



New South Wales

Australian Jockey and Sydney Turf Clubs Merger Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
The *Totalizator Amendment Bill 2010* is cognate with this Bill.

Overview of Bill

The objects of this Bill are:

- (a) to facilitate the merger of Australian Jockey Club Limited (the *AJC*) and the Sydney Turf Club (the *STC*) into a new racing club (the *merged racing club*) incorporated under the *Corporations Act 2001* of the Commonwealth (the *Corporations Act*) for that purpose (including by making provision for the transfer of certain assets, rights and liabilities and employees to the merged racing club), and
- (b) to make provision in relation to the corporate governance of the merged racing club, and
- (c) to provide for the functions of the merged racing club in relation to Randwick Racecourse and certain other racecourses, and
- (d) to provide for the granting of further leases over Randwick Racecourse, and
- (e) to provide for the repeal of the *Australian Jockey Club Act 2008* and the *Sydney Turf Club Act 1943*, and

- (f) to make provision for matters of a savings or transitional nature, and
- (g) to make consequential amendments to certain other Acts and statutory instruments.

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.

Clause 3 sets out the objects of the proposed Act.

Clause 4 defines certain words and expressions used in the proposed Act.

Clause 5 defines what the *mandatory corporate governance provisions* are and what it means for these provisions to be included in the constitution of a company. The mandatory corporate governance provisions are set out in Schedule 1 to the proposed Act.

Part 2 Merger of AJC and STC

Division 1 Establishment of merged racing club

Clause 6 specifically authorises a company that is being (or has been) established for the purpose of becoming the merged racing club to include the mandatory corporate governance provisions in its constitution. It also specifically authorises the merged racing club to carry on its affairs in accordance with such included provisions.

Clause 7 authorises the Minister, on behalf of the State, to enter into an arrangement with the merged racing club and certain other parties for the provision of financial assistance for the purpose of making improvements to Randwick Racecourse and Rosehill Gardens Racecourse. The proposed section also specifically authorises certain conduct done in connection with the negotiation of, entry into and giving effect to such an arrangement that might otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.

Clause 8 enables the Minister, by order published in the Gazette, to declare a company to be the merged racing club if certain pre-conditions are met. These pre-conditions include that the Minister is satisfied that the constitution of the company includes the mandatory corporate governance provisions. The proposed section also enables the Minister, by such an order or by subsequent order, to specify a *merger finalisation day*. The merger finalisation day will be the day on which business undertakings and employees of both the AJC and STC will be transferred by the proposed Act to the merged racing club.

Clause 9 prevents the merged racing club from omitting or otherwise altering the mandatory corporate governance provisions from its constitution without the Minister's consent.

Clause 10 specifically authorises the boards of directors of both the AJC and STC and the Minister to appoint directors of the merged racing club. The boards of directors of the AJC and STC will be authorised to appoint 3 directors each to the first board of directors of the merged racing club. The Minister will also be authorised to appoint 3 directors to that board along with directors to replace directors the Minister has previously appointed whenever a vacancy arises. Directors appointed by the Minister will be known as the independent directors. The Minister will only be able to appoint independent directors on the recommendation of a specially constituted appointments selection panel. An appointments selection panel will be required to make recommendations based on certain selection criteria and following probity checks. Recommendations will be required to be on the basis of merit.

Division 2 Transfer of business undertakings and employees of AJC and STC to merged racing club

Clause 11 provides that the proposed Division operates specifically (and in accordance with the requirements of the proposed Division) to transfer the business undertakings and employees of both the AJC and the STC to the merged racing club and to confer or impose certain other rights and liabilities. The provisions of the proposed Division will only have effect on and from the merger finalisation day.

Clause 12 defines certain terms and expressions used in the proposed Division.

Clause 13 transfers assets held by or on behalf of the AJC and STC to the merged racing club. These assets will include the lease of the AJC over Randwick Racecourse.

Clause 14 transfers licences, permits, consents, entitlements, accreditations and other authorities held by or on behalf of the AJC and STC and in force under State legislation to the merged racing club.

Clause 15 transfers the rights and liabilities of the AJC and STC to the merged racing club.

Clause 16 updates certain references in legal instruments (including legislation) to reflect the fact that the business undertakings of the AJC and STC have been transferred to the merged racing club. The proposed section also confirms that the merged racing club becomes the party to certain contracts and other arrangements entered into by the AJC or STC instead of the AJC or STC.

Clause 17 provides for certain pending proceedings by or against the AJC or STC relating to their transferred business undertakings to be treated as being proceedings by or against the merged racing club.

Clause 18 provides for certain acts, matters or things done, or omitted to be done, in relation to the transferred business undertakings of the AJC or STC to be treated as

having been done, or omitted to be done, by, to or in respect of the merged racing club.

Clause 19 provides for how certain assets, rights and liabilities located outside of New South Wales are to be treated when the business undertakings of the AJC and STC are transferred to the merged racing club.

Clause 20 confirms that officers of the AJC and STC cease to have the rights and liabilities that they had or incurred in their official capacities in relation to the business undertakings of the AJC or STC once those undertakings are transferred to the merged racing club.

Clause 21 ensures that the provisions of the proposed Division also operate to transfer potential entitlements and obligations if and when they arise.

Clause 22 provides for the employees of the AJC and STC to become the employees of the merged racing club and preserves (subject to any applicable Commonwealth or State legislation) the terms and conditions of employment of the transferred employees.

Clause 23 prohibits the merged racing club from selling or otherwise disposing of any of the necessary racing infrastructure of certain of its racecourses for a 10-year period.

Clause 24 provides for the following:

- (a) the dissolution of the STC,
- (b) the conferral of an entitlement on existing members of the AJC and STC to be afforded the same or equivalent club membership entitlements as they currently have for a 12 month period,
- (c) that the merged racing club is for all purposes, including the rules of private international law, the successor of the dissolved STC.

The proposed section also makes it clear that the proposed Act does not operate to dissolve or wind up, or require the winding up of, the AJC. The eventual deregistration of the AJC as a company will be a matter for the AJC to pursue under the Corporations Act.

Clause 25 enables the merged racing club to provide abbreviated information to registration authorities (such as the Registrar-General) to enable such authorities to update registers that they maintain in respect of assets, rights or liabilities.

Clause 26 provides that no compensation is payable in connection with the operation of the proposed Division.

Clause 27 enables the Minister, by notice in writing, to confirm that particular employees, assets, rights, liabilities or regulatory authorisations have been transferred to the merged racing club under the proposed Division.

Part 3 Operation of Randwick Racecourse and other racecourses

Division 1 Functions of merged racing club in relation to Randwick Racecourse

Clause 28 provides that the functions that are conferred or imposed on the merged racing club in relation to Randwick Racecourse by proposed Part 3 are conferred or imposed only while the merged racing club is the lessee of that Racecourse. Proposed section 13 will transfer the lease of the AJC over the Racecourse to the merged racing club on the merger finalisation day.

Clause 29 provides for the functions that the merged racing club has in relation to Randwick Racecourse.

Clause 30 enables the Randwick Racecourse trustees to consent to the use of Randwick Racecourse for certain additional activities.

Clause 31 enables the merged racing club to maintain buildings and other improvements within Randwick Racecourse and to erect or re-erect buildings and other improvements.

Division 2 Leasing of Randwick Racecourse

Clause 32 continues the power of the Governor to appoint the Randwick Racecourse trustees despite the *Australian Jockey Club Act 2008* ceasing to have effect and then being repealed under the proposed Act.

Clause 33 enables the Racecourse trustees to grant further leases of Randwick Racecourse to the merged racing club for periods not exceeding 99 years on the surrender of the current lease.

Clause 34 specifically authorises certain conduct done in connection with the granting of leases over Randwick Racecourse under proposed section 33 that might otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.

Division 3 Use of racecourses operated by merged racing club

Clause 35 provides that the proposed Division applies to each of the following racecourses (an *applicable racecourse*) on and from the merger finalisation day:

- (a) Randwick Racecourse,
- (b) any other racecourse that is owned or controlled by the merged racing club (including any buildings, structures, fixtures, fittings and other improvements on the racecourse).

Clause 36 enables the merged racing club to make by-laws, with the approval of the Governor, in connection with the use or management of any applicable racecourse.

Clause 37 enables the merged racing club to exclude or expel certain persons from any applicable racecourse.

Clause 38 makes it an offence for a person intentionally or recklessly to trespass on any part of any applicable racecourse (or any building or structure located within any applicable racecourse). The maximum penalty for such an offence will be 50 penalty units (currently, \$5,500).

Part 4 Miscellaneous

Clause 39 provides for the *Australian Jockey Club Act 2008* and the *Sydney Turf Club Act 1943* to cease to have effect on the merger finalisation day. The proposed section also enables the Governor, by proclamation, to repeal those Acts on or after that day.

Clause 40 provides that nothing in the proposed Act limits the operation of the *Racing Administration Act 1998* or the *Thoroughbred Racing Act 1996* in their application to the conduct of racing activities by or on behalf of the merged racing club.

Clause 41 provides that the proposed Act binds the State and, in so far as the legislative power of the Parliament of New South Wales permits, the other States, the Territories and the Commonwealth.

Clause 42 provides that the proposed Act is intended to have effect outside of the territorial limits of New South Wales as well as within the State.

Clause 43 ensures that the operation of the proposed Act will not result in a breach of contract or any other civil liability.

Clause 44 provides for the displacement of the Commonwealth Corporations legislation under section 5G of the Corporations Act in favour of certain provisions of the proposed Act. The proposed section also enables further displacements to be effected under section 5F or 5G of the Corporations Act by regulations made under the proposed Act.

Clause 45 provides that State tax is not payable in respect of matters relating to the transfer of the business undertakings of the AJC and STC to the merged racing club.

Clause 46 makes provision for the giving or service of documents under the proposed Act.

Clause 47 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 48 provides that offences against the proposed Act or by-laws made under the proposed Act may be dealt with summarily before the Local Court.

Clause 49 provides for the review of the proposed Act in 3 years.

Schedule 1 Mandatory corporate governance provisions

Schedule 1 sets out the mandatory corporate governance provisions that the merged racing club will be required to include in its constitution.

Schedule 2 Savings, transitional and other provisions

Schedule 2 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 3 Amendment of Acts and statutory instruments

Schedule 3 amends the Acts and statutory instruments specified in that Schedule.



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New South Wales

Australian Jockey and Sydney Turf Clubs Merger Bill 2010

No. , 2010

A Bill for

An Act to facilitate the merger of Australian Jockey Club Limited and the Sydney Turf Club; to make continuing provision in relation to the operation of Randwick Racecourse and certain other racecourses; and for other purposes.

See also the *Totalizator Amendment Bill 2010*.

Clause 1 Australian Jockey and Sydney Turf Clubs Merger Bill 2010

Part 1 Preliminary

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Australian Jockey and Sydney Turf Clubs Merger Act 2010*. 4
5

2 Commencement 6

(1) This Act commences on the date of assent to this Act, except as 7
provided by this section. 8

(2) Schedule 3 commences on a day or days to be appointed by 9
proclamation. 10

(3) A day may not be appointed for the commencement of a provision of 11
Schedule 3 that is earlier than the merger finalisation day. 12

3 Objects of Act 13

The objects of this Act are as follows: 14

(a) to facilitate the merger of the AJC and the STC into a new racing 15
club incorporated under the Corporations Act (including by 16
making provision for the transfer of certain assets, rights and 17
liabilities and employees to the merged racing club), 18

(b) to make provision in relation to the corporate governance of the 19
merged racing club, 20

(c) to provide for the functions of the merged racing club in relation 21
to Randwick Racecourse and certain other racecourses, 22

(d) to provide for the granting of further leases over Randwick 23
Racecourse, 24

(e) to provide for the repeal of the *Australian Jockey Club Act 2008* 25
and the *Sydney Turf Club Act 1943*, 26

(f) to make provision for matters of a savings or transitional nature, 27

(g) to make consequential amendments to certain other Acts and 28
statutory instruments. 29

4 Interpretation 30

(1) **Definitions** 31

In this Act: 32

AJC means Australian Jockey Club Limited (ACN 130 406 852). 33

assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.	1 2 3 4
club rules means:	5
(a) in relation to the former AJC—the document entitled the <i>Constitutional Rules of the Australian Jockey Club</i> , as in force from time to time, and	6 7 8
(b) in relation to the AJC—the constitution of the company and any other document issued by the AJC that contains rules concerning membership of the company, as in force from time to time, and	9 10 11
(c) in relation to the STC—the regulations for the Sydney Turf Club set out in the First Schedule to the <i>Sydney Turf Club Act 1943</i> , as in force from time to time, and	12 13 14
(d) in relation to the merged racing club—the constitution of the club and any other document issued by the club containing rules concerning membership of the club, as in force from time to time.	15 16 17
company has the same meaning as it has in the Corporations Act.	18
constitution , in relation to the merged racing club or any other company, has the same meaning as constitution of a company has in the Corporations Act.	19 20 21
Corporations Act means the <i>Corporations Act 2001</i> of the Commonwealth.	22 23
exercise a function includes perform a duty.	24
former AJC means the club that was known as the Australian Jockey Club as referred to in the repealed <i>Australian Jockey Club Act 1873</i> .	25 26
function includes a power, authority or duty.	27
general law means the common law and equity (as modified from time to time by legislation).	28 29
instrument means an instrument (other than this Act or an instrument made under this Act) or any other document that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order, process or other instrument issued by a court or tribunal.	30 31 32 33 34
legislation includes:	35
(a) any statute of a legislature (whether enacted or made in Australia or elsewhere), and	36 37
(b) any proclamation, regulation, rule, by-law, order or any other kind of subordinate legislation (however described) made under the authority of a statute of a legislature (whether enacted or made in Australia or elsewhere).	38 39 40 41

liabilities means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).	1 2 3
mandatory corporate governance provisions —see section 5.	4
merged racing club means a company that is declared to be the merged racing club for the purposes of this Act by an order made by the Minister under section 8, and includes its successors and permitted assigns.	5 6 7
merger finalisation day means the day specified as the merger finalisation day for the purposes of this Act by an order made by the Minister under section 8.	8 9 10
modification includes addition, exception, omission or substitution.	11
previous club means any of the following:	12
(a) the former AJC,	13
(b) the AJC,	14
(c) the STC.	15
power includes an authority.	16
racecourse has the same meaning as it has in the <i>Racing Administration Act 1998</i> .	17 18
Randwick Racecourse means:	19
(a) the land comprised in Certificate of Title Folio Identifier 1/130234, and	20 21
(b) the land comprised in Certificate of Title Folio Identifier 1642/752011, and	22 23
(c) the land comprised in Certificate of Title Folio Identifier 1588/752011,	24 25
and includes any buildings, structures, fixtures, fittings and other improvements on that land.	26 27
Randwick Racecourse lease means any of the following:	28
(a) any lease of Randwick Racecourse granted to the merged racing club by the Randwick Racecourse trustees under section 33,	29 30
(b) any lease of Randwick Racecourse granted to the AJC under section 10 of the <i>Australian Jockey Club Act 2008</i> that, by operation of Division 2 of Part 2, is vested in the merged racing club.	31 32 33 34
Randwick Racecourse trustees means the trustees for the time being of Randwick Racecourse.	35 36
regulatory authorisation means any licence, permit, consent, entitlement, accreditation or other authority under State legislation.	37 38

<i>rights</i> means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).	1 2 3
<i>State legislation</i> means any legislation of the State.	4
<i>STC</i> means the Sydney Turf Club incorporated under the <i>Sydney Turf Club Act 1943</i> .	5 6
<i>the State</i> means New South Wales.	7
(2) When events or other things occur	8
If this Act provides for an event or other thing to occur on a particular day, that event or thing is taken to occur at the beginning of that day.	9 10
(3) Notes	11
Notes included in this Act do not form part of this Act.	12
5 Mandatory corporate governance provisions	13
(1) For the purposes of this Act:	14
(a) the <i>mandatory corporate governance provisions</i> are the provisions set out in Schedule 1, and	15 16
(b) the constitution of a company <i>includes</i> the mandatory corporate governance provisions if the constitution of the company includes provisions in the same terms as, or to the effect of, the mandatory corporate governance provisions.	17 18 19 20
(2) The constitution of a company does not cease to include the mandatory corporate governance provisions merely because it includes additional provisions, so long as those additional provisions are not inconsistent with the mandatory corporate governance provisions.	21 22 23 24
(3) An alteration of the constitution of a company including the mandatory corporate governance provisions that omits or otherwise alters those provisions does not result in the constitution ceasing to include the mandatory corporate governance provisions if the Minister has consented to the alteration under section 9.	25 26 27 28 29
(4) Any matter in Schedule 1 appearing in a note headed “Incorporation instruction” does not form part of the mandatory corporate governance provisions. Any matter inserted or omitted by reference to an Incorporation instruction is a permitted change to the mandatory corporate governance provisions.	30 31 32 33 34

Part 2	Merger of AJC and STC	1
Division 1	Establishment of merged racing club	2
6	Inclusion of mandatory corporate governance provisions in constitution of proposed merged racing club	3 4
(1)	The inclusion of the mandatory corporate governance provisions in the constitution of a company that is being (or has been) established for the purpose of becoming the merged racing club is specifically authorised.	5 6 7
(2)	The merged racing club is specifically authorised to carry on its affairs in accordance with the mandatory corporate governance provisions included in its constitution.	8 9 10
(3)	Nothing in this section limits the power of the merged racing club to conduct its affairs in accordance with other provisions that it has included in its constitution, so long as those other provisions are not inconsistent with the mandatory corporate governance provisions included in its constitution.	11 12 13 14 15
	Note. See, in particular, section 5G (4) and (11) of the Corporations Act and the declaration made in relation to this section by section 44 (1) of this Act.	16 17
7	Financial arrangements for racecourse improvements	18
(1)	The Minister is authorised, on behalf of the State, to enter into an arrangement with the relevant parties for the provision of financial assistance for the purpose of making improvements to Randwick Racecourse and Rosehill Gardens Racecourse.	19 20 21 22
(2)	The following are specifically authorised by this Act for the purposes of the <i>Trade Practices Act 1974</i> of the Commonwealth and the <i>Competition Code of New South Wales</i> :	23 24 25
(a)	any arrangement entered into under subsection (1),	26
(b)	the conduct of the Minister, any relevant party or any agent in negotiating and entering into any such arrangement,	27 28
(c)	the conduct of any party to the arrangement (including the Minister) or any agent in giving effect to the arrangement.	29 30
(3)	Anything authorised to be done by subsection (2) is authorised only to the extent to which it would otherwise contravene Part IV of the <i>Trade Practices Act 1974</i> of the Commonwealth or the <i>Competition Code of New South Wales</i> .	31 32 33 34
(4)	In this section: arrangement includes agreement and understanding.	35 36

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- giving effect to*** an arrangement includes: 1
- (a) complying with any obligation under the arrangement, and 2
 - (b) exercising or enforcing any right or power under the 3
arrangement. 4
- relevant parties*** means each of the following: 5
- (a) Racing New South Wales, 6
 - (b) Tabcorp Limited (ACN 081 765 308), 7
 - (c) the merged racing club (or a company that the Minister 8
anticipates will be declared to be the merged racing club under 9
section 8). 10
- Rosehill Gardens Racecourse*** means the racecourse known as Rosehill 11
Gardens Racecourse that was owned by the STC at the time this Act was 12
enacted, and includes: 13
- (a) the Rosehill Gardens Event Centre, and 14
 - (b) any other buildings, structures, fixtures, fittings and other 15
improvements on the racecourse. 16

8 Recognition of merger 17

- (1) The Minister may, by order published in the Gazette, declare a company 18
to be the merged racing club for the purposes of this Act. 19
- (2) The Minister may make an order under subsection (1) in relation to a 20
company only if the following pre-conditions are met: 21
 - (a) the company is taken under section 119A of the Corporations Act 22
to be registered in the State, 23
 - (b) a copy of the constitution of the company has been provided to 24
the Minister, 25
 - (c) the Minister is satisfied that the constitution of the company 26
includes the mandatory corporate governance provisions. 27
- (3) The Minister may specify a day as the merger finalisation day for the 28
purposes of this Act: 29
 - (a) in an order made under subsection (1), or 30
 - (b) by a subsequent order published in the Gazette. 31
- (4) The day on which a declaration made by an order under subsection (1) 32
takes effect is the day on which the order is published in the Gazette or 33
such later day as may be specified in the order. 34

(5)	The only limits on the jurisdiction of the Minister to make orders under this section are:	1
		2
(a)	in relation to the making of an order under subsection (1)—that the pre-conditions for the making of the order set out in subsection (2) are met, and	3
		4
		5
(b)	in relation to the making of an order under subsection (3) (b)—that an order under subsection (1) has previously been made.	6
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(6)	The making of an order under this section cannot be challenged, reviewed or called into question in proceedings before any court or tribunal except on the grounds that the making of the order exceeds the jurisdictional limits specified by subsection (5) for the making of such an order.	8
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9	Alteration of mandatory corporate governance provisions of merged racing club constitution	13
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(1)	An alteration to the constitution of the merged racing club that would operate to omit or otherwise alter any of the mandatory corporate governance provisions included in the constitution does not have effect unless the Minister gives written consent to the alteration.	15
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	Note. See, in particular, section 5G (10) and (11) of the Corporations Act and the declaration made in relation to this section by section 44 (1) of this Act.	19
		20
(2)	The Minister may not give consent to such an alteration unless the Minister considers that the alteration does not result in the provisions of the constitution of the merged racing club being inconsistent with the mandatory corporate governance provisions.	21
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		23
		24
10	Appointment of directors of merged racing club	25
(1)	Appointment of independent and club appointed directors of first board	26
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	The following bodies and person are specifically authorised to appoint the 9 directors of the first board of the merged racing club as follows:	28
		29
(a)	the board of directors of the AJC is to appoint 3 of the directors,	30
(b)	the board of directors of the STC is to appoint 3 of the directors,	31
(c)	the Minister is to appoint 3 of the directors (the <i>independent directors</i>) on the recommendation of a selection panel constituted under this section (an <i>appointments selection panel</i>).	32
		33
		34
	Note. See, in particular, section 5G (4) and (11) of the Corporations Act and the declaration made in relation to this section by section 44 (1) of this Act.	35
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- (2) When appointing their 3 directors to the first board of the merged racing club, the boards of directors of the AJC and STC are each to designate in the instrument of appointment of one of their appointees that the appointee is the club's short-term appointment. 1
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3
4
- Note.** The short-term appointment of the boards of directors of the AJC or STC will hold office for only 12 months while the other directors appointed by the boards will hold office for 4 years. See clause 4 of the mandatory corporate governance provisions for the merged racing club in Schedule 1. 5
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- (3) **Appointment of replacement independent directors** 9
- The Minister is specifically authorised, on the recommendation of an appointments selection panel, to appoint a person to replace an independent director whenever the office of an independent director becomes vacant. 10
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- (4) **Persons not eligible to be appointed** 14
- A person is not eligible to be appointed as an independent director if the person: 15
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- (a) is an employee of a race club or racing association, or 17
 - (b) is or was a member of the appointments selection panel constituted to recommend the appointment, or 18
19
 - (c) is a member of the governing body of a race club or eligible industry body (including a director of the AJC or STC), or 20
21
 - (d) holds a licence issued by Racing New South Wales or by a racing association, or 22
23
 - (e) is registered by or with Greyhound Racing New South Wales under the *Greyhound Racing Act 2009* or Harness Racing New South Wales under the *Harness Racing Act 2009*, or 24
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26
 - (f) is currently, or during the previous 10 years has been, warned off, disqualified or named on the Forfeit List under the Australian Rules of Racing, or 27
28
29
 - (g) during the previous 10 years has been convicted in the State of an offence that is punishable by imprisonment for 12 months or more, or convicted elsewhere than in the State of an offence that, if committed in the State, would be an offence so punishable, or 30
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 - (h) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or 34
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 - (i) is a mentally incapacitated person. 36
- (5) **Recommendations by appointments selection panel** 37
- The Minister is to constitute an appointments selection panel to recommend persons for appointment as independent directors and to recommend the terms of office of independent directors. 38
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(6)	An appointments selection panel:	1
(a)	in the case of the appointment of an independent director to the first board of the merged racing club—is to be constituted by the following persons:	2
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(i)	a person nominated by the Chairperson of Racing New South Wales,	5
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(ii)	a person nominated by the board of directors of the AJC,	7
(iii)	a person nominated by the board of directors of the STC, and	8
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(b)	in the case of the appointment of an independent director to replace another independent director who has vacated office—is to be constituted by the following persons:	10
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		12
(i)	a person nominated by the Chairperson of Racing New South Wales,	13
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(ii)	a director of the merged racing club nominated by the board of directors of the club who is an independent director,	15
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		17
(iii)	a director of the merged racing club nominated by the board of directors of the club who is not an independent director.	18
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(7)	An appointments selection panel must recommend only the number of persons required to be appointed (no more and no fewer) and, subject to subsection (8), must recommend a term of office for each person recommended.	21
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(8)	The term of office for an independent director that an appointments selection panel may recommend is:	25
		26
(a)	in the case of an appointment to the first board of the merged racing club—4 years, and	27
		28
(b)	in the case of an appointment to fill a casual vacancy—the balance of the term of the independent director who is being replaced, and	29
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(c)	in the case of any other appointment—such period as the panel considers appropriate (being a period not exceeding 4 years).	32
		33
(9)	Selection criteria and probity checks	34
	An appointments selection panel must not recommend a person for appointment as an independent director unless the panel is satisfied that the person has experience in a senior administrative role or experience at a senior level in one or more of the fields of business, finance, law, marketing, technology, commerce, regulatory administration or regulatory enforcement.	35
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- (10) Before recommending a person for appointment as an independent director, the appointments selection panel must conduct a probity check of the person (with the level of scrutiny as determined by the Minister). The Minister is to appoint a Probity Adviser to assist the selection panel to conduct probity checks. 1
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- (11) An appointments selection panel is to choose between candidates for recommendation for appointment as an independent director on the basis of merit, with merit to be determined on the basis of a candidate's abilities, qualifications, experience and personal qualities that are relevant to the performance of the duties of a director of the merged racing club. 6
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- (12) **Appointments before company declared to be merged racing club** 12
Any function conferred or imposed by or under this section in relation to the appointment of directors to the first board of the merged racing club may be exercised even if at the time the function is exercised no company has been formed for the purposes of being declared to be, or no company has been declared to be, the merged racing club under section 8. Any function so exercised is to be taken to have been duly exercised for the purposes of this section and the mandatory corporate governance provisions included in the constitution of a company. 13
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- (13) **Independent directors who are members of race clubs to have membership voting entitlements suspended** 21
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If a person who is appointed as an independent director is also a member of a race club, the race club is specifically required to suspend the person's voting entitlements as a member of the race club while the person remains an independent director despite anything to the contrary in the constitution or other membership rules of the club. 23
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- (14) **Definitions** 28
In this section: 29
Australian Rules of Racing has the same meaning as it has in the *Thoroughbred Racing Act 1996*. 30
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eligible industry body has the same meaning as it has in the *Thoroughbred Racing Act 1996*. 32
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race club has the same meaning as it has in the *Thoroughbred Racing Act 1996*. 34
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racing association has the same meaning as it has in the *Thoroughbred Racing Act 1996*. 36
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Division 2 Transfer of business undertakings and employees of AJC and STC to merged racing club 1
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11 Operation of Division 3

This Division operates, on and from the merger finalisation day, specifically (and in accordance with the requirements of this Division): 4
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- (a) to transfer the transferable business undertakings and the employees of the AJC and STC to the merged racing club, and 6
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- (b) to confer or impose other rights and liabilities on the merged racing club and certain other persons in connection with the transfer of the transferable business undertakings. 8
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Note. See, in particular, section 5G (4), (5) and (11) of the Corporations Act and the declaration made in relation to this Division by section 44 (1) of this Act. 11
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12 Interpretation 13

- (1) In this Division: 14

conduct includes any act or omission. 15

member means: 16

- (a) in relation to the AJC—a member of the AJC under its club rules and includes any person who was previously a member of the former AJC under its club rules, and 17
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- (b) in relation to the STC—a member of the STC within the meaning of the *Sydney Turf Club Act 1943*. 20
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officer means: 22

- (a) in relation to the AJC—a director or secretary of that company within the meaning of the Corporations Act and includes any person who was previously a Chairman of the Committee of the former AJC or any other member of that Committee, and 23
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- (b) in relation to the STC—a director of the STC within the meaning of the *Sydney Turf Club Act 1943*. 27
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transferable assets means: 29

- (a) all of the assets vested (whether absolutely or contingently or in full or in part) in, or otherwise held by, the AJC immediately before the merger finalisation day (including any lease of Randwick Racecourse granted to the AJC under the *Australian Jockey Club Act 2008*), and 30
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- (b) all of the assets vested (whether absolutely or contingently or in full or in part) in, or otherwise held by, the STC immediately before the merger finalisation day. 35
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- transferable business undertakings*** means all of the following: 1
- (a) the transferable assets, 2
 - (b) the transferable rights, 3
 - (c) the transferable liabilities, 4
 - (d) the transferable regulatory authorisations. 5
- transferable liabilities*** means all of the liabilities of the AJC and the STC immediately before the merger finalisation day. 6
- transferable regulatory authorisations*** means all regulatory authorisations in force that are held by or on behalf of the AJC or STC immediately before the merger finalisation day, including (without limitation) each of the following: 7
- (a) any licence held by or on behalf of the AJC or STC that is in force under the *Liquor Act 2007*, 8
 - (b) any poker machine entitlements or licences held by or on behalf of the AJC or STC under the *Gaming Machines Act 2001*, 9
 - (c) any licence held by or on behalf of the AJC or STC that is in force under the *Racing Administration Act 1998*, 10
 - (d) any licence held by or on behalf of the AJC or STC that is in force under the *Totalizator Act 1997*. 11
- transferable rights*** means all of the rights of the AJC and the STC immediately before the merger finalisation day. 12
- (2) A reference in this Division to the *Australian Jockey Club Act 2008* or the *Sydney Turf Club Act 1943* is a reference to that Act before it ceases to have effect under section 39. 13
 - (3) A reference in this Division (however expressed) to the assets, rights or liabilities of the AJC includes a reference to: 14
 - (a) any assets, rights or liabilities of the former AJC that became the assets, rights or liabilities of the AJC by virtue of the operation of Part 3 of the *Australian Jockey Club Act 2008* (including any assets, rights or liabilities vested in or held by, or exercisable by or against, an officer of the former AJC and to which section 23 of that Act applied immediately before the merger finalisation day), and 15
 - (b) any potential assets, rights or liabilities of the former AJC that would have become the assets, rights or liabilities of the AJC by virtue of the operation of Part 3 of the *Australian Jockey Club Act 2008* had that Part continued in force. 16

13 Vesting of assets in merged racing club	1
(1) The transferable assets vest in, and become the assets of, the merged racing club by virtue of this section on the merger finalisation day:	2
(a) without the need for any further conveyance, transfer, assignment or assurance, and	3
(b) free of any estate or interest that any member of the AJC or STC may have had in the assets immediately before the merger finalisation day by reason of being a member.	4
(2) Without limiting subsection (1), any lease of Randwick Racecourse granted to the AJC under the <i>Australian Jockey Club Act 2008</i> that is in force immediately before the merger finalisation day vests in the merged racing club as lessee on that day for the remainder of the period of the lease (and subject to the same conditions and restrictions that applied in relation to the lease immediately before that day) and without the need for the consent of the Randwick Racecourse trustees.	5
(3) No attornment to the merged racing club by a lessee or sublessee from the AJC or STC is required.	6
14 Transfer of transferable regulatory authorisations	7
(1) Each of the transferable regulatory authorisations (an <i>original regulatory authorisation</i>) becomes a regulatory authorisation of the merged racing club (the <i>transferred regulatory authorisation</i>) on the merger finalisation day for the purposes of the State legislation under which the original regulatory authorisation was issued (the <i>relevant State legislation</i>).	8
(2) A transferred regulatory authorisation:	9
(a) has effect as if it had been issued to the merged racing club for the remainder of the period (if any) for which the original regulatory authorisation was issued, unless it is sooner cancelled, forfeited, surrendered or otherwise ceases to have effect under the relevant State legislation, and	10
(b) is subject to the same terms, conditions and endorsements as the original regulatory authorisation until those terms, conditions or endorsements are altered, varied or revoked in accordance with the relevant State legislation.	11
(3) The provisions of the <i>Registered Clubs Act 1976</i> and the <i>Liquor Act 2007</i> (and of the regulations made under those Acts) apply in relation to the merged racing club subject to the following modifications:	12
(a) the rules referred to in section 30 (1) (a) and (b) of the <i>Registered Clubs Act 1976</i> do not apply in relation to the merged racing club,	13

(b)	section 32 (1) of the <i>Registered Clubs Act 1976</i> does not prevent the club from having more than one secretary and, in particular, from having one secretary approved under section 33 of that Act for the purposes of that Act and a different secretary or chief executive officer for the club in its capacity as a company,	1 2 3 4 5
(c)	section 34 (3A) of the <i>Registered Clubs Act 1976</i> does not operate to make a person or the club guilty of an offence against section 34 (2) of that Act if the person is acting as a secretary or chief executive officer for the club in its capacity as a company and another person has been approved as the secretary for the club in its capacity as a registered club,	6 7 8 9 10 11
(d)	section 66 (2) (a) of the <i>Liquor Act 2007</i> is to be read as being confined to the secretary of the club approved for the purposes of the <i>Registered Clubs Act 1976</i> ,	12 13 14
(e)	such modifications as may be prescribed by the regulations (being modifications that relate to the operation of this Division).	15 16
	Note. Section 41J (Disposal by registered club of real property) of the <i>Registered Clubs Act 1976</i> has no operation in relation to the transfer of the AJC's or STC's core property by operation of this Division because the disposal has been effected by this Division rather than by the AJC or STC.	17 18 19 20
(4)	The Minister is not to recommend the making of a regulation for the purposes of subsection (3) (e) unless the Minister administering the Act or regulations proposed to be modified has consented to the modification concerned.	21 22 23 24
(5)	The person or body (a regulatory body) that has the function under the relevant State legislation of issuing regulatory authorisations of the same kind as a transferred regulatory authorisation must, at the request of the merged racing club, re-issue the transferred regulatory authorisation in the name of the merged racing club (with substantially the same terms, conditions and endorsements as the transferred regulatory authorisation).	25 26 27 28 29 30 31
(6)	No fee or charge is payable by the merged racing club to a regulatory body for or in respect of the exercise of any function by the regulatory body in connection with the transfer or re-issue of a regulatory authorisation by operation of, or under, this section.	32 33 34 35
(7)	In this section: <i>issued</i> includes given.	36 37
15	Transferable rights and liabilities become those of merged racing club	38
(1)	The transferable rights become, by virtue of this section, the rights of the merged racing club on the merger finalisation day and may be exercised without regard to any fetters on the exercise of those rights	39 40 41

	that were enforceable by any member of the AJC or STC immediately before the merger finalisation day by reason of being a member.	1 2
(2)	The transferable liabilities become, by virtue of this section, the liabilities of the merged racing club on the merger finalisation day.	3 4
(3)	Without limiting subsection (2), any indemnity granted (or taken to have been granted) by or on behalf of the AJC or STC to an officer of the AJC or STC before the merger finalisation day with respect to conduct in his or her capacity as such is enforceable against the merged racing club on and from the merger finalisation day as if the merged racing club had granted the indemnity.	5 6 7 8 9 10
16	Updating of certain references to AJC or STC and transfer of contractual rights and obligations	11 12
(1)	Subject to subsection (2) and the regulations, on and from the merger finalisation day any reference in any instrument to the AJC, the STC or an officer of the AJC or STC while acting on behalf of the AJC or STC is (to the extent to which it relates to any part of the transferable business undertakings) to be read as a reference to the merged racing club.	13 14 15 16 17 18
(2)	Subsection (1) does not apply in relation to any reference of the kind referred to in that subsection in any Act or other statutory instrument that is amended by Schedule 3.	19 20 21
(3)	On and from the merger finalisation day (and without limiting subsection (1) or sections 13, 15 and 20), the merged racing club is entitled to the benefit and subject to the burden of, and is taken to be a party to, any contract or arrangement in force immediately before the merger finalisation day to which the AJC or STC was a party as if the merged racing club were named in the contract or arrangement as a party instead of the AJC or STC.	22 23 24 25 26 27 28
17	Proceedings against AJC or STC may be taken against merged racing club	29 30
(1)	All proceedings by or against the AJC or STC that:	31
(a)	are pending immediately before the merger finalisation day, and	32
(b)	relate to any part of the transferable business undertakings,	33
	are taken on and from the merger finalisation day to be proceedings pending by or against the merged racing club.	34 35
(2)	Nothing in this Division renders defective any proceedings by or against the AJC or the STC.	36 37

18 Acts or omissions of AJC or STC taken to be those of merged racing club	1
(1) Any act, matter or thing done or omitted to be done before the merger finalisation day by, to or in respect of the AJC or STC in relation to any part of the transferable business undertakings is (to the extent to which that act, matter or thing has any force or effect) taken on and from the merger finalisation day to have been done or omitted to be done by, to or in respect of the merged racing club.	2 3 4 5 6 7
(2) Without limiting subsection (1), that subsection extends to any conduct (whether unconscionable, misleading, deceptive or otherwise) of any officer of the AJC or STC in his or her capacity as such.	8 9 10
19 Assets, rights and liabilities outside of the State	11
(1) If any asset that forms part of the transferable assets:	12
(a) is vested in or held by a relevant person under the law of an external jurisdiction immediately before the merger finalisation day, and	13 14 15
(b) does not, despite section 13, become the asset of the merged racing club under the law of that jurisdiction,	16 17
the relevant person:	18
(c) subject to paragraph (d), holds the asset, for the purposes of the law of the State, in trust for the sole benefit of the merged racing club until such time as the asset becomes the asset of the merged racing club under the law of the external jurisdiction or the trust is otherwise terminated, and	19 20 21 22 23
(d) if it is possible for the relevant person to vest the asset in the merged racing club under the law of that external jurisdiction by effecting a conveyance, transfer, assignment or assurance and the merged racing club directs it—must, in accordance with any such direction, effect any such conveyance, transfer, assignment or assurance.	24 25 26 27 28 29
Note. For example, paragraph (d) enables the merged racing club to direct that the legal title to an asset be transferred to it as the beneficial owner of the asset.	30 31
(2) The trust created by subsection (1) (c) is to be treated, for all purposes, as if it was a bare trust declared by the relevant person inter vivos.	32 33
Note. The general law relating to the law of trusts applies to the trust created by subsection (1) (c).	34 35
(3) If any right that forms part of the transferable rights (being rights that are not also part of the transferable assets):	36 37
(a) is exercisable by a relevant person under the law of an external jurisdiction, and	38 39

(b)	does not, despite section 15 (1), become a right of the merged racing club on or after the merger finalisation day under the law of that jurisdiction,	1 2 3
	the relevant person (or any person entitled to exercise the right instead of the relevant person) must exercise that right in accordance with any directions given by the merged racing club from time to time.	4 5 6
(4)	If any liability that forms part of the transferable liabilities:	7
(a)	is a liability enforceable against a relevant person under the law of an external jurisdiction, and	8 9
(b)	does not, despite section 15 (2), become a liability of the merged racing club on or after the merger finalisation day under the law of that jurisdiction,	10 11 12
	the relevant person (or, if the relevant person is deceased, the estate of the person) is entitled to be indemnified by the merged racing club against the liability.	13 14 15
(5)	Any trust created by section 23 of the <i>Australian Jockey Club Act 2008</i> in favour of the AJC continues in effect on and from the merger finalisation day as if the trust were a bare trust declared by the officer of the AJC concerned inter vivos for the sole benefit of the merged racing club.	16 17 18 19 20
(6)	The merged racing club is the person nominated by this Act for the purposes of appointing a new trustee under Division 1 of Part 2 of the <i>Trustee Act 1925</i> :	21 22 23
(a)	in respect of the trust created by subsection (1) (c), and	24
(b)	in respect of the trust continued in effect by subsection (5).	25
	Note. The provisions of Division 1 of Part 2 of the <i>Trustee Act 1925</i> provide for the appointment and removal of trustees.	26 27
(7)	In this section:	28
	external jurisdiction means any of the following:	29
(a)	a State (other than the State),	30
(b)	a Territory,	31
(c)	the Commonwealth,	32
(d)	a jurisdiction outside of Australia.	33
	relevant person means any of the following:	34
(a)	the AJC,	35
(b)	an officer of the AJC,	36
(c)	an officer of the STC.	37
	Note. Section 24 (5) provides that the merged racing club is taken for all purposes, including the rules of private international law, to be the successor of	38 39

	the dissolved STC. The AJC, on the other hand, will not be dissolved by operation of this Act. See section 24 (1).	1 2
20	Cessation of certain personal rights and liabilities of officers of AJC or STC	3 4
	If any asset, right or liability or any regulatory authorisation becomes that of the merged racing club by operation of this Division:	5 6
	(a) any officer of the AJC or STC who held any such asset, or in whom such an asset was vested, ceases on and from the merger finalisation day:	7 8 9
	(i) to hold, or be vested with, the asset, and	10
	(ii) to have any rights or liabilities associated with holding or being vested with the asset, and	11 12
	(b) any officer of the AJC or STC who could have exercised or otherwise enforced any such right ceases on and from the merger finalisation day to have the power to exercise or otherwise enforce the right, and	13 14 15 16
	(c) any officer of the AJC or STC against whom any such liability was or could have been enforceable ceases on and from the merger finalisation day to be the person against whom that liability may be enforced, and	17 18 19 20
	(d) any officer of the AJC or STC who held any such regulatory authorisation ceases on and from the merger finalisation day:	21 22
	(i) to hold the authorisation, and	23
	(ii) to have any rights or liabilities associated with holding the authorisation.	24 25
21	Potential entitlements and obligations also transferred	26
	The merged racing club has all the entitlements and obligations of the AJC or STC in relation to the assets, rights and liabilities transferred by this Division that the AJC or STC would have had but for the transfer, whether or not those entitlements and obligations were actual or potential at the time the transfer took effect.	27 28 29 30 31
22	Employees of AJC or STC become employees of merged racing club	32
	(1) Any person who, immediately before the merger finalisation day, was an employee of the AJC or STC ceases, on and from that day, to be an employee of the AJC or STC and becomes instead an employee of the merged racing club (a <i>transferred employee</i>).	33 34 35 36
	(2) The following provisions apply in relation to the employment by the merged racing club of a transferred employee (subject to any applicable	37 38

provisions of the <i>Fair Work Act 2009</i> of the Commonwealth and subsection (3)):	1
(a) the transferred employee is to be employed on the same terms and conditions as under the employee's contract of employment with the AJC or STC immediately before the merger finalisation day,	2
(b) the terms and conditions of employment of the transferred employee referred to in paragraph (a) may, after the merger finalisation day, be changed in the same way as they could have been before the merger finalisation day,	3
(c) the service with the AJC or STC of the transferred employee is taken to be service with the merged racing club for all purposes and the employee's accrued entitlements with the AJC or STC are taken to be accrued entitlements with the merged racing club,	4
(d) a transferred employee is not entitled to payment (including, without limitation, any payment in lieu of leave or any damages or other compensation, whether under legislation, contract or otherwise) arising out of, or resulting from, the operation of this Division.	5
Note. See also Part 2–8 (Transfer of business) of the <i>Fair Work Act 2009</i> of the Commonwealth.	6
(3) Nothing in this section affects the continued application (if any) of any industrial instrument under the <i>Industrial Relations Act 1996</i> to the employment of a transferred employee.	7
23 Sale or disposal of racing infrastructure of racecourses prohibited during 10-year moratorium period	8
(1) This section applies to any racecourse (other than Randwick Racecourse or Warwick Farm Racecourse) that becomes vested in the merged racing club by virtue of the operation of this Division.	9
Note. Randwick Racecourse is owned by the Randwick Racecourse trustees and, immediately before the merger finalisation day, was leased to the AJC. The merged racing club will become its lessee by virtue of the operation of this Division.	10
(2) The merged racing club may not sell or otherwise dispose of any of the necessary racing infrastructure of a racecourse to which this section applies within the 10-year period commencing on the merger finalisation day.	11
(3) The <i>necessary racing infrastructure</i> of a racecourse is any lands, buildings or other facilities (such as racetracks, training grounds, spectator or member stands and stabling areas) that are necessary for the conduct of race meetings at the racecourse.	12
(4) The regulations may make provision for or with respect to the kinds of lands, buildings or facilities (other than racetracks, training grounds,	13

spectator or member stands or stabling areas) that are, or are not, to be treated for the purposes of this section as being necessary for the conduct of race meetings at a racecourse.	1 2 3
(5) In this section:	4
<i>Warwick Farm Racecourse</i> means the racecourse known as Warwick Farm Racecourse that was owned by the AJC at the time that this Act was enacted, and includes any buildings, structures, fixtures, fittings and other improvements on the racecourse.	5 6 7 8
24 Status of AJC and STC on and after merger finalisation day	9
(1) Status of AJC	10
Subject to this Division, nothing in this Act (including section 39) operates to wind up or dissolve the AJC.	11 12
(2) Accordingly, the AJC is not required to wind up its affairs or pay its liabilities and distribute its assets as a result of the operation of this Act.	13 14
(3) However, the AJC may (but need not) wind up its affairs or deregister the AJC in accordance with the provisions of the Corporations Act.	15 16
(4) Status of STC	17
On the merger finalisation day:	18
(a) the STC is dissolved, and	19
(b) the members of the STC cease to be members of the STC, and	20
(c) the directors of the STC, and any person holding office as the Chairperson, Vice-Chairperson or Honorary Treasurer, cease to hold office as such, and	21 22 23
(d) any person who ceases to be a member of the STC or to hold an office because of the operation of this subsection is not entitled to any compensation for the loss of that membership or office.	24 25 26
(5) The merged racing club is taken for all purposes, including the rules of private international law, to be the successor of the dissolved STC.	27 28
(6) Entitlements of membership to be afforded by merged racing club to existing members	29 30
A person who was a member of the AJC or STC immediately before the merger finalisation day (an <i>existing club member</i>) is entitled to be afforded the same or equivalent entitlements of membership of the merged racing club as the person had as a member of the AJC or STC immediately before the merger finalisation day.	31 32 33 34 35
(7) The merged racing club is specifically required to make provision for an existing club member to be afforded the membership entitlements to	36 37

	which the member is entitled under subsection (6) for the period of 12 months commencing on the merger finalisation day.	1 2
(8)	Nothing in subsection (6) or (7) prevents or otherwise limits the merged racing club from admitting members to the club or from excluding any person from membership of the club in accordance with the club rules of the merged racing club.	3 4 5 6
(9)	Definition	7
	In this section:	8
	<i>member of the AJC</i> does not include a member of the former AJC.	9
25	Certification to registration authorities	10
(1)	In this section:	11
	<i>registration authority</i> means a person or body that has functions under any law in connection with the keeping of a register in respect of assets, rights or liabilities.	12 13 14
(2)	The merged racing club may lodge with a registration authority a certificate certifying as to such information as may reasonably be required by the registration authority to enable the registration authority to exercise any function of the authority arising in connection with the transfer of any transferable asset, right or liability by operation of this Division.	15 16 17 18 19 20
(3)	Such a certificate is to be accepted and acted upon by the registration authority and, despite any other law, the registration authority is not entitled to require that the information concerned be provided to it in any particular form or in any particular manner.	21 22 23 24
(4)	No fee or charge is payable by the merged racing club to a registration authority for or in respect of the exercise of any function by the registration authority in connection with the transfer of a transferable asset, right or liability by operation of this Division.	25 26 27 28
26	No compensation payable	29
	No compensation is payable to any person or body in connection with the operation of this Division in respect of any asset, right, liability or regulatory authorisation.	30 31 32
27	Confirmation of operation of this Division	33
(1)	The Minister may, by notice in writing, confirm that particular employees, assets, rights, liabilities or regulatory authorisations have	34 35

become the employees, assets, rights, liabilities or regulatory
authorisations of the merged racing club by operation of this Division.

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(2) Such a notice is evidence of that fact.

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Part 3	Operation of Randwick Racecourse and other racecourses	1
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Division 1	Functions of merged racing club in relation to Randwick Racecourse	3
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28	Merged racing club has functions while lessee	5
	The merged racing club has the functions conferred or imposed on it by or under this Part in relation to Randwick Racecourse only while it is the lessee of that Racecourse.	6 7 8
29	Functions of merged racing club in relation to Randwick Racecourse	9
	The merged racing club has the following functions in relation to Randwick Racecourse:	10 11
	(a) to manage, use and maintain the land that comprises the Racecourse for the purpose of a public racecourse and associated activities,	12 13 14
	(b) to manage, use and maintain that land for any other purpose authorised by or under this Part or the Randwick Racecourse lease.	15 16 17
30	Use of Randwick Racecourse for additional activities	18
	(1) The merged racing club may, with the consent of the Randwick Racecourse trustees and subject to such terms and conditions as the trustees think fit, use (or permit the use of) all or any part of Randwick Racecourse for the purposes of an activity, or class of activities, that the merged racing club would otherwise not be authorised to conduct (or allow another person to conduct).	19 20 21 22 23 24
	(2) The use of Randwick Racecourse in accordance with any of the following consents is not to be regarded as a breach of the Randwick Racecourse lease:	25 26 27
	(a) any consent given under this section,	28
	(b) any consent previously given under section 7 of the <i>Australian Jockey Club Act 2008</i> that has not been withdrawn.	29 30
	(3) Nothing in this section affects the operation of any other State legislation for the time being applicable to or in respect of any activity or class of activities referred to in this section.	31 32 33
31	Maintenance and erection of buildings and improvements	34
	(1) The merged racing club may maintain any buildings and other improvements within Randwick Racecourse.	35 36

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- (2) The merged racing club may erect or re-erect buildings and other improvements within Randwick Racecourse if the merged racing club considers it necessary or expedient to do so for or in connection with the use of the Racecourse. 1
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- (3) Nothing in this section affects the operation of any other State legislation for the time being applicable to or in respect of the erection or re-erection of buildings or other improvements on land. 5
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Division 2 Leasing of Randwick Racecourse 8

32 Appointment of trustees 9

- (1) Despite section 39, the Governor may continue to appoint new trustees for Randwick Racecourse to replace any trustee who: 10
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- (a) dies, or 12
 - (b) resigns, or 13
 - (c) ceases to reside in the State, or 14
 - (d) becomes incapable of acting as a trustee. 15
- (2) Subject to this Act, the Randwick Racecourse trustees continue to hold Randwick Racecourse subject to the trust referred to in the preamble to the repealed *Australian Jockey Club Act 1873*. 16
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33 Further lease of Randwick Racecourse 19

- (1) On the surrender of any Randwick Racecourse lease that is in force, the Randwick Racecourse trustees may grant a further lease or leases, on such terms and conditions as they see fit, of all or any part of Randwick Racecourse to the merged racing club for a period not exceeding 99 years. 20
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- (2) A lease granted under this section may contain options for the lessee to renew the lease for a further period or periods. 25
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- (3) If the lease contains options for renewal of the lease by the lessee, the aggregate of the original period and the further period or periods must not exceed 99 years. 27
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- (4) The merged racing club is, subject to any Randwick Racecourse lease, authorised to grant subleases and licences to use any part of Randwick Racecourse while it is the lessee of the Racecourse. 30
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- (5) The grant of a lease under this section does not affect the continued operation of any sublease or licence to use Randwick Racecourse (or any part of the Racecourse) previously granted by or on behalf of the AJC or the former AJC. 33
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Clause 34	Australian Jockey and Sydney Turf Clubs Merger Bill 2010	
Part 3	Operation of Randwick Racecourse and other racecourses	

(6)	If a Randwick Racecourse lease provides for the payment of damages by the merged racing club or the AJC in the event of the non-fulfilment by the merged racing club or the AJC of a term or condition of the lease, those damages are taken to be liquidated damages and may be recovered as such by the Randwick Racecourse trustees in any court of competent jurisdiction.	1 2 3 4 5 6
34	Authorisation of matters relating to leases over Randwick Racecourse	7
(1)	The following are specifically authorised by this Act for the purposes of the <i>Trade Practices Act 1974</i> of the Commonwealth and the <i>Competition Code of New South Wales</i> :	8 9 10
(a)	any lease entered into between:	11
(i)	the Randwick Racecourse trustees and the AJC as provided by section 10 of the <i>Australian Jockey Club Act 2008</i> , and	12 13 14
(ii)	the Randwick Racecourse trustees and the merged racing club as provided by section 33,	15 16
(b)	the conduct of those persons or any agent in negotiating and entering into any such lease,	17 18
(c)	the conduct of those persons or any agent in giving effect to any such lease.	19 20
(2)	Anything authorised to be done by this section is authorised only to the extent to which it would otherwise contravene Part IV of the <i>Trade Practices Act 1974</i> of the Commonwealth or the <i>Competition Code of New South Wales</i> .	21 22 23 24
(3)	In this section:	25
	<i>giving effect to</i> a lease includes:	26
(a)	complying with any obligation under the lease, and	27
(b)	exercising or enforcing any right or power under the lease.	28
Division 3	Use of racecourses operated by merged racing club	29 30
35	Application of Division	31
	This Division applies in relation to each of the following racecourses (an <i>applicable racecourse</i>) on and from the merger finalisation day:	32 33
(a)	Randwick Racecourse,	34
(b)	any other racecourse that is owned or controlled by the merged racing club (including any buildings, structures, fixtures, fittings and other improvements on the racecourse).	35 36 37

36	By-laws	1
(1)	The merged racing club may make by-laws, not inconsistent with this Act or any other law, for or with respect to any of the following matters:	2
	(a) the admission and expulsion of members or former members of the club or a previous club and other persons from an applicable racecourse (or from any building, structure or other part of an applicable racecourse),	3
	(b) rates, tolls or charges to be paid for admission to an applicable racecourse (or to any building, structure or other part of an applicable racecourse),	4
	(c) any other matter concerning or connected with the use or management of an applicable racecourse.	5
(2)	The by-laws may create offences punishable by an amount not exceeding 5 penalty units.	6
(3)	A by-law has no effect unless approved by the Governor.	7
	Note. Any by-law made by a person or body that requires the approval of the Governor is a statutory rule for the purposes of the <i>Interpretation Act 1987</i> . Accordingly, it must be published on the NSW legislation website in order to come into force.	8
(4)	Nothing in this section limits any other power that the merged racing club has apart from this section (including under the Corporations Act) to make, amend or repeal its club rules or to otherwise deal with its members or business.	9
37	Exclusion of persons from applicable racecourse	10
(1)	The merged racing club may refuse a person admission to, or expel a person from, any part of an applicable racecourse (or cause a person to be refused admission or expelled) if:	11
	(a) the person is a member or former member of the club or a previous club who has been disqualified pursuant to the club rules of the club or previous club, or	12
	(b) there are reasonable grounds for believing that the person's presence on the racecourse would be undesirable in the interests of the public using the racecourse or prejudicial to the proper conduct of racing at the racecourse.	13
(2)	The provisions of subsection (1) are in addition to, and not in derogation of, any power to refuse admission or expel a person that is conferred by or under the by-laws or other legislation or at general law.	14

Clause 38	Australian Jockey and Sydney Turf Clubs Merger Bill 2010
Part 3	Operation of Randwick Racecourse and other racecourses

38	Trespass on applicable racecourse	1
	A person must not intentionally or recklessly trespass on any part of an applicable racecourse (or any building or structure located within an applicable racecourse).	2 3 4
	Maximum penalty: 50 penalty units.	5
	Note. Part 4AD (Criminal destruction and damage) of the <i>Crimes Act 1900</i> also contains a number of offences involving damage to property.	6 7

Part 4	Miscellaneous	1
39	Existing clubs legislation ceases to have effect on merger finalisation day	2 3
(1)	The provisions of the <i>Australian Jockey Club Act 2008</i> and the <i>Sydney Turf Club Act 1943</i> cease to have effect on the merger finalisation day.	4 5
(2)	On or after the merger finalisation day, the Governor may, by proclamation published on the NSW legislation website, repeal the <i>Australian Jockey Club Act 2008</i> and the <i>Sydney Turf Club Act 1943</i> .	6 7 8
40	Relationship of Act with other racing legislation	9
	Nothing in this Act limits the operation of the <i>Racing Administration Act 1998</i> or the <i>Thoroughbred Racing Act 1996</i> in their application to the conduct of racing activities by or on behalf of the merged racing club.	10 11 12 13
41	Act to bind State and other jurisdictions	14
(1)	This Act binds the State and, in so far as the legislative power of the Parliament of the State permits, the other States, the Territories and the Commonwealth.	15 16 17
(2)	Without limiting subsection (1), this Act has effect despite any privilege or immunity of the Crown in any of its capacities.	18 19
(3)	This Act does not make any State or Territory, the Commonwealth, or the Crown in any of its capacities, liable to be prosecuted for an offence.	20 21
(4)	A reference in this section to a State, Territory or the Commonwealth includes a reference to the Government of the State, Territory or Commonwealth.	22 23 24
42	Extraterritorial operation of Act	25
(1)	It is the intention of the Parliament of the State that the operation of this Act should, as far as possible, include operation in relation to the following:	26 27 28
(a)	things situated in or outside the territorial limits of the State,	29
(b)	acts, transactions and matters done, entered into or occurring in or outside the territorial limits of the State,	30 31
(c)	things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of another State, a Territory, the Commonwealth or a foreign country.	32 33 34 35

- (2) Without limiting subsection (1), it is the intention of the Parliament of the State that the provisions of this Act have an operation in relation to the things, acts, transactions and matters referred to in that subsection even if the rules of private international law (whether at general law or as provided by legislation) would require the application of a law other than this Act instead of the provisions of this Act.

43 Effect of this Act on contracts, instruments and related matters

The operation of this Act (and, in particular, Division 2 of Part 2) is not to be regarded as:

- (a) a breach of contract, trust or confidence or otherwise as a civil wrong, or
- (b) a breach of any instrument (including, without limitation, any provision prohibiting, restricting or regulating the assignment or transfer of employees, assets, rights, liabilities or regulatory authorisations), or
- (c) an event of default under any contract or other instrument, or
- (d) giving rise to any remedy by a party to a contract or other instrument, or as causing or permitting the termination of, or exercise of rights under, any contract or other instrument.

Note. See section 5G of the Corporations Act and the declaration made in relation to this section by section 44 (1) of this Act.

44 Displacement and exclusion of Corporations legislation

(1) **Corporations displacement provisions**

The following provisions of this Act are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the Corporations Act in relation to the provisions of the Corporations legislation generally:

- (a) section 6,
- (b) section 9,
- (c) section 10,
- (d) Division 2 of Part 2,
- (e) section 43,
- (f) Schedule 1.

Note. Section 5G of the Corporations Act enables a State to displace the operation of provisions of the Corporations legislation in favour of provisions of State laws that are declared under State law to be Corporations legislation displacement provisions for the purposes of that section. See, in particular, section 5G (4), (5), (9), (10) and (11) of the Corporations Act in relation to the displacements effected by this subsection.

(2)	Declarations under section 5F of Corporations Act	1
	The regulations may declare any matter referred to in, or arising under	2
	or in connection with, this Act or the regulations to be an excluded	3
	matter for the purposes of section 5F of the Corporations Act in relation	4
	to:	5
	(a) the whole of the Corporations legislation, or	6
	(b) a specified provision of that legislation, or	7
	(c) that legislation other than a specified provision, or	8
	(d) that legislation otherwise than to a specified extent.	9
	Note. Section 5F of the Corporations Act provides that if a State law declares a	10
	matter to be an excluded matter for the purposes of that section in relation to all	11
	or part of the Corporations legislation, the provisions that are the subject of the	12
	declaration will not apply in relation to that matter in the State concerned.	13
(3)	Further declarations under section 5G of Corporations Act	14
	The regulations may declare any provision of this Act (other than a	15
	provision referred to in subsection (1)) to be a Corporations legislation	16
	displacement provision for the purposes of section 5G of the	17
	Corporations Act (either generally or specifically in relation to a	18
	provision of the Corporations legislation).	19
(4)	Definitions	20
	In this section:	21
	Corporations legislation means the Corporations legislation to which	22
	Part 1.1A of the Corporations Act applies.	23
	matter includes act, omission, body, person or thing.	24
45	Exemption from State tax	25
(1)	In this section:	26
	exempt matter means any of the following:	27
	(a) the transfer of any employees, assets, rights, liabilities or	28
	regulatory authorisations by operation of Division 2 of Part 2	29
	(including, without limitation, any instrument executed only for	30
	a purpose ancillary to or consequential on the operation of	31
	Division 2 of Part 2),	32
	(b) anything certified by the Minister in writing as having been done	33
	in consequence of such a transfer (for example, the transfer or	34
	registration of an interest in land).	35
	State tax means application or registration fees, duty or any other tax,	36
	fee or charge imposed by any State legislation or other law of the State.	37

(2)	State tax is not payable in relation to:	1
(a)	an exempt matter, or	2
(b)	anything done because of, or for a purpose connected with or arising out of, an exempt matter.	3
46	Giving or service of documents	5
(1)	A document that is authorised or required by this Act or the regulations to be given to or served on any person may be given or served:	6
(a)	in the case of a natural person:	7
(i)	by delivering it to the person personally, or	8
(ii)	by sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or	9
(iii)	by sending it by facsimile transmission to the facsimile number of the person, or	10
(b)	in the case of a body corporate:	11
(i)	by leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or	12
(ii)	by sending it by facsimile transmission to the facsimile number of the body corporate.	13
(2)	Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person in any other manner.	14
47	Regulations	15
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	16
48	Nature of proceedings for offences	17
	Proceedings for an offence against this Act or the by-laws may be dealt with summarily before the Local Court.	18

49	Review of Act	1
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	2 3 4
(2)	The review is to be undertaken as soon as possible after the period of 3 years from the date of assent to this Act.	5 6
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years.	7 8

Schedule 1	Mandatory corporate governance provisions	1
		2
	(Section 5)	3
1	Interpretation	4
(1)	The following definitions apply in this Constitution, unless the context otherwise requires:	5
	<i>AJC</i> has the same meaning as it has in the Merger Act.	6
	<i>appointments selection panel</i> means an appointments selection panel constituted by the Minister under section 10 of the Merger Act to recommend to the Minister a person for appointment as an Independent Director.	7
	<i>Australian Rules of Racing</i> has the same meaning as it has in the <i>Thoroughbred Racing Act 1996</i> of New South Wales.	8
	<i>Board</i> means the Directors for the time being of the Company.	9
	<i>Chair</i> means a person elected to the office of the Chair of the Company in accordance with this Constitution.	10
	<i>Chief Executive</i> means a person appointed as the Chief Executive in accordance with this Constitution.	11
	<i>Club Appointed Director</i> means a Director appointed by the board of directors of the AJC or the board of directors of the STC under section 10 (1) of the Merger Act.	12
	<i>Company</i> means *[insert name and ACN of company].	13
	Incorporation instruction. Insert the name and ACN of the relevant company where indicated.	14
	<i>Corporations Act</i> means the <i>Corporations Act 2001</i> of the Commonwealth.	15
	<i>Director</i> means a person appointed or elected to the office of director of the Company in accordance with the Merger Act and this Constitution.	16
	<i>Elected Director</i> means a Director elected to office by the Members in accordance with this Constitution.	17
	<i>eligible industry body</i> has the same meaning as it has in the <i>Thoroughbred Racing Act 1996</i> of New South Wales.	18
	<i>First Board</i> means the Board at the time that the initial 12-month period commences.	19
	<i>Greyhound Racing Act</i> means the <i>Greyhound Racing Act 2009</i> of New South Wales.	20
	<i>GRNSW</i> means Greyhound Racing New South Wales constituted under the Greyhound Racing Act.	21
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<i>Harness Racing Act</i> means the <i>Harness Racing Act 2009</i> of New South Wales.	1 2
<i>HRNSW</i> means Harness Racing New South Wales constituted under the Harness Racing Act.	3 4
<i>Independent Director</i> means a Director appointed by the Minister on the recommendation of an appointments selection panel.	5 6
<i>initial 12-month period</i> means the period of 12 months commencing at the time that *the Company is registered/*the mandatory corporate governance provisions (within the meaning of the Merger Act) are included in this Constitution.	7 8 9 10
<i>Incorporation instruction.</i> The first alternative phrase indicated by an asterisk (*) is to be used if the mandatory corporate governance provisions are included in the company's constitution when it is registered as a company. The second alternative phrase indicated by an asterisk is to be used if the mandatory corporate governance provisions are included in the company's constitution after the registration of the company.	11 12 13 14 15 16
<i>Member</i> means any person who is admitted to the membership of the Company and whose name is entered in the Register.	17 18
<i>mentally incapacitated person</i> means a person who is an involuntary patient or a forensic patient or a correctional patient within the meaning of the <i>Mental Health Act 2007</i> of New South Wales, or a protected person within the meaning of the <i>NSW Trustee and Guardian Act 2009</i> of New South Wales.	19 20 21 22 23
<i>Merger Act</i> means the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i> of New South Wales.	24 25
<i>Minister</i> means the Minister administering the Merger Act from time to time.	26 27
<i>race club</i> has the same meaning as it has in the <i>Thoroughbred Racing Act 1996</i> of New South Wales.	28 29
<i>racine association</i> has the same meaning as it has in the <i>Thoroughbred Racing Act 1996</i> of New South Wales.	30 31
<i>Racing NSW</i> means Racing New South Wales established by the <i>Thoroughbred Racing Act 1996</i> of New South Wales.	32 33
<i>Register</i> means the register of members maintained by the Company in accordance with the Corporations Act.	34 35
<i>Registered Clubs Act</i> means the <i>Registered Clubs Act 1976</i> of New South Wales.	36 37
<i>Secretary</i> , in relation to the Company, means any person appointed to perform the duties of secretary of the Company, and includes an assistant secretary or any person appointed to act as secretary temporarily.	38 39 40 41

Short-term Club Appointed Director means a Club Appointed Director whose instrument of appointment, in accordance with section 10 (2) of the Merger Act, designates the Director to be the short-term appointment under that subsection of the board of directors of the AJC or STC. 1
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STC has the same meaning as it has in the Merger Act. 6

Vice-Chair means a person elected to the office of the Vice-Chair of the Company in accordance with this Constitution. 7
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(2) Headings in this Constitution are for convenience only and do not affect interpretation. 9
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(3) The following rules of interpretation apply to this Constitution unless the context requires otherwise: 11
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(a) a gender includes all genders, 13

(b) the singular includes the plural and conversely, 14

(c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning, 15
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(d) a reference to a person includes a reference to a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity, 17
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(e) a reference to a clause, subclause, paragraph or subparagraph is a reference to a clause, subclause, paragraph or subparagraph of this Constitution, 20
21
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(f) a reference to any legislation or to any provision of any legislation includes a reference to any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments made or issued under it, 23
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(g) an expression has, in a provision of this Constitution that relates to a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act, 27
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(h) the words “includes” and “including” are not words of limitation, and do not and must not be taken as detracting from the generality of any provisions of this Constitution. 30
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32

2 Board of Company 33

- (1) The Board is to consist of: 34
- (a) during the initial 12-month period—9 Directors, and 35
- (b) after the expiry of that period—7 Directors. 36
- (2) The Directors may act as the Board despite a vacancy in their number. However, if their number is reduced below the minimum fixed for a quorum for a meeting of the Board, the continuing Directors may, 37
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except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to the number required for a quorum. 1
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3 Board to manage Company 4

- (1) The management and control of the business and affairs of the Company are vested in the Board. 5
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- (2) The Board may exercise all powers of the Company which are not, by the Corporations Act or this Constitution, required to be exercised by the Company in general meeting. 7
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4 Constitution of First Board 10

- (1) The 9 Directors of the First Board are those persons who at the time of the commencement of the initial 12-month period have: 11
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- (a) been appointed in accordance with section 10 (1) of the Merger Act, and 13
14
- (b) consented in writing to be members of the Company (except in the case of persons appointed as Independent Directors), and 15
16
- (c) consented in writing to act as Directors of the Company. 17
- (2) Section 10 (1) of the Merger Act provides for: 18
- (a) 3 of the Directors of the First Board to be appointed by the board of directors of the AJC, and 19
20
- (b) 3 of the Directors of the First Board to be appointed by the board of directors of the STC, and 21
22
- (c) 3 of the Directors of the First Board to be appointed by the Minister on the recommendation of an appointments selection panel. 23
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- (3) Each of the Directors of the First Board (other than a Short-term Club Appointed Director) holds office for a term of 4 years unless the Director vacates office before the expiry of the term. 26
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- (4) A Short-term Club Appointed Director holds office for a term of 12 months unless the Director vacates office before the expiry of that term. 29
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- (5) A Director of the First Board may not hold office as a Director for a term that exceeds 8 years in total. 32
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5 Election and appointment of Directors to subsequent Boards	1
(1) The Company may at any time by resolution passed in general meeting elect a person to be a Director to replace:	2
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(a) a Club Appointed Director who has vacated office, or	4
(b) an Elected Director who has vacated office.	5
(2) A person is eligible to be elected as a Director only if the person is:	6
(a) a Member, and	7
(b) not otherwise ineligible to be elected as a Director under subclause (3).	8
	9
(3) A person is not eligible to be elected as a Director if the person:	10
(a) is an employee of a race club or racing association, or	11
(b) is a member of the governing body of another race club or eligible industry body (including a director of the AJC or STC), or	12
	13
(c) holds a licence issued by Racing NSW or by a racing association, or	14
	15
(d) is registered by or with GRNSW under the Greyhound Racing Act or HRNSW under the Harness Racing Act, or	16
	17
(e) is currently, or during the previous 10 years has been, warned off, disqualified or named on the Forfeit List under the Australian Rules of Racing, or	18
	19
	20
(f) during the previous 10 years has been convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	21
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(g) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or	26
	27
(h) is a mentally incapacitated person, or	28
(i) is prevented from holding office as a Director by clause 4 (5).	29
(4) Subject to subclause (7), an Elected Director holds office for a term of 4 years or until the Director sooner vacates office as a Director.	30
	31
(5) Subject to clause 4 (3) and subclause (7), an Independent Director holds office for such term (not exceeding 4 years) as may be specified in the instrument of appointment for the Director unless the Director vacates office before the expiry of that term.	32
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(6) An Independent Director who vacates office is to be replaced by a person appointed by the Minister under section 10 of the Merger Act.	36
	37

(7)	If a person is elected or appointed to fill a casual vacancy in the office of a Director, the person holds office as a Director for the balance of the term of the person's predecessor as Director unless the person vacates office as a Director before the expiry of the balance of that term.	1 2 3 4
6	Chair and Vice Chair of the Company	5
(1)	The Board may elect a Director to hold office as Chair and another Director to hold office as Vice-Chair.	6 7
(2)	The Chair or, in the Chair's absence, the Vice-Chair, is to chair any meeting of the Board.	8 9
(3)	The Board may determine the period of time that a Director elected to the office of Chair or Vice-Chair may hold such office.	10 11
(4)	No Director may hold the office of Chair or Vice-Chair for longer than a total aggregate period of 4 years.	12 13
(5)	The Board may elect another Director to chair a meeting of the Board if at the time the meeting is held:	14 15
	(a) neither a Chair nor a Vice-Chair has been elected, or	16
	(b) the Chair and Vice-Chair are not present at the time appointed for the holding of the meeting.	17 18
7	Vacancies in office of Director	19
(1)	In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if:	20 21 22
	(a) the Director dies, or	23
	(b) the Director becomes a mentally incapacitated person, or	24
	(c) the Director resigns the office by notice in writing to the Company, or	25 26
	(d) the Director's term of office expires and the Director is not re-elected or re-appointed to the office, or	27 28
	(e) in the case of a Director other than an Independent Director—the Director ceases to be a Member, or	29 30
	(f) the Director is not present personally at meetings of the Board for a continuous period of 3 months without leave of absence from the Board, or	31 32 33
	(g) the Director becomes an employee of another race club or racing association, or	34 35

<ul style="list-style-type: none"> (h) the Director becomes a member of the governing body of another race club or eligible industry body (including a director of the AJC or STC), or (i) the Director becomes the holder of a licence issued by Racing NSW or by a racing association, or (j) the Director is registered by or with GRNSW under the Greyhound Racing Act or HRNSW under the Harness Racing Act, or (k) the Director is warned off, disqualified or named on the Forfeit List under the Australian Rules of Racing, or (l) the Director is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or (m) the Director becomes bankrupt or insolvent or takes advantage of the laws in force for the time being relating to bankruptcy, or (n) the Director is removed from office under subclause (2). <p>(2) The Company may at any time by resolution passed in general meeting remove any Director from office.</p> <p>8 Proceedings of Board</p> <ul style="list-style-type: none"> (1) Subject to the requirements of the Registered Clubs Act to the extent applicable to the Company, the Board may meet as often as it deems necessary. (2) The quorum for a meeting of the Board is: <ul style="list-style-type: none"> (a) during the initial 12-month period—5 Directors, and (b) at any time after the expiry of that period—4 Directors. (3) The Chief Executive may at any time, and on the request of the Chair or any 3 Directors must, convene a meeting of the Board. (4) Reasonable notice must be given to every Director of the place, date and time of every meeting of the Board. If any Director is for the time being outside of Australia, notice need only be given to that Director if contact details have been provided to the Secretary by the Director. (5) Questions arising at a meeting of the Board are decided by a majority of votes of Directors present and voting and any such decision is for all purposes taken to be a decision of the Board. (6) In the case of an equality of votes, the Chair of the meeting has a casting vote in addition to any deliberative vote. 	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38</p>
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(7)	For the purposes of the Corporations Act, each Director, on becoming a Director (or on the adoption of this Constitution), consents to the use of the following technology for calling or holding a meeting of the Board:	1
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(a)	video,	4
(b)	telephone,	5
(c)	electronic mail,	6
(d)	any other technology that permits each Director to communicate with every other Director,	7
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(e)	any combination of the technologies described in the above paragraphs.	9
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(8)	A Director may withdraw the consent given under subclause (7) in accordance with the Corporations Act.	11
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(9)	If the Directors are not all in attendance at one place and are holding a meeting using technology that permits each Director to communicate with other Directors:	13
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(a)	the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of Directors, taken to be assembled together at a meeting and to be present at that meeting, and	16
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(b)	all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were present.	20
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9	Disclosure of interests by Directors	23
(1)	A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the Board notice of the interest in accordance with the Corporations Act.	24
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(2)	A contract or arrangement made by the Company with a Director or in which a Director is in any way directly or indirectly interested is not avoided merely because the Director is a party to or interested in it.	27
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(3)	A Director is not liable to account to the Company for any profit derived in respect of a matter in which the Director has a material interest, merely because of the Director's office or the fiduciary relationship it entails, if the Director has:	30
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(a)	declared the Director's interest in the matter as soon as practicable after the relevant facts have come to the Director's knowledge, and	34
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(b)	not contravened this Constitution or the Corporations Act in relation to the matter.	37
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(4)	A general notice giving details of the nature and the extent of the interest and the relation of the interest to the affairs of the Company is a sufficient declaration of the Director’s interest, provided the extent of that interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.	1 2 3 4 5
(5)	A Director may not be present during deliberations or vote on a contract or matter in which the Director has a personal interest unless the Board, when considering the particular contract or matter, resolves that the interested Director may be present and may vote on that particular contract or matter because the Board is satisfied that the interest ought not disqualify the Director from being present and voting on it.	6 7 8 9 10 11
(6)	A Director must not hold any office of employment in the Company in addition to holding office as a Director.	12 13
10	Chief Executive	14
(1)	The Board may appoint a Chief Executive on such terms and conditions, as to remuneration and otherwise, as the Board decides.	15 16
(2)	The Board may at any time terminate the appointment of the Chief Executive.	17 18
(3)	The Chief Executive must not be appointed as a Director.	19
(4)	The Board may, on the terms and conditions and with any restrictions as the Board thinks fit, confer on the Chief Executive any of the powers exercisable by the Board.	20 21 22
(5)	Any powers so conferred may be concurrent with the powers of the Board.	23 24
(6)	The Board may at any time withdraw or vary any of the powers conferred on the Chief Executive.	25 26
(7)	Unless the Board appoints a Secretary, the Chief Executive is to act as Secretary of the Company for the purposes of the Corporations Act.	27 28
11	Other officers	29
(1)	The Board may from time to time:	30
(a)	create any other position or positions in the Company with such powers and responsibilities as the Board may from time to time confer, and	31 32 33
(b)	appoint any person to any position or positions so created.	34
(2)	Without limiting subclause (1), the Board may create any one or more of the following positions:	35 36

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| (a) | a secretary (in addition to the position of Secretary of the Company) to carry out the functions of an approved secretary of a registered club under the Registered Clubs Act to the extent that Act applies to the Company, | 1
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| (b) | an Honorary Race Day Committee Director for the purpose of carrying out official or representative functions on behalf of the Board. | 5
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| (3) | Any person appointed to a position created under this clause must not also be a Director. | 8
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| (4) | The Board may at any time terminate the appointment of a person holding a position created under this clause and may abolish the position. | 10
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Schedule 2	Savings, transitional and other provisions	1
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Part 1	General	3
1	Regulations	4
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	5
	this Act	6
		7
(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	8
		9
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	10
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(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	13
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(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	16
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Part 2	Provisions consequent on enactment of this Act	19
		20
2	Selection of directors for merged racing club during pre-commencement period	21
		22
(1)	The Minister, and the boards of directors of the AJC and STC, are taken to have been authorised by this Act to exercise during the pre-commencement period any of the functions that, had section 10 been in force during that period, would have been conferred or imposed on them by or under that section.	23
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(2)	Accordingly, the following things (if done in accordance with the provisions of section 10) are taken to have been duly done for the purposes of that section and the mandatory corporate governance provisions even if they were done during the pre-commencement period:	28
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(a)	the selection or appointment of any director of the merged racing club by the board of directors of the AJC or STC,	33
		34
(b)	the constitution by the Minister of an appointments selection panel to make recommendations to the Minister on the	35
		36

appointment of independent directors to the first board of the merged racing club,	1
(c) the appointment of a Probity Adviser by the Minister and the conduct of any probity check of a person,	2
(d) the making of recommendations to the Minister by an appointments selection panel about the appointment of independent directors,	3
(e) the selection or appointment by the Minister of any independent director.	4
(3) In this clause:	5
<i>pre-commencement period</i> means the period:	6
(a) commencing on the day on which the Bill for this Act was first introduced into Parliament, and	7
(b) ending immediately before the commencement of section 10.	8
3 Existing by-laws taken to be by-laws made under Act	9
Any by-laws in force under the <i>Australian Jockey Club Act 2008</i> or the <i>Sydney Turf Club Act 1943</i> immediately before the merger finalisation day are taken to have been made under section 36 of this Act, and may be amended and repealed accordingly.	10
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Schedule 3	Amendment of Acts and statutory instruments	1
		2
3.1	Australian Jockey Club (Randwick Racecourse) By-law 1981	3
[1]	Clause 1	4
	Omit the clause. Insert instead:	5
	1 Name of By-law	6
	This By-law is the <i>Randwick Racecourse By-law 1981</i> .	7
[2]	Clauses 3 and 3A	8
	Omit clause 3. Insert instead:	9
	3 Definitions	10
	(1) In this By-law:	11
	<i>AJC</i> has the same meaning as it has in the Act.	12
	<i>Club</i> means the merged racing club within the meaning of the Act.	13
	<i>club rules</i> has the same meaning as it has in the Act.	14
	<i>Curator</i> means the person appointed by the Club as Curator of the Racecourse or, in his or her absence, any person authorised by the Club to act as Curator of the Racecourse.	15
	<i>former AJC</i> has the same meaning as it has in the Act.	16
	<i>member</i> , in relation to the Club, means a person who is a member of the Club, as determined from time to time by its club rules.	17
	<i>officer</i> means any person employed by the Club who has been issued by the Club with an official's pass.	18
	<i>race day</i> means any day set aside for the holding of a race-meeting.	19
	<i>Racecourse</i> has the same meaning as Randwick Racecourse has in the Act.	20
	<i>race-meeting</i> means a meeting for horse-racing held at the Racecourse.	21
	<i>Secretary/General Manager</i> means the Secretary/General Manager of the Club.	22
	<i>STC</i> has the same meaning as it has in the Act.	23
	<i>the Act</i> means the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i> .	24
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(2)	A reference in this By-law to a member includes, for the period of 12 months commencing on the day on which this subclause commences, a reference to a person who, although not a member of the Club, was a member of the AJC or STC immediately before the merger finalisation day (within the meaning of the Act).	1 2 3 4 5 6
(3)	Notes included in this By-law do not form part of this By-law.	7
3A	Relationship of By-law with Racecourses (General) By-law 1990	8
	The <i>Racecourses (General) By-law 1990</i> applies to the racecourses owned or controlled by the Club that were previously owned or controlled by the STC.	9 10 11
	Note. The Racecourse was previously leased by the AJC.	12
[3]	Clause 5 Rates, tolls and charges	13
	Omit “AJC Limited” from clause 5 (2). Insert instead “The Club”.	14
[4]	Clause 6 Entry of certain persons prohibited	15
	Omit “AJC Limited” wherever occurring (except clause 6 (d)).	16
	Insert instead “the Club”.	17
[5]	Clause 6 (d)	18
	Omit “the AJC or AJC Limited”.	19
	Insert instead “the former AJC, the AJC, the STC or the Club”.	20
[6]	Clause 7 Entry on day other than race day	21
	Omit “AJC Limited” wherever occurring in clause 7 (1).	22
	Insert instead “the Club”.	23
[7]	Clause 8 Use of training grounds	24
	Omit “AJC Limited” wherever occurring in clause 8 (1) and (3).	25
	Insert instead “the Club”.	26
[8]	Clause 9 Orders of Club etc to be complied with	27
	Omit “AJC Limited” wherever occurring. Insert instead “the Club”.	28
[9]	Clause 11 Offences	29
	Omit “AJC Limited” wherever occurring. Insert instead “the Club”.	30

[10] Clause 13 Bookmaking	1
Omit “AJC Limited” wherever occurring in clause 13 (1).	2
Insert instead “the Club”.	3
[11] Clause 13 (2)	4
Omit “AJC Limited”. Insert instead “The Club”.	5
[12] Clause 14 Speed limit for vehicles	6
Omit “AJC Limited” from clause 14 (1). Insert instead “the Club”.	7
[13] Clause 16 Savings and transitional provisions	8
Omit “Committee of the AJC” from clause 16 (2).	9
Insert instead “Committee of the former AJC”.	10
[14] Clause 16 (3)	11
Insert after clause 16 (2):	12
(3) Any act, matter or thing done by the AJC that, immediately	13
before the commencement of the amendments to this By-law	14
made by the <i>Australian Jockey and Sydney Turf Clubs Merger</i>	15
<i>Act 2010</i> , had effect under (or for the purposes of) a provision of	16
this By-law continues to have effect under (or for the purposes of)	17
that provision as if it had been done by the Club.	18
[15] Schedule 1 Savings and transitional provisions	19
Insert “former” before “AJC” wherever occurring in clause 2.	20
3.2 Registered Clubs Act 1976 No 31	21
Section 30 Rules of registered clubs	22
Omit “the Australian Jockey Club Limited (ACN 130 406 852)” from section	23
30 (6) (a).	24
Insert instead “the merged racing club (within the meaning of the <i>Australian</i>	25
<i>Jockey and Sydney Turf Clubs Merger Act 2010</i>)”.	26
3.3 Subordinate Legislation Act 1989 No 146	27
[1] Schedule 4 Excluded instruments	28
Omit items 6 and 14.	29

[2] Schedule 4	1
Insert at the end of the Schedule (with appropriate item number):	2
By-laws under the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i> .	3
	4
3.4 The Sydney Turf Club By-law 1990	5
[1] Clause 1	6
Omit the clause. Insert instead:	7
1 Name of By-law	8
This By-law is the <i>Racecourses (General) By-law 1990</i> .	9
[2] Clauses 2 and 2A	10
Omit clause 2. Insert instead:	11
2 Definitions	12
(1) In this By-law:	13
<i>AJC</i> has the same meaning as it has in the Act.	14
<i>bookmaker</i> includes any person who carries on the business of or	15
acts as a bookmaker or turf commission agent or who gains or	16
endeavours to gain a livelihood wholly or partly by betting or	17
making wagers.	18
<i>Club</i> means the merged racing club within the meaning of the	19
Act.	20
<i>club rules</i> has the same meaning as it has in the Act.	21
<i>Director</i> means a director of the Club.	22
<i>former AJC</i> has the same meaning as it has in the Act.	23
<i>member</i> , in relation to the Club, means a person who is a member	24
of the Club, as determined from time to time by its club rules.	25
<i>race meeting</i> means a meeting for horse racing, or a meeting for	26
pony racing, or a meeting for trotting or pacing contests.	27
<i>racecourse</i> means land used for race meetings and to which	28
admission is granted by payment of money, by ticket or	29
otherwise.	30
<i>Randwick Racecourse</i> has the same meaning as it has in the Act.	31
<i>Secretary/General Manager</i> means the Secretary/General	32
Manager of the Club.	33
<i>STC</i> has the same meaning as it has in the Act.	34

	<i>the Act</i> means the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i> .	1 2
(2)	A reference in this By-law to a member of the Club includes, for the period of 12 months commencing on the day on which this subclause commences, a reference to a person who, although not a member of the Club, was a member of the AJC or STC immediately before the merger finalisation day (within the meaning of the Act).	3 4 5 6 7 8
(3)	Notes included in this By-law do not form part of this By-law.	9
2A	Application of By-law	10
	This By-law applies to the racecourses owned or controlled by the Club that were previously owned or controlled by the STC.	11 12
	Note. The <i>Randwick Racecourse By-law 1981</i> makes provision in relation to Randwick Racecourse.	13 14
[3]	Clauses 3 and 4	15
	Omit “Sydney Turf Club” wherever occurring. Insert instead “the Club”.	16
[4]	Clause 12 Horses stalls area	17
	Omit “Secretary”. Insert instead “Secretary/General Manager”.	18
[5]	Clause 14 Persons not to be admitted	19
	Omit clause 14 (b) and (c). Insert instead:	20
	(b) Any person under disqualification by the AJC, the STC or the Club,	21 22
	(c) Any person who is disqualified or warned off under the Rules of Racing (within the meaning of the <i>Thoroughbred Racing Act 1996</i>),	23 24 25
[6]	Clause 19 Offences	26
	Omit “\$50.00”. Insert instead “1 penalty unit”.	27
[7]	Clause 27 Penalties relating to training grounds	28
	Omit “\$50.00”. Insert instead “1 penalty unit”.	29
[8]	Clause 28 Bookmakers	30
	Omit “and of the Australian Jockey Club” from clause 28 (a).	31

[9] Clause 28	1
Omit “Secretary” wherever occurring.	2
Insert instead “Secretary/General Manager”.	3
[10] Clause 28	4
Omit “\$50.00”. Insert instead “1 penalty unit”.	5
[11] Clause 29 Enquiries	6
Omit the clause.	7
[12] Clause 31 Driving of vehicles	8
Omit “\$50.00” from clause 31 (c). Insert instead “1 penalty unit”.	9
[13] Clause 33 Application of rules of Australian Jockey Club	10
Omit the clause.	11
[14] Clause 34 Application of By-law	12
Omit the clause.	13
[15] Clause 35 Penalty	14
Omit “\$50.00”. Insert instead “1 penalty unit”.	15
[16] Clause 36	16
Insert after clause 35:	17
36 Savings and transitional provision	18
Any act, matter or thing done by the STC that, immediately	19
before the commencement of the amendments to this By-law	20
made by the <i>Australian Jockey and Sydney Turf Clubs Merger</i>	21
<i>Act 2010</i> , had effect under (or for the purposes of) a provision of	22
this By-law continues to have effect under (or for the purposes of)	23
that provision as if it had been done by the Club.	24
3.5 Thoroughbred Racing Act 1996 No 37	25
[1] Section 3 Definitions	26
Omit the definition of <i>AJC</i> from section 3 (1).	27
[2] Section 29H Definition of “Intra-Code agreement”	28
Omit “AJC” from paragraph (a) of the definition of <i>Intra-Code agreement</i> .	29
Insert instead “Australian Jockey Club”.	30

[3] Section 31 Membership	1
Omit section 31 (1) (a) and (b). Insert instead:	2
(a) 2 persons to represent the merged racing club (within the meaning of the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i>), one of whom is to be the chief executive of the club,	3 4 5 6
3.6 Totalizator Act 1997 No 45	7
Section 6B Major racing bodies	8
Omit section 6B (1) (a) and (b). Insert instead:	9
(a) the merged racing club (within the meaning of the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i>),	10 11 12
3.7 Water Savings Order 2005	13
Schedule 1 Designated water users—businesses	14
Omit all of the matters relating to Australian Jockey Club Limited (ACN 130 406 852) and the Sydney Turf Club.	15 16
Insert after the matter relating to Merck Sharp & Dohme (Australia) Pty Ltd:	17
Merged racing club (within the meaning of the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i>)	Randwick Racecourse, Alison Road, Randwick
Merged racing club (within the meaning of the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i>)	Canterbury Park Racecourse, 98 King Street, Canterbury
Merged racing club (within the meaning of the <i>Australian Jockey and Sydney Turf Clubs Merger Act 2010</i>)	Rosehill Gardens Racecourse, James Ruse Drive, Rosehill