horse racing industry participant must not own, breed or keep a horse that is intended to be registered under the Australian Rules of Racing unless a certain ownership declaration is lodged for the horse in accordance with those rules. A *horse racing industry participant* means a person who owns, breeds, keeps or trains horses, and certain other persons in connection with a horse, whether or not the person is employed or engaged on a full-time basis and whether or not the person receives payment or other consideration for the activity concerned. It is an offence for a horse racing industry participant to fail to lodge the declaration with a maximum penalty of \$110,000 for a body corporate or \$33,000 for an individual.

**Proposed section 49D** provides that a horse racing industry participant must not own, breed or keep a horse unless the horse is registered by a certain time. It is an offence for a horse racing industry participant to fail to register a horse within the required time with a maximum penalty of \$110,000 for a body corporate or \$33,000 for an individual.

**Proposed section 49E** makes it an offence, with a maximum penalty of \$110,000 for a body corporate or \$33,000 for an individual, for a person to cause or permit a horse to compete in a horse race if the horse is not registered.

**Proposed section 49F** provides that the Secretary of the Department of Customer Service (the *Secretary*) may register a horse in accordance with the regulations.

**Proposed section 49G** provides that the Secretary may, at the time a horse is registered or at a later time, impose conditions on the registration of the horse. It is an offence for an owner of a registered horse to fail to comply with a condition imposed by or under proposed Part 4A with a maximum penalty of \$5,500.

**Proposed section 49H** provides that the registration of a horse is subject to the condition that an owner of the registered horse must give written notice to the Secretary of certain events within 7 days of the events occurring.

**Proposed section 49I** provides that an owner of a registered horse that does not use, or does not intend to use, the horse for horse racing must rehome the horse in accordance with a rehoming scheme. The regulations may make provision for the requirements of the rehoming scheme and the rehoming bodies that are approved by Racing NSW to arrange the rehoming of horses under the scheme.

**Proposed section 49J** makes it an offence, with a maximum penalty of \$110,000 for a body corporate or \$33,000 for an individual, for a person to cause or permit a horse to compete in a horse race if the horse is less than 3 years old.

**Proposed section 49K** provides that the Secretary must maintain a register for registered horses and owners of registered horses.

**Proposed section 49L** provides that Racing NSW must maintain a register of rehoming bodies that are approved by it.



New South Wales

# Racehorse Legislation Amendment (Welfare and Registration) Bill 2021

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New South Wales

# Racehorse Legislation Amendment (Welfare and Registration) Bill 2021

No. , 2021

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## **A Bill for**

An Act to amend certain legislation to improve the welfare of racehorses and establish a racehorse registration scheme; and for related purposes.

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

1

**1 Name of Act**

2

This Act is the *Racehorse Legislation Amendment (Welfare and Registration) Act 2021*.

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4

**2 Commencement**

5

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

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<b>Schedule 1</b>	<b>Amendment of Acts</b>	1
<b>1.1</b>	<b>Prevention of Cruelty to Animals Act 1979 No 200</b>	2
<b>[1]</b>	<b>Section 4 Definitions</b>	3
	Insert in alphabetical order in section 4(1)—	4
	<i>horse race</i> means a race conducted at a meeting for horse racing.	5
	<i>meeting for horse racing</i> has the same meaning as in section 4(1) of the <i>Betting and Racing Act 1998</i> .	6
		7
<b>[2]</b>	<b>Section 4(2)(a)</b>	8
	Insert “, whipped” after “terrified”.	9
<b>[3]</b>	<b>Sections 17A–17D</b>	10
	Insert after section 17—	11
<b>17A</b>	<b>Carrying whips or whipping horses during races prohibited</b>	12
(1)	A person must not carry a whip while the person is riding or driving a horse during a horse race.	13
	Maximum penalty—25 penalty units.	14
(2)	A director of a corporation must ensure that a person employed by the corporation to ride or drive a horse at a horse race does not carry a whip during the race.	16
	Maximum penalty—250 penalty units.	17
(3)	A person must not use a whip to hit a part of a horse while the person is riding or driving a horse during a horse race.	18
	Maximum penalty—50 penalty units or imprisonment for 6 months, or both.	19
(4)	In this section—	20
	<i>whip</i> includes a riding crop.	21
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		23
		24
<b>17B</b>	<b>Tongue ties during races prohibited</b>	25
(1)	A person must not ride or drive a horse that is fitted with a tongue tie during a horse race.	26
	Maximum penalty—50 penalty units or imprisonment for 6 months, or both.	27
(2)	In this section—	28
	<i>tongue tie</i> means a strap or band that fixes a horse’s tongue to a part of the horse’s lower jaw or mouth.	29
		30
		31
<b>17C</b>	<b>Spurs during races prohibited</b>	32
	A person must not wear spurs while the person is riding or driving a horse during a horse race.	33
	Maximum penalty—50 penalty units or imprisonment for 6 months, or both.	34
		35
<b>17D</b>	<b>Slaughtering of thoroughbred horses prohibited</b>	36
(1)	A person must not cause or arrange for a horse that is registered under the <i>Thoroughbred Racing Act 1996</i> to be slaughtered.	37
	Maximum penalty—50 penalty units or imprisonment for 6 months, or both.	38
		39

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant satisfies the court that the horse to which the offence relates—
- (a) was suffering significant physical injury or had a terminal illness that required the defendant to take immediate action, and
  - (b) was euthanised as a result of that injury or condition.
- (3) This section has effect despite anything to the contrary in section 26B of this Act.

## 1.2 Thoroughbred Racing Act 1996 No 37

### Part 4A

Insert after Part 4—

## Part 4A Registration and rehoming of horses

### Division 1 Preliminary

#### 49B Definitions

In this Part—

*approved rehoming bodies*—see section 49I(2)(c).

*authorised person* means a person who is authorised in writing to lodge a foal ownership declaration on behalf of a horse racing industry participant.

*foal ownership declaration* has the same meaning as in the Australian Rules of Racing.

*horse racing industry participant* means the following persons, whether or not the person is employed or engaged on a full-time basis and whether or not the person receives payment or other consideration for the activity concerned—

- (a) a person who owns, breeds or keeps horses,
- (b) a person who trains horses,
- (c) a person who handles horses at a horse race,
- (d) a person who acts as a bookmaker or bookmaker's clerk in connection with horse racing,
- (e) a person who provides health services of a type, that are prescribed by the regulations, to a horse,
- (f) another person or a member of a class of person associated with horse racing prescribed by the regulations for the purposes of this definition.

*notification event*—see section 49H.

*registered* means registered under this Part, except in sections 49C and 49D(2).

*Secretary* means the Secretary of the Department of Customer Service.

### Division 2 Registration offences

#### 49C Horse must not be owned, bred or kept without foal ownership declaration

- (1) A horse racing industry participant must not own, breed or keep a horse that is intended to be registered under the Australian Rules of Racing unless the horse racing industry participant, or an authorised person on behalf of the



participant, has lodged a foal ownership declaration for the horse with Racing Australia Limited.	1
Maximum penalty—1,000 penalty units for a body corporate or 300 penalty units for an individual.	2
(2) A foal ownership declaration must be lodged in accordance with, and within the time specified in, the Australian Rules of Racing.	3
Maximum penalty—1,000 penalty units for a body corporate or 300 penalty units for an individual.	4
(3) This section applies despite section 13(2).	5
<b>49D Horses must not be owned, bred or kept without registration</b>	6
(1) A horse racing industry participant must not own, breed or keep a horse, whether or not the horse is owned, bred or kept in connection with horse racing, unless the horse is registered—	7
(a) within 6 months of the birth of the horse, or	8
(b) for a horse that comes into the possession of a horse racing industry participant that is older than 6 months—within 30 days of the horse coming into the possession of the horse racing industry participant, or	9
(c) for a horse that is transferred into this State from another State or Territory or from overseas at any age—from the date of transfer into this State.	10
Maximum penalty—1,000 penalty units for a body corporate or 300 penalty units for an individual.	11
(2) This section applies regardless of whether a horse is already registered by Racing NSW for the purposes of section 14.	12
<b>49E Horses must not race unless registered</b>	13
A person must not cause or permit a horse to compete in a horse race unless the horse is registered.	14
Maximum penalty—1,000 penalty units for a body corporate or 300 penalty units for an individual.	15
<b>Division 3 Requirements for registration</b>	16
<b>49F Registration of horses</b>	17
(1) The Secretary may, in accordance with the regulations, register a horse.	18
(2) Without limiting subsection (1), the regulations may make provision for the following—	19
(a) the application requirements for registration,	20
(b) the term of registration for horses.	21
(3) The Secretary may refuse to register a horse if the Secretary is of the opinion that it would be in the best interests of—	22
(a) the horse racing industry, or	23
(b) the welfare of the horse concerned.	24
(4) Without limiting subsection (3)(b), the Secretary may form the opinion that refusal to register the horse would be in the best interests of the welfare of the horse concerned if the proposed owner of the horse has been convicted of an offence under the <i>Prevention of Cruelty to Animals Act 1979</i> .	25

(5)	The regulations may provide for a fee to be paid for an application for registration.	1 2
<b>49G</b>	<b>Conditions generally relating to registration</b>	3
(1)	The Secretary may, at the time of the registration of a horse or at a later time, impose, vary or revoke conditions on the registration of a horse under this Part.	4 5
(2)	Without limiting the kinds of conditions that may be imposed by the Secretary under subsection (1), the registration of a horse may be subject to a condition requiring the owner of a registered horse to microchip the horse.	6 7 8
(3)	The owner of a registered horse must comply with a condition imposed by or under this Part. Maximum penalty—50 penalty units.	9 10 11
<b>49H</b>	<b>Condition to notify Secretary of certain events</b>	12
(1)	The registration of a horse is subject to the condition that an owner of a registered horse must give written notice to the Secretary of the following events (a <i>notification event</i> ) —	13 14 15
(a)	significant injury or death of a registered horse,	16
(b)	a change to the ownership of a registered horse, whether or not the subsequent owner is a horse racing industry participant,	17 18
(c)	an event prescribed by the regulations.	19
(2)	Notice must be given within 7 days after a notification event first occurs.	20
(3)	The regulations may specify particulars for a notification event that must be included in the notice.	21 22
<b>Division 4</b>	<b>Rehoming of registered horses</b>	23
<b>49I</b>	<b>Horses required to be rehomed</b>	24
(1)	An owner of a registered horse that does not use, or does not intend to use, the horse for horse racing must rehome the horse in accordance with a rehoming scheme that is prescribed by the regulations. Maximum penalty—1,000 penalty units for a body corporate or 300 penalty units for an individual.	25 26 27 28 29
(2)	Without limiting subsection (1), the regulations may make provision for the following—	30 31
(a)	requirements for applications to rehome registered horses under the rehoming scheme, including demonstrating rehabilitation and training for registered horses,	32 33 34
(b)	requirements for complying with the rehoming scheme, including the time within which an owner of a registered horse must rehome the horse,	35 36 37
(c)	rehoming bodies that are approved by Racing NSW to arrange the rehoming of horses under the rehoming scheme (the <i>approved rehoming bodies</i> ).	38 39 40
(3)	The regulations may provide for a fee to be paid for a rehoming application.	41

<b>Division 5</b>	<b>Miscellaneous</b>	1
<b>49J</b>	<b>Horse must not race unless at least 3 years old</b>	2
	A person must not cause or permit a horse to compete in a horse race unless the horse is at least 3 years old.	3 4
	Maximum penalty—1,000 penalty units for a body corporate or 300 penalty units for an individual.	5 6
<b>49K</b>	<b>Secretary to maintain register for horses</b>	7
(1)	The Secretary is to maintain a register for registered horses and owners of registered horses under this Part.	8 9
(2)	The register is to include the information about registrations, registered horses and owners of registered horses that is required by the regulations.	10 11
(3)	Without limiting subsection (2), the register must include the following information—	12 13
	(a) the date of birth of a registered horse,	14
	(b) if a registered horse dies—the date of death and circumstances surrounding the death, including the cause of death, if known.	15 16
(4)	A register is to be in the form determined by the Secretary and is to be freely available on the internet for inspection by the public.	17 18
<b>49L</b>	<b>Racing NSW to maintain register for rehoming bodies</b>	19
(1)	Racing NSW is to maintain a register of rehoming bodies approved under this Part.	20 21
(2)	The register is to include the information about approved rehoming bodies that is required by the regulations.	22 23
(3)	A register is to be in the form determined by Racing NSW and is to be freely available on the internet for inspection by the public.	24 25