

# Racing Administration Act 1998 No 114

[1998-114]



New South Wales

## Status Information

### Currency of version

Historical version for 8 July 2002 to 9 July 2002 (accessed 22 May 2025 at 14:20)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Greyhound Racing Act 2002 No 38](#) (not commenced)
  - [Harness Racing Act 2002 No 39](#) (not commenced)
- **See also**
  - [State Revenue Legislation Amendment \(Budget\) Bill 2002](#)

### Authorisation

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File last modified 8 July 2002

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New South Wales

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# Racing Administration Act 1998 No 114



New South Wales

An Act to provide for the licensing of racecourses and the authorisation of certain betting activities; and for related purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Racing Administration Act 1998*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Objects of Act

The objects of this Act are as follows:

- (a) to ensure the integrity of racing in the public interest,
- (b) to ensure that certain betting activities by licensed bookmakers are conducted properly,
- (c) to minimise the adverse social effects of lawful gambling,
- (d) to protect a source of public revenue that is derived from lawful gambling.

### 4 Definitions

In this Act:

**approved body** means:

- (a) a non-proprietary association, or
- (b) a local council, or
- (c) a reserve trust constituted under Division 4 of Part 5 of the *Crown Lands Act 1989*.

**authorised betting auditorium** means a betting auditorium authorised by the Minister under section 24.

**authorised sports betting bookmaker** means a licensed bookmaker who is authorised to take bets under section 19.

**betting auditorium** means premises that are used for betting or wagering on horse races, harness races, greyhound races or sports betting events.

**bookmaker** includes any person who:

- (a) carries on the business of, or who acts as, a bookmaker, bookmaker's clerk or turf commission agent, or
- (b) gains, or endeavours to gain, a livelihood wholly or partly by betting or making wagers.

**Committee** means the Bookmakers Revision Committee constituted by section 26C.

**controlling body** means any one of the following:

- (a) the NSW Thoroughbred Racing Board,
- (b) Harness Racing New South Wales,
- (c) the Greyhound Racing Authority (NSW).

**exercise** a function includes perform a duty.

**function** includes a duty.

**licensed bookmaker** means a person who is authorised by a controlling body to carry on bookmaking.

**licensed racecourse** means a racecourse licensed under this Act.

**licensee** means the approved body that holds a racecourse licence.

**meeting for greyhound racing** means any meeting at which greyhound racing (ie racing between greyhounds in competitive pursuit of a lure activated by mechanical means) is carried on.

**meeting for harness racing** means any meeting at which harness racing is carried on.

**meeting for horse racing** means any meeting (other than a meeting for harness racing) at which horse racing is carried on.

**non-proprietary association** means a corporation, club, or other unincorporated body of persons, formed for the purpose of promoting and conducting race meetings, the constitution of which:

- (a) provides for the application of profits, if any, and other income of the corporation, club or body to the promotion of its objects, and

(b) prohibits the payment of any dividends to the shareholders or members of the corporation, club or body,

and that is registered as a racing club by the controlling body responsible for the type of racing conducted by the corporation, club or body.

**race meeting** means a meeting for horse racing, meeting for greyhound racing or meeting for harness racing.

**racecourse** means any land that is used to hold or conduct a race meeting.

**racecourse licence** means a licence in force under this Act that authorises race meetings to be held at the racecourse in respect of which the licence is issued.

**racing club** includes an association of racing clubs.

**sports betting authority** means an authority under section 19.

**sports betting event** means an event or class of event declared by the Minister to be a sports betting event or class of sports betting events under section 18.

**trial meeting** means a race meeting held for the purposes of enabling horses or greyhounds to compete in a training race or in a trial.

## Part 2 Racecourses

### Division 1 Licensing of racecourses

#### 5 Requirement for racecourses to be licensed

- (1) A race meeting must not be held at a racecourse unless:
  - (a) the racecourse is licensed under this Division, and
  - (b) the race meeting is conducted by a non-proprietary association (whether or not the licensee), and
  - (c) the race meeting is otherwise held in accordance with this Part.
- (2) Despite subsection (1) (a), a trial meeting may be held at a racecourse that is not a licensed racecourse so long as the meeting is held with the approval of the controlling body that is responsible for the type of racing concerned.
- (3) If a race meeting is held at a racecourse in contravention of this Part, each of the following is guilty of an offence:
  - (a) the owner or trustees of the racecourse,
  - (b) the licensee (if any),

- (c) the body conducting the race meeting (or on whose behalf the race meeting is conducted),
- (d) each trustee, or member of the managing board or committee, of the body conducting the race meeting,
- (e) any person acting at the race meeting as a starter or judge or acting in any other official capacity in connection with the conduct of the race meeting (regardless of whether the person is being paid to act as such).

Maximum penalty:

- for a first offence—50 penalty units,
- for a second or subsequent offence—100 penalty units.

- (4) A person is not guilty of an offence under this section if the person proves:
  - (a) that he or she did not know, or could not reasonably be expected to have known, that the race meeting was being held in contravention of this Part, or
  - (b) that the race meeting was being held in circumstances over which the person had no control.

## **6 Application for racecourse licence**

- (1) An application for a racecourse licence may only be made by or on behalf of an approved body.
- (2) An application for a licence:
  - (a) must be in the form approved by the Minister, and
  - (b) must be accompanied by a fee of \$100 (or such other amount as may be prescribed by the regulations), and
  - (c) must contain the information required by the approved form, and
  - (d) must be delivered or sent to the head office of the Department of Gaming and Racing.
- (3) In the case of an application for a licence proposed to be held by a non-proprietary association, the Minister may, at the time the application is made or at any time before it is determined, require the applicant to provide such documents and information as may be required by the Minister for the purpose of ascertaining whether the proposed licensee is a non-proprietary association.

## **7 Issue and classes of racecourse licence**

- (1) The Minister may, if satisfied that the proposed licensee is an approved body, issue a



racecourse licence in respect of the racecourse concerned.

- (2) The following are the classes of racecourse licences:
  - (a) licences for meetings for horse racing,
  - (b) licences for meetings for harness racing,
  - (c) licences for meetings for greyhound racing.
- (3) More than one class of licence may be issued in respect of a racecourse.

## **8 Conditions of racecourse licence**

- (1) A racecourse licence is subject to the following conditions:
  - (a) betting or wagering on the licensed racecourse is prohibited, except for betting on horse races, harness races, greyhound races or sports betting events,
  - (b) the licensee must keep its records and accounts in respect of its income and expenditure in relation to race meetings, and in relation to any lawful betting that is carried on at the racecourse, separate from its other records and accounts.
- (2) A racecourse licence is subject to such other conditions as the Minister may, from time to time, impose in respect of the licence by notice in writing given to the licensee.
- (3) A racecourse licence that is held by a non-proprietary association is also subject to the condition referred to in section 11.

## **9 Duration and cancellation of racecourse licence**

- (1) A racecourse licence remains in force until it is cancelled by the Minister.
- (2) The Minister may cancel a racecourse licence if the Minister is satisfied:
  - (a) that the licensee has failed to comply with any condition to which the licence is subject, or
  - (b) that the licensee is no longer an approved body, or
  - (c) that a race meeting at the racecourse has been, or is to be, conducted by a body (whether or not the licensee) that is not a non-proprietary association, or
  - (d) that race meetings have been held at the racecourse in contravention of this Act.
- (3) The Minister may cancel a racecourse licence for such other reason as the Minister thinks fit (including for the purposes of replacing an existing racecourse licence with another licence).

## **10 Limitation on number of licences approved bodies can hold**

- (1) An approved body is not entitled to hold more than one class of racecourse licence at any one time.
- (2) However, in the case of any racecourse that is situated further than 64 kilometres from the Sydney GPO, the Minister may allow an approved body to hold more than one class of racecourse licence at any one time.

## **11 Provisions relating to inspection of records**

- (1) It is a condition of a racecourse licence held by a non-proprietary association that, in order to enable the Minister from time to time to determine whether the licensee has or has not ceased to be a non-proprietary association, the licensee must:
  - (a) make available for inspection and examination by an authorised officer all relevant accounts, documents and records, and
  - (b) permit an authorised officer to enter, at any reasonable time, any premises (other than a dwelling-house) occupied or used by or on behalf of the licensee, and to make copies of or extracts from those accounts, documents and records, and
  - (c) furnish the authorised officer with such information, in such form and verified in such manner, as the Minister may from time to time require.
- (2) In order to enable the Minister from time to time to determine whether or not a body (other than a licensee) that conducts race meetings is a non-proprietary association, the Minister may, by notice in writing given to the body, require the body:
  - (a) to make available for inspection and examination by an authorised officer all relevant accounts, documents and records, and
  - (b) to permit an authorised officer to enter, at any reasonable time, any premises (other than a dwelling-house) occupied or used by or on behalf of the body, and to make copies of or extracts from those accounts, documents and records, and
  - (c) to furnish the authorised officer with such information, in such form and verified in such manner, as may be specified in the notice.
- (3) If the body fails or refuses to comply with any such requirement, each member of the managing board or committee of the body is guilty of an offence.

Maximum penalty: 20 penalty units.

- (4) An authorised officer may not exercise the functions of an authorised officer under this section unless the officer is in possession of an identification card issued by the Minister. In the course of exercising the functions of an authorised officer under this section, the officer must, if requested to do so by any person, produce the officer's

identification card to the person.

- (5) In exercising his or her functions under this section, an authorised officer may call to his or her aid a police officer if the authorised officer is obstructed, or believes on reasonable grounds that he or she will be obstructed, in the exercise of those functions.
- (6) A police officer has, while acting in aid of an authorised officer under this section, the functions of an authorised officer.
- (7) In this section:

**authorised officer** means a person appointed by the Minister for the purposes of this section.

## **Division 2 Other provisions relating to racecourses**

### **12 Days on which race meetings are prohibited**

Race meetings must not be held on Good Friday or on Christmas Day.

### **13 Certain persons prohibited from entering racecourses**

- (1) Any person who has been warned off a racecourse, or who is disqualified from participating in any racing activities, by a controlling body must not enter any racecourse under the administration or control of that controlling body while the warning off or disqualification is in force.

Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

- (2) A person does not commit an offence under this section if:
  - (a) the person has been authorised, by notice in writing by the relevant controlling body, to enter the racecourse for a particular purpose specified in the notice, and
  - (b) the person is entering the racecourse for that purpose.

### **14 Punters' clubs**

- (1) A person must not organise or conduct a punters' club at a race meeting without:
  - (a) the consent of the racing club conducting the race meeting, and
  - (b) the written approval of the controlling body responsible for that racing club.

Maximum penalty: 50 penalty units.

- (2) In this section:

**punters' club** means a syndicate that involves a group of persons contributing money into a fund for the purposes of betting that money:

- (a) with a totalizator conducted at a race meeting, or
- (b) with a licensed bookmaker who is carrying on bookmaking at a race meeting, but does not include a betting syndicate formed on a social basis only.

### **15 Harness racing on showgrounds**

- (1) This Part does not apply to or in respect of:
  - (a) any ground used for the purposes of a show by a pastoral or agricultural association, or
  - (b) any harness racing held on such a ground by such an association, if the association has been registered by Harness Racing New South Wales, and the conditions of the harness racing have been approved by Harness Racing New South Wales.
- (2) It is a condition of any such registration that betting or wagering is prohibited on any such ground.

## **Part 3 Authorisation of certain betting activities**

### **Division 1 Authorised telephone or electronic betting**

#### **16 Authority to conduct telephone or electronic betting**

- (1) The Minister may, in writing, authorise a licensed bookmaker to accept or make bets:
  - (a) by telephone, or
  - (b) electronically by means of the Internet, subscription TV or such other on-line communications systems as may be approved by the Minister,while the bookmaker is at a licensed racecourse at a time when it is lawful for betting to take place at the racecourse.
- (2) An application for an authority under this section is to be made to the Minister in the manner approved by the Minister.
- (3) The reasonable costs incurred by the Minister in determining an application for an authority under this section, including testing of the equipment to be used by the applicant, are payable to the Minister by the applicant unless the Minister determines otherwise in a particular case.
- (4) The Minister may require part or full payment in advance of the amount the Minister determines is payable by the applicant and may refuse to deal with the application until the required payment is made.

- (5) The Minister may impose conditions that a licensed bookmaker who holds an authority under this section must comply with in accepting, making, dealing with and giving effect to bets to which the authority relates.
- (6) Such fees as are fixed by order of the Minister published in the Gazette are payable by a licensed bookmaker:
  - (a) for the issue of an authority under this section, and
  - (b) for each period of 12 months during which the authority is in force.
- (7) An order may fix a fee despite the fact that the fee may comprise a tax.
- (8) The Minister may, on the recommendation of the Committee, cancel, or suspend for a period specified in the recommendation, the authority held by a licensed bookmaker under this section if the bookmaker fails:
  - (a) to comply with a condition to which the authority is subject, or
  - (b) to pay a fee or amount payable by the bookmaker under this section.
- (9) A bet accepted by telephone or electronically as authorised by this section is taken to have been made at the racecourse on which it is accepted.

#### **17 Offence of conducting unauthorised telephone or electronic betting**

A licensed bookmaker must not accept or make a bet by telephone or electronically unless, at the time the bet is accepted or made, the bookmaker is authorised under section 16 to do so.

Maximum penalty:

- (a) 100 penalty units, in the case of an offence committed by a corporation, or
- (b) 50 penalty units or imprisonment for 12 months (or both), in the case of an offence committed by an individual.

### **Division 2 Authorised sports betting**

#### **18 Sports betting events**

The Minister may, by order published in the Gazette, declare any sporting events (other than horse racing, harness racing or greyhound racing), or class of sporting events, whether held in New South Wales or elsewhere, to be sports betting events.

#### **19 Authorised sports betting bookmakers**

- (1) The Minister may, in writing, authorise a licensed bookmaker to take bets, on any sports betting events specified in the authorisation, at any licensed racecourse.

- (2) An application for a sports betting authority is to be made to the Minister in the manner approved by the Minister.

### **19A Liability of directors of authorised companies**

Any debt that is incurred by a company in carrying on business as an authorised sports betting bookmaker is enforceable jointly and severally against all persons who are directors of the company at the time the debt is incurred (whether or not they are directors at the time the debt is sought to be enforced).

### **20 Conditions of authorisation**

- (1) A sports betting authority is subject to:
  - (a) such conditions as may be prescribed by the regulations, and
  - (b) such conditions as the Minister may impose generally, by order published in the Gazette, in relation to taking of bets on sports betting events, and
  - (c) such other conditions as the Minister may, from time to time, impose by notice in writing given to the authorised sports betting bookmaker concerned.
- (2) Without limiting conditions that may be prescribed or imposed by the Minister, conditions may relate to any of the following:
  - (a) different requirements for different sports betting events,
  - (b) minimum bets,
  - (c) methods of betting, including arrangements for the use of telecommunications equipment,
  - (d) requirements for the giving of security by bankers for long-term bets,
  - (e) requirements for record keeping by authorised sports betting bookmakers,
  - (f) audit requirements for authorised sports betting bookmakers.

### **21 Conditions relating to records**

- (1) It is a condition of a sports betting authority that the authorised sports betting bookmaker must, if required to do so by the Minister:
  - (a) make available for inspection and examination by an authorised person all accounts, documents and records relevant to any sports betting event on which the bookmaker has taken bets, and
  - (b) permit the authorised person to enter, at any reasonable time, any premises or part of premises (other than a dwelling-house) occupied or used by or on behalf of the bookmaker, and to make copies of or take extracts from those accounts,

documents and records, and

(c) provide the authorised person with such information, in such form and verified in such manner, as the Minister may require, and

(d) make available for inspection by the authorised person any computer records, devices or programs that are used in connection with, or that relate to, any electronic betting activities carried on by the bookmaker.

(2) Nothing in this section affects any power conferred by or under any other Act in relation to the inspection and examination of accounts, documents and records of any bookmaker.

(3) In this section:

**authorised person** means a person who is authorised by the Minister for the purposes of this section.

## **22 Duration and cancellation of authorisation**

(1) A sports betting authority remains in force until it is cancelled by the Minister.

(2) The Minister may, on the recommendation of the Committee, cancel a sports betting authority if the Minister is satisfied:

(a) that the authorised sports betting bookmaker has failed to comply with any condition to which the authority is subject, or

(b) that the bookmaker is no longer a licensed bookmaker, or

(c) that the bookmaker has failed to conduct sports betting in accordance with the rules made under section 23, or

(d) that the authority should be cancelled for any other cause the Minister thinks fit.

## **23 Rules for sports betting**

(1) Rules may be made by any body approved by the Minister for or with respect to sports betting at a licensed racecourse.

(2) The rules are not to be inconsistent with this Act, the regulations or the conditions (if any) imposed by the Minister.

(3) The power to make rules includes a power to make a rule to amend or repeal a rule made in accordance with this section.

(4) Any rule made under this section must, before it is made, be approved in writing by the Minister.

(5) When it is so made, the rule:

- (a) is required to be published in the Gazette, and
- (b) takes effect on and from the date of publication (or such later date as may be specified in the rule).

**Editorial note—**

For rules under this section, see Gazette No 121 of 15.9.2000, p 10615.

## **Division 3 Authorised betting auditoriums**

### **24 Authorisation of betting auditoriums**

- (1) The Minister may, in writing, authorise a non-proprietary association that conducts race meetings on a licensed racecourse, or a syndicate consisting of such an association and another non-proprietary association that conducts race meetings, to establish and conduct a betting auditorium on the racecourse.
- (2) An application for an authority to establish and conduct a betting auditorium on a racecourse:
  - (a) may only be made by or on behalf of a non-proprietary association that conducts race meetings on the racecourse or by or on behalf of a syndicate consisting of such an association and another non-proprietary association that conducts race meetings, and
  - (b) is to identify the premises in which it is proposed to conduct the betting auditorium, and
  - (c) is to be made to the Minister in the manner approved by the Minister.

### **25 Conditions of authorisation**

An authority to establish and conduct a betting auditorium is subject:

- (a) to such conditions (if any) as may be prescribed by this Act or the regulations, and
- (b) to such conditions as the Minister may impose when giving the authorisation, and
- (c) to such other conditions as the Minister may, from time to time, impose by notice in writing given to the non-proprietary association or syndicate authorised to establish and conduct the betting auditorium.

### **26 Duration and cancellation of authorisation**

- (1) An authority to establish and conduct a betting auditorium on a licensed racecourse remains in force until it is cancelled by the Minister.
- (2) The Minister may, by notice in writing given to the non-proprietary association or syndicate concerned, cancel an authority to establish and conduct a betting



auditorium if the Minister is satisfied:

- (a) that the non-proprietary association or syndicate has failed to comply with any conditions to which the authority is subject, or
- (b) that the non-proprietary association has ceased to conduct race meetings on the racecourse, or
- (c) that the racecourse licence has been cancelled, or
- (d) that the authority should be cancelled for any other cause the Minister thinks fit.

### **Part 3A Authorisation of bookmakers**

#### **26A Prohibition on carrying on business as a bookmaker without authority**

- (1) A person must not carry on business as a bookmaker on any racecourse (or part of a racecourse) unless the person:
  - (a) is the holder of a licence, certificate of registration or permit authorising the person to do so, issued by the relevant controlling body, and
  - (b) is the holder of a licence, certificate of registration or permit authorising the person to do so, issued by the racing club that conducts race meetings at that racecourse, and
  - (c) is the holder of a State bookmakers tax authority in force under this Part.

Maximum penalty: 100 penalty units.

- (2) A person carrying on business as a bookmaker on any racecourse or part of a racecourse must produce a State bookmakers tax authority in force under this Part if a demand is made by:
  - (a) an official of the racing club that conducts race meetings on the racecourse, or
  - (b) any police officer, or
  - (c) an inspector appointed under section 26I.

Maximum penalty: 100 penalty units.

- (3) A licence, certificate of registration or permit referred to in this section may be issued in accordance with the rules of the relevant racing club or controlling body.

#### **26B Authority to act for bookmaker during absence**

- (1) A controlling body that issued a licence, certificate of registration or permit authorising a person to carry on business as a bookmaker may, on application made by the person:

- (a) declare any period during which the bookmaker is or is to be absent to be an approved period, and
  - (b) issue a written authority to a person nominated by the bookmaker to carry on the business of the bookmaker during the approved period.
- (2) Any person carrying on the business of a bookmaker pursuant to any authority issued under subsection (1) is, for the purposes of this or any other Act, taken to be the bookmaker.
- (3) Any person carrying on the business of a bookmaker pursuant to any authority issued under subsection (1) must produce the authority to any police officer, or any inspector appointed under section 26I, who requests to see it.

Maximum penalty: 100 penalty units.

- (4) The Director-General of the Department of Gaming and Racing, may, by instrument in writing served on a controlling body, direct it not to issue an authority under subsection (1) to any person named in the instrument. The Director-General may revoke or vary any such direction by an instrument in writing.
- (5) Any authority issued under subsection (1) to a person named in an instrument in force under subsection (4), whether issued before or after the instrument was served on the body concerned, has no effect.
- (6) A controlling body may authorise an association of racing clubs to grant an approval under this section on its behalf.
- (7) Section 26A does not apply to a person to whom an authority has been issued under subsection (1).

#### **26C Bookmakers Revision Committee**

- (1) There is constituted a Bookmakers Revision Committee which consists of the following members:
- (a) the Director-General of the Department of Gaming and Racing,
  - (b) the Chief Executive of the NSW Thoroughbred Racing Board,
  - (c) the Chief Executive of Harness Racing New South Wales,
  - (d) the Chief Executive of the Greyhound Racing Authority (NSW),
  - (e) the Chairperson of the NSW Bookmakers' Co-operative Ltd,
  - (f) a representative of the NSW Country Racing Council appointed by the Minister,
  - (g) the Chief Commissioner of State Revenue referred to in section 60 of the *Taxation*

*Administration Act 1996.*

- (2) A member of the Committee may from time to time appoint a deputy to act on the member's behalf either generally at all meetings of the Committee or at any particular meeting or meetings. A deputy while acting pursuant to any such appointment has and may exercise and discharge all the powers, authorities and functions of the member for whom he or she is deputy.
- (3) The Director-General of the Department of Gaming and Racing, or the Director-General's deputy, is the Chairperson of the Committee.
- (4) At any meeting of the Committee the Chairperson has a deliberative vote and where the voting is equal, has in addition a casting vote.
- (5) Any 3 members of the Committee, one of whom is the Chairperson, form a quorum for the purpose of transacting any business of the Committee.
- (6) The Committee is to meet at the times and places that may be fixed by the Chairperson.
- (7) A member is entitled to be paid any remuneration (including travelling and subsistence allowances) that the Minister may from time to time determine in respect of the member.
- (8) An act or omission of a member of the Committee does not subject a member of the Committee personally to any action, liability, claim or demand if the act was done, or the omission occurred, in good faith for the purpose of executing this Part.
- (9) A member appointed under subsection (1) (f) holds office for the period (not exceeding 3 years) that is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (10) The Minister may at any time remove a member appointed under subsection (1) (f) from office.
- (11) The regulations may make further provision regarding the constitution and procedure of the Committee.

**26D State bookmakers tax authority**

- (1) A person may make an application to the Committee in or to the effect of the form approved by the Committee for a State bookmakers tax authority.
- (2) An application must be accompanied by a fee of \$100.
- (3) The Committee has power to grant or refuse any application for a State bookmakers tax authority.

- (4) Without limiting the grounds on which an application may be refused, the Committee may refuse to issue a State bookmakers tax authority if it is satisfied:
- (a) that a bookmaker has failed to pay an amount due in accordance with the provisions of the *Betting Tax Act 2001*, or
  - (b) that a bookmaker has been convicted of an offence under the *Taxation Administration Act 1996* in relation to the assessment, collection or payment of betting tax under the *Betting Tax Act 2001*, or
  - (c) that a bookmaker has been convicted of an offence under this Act or the *Unlawful Gambling Act 1998*, or
  - (d) in the case of an application by a bookmaker that is a company, that a director, shareholder or person concerned in the management of the company has, as an individual, failed to pay an amount due as referred to in paragraph (a) or been convicted of an offence as referred to in paragraph (b) or (c), or
  - (e) in the case of an application by an individual bookmaker, that the individual was a director, shareholder or person concerned in the management of a company bookmaker at a time when the company failed to pay an amount due as referred to in paragraph (a) or committed an offence for which it was convicted as referred to in paragraph (b) or (c).
- (5) If the Committee grants any application, and the applicant has paid the fee required by subsection (2), the Committee must issue a State bookmakers tax authority to the applicant.
- (6) A bookmakers tax receipt issued under the *Bookmakers (Taxation) Act 1917* before its repeal is taken to be a State bookmakers tax authority issued under this section.

**26E Committee may revoke State bookmakers tax authority if taxation not paid**

The Committee may revoke a State bookmakers tax authority issued under this Part if it is satisfied:

- (a) that a bookmaker has failed to pay an amount due in accordance with the provisions of the *Betting Tax Act 2001*, or
- (b) that a bookmaker has been convicted of an offence under the *Taxation Administration Act 1996* in relation to the assessment, collection or payment of betting tax under the *Betting Tax Act 2001*, or
- (c) that a bookmaker has been convicted of an offence under this Act or the *Unlawful Gambling Act 1998*, or
- (d) that a bookmaker has ceased to hold a licence, certificate of registration or permit issued by any racing club, or

- (e) in the case of an authority issued to a bookmaker that is a company, that a director, shareholder or person concerned in the management of the company has, as an individual, failed to pay an amount due as referred to in paragraph (a), been convicted of an offence as referred to in paragraph (b) or (c), or ceased to hold a licence, certificate or permit as referred to in paragraph (d), or
- (f) in the case of an authority issued to an individual bookmaker, that the individual was a director, shareholder or person concerned in the management of a company bookmaker at a time when the company failed to pay an amount due as referred to in paragraph (a), committed an offence for which it was convicted as referred to in paragraph (b) or (c), or ceased to hold a licence, certificate or permit as referred to in paragraph (d).

**26F Power of Committee to direct cancellation or suspension of a bookmaker's registration**

- (1) This section applies if the Committee revokes a person's State bookmakers tax authority issued under this Part.
- (2) The Committee may, by notice in writing, direct any controlling body or racing club to do any one or more of the following things:
  - (a) suspend, for a period specified in the direction not exceeding the unexpired term of the licence, certificate of registration or permit, any licence, certificate of registration or permit issued to the bookmaker by that body or club,
  - (b) cancel any licence, certificate of registration or permit issued to the bookmaker by that body or club,
  - (c) refuse to issue to the bookmaker, either permanently or for any period that is specified in the direction, any licence, certificate of registration or permit of a kind issued by that body or club,
  - (d) remove the name of the bookmaker from its register of bookmakers either permanently or for the period specified in the direction.
- (3) A direction of the Committee pursuant to subsection (2) may be made subject to any conditions or limitations that the Committee thinks fit.
- (4) A direction of the Committee pursuant to subsection (2), and any conditions or limitations to which the direction is made subject, must be given effect to, as soon as possible, by the body or club to which it is directed.

Maximum penalty: 100 penalty units.

**26G Returns by controlling bodies**

- (1) A controlling body must lodge with the Director-General of the Department of Gaming

and Racing a return setting out the name and address of every bookmaker licensed or registered by it, or to whom a permit has been given by it to carry on business as a bookmaker.

- (2) The return must be in a form approved by the Director-General of the Department of Gaming and Racing.
- (3) The return relating to a calendar year must be lodged by the date determined by the Director-General and notified to the controlling body in writing.

Maximum penalty: 100 penalty units.

#### **26H Minister may furnish information**

The Minister may, on the request of a controlling body, provide that body with particulars of any convictions of bookmakers under:

- (a) this Part,
- (b) the *Unlawful Gambling Act 1998*,
- (c) the *Betting Tax Act 2001*,
- (d) the *Taxation Administration Act 1996*, in relation to the assessment, collection or payment of tax on bookmakers, or bookmaking tax, under the *Betting Tax Act 2001*,
- (e) the provisions of any Act replaced by this Part or any of those Acts.

#### **26I Inspection of records**

- (1) This section applies to any book, document, or other record containing any entry relating to a bet made with, or a bet back made by, a bookmaker.
- (2) A bookmaker and an employee or agent of a bookmaker who has custody or control of a book, document or record to which this section applies must permit an inspector to inspect and take copies of any such book, document, or record either on a racecourse or elsewhere.
- (3) Any police officer and any inspector:
  - (a) may, either on a racecourse or elsewhere, demand the production of any book, document, or record that the police officer or the inspector has reasonable grounds for believing is being, or has been, used for the purpose of making entries concerning bets, and
  - (b) may, if any breach of this Part or the regulations relating to this Part appears to have been committed, retain possession of the book, document, or record.
- (4) Any inspector may at any reasonable time enter any racecourse for the purpose of

exercising the functions conferred on the inspector by this section.

(5) A person must not:

- (a) wilfully delay or obstruct any police officer or any inspector in the exercise of any function conferred on the police officer or inspector under this section, or
- (b) fail to produce any book, document, or record when requested to do so under this section.

Maximum penalty: 100 penalty units.

(6) A function conferred on an inspector may not be exercised unless the inspector proposing to exercise the power is in possession of an identification card issued by the Minister and produces the identification card if required to do so by the occupier of the premises.

(7) In this section:

**inspector** means any person authorised in writing by the Minister either generally or in a particular case, to be an inspector under this section.

## Part 4 Betting information and advertising

### 27 Definitions

In this Part:

**advertisement** includes any information or material in the nature of an advertisement.

**betting information** includes information or advice as to:

- (a) the betting or betting odds on any race that is to be held at a race meeting, or
- (b) the betting or betting odds on a sports betting event that is to be held.

**betting or betting odds** includes totalizator dividends.

**publish** means disseminate, exhibit, provide or communicate by oral, visual, written, electronic or other means (for example, by way of newspaper, radio, television or through the use of the Internet, subscription TV or other on-line communications system), and includes cause to be published.

**race meeting** includes a race meeting in any part of Australia or any other place.

### 28 Publication or advertising of certain dividends or betting odds not affected

- (1) Nothing in this Part prohibits or restricts the publication or advertising of any information relating to the dividends or betting odds, or probable dividends or betting odds, payable in respect of any betting conducted in accordance with the [Totalizator](#)

*Act 1997.*

- (2) Nothing in this Part prohibits or restricts the publication, by a person or body prescribed by the regulations, of information relating to the dividends or betting odds, or probable dividends or betting odds, payable in respect of a totalizator operation conducted in another State or Territory by a person or body authorised under the law of that other State or Territory to conduct totalizator operations.
- (3) Nothing in this Part prohibits or restricts the publication, by a person or body prescribed by the regulations, of information if:
  - (a) the information relates to the dividends or betting odds, or probable dividends or betting odds, payable in respect of a totalizator operation conducted in another country, and
  - (b) the totalizator operation is conducted by a person or body authorised under the law of that country to conduct totalizator operations and the person or body is specified, or is of a class or description of persons or bodies specified, by the Minister by order published in the Gazette, and
  - (c) the information relates to an event, or an event of a class or description of events, so specified by the Minister.

**Editorial note—**

For orders under this subsection, see Gazette No 91 of 25.5.2001, p 2971.

- (4) For the purposes of subsection (3), **country** includes part of a country.

**29 Publication of betting information**

- (1) A person must not publish any betting information.  
Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).
- (2) Subsection (1) does not operate to prohibit:
  - (a) the publication in a newspaper of the betting or betting odds on any race to be held at a race meeting, so long as that information:
    - (i) is contained in an edition of the newspaper that is printed, or in respect of which printing has commenced, not less than 30 minutes before the advertised starting time of the first race to be held at the race meeting, and
    - (ii) is identical in all copies of that edition of that newspaper, or
  - (b) the publication, by any other means, of the betting or betting odds on any race to be held at a race meeting, so long as that information is made publicly available not less than 30 minutes before the advertised starting time of the first race to be



held at the race meeting, or

- (c) the publication of any betting information after the scheduled starting time of the last race intended to be held at a race meeting.

### **30 Advertising betting information and betting services**

(1) A person must not publish an advertisement:

- (a) indicating that the person (or any other person) is prepared:
  - (i) to provide betting information, or
  - (ii) to bet on any race that is to be held at a race meeting, or
  - (iii) to bet on any sports betting event, or
- (b) that is designed to induce a person to obtain betting information, or
- (c) that invites any person to make, or take a share in, a bet on any horse race, harness race, greyhound race or sports betting event, or
- (d) that relates to any gambling operations or services carried on by a person who is not a licensed bookmaker.

Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

(2) Subsection (1) does not operate to prohibit:

- (a) a licensed bookmaker from exhibiting, on a licensed racecourse on a day on which a race meeting is being held on the racecourse, any written or printed matter relating to the betting or betting odds on a race that the bookmaker is prepared to accept or offer, or
- (b) an advertisement relating to a licensed bookmaker to the effect that the bookmaker is prepared to accept bets electronically or by telephone, so long as:
  - (i) the bookmaker is authorised by section 16 to engage in telephone or electronic betting, and
  - (ii) the advertisement complies with the conditions (if any) to which the authority is subject, or
- (c) an advertisement relating to a licensed bookmaker to the effect that the bookmaker is prepared to accept bets in an authorised betting auditorium, or
- (d) an advertisement relating to an authorised sports betting bookmaker, so long as the advertisement is confined to the following information:
  - (i) the name and contact details of the bookmaker,

- (ii) the location of the licensed racecourse at which the bookmaker is prepared to accept bets on sports betting events,
  - (iii) the sports betting odds that the bookmaker is prepared to offer, or
  - (e) a licensed bookmaker from exhibiting, in an authorised betting auditorium, any written or printed matter relating to the betting or betting odds at which the bookmaker is prepared to accept a bet, or
  - (f) a licensed bookmaker from exhibiting, on a licensed racecourse, any written or printed matter relating to the betting or betting odds on a sports betting event that the bookmaker is prepared to accept or offer, or
  - (g) the publication of an advertisement or other notice relating to a licensed bookmaker, but only if the contents of the advertisement or notice are confined to the following:
    - (i) a statement of the name of the bookmaker,
    - (ii) the racecourse on which the bookmaker will operate,
    - (iii) the location of the authorised betting auditorium from which the bookmaker is prepared to accept or offer bets, or
  - (h) a person from organising or promoting a punters' club in accordance with section 14.
- (3) A person must not provide by means of the Internet, subscription TV or other on-line communications system any service that enables a person:
- (a) to access the gambling operations carried on by any person other than:
    - (i) a licensed bookmaker, or
    - (ii) the holder of a licence under the *Totalizator Act 1997*, or
  - (b) to access information relating to those gambling operations.

Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

- (4) The regulations may exempt any person, or class of persons, from the operation of subsection (3) in such circumstances, and subject to such conditions, as may be specified in the regulations.

### **31 Premises used for publishing betting information or betting services**

- (1) A person is guilty of an offence if the person:
- (a) uses premises for the purpose of publishing:

- (i) betting information, or
  - (ii) any advertisement that relates to any betting services, or
  - (b) knowingly permits premises to be used for such a purpose, or
  - (c) has the control or management of premises that are used for such a purpose, or
  - (d) is involved in conducting a business on premises that are used for such a purpose.
- Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

(2) This section does not operate to prohibit:

- (a) information being provided to persons who are at a licensed racecourse when betting at the racecourse is lawful, or
- (b) information being provided by a licensed bookmaker who is at a racecourse, so long as the information:
  - (i) is provided on a day on which a race meeting is being held on the racecourse and in response to a telephone or electronic request by a person who is not on the racecourse, and
  - (ii) relates to a bet with the bookmaker in accordance with an authority held by the bookmaker under section 16, or
- (c) information being published in the manner referred to in section 29 (2) (c), or
- (d) information being provided in any manner referred to in section 30 (2), or
- (e) information being provided in accordance with section 32, or
- (f) information being provided to persons who are in an authorised betting auditorium, or
- (g) information being provided from an authorised betting auditorium, so long as the information:
  - (i) is provided by a licensed bookmaker in response to a request by a person who is not at the racecourse, and
  - (ii) relates to a bet that is made with the bookmaker in accordance with an authority held by the bookmaker under section 16.

### **32 Betting information provided by authorised persons**

(1) The Minister may, by order in writing:

- (a) appoint a person or body of persons as an authorised person or body for the

purposes of this section, and

(b) impose conditions to be complied with by the appointee.

(2) An authorised person, or the representative of an authorised body of persons, who:

(a) is present on a licensed racecourse during a race meeting held there, and

(b) complies with the conditions of appointment of the authorised person or body,

may publish betting information if the person or representative receiving the information is at a racecourse when it is lawful for betting to take place at the time the information is received.

### **33 Unauthorised race programs**

(1) A person must not publish:

(a) a list of the horses or dogs nominated for any intended race that is to be held at any race meeting on a licensed racecourse, or

(b) a list of the horses or dogs that will or will not take part in any such race,

unless the publication of the list has been approved or authorised by the person, club or association conducting the race meeting.

Maximum penalty:

(a) for a first offence—10 penalty units, and

(b) for a second or subsequent offence—20 penalty units or imprisonment for 6 months (or both).

## **Part 5 Miscellaneous**

### **34 Delegation**

The Minister may delegate to any public servant, or to any person (or class of persons) prescribed by the regulations, any function conferred on the Minister under this Act other than:

(a) this power of delegation, and

(b) the appointment of authorised officers for the purposes of section 11.

### **35 Proceedings for offences**

Proceedings for an offence under this Act are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### **35A Remedial orders**

- (1) A court that finds a person guilty of an offence against this Act or the regulations, being an offence prescribed by the regulations for the purposes of this section, may, in addition or as an alternative to any penalty that it may impose for the offence, make either or both of the following orders:
  - (a) an order requiring the person to publish an advertisement correcting any information contained in any betting information or advertisement published by the person that the court is satisfied on the evidence before it is false, misleading or deceptive and giving directions (if any) that the court considers appropriate as to the time, form, extent and manner of publication,
  - (b) an order requiring any one or more of the following:
    - (i) the person,
    - (ii) if the person is a corporation, a director of the corporation or a person concerned in the management of the corporation,
    - (iii) an employee of the person,to undertake any specified course of training that the court considers will promote responsible practices in the conduct of betting activities by the person.
- (2) A person who, without lawful excuse, fails to comply with an order under this section is guilty of an offence.

Maximum penalty: 20 penalty units.

### **36 Evidence**

- (1) In any proceedings for an offence under this Act, any allegation in the information in respect of the offence that:
  - (a) any race meeting mentioned in the information was held at a place and on a date specified in the information, or
  - (b) a warning off or disqualification by a controlling body in respect of a person is in force,is evidence of the truth of the allegation concerned unless the contrary is proved.
- (2) If an advertisement referred to in Part 4 refers to a person as being the person:
  - (a) by whom or on whose behalf the advertisement is published, or
  - (b) who is prepared to make or receive bets, or
  - (c) by whom or on whose behalf information or advice has been or will be provided,

the person so referred to is, in the absence of proof to the contrary, taken to have caused the advertisement to be published.

- (3) For the purposes of subsection (2), a person is taken to be referred to in such an advertisement if the person is mentioned or referred to:
  - (a) by name, or
  - (b) by any other name or designation:
    - (i) that is used or assumed by the person, or
    - (ii) by which the person is usually known, or
    - (iii) that is usually applied to the person's business or business premises.
- (4) If such an advertisement refers to a telephone number, post office box or an address, the person renting the telephone or post office box, or the occupier of the premises to which the address, is, in the absence of proof to the contrary, taken to have caused the advertisement to be published.

### **36A Disclosure of information**

- (1) Any information acquired by a person in the exercise of functions under this Act may be disclosed to the Chief Commissioner of State Revenue.
- (2) This section does not limit the other persons to whom information may be disclosed.

### **36B Offences by corporations**

- (1) If a corporation contravenes (whether by act or omission) any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision, unless the person satisfies the court that:
  - (a) the corporation contravened the provision without the actual, imputed or constructive knowledge of the person, or
  - (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
  - (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.
- (2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence

committed by the corporation under this Act or the regulations.

- (4) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the corporation had that intention.

### **37 Regulations**

- (1) 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.
- (2) A regulation may apply, adopt or incorporate the provisions of any code or other publication, with or without modifications, either as in force as at a particular day or as in force for the time being.
- (3) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in the conduct of betting authorised by or under this Act.
- (4) In particular, the regulations may make provision for or with respect to the following:
- (a) restricting or prohibiting the conduct of promotions or other activities (including advertising),
  - (b) the standards to be observed for the conduct of responsible gambling activities,
  - (c) the notices to be displayed with respect to the availability of counselling in respect of financial, social or other problems that may arise in connection with gambling activities,
  - (d) the inclusion on each ticket, coupon, token or other thing sold or issued to a person for the purposes of placing a bet by a licensed bookmaker of:
    - (i) a warning notice about gambling, and
    - (ii) the name and contact details of a gambling counselling service specified, or of a kind specified, by the regulations,
  - (e) the period for which accounts, documents and records used by a bookmaker in connection with the bookmaker's business are to be retained,
- (5) The regulations under this section may create offences punishable by a penalty not exceeding 50 penalty units.

### **38 Savings and transitional provisions**

Schedule 1 has effect.

### **39 Review of Act**

- (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) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (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 5 years.

## **Schedule 1 Savings and transitional provisions**

(Section 38)

### **Part 1 Preliminary**

#### **1 Savings and transitional regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
  - this Act
  - the *Unlawful Gambling Act 1998*
  - the *Racing and Totalizator Legislation Amendment Act 2000*
  - the *Betting Tax Act 2001*
  - the *Racing Legislation Amendment (Bookmakers) Act 2002*
- (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.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (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
  - (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.

### **Part 2 Provisions consequent on enactment of *Unlawful Gambling Act***



## 1998 and this Act

### 2 Definitions

In this Part:

**new Act** means the *Unlawful Gambling Act 1998*.

**repealed Act** means the *Gaming and Betting Act 1912*.

### 3 Continuation of existing racecourse licences

A racecourse licence issued under Part 4 of the repealed Act in respect of a racecourse, and in force immediately before the repeal of that Act by the new Act, is taken to be a racecourse licence under this Act, and any body holding any such existing licence is taken to be authorised to hold the racecourse licence under this Act.

### 4 Continuation of certain betting authorisations

- (1) An authorisation under section 6C of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be an authorisation under section 16 of this Act but only to the extent that it authorises the licensed bookmaker concerned to accept or make bets by telephone.
- (2) An order made under section 6C (6) of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be an order made under section 16 (6) of this Act.
- (3) An order made under section 57EA of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be an order made under section 18 of this Act.
- (4) A sports betting authority given under section 57EB of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be a sports betting authority given under section 19 of this Act.
- (5) An authorisation under section 57EG of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be an authorisation under section 24 of this Act.

## Part 3 Provisions consequent on enactment of *Betting Tax Act 2001*

### 5 Licences, certificates of registration and permits

A licence, certificate of registration or permit authorising a person to carry on business as a bookmaker at a racecourse under a provision repealed by the *Betting Tax Act 2001* is taken to be a licence, certificate of registration or permit issued under section 26A (3) of this Act.

## **6 Authorities**

An authority in force under section 27 of the *Bookmakers (Taxation) Act 1917* immediately before its repeal by the *Betting Tax Act 2001* is taken to be an authority issued under section 26B of this Act.

## **7 Continuity of office of Committee member**

The repeal and re-enactment of section 35 of the *Bookmakers (Taxation) Act 1917* by the *Betting Tax Act 2001* does not affect the office of a person appointed under that section as a representative of country racing associations.