

[Act 2002 No 39]



New South Wales

## Harness Racing Bill 2002

### Explanatory note

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

This Bill is cognate with the *Greyhound Racing Bill 2002*.

### Overview of Bill

The object of this Bill is to repeal the *Harness Racing New South Wales Act 1977* and to replace it with a new Act for the purpose, mainly, of making the following changes:

- (a) to replace the existing Harness Racing New South Wales with new bodies called Harness Racing New South Wales (“HRNSW”) and the Harness Racing Authority (“the Authority”),
- (b) to provide that HRNSW does not represent the Crown and is responsible for the registration of harness racing clubs and harness racing associations and the cancellation of such registration on grounds other than disciplinary grounds and generally for policy on industry development,

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

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- (c) to provide that the Authority represents the Crown and is responsible generally for disciplinary matters relating to the regulation of harness racing and for the making of rules.

The Bill also amends various Acts consequentially.

## Outline of provisions

### **Part 1 Preliminary**

**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** defines certain words and expressions used in the proposed Act.

**Clause 4** provides that notes in the text of the proposed Act do not form part of the proposed Act.

**Clause 5** enables the Minister to determine which functions under the Act are to be exercised by HRNSW or the Authority and to resolve disputes relating to the exercise of functions by those two bodies.

### **Part 2 Harness Racing NSW and Harness Racing Authority**

#### **Division 1 Harness Racing New South Wales**

**Clause 6** constitutes Harness Racing New South Wales as a body corporate and enables it to use a different name approved by the Minister.

**Clause 7** makes it clear that HRNSW and its subsidiaries do not represent the Crown and the State is not responsible for any of their debts, liabilities or obligations unless expressly provided by an Act of Parliament.

**Clause 8** sets out the membership of HRNSW.

**Clause 9** sets out the functions of HRNSW which include the registration of harness racing clubs and harness racing associations and the development and implementation of policies considered conducive to the promotion, strategic development and welfare of the harness racing industry in the State.

**Clause 10** enables HRNSW to accept, hold and administer property on trust or subject to a condition that it be applied towards certain purposes relating to the harness racing industry and persons associated with it.

**Clause 11** enables HRNSW to appoint a chief executive officer.

**Clause 12** enables HRNSW to appoint other staff.

**Clause 13** requires HRNSW to give an annual report of its work and activities to the Minister for tabling in Parliament.

## **Division 2          Harness Racing Authority**

**Clause 14** constitutes the Harness Racing Authority as a body corporate that represents the Crown.

**Clause 15** sets out the membership of the Authority.

**Clause 16** provides for the appointment of a Chairperson and Deputy Chairperson of the Authority.

**Clause 17** sets out the functions of the Authority.

**Clause 18** enables the Authority to accept, hold and administer property on trust or subject to a condition that it be applied towards certain purposes relating to the harness racing industry and persons associated with it.

**Clause 19** requires the Authority to obtain the consent of the Minister to any dealings with land.

**Clause 20** enables the Authority to appoint a chief executive officer.

**Clause 21** enables the Authority to appoint other staff.

## **Part 3 Control and regulation of harness racing**

### **Division 1 Registration**

**Clause 22** provides for HRNSW to register harness racing clubs and harness racing associations, subject to the rules.

**Clause 23** enables HRNSW to suspend or cancel the registration of harness racing clubs or harness racing associations that are not financially viable or for other reasons that are in the best interests of the harness racing industry.

**Clause 24** provides for the Authority to register harness racing horses, owners, trainers, drivers, bookmakers and other persons associated with the harness racing industry.

**Clause 25** enables the Authority to take disciplinary action or to take action in the interests of occupational health and safety, including the suspension or cancellation of any registration under the proposed Act or the imposition of fines.

### **Division 2 Rules**

**Clause 26** enables the Authority to make rules, not inconsistent with the proposed Act, for or with respect to the control and regulation of harness racing and sets out a number of specific rule-making powers. The clause also provides that certain rules with respect to functions to be exercised by HRNSW must be made on the recommendation of HRNSW.

## **Part 4 Appeals and disciplinary inquiries**

### **Division 1 Rights and procedures concerning appeals and inquiries**

**Clause 27** defines certain words and expressions for the purposes of the Part. An appeal means an appeal under the Part, and a disciplinary inquiry means a special inquiry (as provided for in the Act) following an appeal, or any other inquiry by the Authority for the purposes of taking disciplinary action.

**Clause 28** provides a right of appeal to the Authority or the Tribunal from decisions of stewards or the committee of a harness racing club or harness racing association, or of a steward appointed by the Authority, as determined by the regulations. There is also a right of appeal to the Tribunal from decisions of the Authority, as determined by the regulations.

**Clause 29** provides for matters of procedure concerning disciplinary inquiries and appeals. These include the power of the Authority to decide whether to conduct its disciplinary inquiries in public or in private, or partly in public and partly in private, and the power to examine witnesses on oath in conducting such inquiries.

**Clause 30** provides that the Authority may conduct a special inquiry into a matter decided by the Tribunal on appeal if the Authority receives new information that may have resulted in a substantially different decision had it been given in evidence at the hearing of the appeal. After holding the special inquiry the Authority may decide to take no further action or it may decide the matter differently from the Tribunal. If the latter, the Authority's decision replaces the Tribunal's decision and is not appealable.

**Clause 31** contains a regulation-making power in relation to appeals and special inquiries.

## **Division 2      Harness Racing Appeals Tribunal**

**Clause 32** defines certain words and expressions for the purposes of the provisions relating to the establishment of the Harness Racing Appeals Tribunal.

**Clause 33** provides for the establishment of the Tribunal.

**Clause 34** deals with the appointment of a qualified person as the Tribunal. A qualified person is a judge of any court in New South Wales (including a judicial member of the Industrial Relations Commission), a retired judge of any court or a person qualified to be appointed as a Judge of the District Court.

**Clause 35** deals with the appointment of a qualified person to act as the Tribunal.

**Clause 36** deals with the appointment of assessors of the Tribunal.

**Clause 37** sets out the functions of assessors.

**Clause 38** gives effect to Schedule 3 which contains other provisions relating to the Tribunal.

## **Part 5 Harness Racing Industry Participants Advisory Committee**

**Clause 39** establishes the Harness Racing Industry Participants Advisory Committee.

**Clause 40** sets out the membership of the Advisory Committee.

**Clause 41** provides that certain persons are not eligible for membership.

**Clause 42** sets out the functions of the Advisory Committee, which include providing advice to HRNSW and the Authority on industry policy and strategic direction.

## **Part 6 Administration**

**Clause 43** requires the Authority to keep records in relation to its own functions and the registration functions of HRNSW.

**Clause 44** requires HRNSW and the Authority to meet at least twice a year to co-ordinate the carrying out of their functions.

## **Part 7 Finance**

**Clause 45** provides for the financial year of HRNSW and the Authority.

**Clause 46** sets out the expenses under the proposed Act for which HRNSW and the Authority are liable.

**Clause 47** enables HRNSW and the Authority to establish accounts.

**Clause 48** enables HRNSW and the Authority to determine fees and charges for registration and other business transacted under the proposed Act.

**Clause 49** requires HRNSW to obtain the approval of the Minister when borrowing more than \$1,000,000 or such other amount as is prescribed by the regulations or when borrowing a number of amounts in a prescribed period that total more than a prescribed amount.

**Clause 50** requires the Authority to prepare, and submit to the Minister for approval, an annual budget. HRNSW is to provide the money to fund that budget out of money given to HRNSW under commercial arrangements required by the *Totalizator Act 1997*. The clause also caps the amount that can be distributed to HRNSW under those arrangements.

**Clause 51** establishes the Harness Racing Benevolent Fund. This Fund is a continuation of the Harness Racing Benevolent Fund established under the *Harness Racing New South Wales Act 1977*. The clause enables money to be paid out of the Fund for the purpose of giving grants or loans to persons in indigent circumstances who have been associated with the harness racing industry.

## **Part 8 Miscellaneous**

**Clause 52** provides that the Authority must investigate, and provide a report on, any matter relevant to harness racing when directed by the Minister and may investigate and report on any such matter on its own motion.

**Clause 53** enables HRNSW and the Authority to require the production of records relating to the affairs of any harness racing club or harness trial track.

**Clause 54** makes it an offence to disclose information obtained in connection with the administration of the proposed Act except in certain circumstances or to certain persons.

**Clause 55** enables HRNSW and the Authority to delegate certain functions.

**Clause 56** protects members of HRNSW, the Authority and the Advisory Committee, and other specified persons, from personal liability for things done by HRNSW, the Authority or the Advisory Committee.

**Clause 57** provides for the authentication of certain documents by HRNSW and the Authority.

**Clause 58** deals with certain evidentiary matters.

**Clause 59** enables HRNSW and the Authority to recover money owing as a debt.

**Clause 60** provides for proceedings for offences against the proposed Act to be dealt with summarily before a Local Court.

**Clause 61** enables regulations to be made for the purposes of the proposed Act.

**Clause 62** repeals the *Harness Racing New South Wales Act 1977*.

**Clause 63** gives effect to Schedule 5 which amends various other Acts consequentially.

**Clause 64** gives effect to Schedule 6 which contains savings and transitional provisions.

**Clause 65** provides for the Minister to review the proposed Act as soon as possible after five years from the date of assent and to report to Parliament on the review.

## **Schedule 1 Provisions relating to HRNSW**

**Schedule 1** contains provisions relating to the members and procedure of HRNSW, including term of office and vacation of office of members, disclosure of pecuniary interests and preparation by HRNSW of a code of conduct for members and delegates of HRNSW.

## **Schedule 2 Provisions relating to Authority**

**Schedule 2** contains provisions relating to the members and procedure of the Authority, including term of office and vacation of office of members, disclosure of pecuniary interests and preparation by the Authority of a code of conduct for members and delegates of the Authority.

## **Schedule 3 Provisions relating to Tribunal**

**Schedule 3** contains provisions relating to persons appointed as the Tribunal and assessors, including term of office and vacation of office.

## **Schedule 4 Provisions relating to Advisory Committee**

**Schedule 4** contains provisions relating to members of the Advisory Committee, including term of office and vacation of office.

## **Schedule 5 Amendment of other Acts**

**Schedule 5** contains consequential amendments to other Acts.

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## **Schedule 6 Savings, transitional and other provisions**

**Schedule 6** enables savings and transitional regulations to be made consequent on the enactment of the proposed Act and contains other specific savings and transitional provisions.