

[Act 1998 No 115]



New South Wales

Gambling (Two-up) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Unlawful Gambling Bill 1998*.

Overview of Bill

The objects of this Bill are as follows:

- (a) to legalise the conduct of:
 - (i) games of two-up on Anzac Day. and
 - (ii) games of two-up in Broken Hill,
- (b) to ensure that those games:
 - (i) are conducted honestly and with appropriate controls to prevent fraudulent activity. and
 - (ii) are conducted free from criminal influence and exploitation.
- (c) to minimise. in the public interest. any adverse social effects of lawful gambling. and in particular to minimise the potential for lawful gambling to cause harm to individuals and families.

This Bill re-enacts the provisions of the *Gaming and Betting Act 1912* that presently allow the otherwise unlawful game of two-up to be conducted on Anzac Day, and in the City of Broken Hill, in certain circumstances.

The *Gaming and Betting Act 1912* is to be repealed by the proposed *Unlawful Gambling Act 1998*, and this Bill is part of a legislative package which involves rewriting the *Gaming and Betting Act 1912* in a more modern form.

Outline of provisions

Part 1 Preliminary

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

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

Clause 3 specifies the objects of the proposed Act as described in the above overview.

Clause 4 defines certain words and expressions used in the proposed Act. The term *Council* refers to the Council of the City of Broken Hill.

Part 2 Two-up on Anzac Day

Part 2 is based on section 20B of the *Gaming and Betting Act 1912*.

Clause 5 provides that Part 2 does not apply to the conduct of games of two-up on premises that are gambling premises (ie the Part will not operate to legalise games of two-up in illegal casinos).

Clause 6 provides that a game of two-up conducted on Anzac Day is not an unlawful game if it is conducted on premises in accordance with proposed section 7 or proposed section 8.

Clause 7 provides that a game of two-up is conducted in accordance with the proposed section if:

- (a) no payment or other benefit is, for the purpose of participating in the same, to be given or sought for the right to enter the premises on which the game is to be conducted, and
- (b) no payment or other benefit is to be given or sought for the right to participate in the game (otherwise than by the placing of money by way of a bet), and

- (c) no commission on, percentage of, or fee for, bets or winnings is to be given or sought by any person, whether or not a participant in the game.

Clause 8 provides that a game of two-up conducted in a registered club, being a game that involves any of the things listed in the above paragraphs, is conducted in accordance with the proposed section if the game is authorised by the club and the club has authorised the payments and other benefits to go to charity without forming part of the funds of the club.

Part 3 Two-up in Broken Hill

Part 3 is based on section 20C and Part 3A of the *Gaming and Betting Act 1912*.

Division 1 Authorisation to conduct two-up in Broken Hill

Clause 9 provides that a game of two-up conducted in Broken Hill is not an unlawful game if the game is conducted by or on behalf of the Broken Hill Council at an approved location in Broken Hill and in accordance with the Minister's authorisation.

Clause 10 enables the Minister to authorise games of two-up to be conducted by or on behalf of the Council in accordance with the conditions imposed by the Minister.

Clause 11 provides that the conditions of the authorisation may relate to such matters as the approval by the Minister of the persons who can conduct games of two-up on behalf of the Council. The Minister may impose a condition requiring the Council to pay a duty in connection with games of two-up conducted under the Part.

Clause 12 provides for the withdrawal of the Minister's approval of persons who may conduct games of two-up on the Council's behalf.

Clause 13 enables the conditions of the authorisation to be altered but only after the Minister gives notice of the proposed alteration and representations are allowed to be made.

Clause 14 provides for the revocation or suspension of the authorisation by the Minister. If a game of two-up is conducted when the authorisation is not in force, the game will be an unlawful game and the person conducting it will be committing an offence under the proposed *Unlawful Gambling Act 1998* (at present the offence of conducting an unlawful game is created under section 18 of the *Gaming and Betting Act 1912*).

Division 2 Supervision of conduct of two-up in Broken Hill

Clause 15 enables the Minister to direct the Council, or a person conducting games of two-up on behalf of the Council, to take certain action if the Minister is of the opinion that the integrity of any game of two-up is to be prejudiced by any irregularity in the conduct of the game or by the character or reputation of a person concerned in the conduct of the game.

Clause 16 enables the Minister to give directions concerning the termination of the employment or association of key employees.

Clause 17 provides for the appointment of two-up inspectors.

Clause 18 requires two-up inspectors to possess identification cards when exercising their functions.

Clause 19 specifies the functions of two-up inspectors. These include the powers of entry and inspection in relation to the conduct of games of two-up on the approved two-up premises.

Clause 20 provides for offences in relation to two-up inspectors.

Clause 21 enables the Minister to require information to be provided by key employees or by persons who conduct games of two-up on behalf of the Council.

Clause 22 provides for the appointment of a person to investigate and report on matters relating to the conduct of games of two-up.

Clause 23 enables the Minister to require key employees to undergo criminal records and probity checks.

Part 4 Miscellaneous

Clause 24 prohibits any person from betting with persons under the age of 18 years in relation to games of two-up.

Clause 25 provides a general defence for participants in a game of two-up that is unlawful.

Clause 26 enables the Council to make rules for the conduct of games of two-up in Broken Hill.

Clause 27 enables the Minister to delegate his or her functions under Part 3.

Clause 28 provides a safeguard for the proper disposal of fingerprints and palm prints obtained under Part 3.

Clause 29 ensures the confidentiality of information obtained under Part 3.

Clause 30 provides that offences under the proposed Act are to be dealt with summarily before a Local Court.

Clause 31 is a general regulation-making power.

Clause 32 gives effect to the Schedule of savings and transitional provisions.

Clause 33 provides for a review of the proposed Act after 5 years.

Schedule 1 contains savings and transitional provisions, including power to make regulations of a savings and transitional nature consequent on the enactment of the proposed Act and the proposed *Unlawful Gambling Act 1998*.