

# Thoroughbred Racing Board Act 1996 No 37

[1996-37]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Notes—

- **Previously named**  
AJC Principal Club Act 1996
- **Does not include amendments by**  
[Thoroughbred Racing Legislation Amendment Act 2004 No 23](#) (not commenced — to commence on 1.7.2004)  
[Greyhound and Harness Racing Administration Act 2004 No 36](#) (not commenced)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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# Thoroughbred Racing Board Act 1996 No 37



New South Wales

An Act to make provision for the establishment, management and functions of the NSW Thoroughbred Racing Board as the representative body to control thoroughbred horse racing in the State; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Thoroughbred Racing Board Act 1996*.

### 2 Commencement

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

### 3 Definitions

(1) In this Act:

**additional member** means a member of the Board who is appointed to membership under section 6 (1) (i).

**AJC** means the club known as the Australian Jockey Club as referred to in the *Australian Jockey Club Act 1873*.

**Appeal Panel** means the Appeal Panel provided for by Part 4.

**Australian Rules of Racing** means the Australian Rules of Racing as adopted by the Australian Conference of Principal Racing Clubs.

**Board** means the NSW Thoroughbred Racing Board.

**Chairperson** means the Chairperson of the Board.

**Chief Executive** means the Chief Executive of the Board from time to time.

**eligible industry body** means any industry body for the time being eligible to nominate a member of the Board referred to in section 6 (1) (e) or (f).

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

**function** includes power, authority or duty.

**horse racing** means the racing of galloping horses as referred to in the Australian Rules of Racing.

**nominated members** means the members of the Board who are nominated to membership under section 6 (1) (a)-(f).

**race club** includes any body or other association of persons, whether incorporated or unincorporated, that promotes, conducts or controls, or that is formed for promoting, conducting or controlling, a horse racing meeting or meetings.

**racing association** means an association of race clubs.

**RIPAC** means the Racing Industry Participants Advisory Committee established by this Act.

**Rules of Racing** means the rules for the time being governing and relating to horse racing under the control of the Board (being an amalgamation of the Australian Rules of Racing and the local rules of racing of the Board, together with the regulations made under those rules).

**voting members** means the nominated members, the Chairperson, and any additional members of the Board.

(2) Notes included in this Act are explanatory notes and do not form part of this Act.

## **Part 2 NSW Thoroughbred Racing Board**

### **4 Establishment of NSW Thoroughbred Racing Board**

There is established by this Act a body corporate with the corporate name of the NSW Thoroughbred Racing Board.

### **5 Board independent of Government**

The Board does not represent the Crown and is not subject to direction or control by or on behalf of the Government.

### **6 Membership**

(1) The Board consists of the following members:

- (a) one person nominated by the AJC,
- (b) one person nominated by the Sydney Turf Club,
- (c) one person nominated by the Provincial Association of New South Wales,
- (d) one person nominated by the Board of Directors of the Country Racing Council

Limited,

- (e) one person jointly nominated by eligible industry bodies, who is to represent the interests of owners and breeders of thoroughbred racehorses,
  - (f) one person jointly nominated by eligible industry bodies, who is to represent the interests of licensed trainers, licensed jockeys and apprentice jockeys, licensed bookmakers and bookmakers' clerks, and stablehands and race club employees,
  - (g) one person selected by the nominated members of the Board, who is to be Chairperson,
  - (h) the Chief Executive,
  - (i) any person who is appointed for the time being by the Board as an additional member in accordance with subsection (4).
- (2) The nominated members of the Board are to select, by majority vote, the Chairperson from among candidates identified by recruitment agencies as having suitable expertise to hold that office. The Board must commission at least 2 recruitment agencies to identify candidates from whom the selection is to be made.
- (3) The Board, with the approval of the Minister, is to determine from time to time the industry bodies that are eligible to nominate the member referred to in subsection (1) (e), and those that are eligible to nominate the member referred to in subsection (1) (f), and the criteria on which those members are to be nominated.
- (4) The Board may from time to time appoint as an additional member of the Board a person who the Board considers has expertise relevant to the functions exercisable by the Board. There must not be at any time more than 2 additional members of the Board.
- (5) The Chief Executive does not have a vote at meetings of the Board.
- (6) The nomination of a member for the purposes of this section is to be made in writing to the Board and is to take effect on the day specified in the nomination.

## **7 Certain persons not eligible for membership**

- (1) A person is not eligible to be a voting member of the Board if the person:
- (a) is an employee of a race club or racing association, or
  - (b) holds a licence issued by the Board or by a racing association, or
  - (b1) is registered by or with the Greyhound Racing Authority under the [Greyhound Racing Act 2002](#),
  - (b2) is registered by or with Harness Racing New South Wales under the [Harness](#)

*Racing Act 2002*, or

- (c) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or
  - (d) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or
  - (e) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or
  - (f) is a mentally incapacitated person.
- (2) A person is also not eligible:
- (a) to be selected as the Chairperson if the person is a member of a committee of any race club or racing association, or of any eligible industry body, or
  - (b) to be appointed as an additional member of the Board if the person is a member of any race club or racing association, or of any eligible industry body.
- (3) A person who is a member of a racing club or racing association, or of any eligible industry body, is not to hold office as the Chairperson unless the person's membership of the club, association or body is suspended for the duration of his or her term of office.
- (4) A person is not eligible:
- (a) to be a nominated member of the Board for more than 2 consecutive terms of office, or
  - (b) to be the Chairperson for more than 2 consecutive terms of office, or
  - (c) to be an additional member of the Board for more than 8 consecutive years,
- but there is no limit on the number of non-consecutive terms for which a person can hold any such office. A term of office is counted for the purposes of this subsection even if the member did not serve out the full period of that term of office.

## **8 Deputies of members**

- (1) A nominated member of the Board may from time to time appoint a person to be the deputy of the member, and may at any time revoke any such appointment.
- (1A) A person cannot be appointed as a deputy of a member if the person is not eligible to be a member of the Board.



- (2) In the absence of a member due to illness or other reasonable cause, the member's deputy may if available act in the place of the member and while so acting has all the functions of the member and is taken to be the member. The deputy of a member who is Deputy Chairperson does not have the member's functions as Deputy Chairperson.
- (3) The Board may at any time revoke a person's appointment as deputy of a member.

## 9 Term of office of members

- (1) The term of office of a voting member of the Board is as follows, unless the member sooner ceases to hold the office:
  - (a) a nominated member and the Chairperson of the Board each hold office for a period of 4 years,
  - (b) an additional member of the Board holds office for such period, not exceeding 4 years, as the Board determines.
- (2) The term of office of a voting member of the Board begins:
  - (a) in the case of a nominated member, on the date on which the relevant nomination takes effect, and
  - (b) in any other case, on a date determined by resolution of the Board.

## 10 Remuneration

- (1) A voting member of the Board is entitled to be paid:
  - (a) remuneration consisting of a base amount adjusted annually in accordance with the annual percentage increase (if any) in the Consumer Price Index, and
  - (b) allowances to reimburse the member for expenses that he or she may incur (for travel or accommodation, for example).
- (2) In this section:

**base amount** means an amount determined for the purposes of this section by the Statutory and Other Offices Remuneration Tribunal (which determination, whenever made, is taken to be effective on the commencement of this subsection).

**Consumer Price Index** means the number appearing in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

## 11 Duty of members to act in interests of public and industry

It is the duty of each voting member of the Board to act in the public interest and in the interests of the horse racing industry as a whole. (For example, in the case of a nominated member, this duty requires the member to put the interests to which the duty relates before the interests of the body that nominated the member.)

## **12 Personal liability**

A matter or thing done or omitted to be done by the Board, the Chief Executive, or a member of the Board or any person acting under the direction of the Board does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this Act, subject the Chief Executive, the member or a person so acting personally to any action, liability, claim or demand.

## **13 Functions of Board**

(1) The Board has the following functions:

- (a) all the functions of the principal club for New South Wales and committee of the principal club for New South Wales under the Australian Rules of Racing,
- (b) to control, supervise and regulate horse racing in the State,
- (c) to initiate, develop and implement policies considered conducive to the promotion, strategic development and welfare of the horse racing industry in the State and the protection of the public interest as it relates to the horse racing industry,
- (d) functions with respect to the insuring of participants in the horse racing industry, being functions of the kind exercised by the AJC on the commencement of this section, and such other functions with respect to insurance in the horse racing industry as may be prescribed by the regulations,
- (e) such functions as may be conferred or imposed on the Board by or under the Australian Rules of Racing or any other Act,
- (f) such functions with respect to horse racing in New South Wales as may be prescribed by the regulations.

(2) The functions of the Board are not limited by the Australian Rules of Racing.

(3) The AJC ceases to have the functions that are solely the functions of the principal club for New South Wales or committee of the principal club for New South Wales under the Australian Rules of Racing.

### **Note—**

The Board is not authorised to exercise its functions immediately. See clause 2 of Schedule 1 for the procedure for the hand over of functions. Until functions of the AJC are handed over to the Board they can continue to be exercised by the AJC.

## **14 Powers of the Board**

(1) The Board has power to do all things that may be necessary or convenient to be done for or in connection with the exercise of its functions.

(2) Without limiting subsection (1), the Board has power to do the following:

- (a) investigate and report on proposals for the construction of new racecourses, and inspect new racecourses or alterations or renovations to existing racecourses,
- (b) register or licence, or refuse to register or licence, or cancel or suspend the registration or licence of, a race club, or an owner, trainer, jockey, stablehand, bookmaker, bookmaker's clerk or another person associated with racing, or disqualify or suspend any of those persons permanently or for a specified period,
- (c) supervise the activities of race clubs, persons licensed by the Board and all other persons engaged in or associated with racing,
- (d) inquire into and deal with any matter relating to racing and to refer any such matter to stewards or others for investigation and report and, without limiting the generality of this power, to inquire at any time into the running of any horse on any course or courses, whether or not a report concerning the matter has been made or decision arrived at by any stewards,
- (e) allocate to registered race clubs the dates on which they may conduct race meetings,
- (f) direct and supervise the dissolution of a race club that ceases to be registered by the Board,
- (g) appoint an administrator to conduct the affairs of a race club,
- (h) register and identify galloping horses,
- (i) disqualify a horse from participating in a race,
- (j) exclude from participating in a race a horse not registered under the Rules of Racing,
- (k) prohibit a person from attending at or taking part in a race meeting,
- (l) impose a penalty on a person licensed by it or on an owner of a horse for a contravention of the Rules of Racing,
- (m) impose fees for registration of a person or horse,
- (n) require registered race clubs to pay to it such fees and charges (including fees for registration of a race club) as are required for the proper performance of its functions, calculated on the basis of criteria notified to race clubs by the Board,
- (o) consult, join, affiliate and maintain liaison with other associations or bodies, whether in the State or elsewhere, concerned with the breeding or racing of galloping horses,
- (p) enter into contracts,

- (q) acquire, hold, take or lease and dispose of real and personal property whether in its own right or as trustee,
- (r) borrow money,
- (s) order an audit of the books and accounts of a race club by an auditor who is a registered company auditor,
- (t) scrutinise the constitutions of race clubs to ensure they conform to any applicable Act and the Rules of Racing and that they clearly and concisely express the needs and desires of the clubs concerned and of racing generally,
- (u) publish material, including periodical publications, to inform and keep informed the public concerning matters relating to racing, whether in the State or elsewhere,
- (v) undertake research and investigation into all aspects of the breeding of horses and of racing generally,
- (w) take such steps and do such acts and things as are incidental or conducive to the exercise of its powers and the performance of its functions.

#### **14A Licensing of bookmakers**

- (1) An application for a bookmaker licence may be made:
  - (a) by a natural person of or over the age of 18 years, or
  - (b) by a proprietary company.
- (2) The Board must refuse to licence a proprietary company as a bookmaker unless satisfied that the company is an eligible company.
- (3) For the purposes of this section, an **eligible company** means a proprietary company that is taken to be registered in New South Wales for the purposes of the [Corporations Act 2001](#) of the Commonwealth and in which:
  - (a) each director, shareholder and person concerned in the management of the company is of or over the age of 18 years, and
  - (b) each director is licensed as an individual as a bookmaker under this Act, and
  - (c) each director is a shareholder and person concerned in the management of the company, and
  - (d) each shareholder who is not a director is a close family member of a director, and
  - (e) each shareholder or person concerned in the management of the company who is not a director is, in the opinion of the Board, a fit and proper person to be licensed

as an individual as a bookmaker under this Act, and

(f) subject to the regulations, no person (other than a shareholder) has any interest in the shares or assets of the company.

(4) It is a condition of a bookmaker licence granted to a company that:

(a) the company continues to be an eligible company, and

(b) no shareholder or person concerned in the management of the company, other than a director, is licensed as an individual as a bookmaker under this Act, and

(c) no director, shareholder or person concerned in the management of the company:

(i) carries on the business of a bookmaker, otherwise than on behalf of the company, in relation to any horse, harness or greyhound race, at a meeting for horse racing in New South Wales, or

(ii) carries on the business of an authorised sports betting bookmaker, otherwise than on behalf of the company, at a racecourse licensed for horse racing, or

(iii) is a director, shareholder or person concerned in the management of, or is an employee or agent of, any other company that is licensed as a bookmaker under this Act, or

(iv) has a financial interest in any business of a bookmaker that is carried on by any such other company under the authority of its licence under this Act, and

(d) no director, shareholder or person concerned in the management of the company:

(i) is licensed or otherwise authorised as an individual to carry on, or carries on, the business of a bookmaker, bookmaker's clerk or turf commission agent, or a totalizator business, in another Australian State or Territory, or

(ii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is licensed or otherwise authorised to carry on, or that carries on, any such business in another Australian State or Territory, or

(iii) is an employee or agent of any individual, partnership or corporation referred to in the preceding subparagraphs, or

(iv) has a financial interest in the business of a bookmaker or turf commission agent, or a totalizator business, that is authorised to be carried on or is carried on in another Australian State or Territory, and

(e) no director, shareholder or person concerned in the management of the company:

(i) is licensed or otherwise authorised as an individual to carry on, or carries on,

the business of a bookmaker, bookmaker's clerk or turf commission agent, or a totalizator business, or any other kind of betting, wagering, gambling or gaming business, in another country, or

- (ii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is licensed or otherwise authorised to carry on, or that carries on, any such business in another country, or
  - (iii) is an employee or agent of any individual, partnership or corporation referred to in the preceding subparagraphs, or
  - (iv) has a financial interest in the business of a bookmaker or turf commission agent, or a totalizator business, or any other kind of betting, wagering, gambling or gaming business, that is authorised to be carried on or is carried on in another country.
- (5) In subsection (4) (c), (d) and (e), a reference to carrying on the business of a bookmaker, or the business of a bookmaker's clerk or turf commission agent, includes a reference to acting as a bookmaker, or a bookmaker's clerk or turf commission agent.
- (6) The condition set out in subsection (4) (d) does not extend to a person who is a director of a company that is licensed as a bookmaker under this Act if:
- (a) the person is the sole director of the company, and
  - (b) the relevant matters referred to in subsection (4) (d) (i), (ii), (iii) or (iv) are disclosed in writing to the Board at the time the company applies for a bookmaker license under this Act or, if they do not occur until after that time, within 2 working days after they occur.
- (7) The Board may suspend or cancel a bookmaker licence granted to a company if satisfied that any condition referred to in subsection (4) is contravened in respect of the company. This does not limit the powers of the Board to suspend or cancel the registration of a company as a bookmaker under section 14.
- (8) Any debt that is incurred by a company in carrying on business as a bookmaker licensed under this Act 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).
- (9) In this section:

**authorised sports betting bookmaker** has the same meaning as in section 4 of the [Racing Administration Act 1998](#).

**close family member of a director** means:

- (a) a spouse, de facto partner, parent, child, brother or sister of the director, or
- (b) a person who has a relationship with the director that is prescribed by the regulations for the purposes of this definition.

**financial interest** in a bookmaking business means an entitlement to receive any of the income from the business.

**meeting for horse racing** has the same meaning as in section 4 of the [Racing Administration Act 1998](#).

**racecourse licensed for horse racing** means a racecourse in respect of which a licence for meetings for horse racing granted under section 7 of the [Racing Administration Act 1998](#) is in force.

## **15 Vacation of office**

- (1) The office of a voting member of the Board becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-nominated, re-selected or reappointed, as the case may be, or
  - (c) resigns the office by instrument in writing addressed to the Board, or
  - (d) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings, or
  - (e) becomes a person who is not eligible to be a member, or
  - (f) is removed from office under subsection (2).
- (2) The Governor may, on the recommendation of the Board, remove a nominated member or the Chairperson of the Board from office for incapacity, incompetence or misbehaviour.
- (3) A member of the Board does not vacate office merely because of the withdrawal of his or her nomination by the body that nominated the member.
- (4) The Board may remove an additional member of the Board from office at any time.

## **16 Deputy Chairperson of Board**

- (1) The nominated members of the Board may elect a Deputy Chairperson from among

the nominated members. The Board may remove a person from office as Deputy Chairperson of the Board at any time.

- (2) A member elected as Deputy Chairperson holds office as such for 2 years unless the member ceases to hold the office sooner. A member is eligible to be re-elected as Deputy Chairperson but is not eligible to serve more than 3 consecutive terms as Deputy Chairperson.
- (3) A person ceases to hold office as Deputy Chairperson if he or she:
  - (a) resigns the office by instrument in writing addressed to the Board, or
  - (b) is removed from that office by the Board, or
  - (c) ceases to hold office as a member of the Board.
- (4) The Deputy Chairperson does not cease to be a member of the Board merely because he or she ceases to be Deputy Chairperson.

#### **17 Member vacancies to be filled**

- (1) When the office of a nominated member becomes vacant, a person is to be nominated to fill the vacancy in the same way as the person whose office has become vacant was nominated.
- (2) When the office of the Chairperson becomes vacant, a person is to be selected to fill the vacancy in accordance with section 6 (2).
- (3) A person nominated or selected to fill a casual vacancy under this section is to hold office for the balance of the term of office of the person's predecessor or until the person sooner vacates the office. Such a person is eligible for re-nomination or re-selection, as the case may be, if otherwise qualified.

#### **18 The Chief Executive and other staff**

- (1) The Board is to employ a Chief Executive and may employ such other staff as it considers necessary for the exercise of its functions. A person is disqualified from being employed as Chief Executive if the person is or becomes an employee of a race club or racing association.
- (2) The Board may fix the salary, wages and other conditions of employment of the Chief Executive and its other staff, in so far as they are not fixed by or under any other Act or law.
- (3) The *Public Sector Management Act 1988* does not apply to the Chief Executive and the other members of staff of the Board.



## **19 Procedure**

- (1) The Board may regulate its proceedings as it considers appropriate, subject to this section.
- (1A) Proceedings in respect of an inquiry conducted by the Board may be conducted in public or in private, or partly in public and partly in private, as the Board may decide.
- (1B) In conducting an inquiry, the Board may examine any witness on oath or affirmation, or by use of a statutory declaration.
- (2) The quorum for a meeting of the Board is a majority of the voting members of the Board as constituted for the time being.
- (3) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Board. If neither the Chairperson nor Deputy Chairperson is present at a meeting, the members present may elect one of their number to preside at the meeting. The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.
- (4) A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.
- (5) A failure to nominate a person to a category of nomination specified in section 6 (1) (a)–(f) does not affect the membership of persons who are nominated in accordance with that section.
- (6) If an eligible industry body fails to participate in the nomination of a member referred to in section 6 (1) (e) or (f), the nomination by the other eligible industry bodies or body, as the case may be, is taken to be effective for the purposes of the relevant provision.

## **20 Transaction of business outside meetings or by telephone**

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all of its members, and a resolution in writing approved in writing by a majority of the voting members is taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if a member who speaks on a matter at the meeting can be heard by the other members.
- (3) For the purposes of:
  - (a) the approval of a resolution under subsection (1), or
  - (b) a meeting held in accordance with subsection (2),

the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Board.

- (4) A resolution approved under subsection (1) is to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among members for the purposes of subsection (1) by facsimile or other transmission of the information in the papers concerned.

## **21 Disclosure of pecuniary interests by members**

(1) If:

- (a) a member of the Board or of a committee of the Board has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board or the committee, and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board or the committee.

(2) A disclosure by a member at a meeting of the Board or a committee of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subsection (1).

(3) Particulars of any disclosure made under this section must be recorded by the Board or the committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the reasonable fee determined by the Board.

(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Board otherwise determines:

- (a) be present during any deliberation of the Board or the committee with respect to the matter, or

- (b) take part in any decision of the Board or the committee with respect to the matter.
- (5) For the purpose of the making of a determination by the Board under subsection (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
  - (a) be present during any deliberation of the Board for the purpose of making the determination, or
  - (b) take part in the making by the Board of the determination.
- (6) A contravention of this section does not invalidate any decision of the Board or a committee.

## **22 Committees**

- (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.
- (2) A person may be appointed to be a member of such a committee whether or not the person is a member of the Board.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

## **23 Integrity Assurance Committee**

- (1) The Board must establish a committee to be known as the Integrity Assurance Committee ("the IA Committee"). The IA Committee is to have primary oversight of those aspects of the Board's functions that relate to race stewards, drug testing and control, licensing, handicapping and horse racing appeals. The IA Committee has such other functions as the Board may confer on it.
- (2) The IA Committee is to advise the Board on the matters for which it has primary oversight.
- (3) The Board is to determine the qualifications and disqualifications for membership of the IA Committee and in doing so is to have particular regard to the need to minimise conflicts of interest, such as might arise from a person's:
  - (a) ownership of horses currently in work, or
  - (b) professional involvement in race preparation, or
  - (c) professional or commercial dealings with any person who holds a licence issued by the Board or by a racing association.

## **24 Delegation of functions**

- (1) The Board may delegate to an authorised person or body any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person or body any function delegated by the Board if the delegate is authorised in writing to do so by the Board.
- (3) In this section, **authorised person or body** means:
  - (a) the Chief Executive or any other member of the Board, or
  - (b) a committee of the Board or any member of such a committee, or
  - (c) a race club or racing association.

## **25 Custody and affixing of seal**

- (1) The seal of the Board is to be kept in the custody of the Chairperson or such other person as may be authorised by the Board.
- (2) The seal is to be affixed to documents only in pursuance of a resolution of the Board and by the person having custody of the seal under this section.

## **26 Authentication of documents**

Any document requiring authentication by the Board is sufficiently authenticated without the seal of the Board if signed by the Chairperson.

## **27 Recovery of money**

Any charge, fee or other money due to the Board may be recovered as a debt in a court of competent jurisdiction.

## **28 Distribution of profit**

The Board must distribute all of its profits (if any) to the Consolidated Fund.

## **29 Annual report**

- (1) The Board must, as soon as practicable after 30 June and in any case before 1 November in each year prepare and forward to the Minister a report of its work and activities for the 12 months ending on that 30 June.
- (2) The report must include copies of the financial statements of the Board for the 12 month period to which the report relates together with an auditor's report on those statements prepared by an independent auditor.
- (3) The Minister is to table the report or cause it to be tabled in both Houses of Parliament as soon as practicable after the report is forwarded to the Minister.

- (4) The Board is to make copies of the report available to the public at a reasonable price.

### **Part 3 Racing Industry Participants Advisory Committee**

#### **30 Establishment of RIPAC**

There is established by this Act a committee called the Racing Industry Participants Advisory Committee. The committee may also be called RIPAC.

#### **31 Membership**

- (1) RIPAC consists of 7 members as follows:

(a) 5 members, each nominated to represent one of the following categories of participants in the horse racing industry:

- (i) owners,
- (ii) breeders,
- (iii) licensed trainers,
- (iv) licensed jockeys and apprentice jockeys,
- (v) licensed bookmakers and bookmakers' clerks,

(b) 1 member nominated by the Labor Council of New South Wales to represent stablehands and race club employees,

(c) 1 member nominated by the Public Interest Advocacy Centre to represent consumers of racing and betting services.

- (2) The members referred to in subsection (1) (a) are to be nominated by the industry bodies that are appropriate to represent the interests of the categories of participants in the horse racing industry that they represent, namely:

- (a) in the case of owners—the NSW Racehorse Owners Association Limited,
- (b) in the case of breeders—the New South Wales Bloodhorse Breeders Association Limited and the Commercial Thoroughbred Breeders Association Limited (a joint nomination by both bodies),
- (c) in the case of licensed trainers—the Australian Trainers Association (NSW Branch) and the Sydney Trainers Association (a joint nomination by both bodies),
- (d) in the case of licensed jockeys and apprentice jockeys—the NSW Jockeys Association,
- (e) in the case of licensed bookmakers and bookmakers' clerks—the NSW Bookmakers Co-operative Society Limited.

- (3) The Board may, with the approval of the Minister, determine that a particular body or bodies specified in the determination is to replace any body referred to in subsection (2) for the purposes of the making of a nomination under subsection (1) (a), and such a determination has effect accordingly.
- (4) The nomination of a member for the purposes of this section is to be made in writing to the Board and is to take effect on the day specified in the nomination.

**Note—**

Nominations of the first members of RIPAC are to be made to the Minister. See the transitional provisions in Schedule 1.

**32 Certain persons not eligible for membership**

- (1) A person is not eligible to be a member of RIPAC if the person:
  - (a) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or
  - (b) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or
  - (c) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or
  - (d) is a mentally incapacitated person.
- (2) A person is not eligible to be a member of RIPAC for more than 4 consecutive terms of office but there is no limit on the number of non-consecutive terms for which a person can be a member. A term of office is counted for the purposes of this subsection even if the member did not serve out the full period of that term of office.

**33 Term of office of members**

The members of RIPAC each hold office for a period of 2 years.

**34 Membership is honorary**

The members of RIPAC are honorary members and no remuneration is payable to them in respect of the duties they perform as members. The members are however entitled to be reimbursed by the Board for reasonable expenses (such as for travel or accommodation) that they may incur in attending meetings of RIPAC.

**35 Functions of RIPAC**

RIPAC has the following functions:

- (a) to provide advice to the Board on industry policy and strategic direction,
- (b) to serve as a channel for communication between the industry stakeholders that it represents and the Board,
- (c) to provide a forum for discussion of issues of concern and the making of recommendations to the Board,
- (d) (Repealed)
- (e) at the request of the Board, to nominate members to serve on committees or working groups established by the Board.

**36 (Repealed)**

**37 Vacation of office**

- (1) The office of a member of RIPAC becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-nominated, or
  - (c) resigns the office by instrument in writing addressed to the Board and RIPAC, or
  - (d) is absent from 2 consecutive meetings of RIPAC of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by RIPAC or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by RIPAC for having been absent from those meetings, or
  - (e) becomes a person who is not eligible to be a member, or
  - (f) is removed from office under subsection (2).
- (2) The Governor may, on the recommendation of RIPAC, remove a member of RIPAC from office for incapacity, incompetence or misbehaviour.
- (3) A member of RIPAC does not vacate office merely because of the withdrawal of his or her nomination by the body that nominated the member.

**38 Chairperson and Deputy Chairperson of RIPAC**

- (1) RIPAC is to elect a Chairperson from among its members. RIPAC may also elect a Deputy Chairperson from among its members. RIPAC may remove a person from office as Chairperson or Deputy Chairperson of RIPAC at any time.
- (2) A member elected as Chairperson or Deputy Chairperson holds office as such for 1 year unless the member ceases to hold that office sooner. A member is eligible to be re-elected as Chairperson or Deputy Chairperson but is not eligible to serve more than

3 consecutive terms as either Chairperson or Deputy Chairperson.

- (3) A person ceases to hold office as Chairperson or Deputy Chairperson if he or she:
  - (a) resigns the office by instrument in writing addressed to the Board and RIPAC, or
  - (b) is removed from that office by RIPAC, or
  - (c) ceases to hold office as a member of RIPAC.
- (4) To be elected or removed from office as Chairperson or Deputy Chairperson requires a simple majority of the members present and voting at a meeting of RIPAC at which a quorum is present.
- (5) The Chairperson or Deputy Chairperson does not cease to be a member of RIPAC merely because he or she ceases to be Chairperson or Deputy Chairperson.

### **39 Member vacancies to be filled**

- (1) When the office of a member of RIPAC becomes vacant, a person is to be nominated to fill the vacancy in the same way as the person whose office has become vacant was nominated.
- (2) A person nominated to fill a casual vacancy as a member is to hold office for the balance of the term of office of the person's predecessor or until the person sooner vacates the office. Such a person is eligible for re-nomination if otherwise qualified.

### **40 Procedure**

- (1) RIPAC may regulate its proceedings as it considers appropriate, subject to this section.
- (2) The quorum for a meeting of RIPAC is a majority in number of the members for the time being.
- (3) RIPAC is to meet not less than 4 times a year and of those meetings at least 2 are to be joint meetings with meetings of the Board (with the appropriate quorum of both the Board and RIPAC present). Either RIPAC or the Board can request the other to hold further joint meetings and such a request must be complied with, up to a further 2 joint meetings in a year (without precluding the holding of further joint meetings by agreement).
- (4) Meetings of RIPAC are to be held at the premises of the Board unless the Board approves of a meeting being held elsewhere.
- (5) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of RIPAC. If neither the Chairperson nor Deputy Chairperson is present at a meeting, the members present may elect one of their number to preside at the meeting. The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.



(6) A decision supported by a majority of the votes cast at a meeting of RIPAC at which a quorum is present is the decision of RIPAC.

(7) The Board is to provide the administrative support needed for the meetings of RIPAC.

#### **41 Personal liability**

A matter or thing done or omitted to be done by RIPAC or a member of RIPAC or any person acting under the direction of RIPAC does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this Act, subject the member or a person so acting personally to any action, liability, claim or demand.

### **Part 4 Appeal Panel**

#### **42 Right of appeal**

(1) A person aggrieved by any of the following decisions of a racing authority has a right of appeal against the decision to the Appeal Panel:

(a) a decision to disqualify or warn off any person,

(b) a decision to disqualify any horse,

(c) a decision to revoke the licence or registration of any person or suspend (for any period) any such licence or registration,

(d) a decision to fine any person a sum of \$10 or more,

(e) a decision that the Board determines, by order published in the racing calendar published by the Board, to be a decision that may be appealed against to the Appeal Panel.

(2) A **racing authority** means:

(a) the stewards of the Board,

(b) (Repealed)

(c) the committee or stewards of any race club or race meeting registered by the Board under the Rules of Racing,

(d) a racing association.

(3) The Board may delegate to a racing association the function of hearing and determining appeals against decisions of the committee or stewards of any club over which the association has jurisdiction. Any such delegation may be general or limited to a particular class or classes of appeals.

(4) If an appeal against a decision can be heard by a racing association by virtue of such

a delegation, an appellant against the decision has the choice of appealing to the Appeal Panel or to the racing association (but cannot appeal to both).

- (5) A decision of a racing association on an appeal heard by the racing association by virtue of a delegation under this section, or on an appeal under the Rules of Racing, cannot be appealed against to the Appeal Panel.
- (6) If the Rules of Racing confer on a person a right of appeal against a decision to the principal club for New South Wales, or the committee of the principal club, and the person has a right of appeal against the decision under this section, the person does not have a right of appeal to the Board (despite the provisions of the Rules of Racing). The function of hearing and determining appeals against decisions that may be appealed against under this section is to be exercised by the Appeal Panel or by a racing association to which that function is delegated under this section, and not by the Board.
- (7) An appeal is to be made in accordance with the local rules of racing of the Board.

#### **43 Procedure on an appeal**

- (1) An appeal to the Appeal Panel is to be in the nature of a rehearing.
- (2) The Appeal Panel may subject to this Act and the local rules of racing of the Board determine its own procedure.
- (3) On an appeal the Appeal Panel:
  - (a) is not bound to act in a formal manner, and
  - (b) is not bound by the rules of evidence and may inform itself on any matter in any way that it considers to be just, and
  - (c) is to make its decision on the real merits and justice of the case and is not bound to follow strict legal precedent.
- (4) The Appeal Panel is to sit as in open court when hearing the appeal but may sit in private if the Appeal Panel considers it necessary to do so in the public interest or to protect the safety of any person.
- (5) For the purpose of the exercise of the Appeal Panel's functions on an appeal, the person presiding at the hearing of the appeal has the powers, authorities, protections and immunities conferred by the *Royal Commissions Act 1923* on a Commissioner appointed under Division 1 of Part 2 of that Act. That Act (except section 13 and Division 2 of Part 2) applies, with any necessary modifications, to a witness summoned by, or appearing before, the Appeal Panel.
- (6) When an appeal is to a racing association pursuant to a delegation to the association by the Board under this Part, the following provisions have effect:

- (a) the committee of the association has the function of hearing and determining the appeal, and
- (b) the members of the committee of the association and the person presiding at the hearing of the appeal have the same powers, authorities, protections and immunities as the members of the Appeal Panel and the person presiding at the hearing of an appeal by the Appeal Panel, and
- (c) references in this section to the Appeal Panel and to the person presiding at the hearing of an appeal include a reference to the committee and to the person presiding at the hearing of the appeal by the committee, and
- (d) the same right of appeal as exists under the *Racing Appeals Tribunal Act 1983* in respect of a decision of the Appeal Panel also exists in respect of a decision of the committee of the association (and for that purpose references in that Act to a decision of the Appeal Panel are to be read as including a reference to a decision of the committee of a racing association).

#### **44 Decision on appeal to be given effect to**

The decision of the Appeal Panel on an appeal is to be given effect to.

#### **45 Membership of Appeal Panel**

- (1) The Board is to appoint suitably qualified persons to be members of the Appeal Panel. A member of the Board cannot be a member of the Appeal Panel.
- (2) The Board is (subject to this section) to determine the qualifications and disqualifications for membership of the Appeal Panel and for that purpose is to have particular regard to the need to minimise conflicts of interest, such as might arise from a person's:
  - (a) ownership of horses currently in work, or
  - (b) professional involvement in race preparation, or
  - (c) professional or commercial dealings with any person who holds a licence issued by the Board or by a racing association.
- (3) At least one member of the Appeal Panel is to be a legal practitioner of at least 7 years standing.
- (4) A person is not eligible to be appointed as a member of the Appeal Panel if the person:
  - (a) holds a licence issued by the Board or by a racing association, or
  - (b) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or

- (c) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or
  - (d) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or
  - (e) is a mentally incapacitated person.
- (5) A member of the Appeal Panel holds office for 4 years from appointment and is eligible (if otherwise qualified) to be reappointed.
- (6) The office of a member of the Appeal Panel becomes vacant if the member:
- (a) dies, or
  - (b) completes a term of office and is not reappointed, or
  - (c) resigns the office by instrument in writing addressed to the Board, or
  - (d) is removed from office under subsection (7), or
  - (e) becomes a person who is not eligible to be a member of the Appeal Panel.
- (7) The Governor may, on the recommendation of the Board, remove a member of the Appeal Panel from office for incapacity, incompetence or misbehaviour.

#### **46 Appointment of Principal Member**

- (1) The Board is to appoint one of the members of the Appeal Panel as Principal Member. The person appointed must be a legal practitioner of at least 7 years standing.
- (2) The person appointed holds office as Principal Member for a period of 2 years and is eligible (if otherwise qualified) for reappointment.
- (3) A person ceases to hold office as Principal Member if the person ceases to hold office as a member of the Appeal Panel.

#### **47 How Appeal Panel is constituted for particular appeal**

- (1) When the Appeal Panel is required to hear an appeal, the Principal Member is to establish the Appeal Panel in accordance with this section. More than one Appeal Panel may be established to exercise the functions of the Appeal Panel at any one time.
- (2) The Appeal Panel is to be constituted for the purposes of an appeal by not less than 3 members, one of whom must be the Principal Member (who is to be Convenor of the Appeal Panel for the purposes of the appeal).

- (3) If the Principal Member is unavailable to act (including as a result of being a member of the Appeal Panel for another appeal), one of the members is to be appointed Convenor by the Principal Member when the Appeal Panel is established. The member appointed Convenor must be a legal practitioner of at least 7 years standing.
- (4) The Convenor is to preside at the hearing of an appeal.
- (5) The Principal Member must, if practicable, consult with the Chief Executive before establishing an Appeal Panel under this section, or appointing a Convenor when the Principal Member is unavailable to act.
- (6) The Chief Executive may exercise the functions of the Principal Member under this section of establishing an Appeal Panel and appointing a Convenor during any period in which the Principal Member is unavailable to exercise those functions (for example, because of absence or incapacity).

#### **48 Remuneration of members**

The members of the Appeal Panel are entitled to be paid such fees and expenses in connection with the hearing and determination of an appeal as the Board determines from time to time.

#### **49 How Appeal Panel makes decisions**

A decision supported by a majority of the members of the Appeal Panel hearing an appeal is the decision of the Panel. If the members of the Appeal Panel are evenly split on a question, the decision of the Convenor of the Panel is the decision of the Panel.

#### **49A Local rules of racing may provide for appeals**

The local rules of racing of the Board may make provision for or with respect to appeals under this Part, including the manner of making an appeal and the procedure for hearing and determining an appeal.

### **Part 5 General**

#### **50 Savings and transitional provisions**

Schedule 1 has effect.

#### **51 (Repealed)**

#### **52 Regulations**

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.

### 53 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 of 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 50)

### Part 1 General

#### 1 Definitions

In this Schedule:

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

**instrument** means an instrument (other than this Act) 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 or process of a court.

**liabilities** means any liabilities, debts and obligations (whether present or future and whether vested or contingent).

**rights** means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent).

**transfer day** means:

- (a) in relation to any asset, right or liability transferred by or under this Schedule, the day on which the transfer occurs, or
- (b) in relation to an employee of the AJC who becomes an employee of the AJCPC by operation of this Schedule, the day on which that occurs.

#### 2 Orders to authorise AJCPC to assume functions

- (1) The AJCPC is not authorised to exercise any of its functions under this Act until the Minister has by order published in the Gazette authorised it to assume those functions. Such an order takes effect on the day it is published in the Gazette or on

such later day as may be specified in the order.

- (2) More than one order may be made under this clause at different times so as to authorise the AJCPC to assume different functions at different times.
- (3) The operation of the whole of Part 4 (Appeal Panel) of this Act is deferred until the AJCPC is authorised (as provided by this clause) to exercise its functions under that Part. The repeal by this Act of section 32 (Appeals) of the *Australian Jockey Club Act 1873* does not have effect until the AJCPC is authorised (as provided by this clause) to exercise its functions under Part 4 of this Act.
- (4) Until any particular function is authorised to be exercised by the AJCPC, the function (to the extent that it is a function of the AJC immediately before the commencement of this clause) remains a function of the AJC and may continue to be exercised by the AJC until the AJCPC is authorised to assume it by order under this clause.
- (5) An amendment made by Schedule 2 that operates to confer a function on the AJCPC or remove a function from the AJC does not have effect until that function is authorised (as provided by this clause) to be exercised by the AJCPC.
- (6) The AJC does not cease to have a function under section 13 (3) while the function may, under this clause, continue to be exercised by the AJC.

### **3 Savings and transitional regulations**

- (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of:

    this Act

*AJC Principal Club Amendment Act 1997*

*Thoroughbred Racing Board Amendment Act 1998*

*Thoroughbred Racing Board Further Amendment Act 1999*

*Racing Legislation Amendment (Bookmakers) Act 2002*

- (2) In particular, the regulations may include provision to delay or defer the operation of any specified provisions of this Act in relation to specified matters or matters of a specified kind.
- (3) A provision of a regulation authorised by this clause may, if the regulations so provide, take effect on the date of assent to the Act concerned or a later date.
- (4) To the extent to which a provision of a regulation authorised by this clause takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:

- (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 First members of the AJCPC and RIPAC**

### **4 Minister to call for nominations**

- (1) As soon as practicable after the commencement of this clause, the Minister is to call for nominations for the first membership of the AJCPC and RIPAC.
- (2) Nominations are to be in writing addressed to the Minister.
- (3) The Minister may give directions generally for facilitating the constitution of the first membership of the AJCPC and RIPAC.
- (4) The AJCPC and RIPAC are formally constituted for the purposes of this Act on a day (***the constitution day***) appointed by the Minister by notice published in the Gazette. The Minister can appoint a day as the constitution day even if all the members of the AJCPC or RIPAC have not been nominated by that day.

#### **Editorial note—**

Constitution day appointed for AJCPC: 18.10.1996—see Gazette No 117 of 18.10.1996, p 7065. Constitution day appointed for RIPAC: 23.8.1996—see Gazette No 97 of 23.8.1996, p 4932.

- (5) The terms of office of the first members of the AJCPC and RIPAC begin on the constitution day but the terms of office of those first members are extended by the period between the constitution day and the day appointed by the Minister under subclause (6).
- (6) The Minister may by notice published in the Gazette appoint a day as the day on which the AJCPC is fully operational for the purposes of this Act (even if the AJCPC has not assumed all of its functions by that date).

### **5 Shortened term of office for half of first members of Board**

The term of office of the first members of the Board who, under this clause as in force before its repeal by the [Thoroughbred Racing Board Amendment Act 1999](#), were nominated to hold office for 2 years is extended so as to expire instead at midnight on a date to be determined by order of the Minister, being no later than 30 June 2001, and notified in the Gazette.



## **Part 3 Transfer of assets, rights, liabilities and employees**

### **6 Meaning of “principal club functions”**

In this Part:

***principal club functions*** means functions of the kind referred to in section 13 (1).

### **7 Object of Part**

The object of this Part is to facilitate the transfer to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions, while ensuring that:

- (a) the proprietary interests of the AJC are preserved or justly compensated (to the extent that those interests are beneficially owned by the AJC), and
- (b) employees of the AJC whose employment is concerned with the exercise of principal club functions are treated fairly.

### **8 Duty to facilitate transition**

It is the duty of the AJC to do everything necessary to facilitate the operation of this Part. That duty includes the duty to give the AJCPC information and access to records, documents and any other source of information however compiled, recorded or stored.

### **9 Agreements and regulations for transfer of assets, rights, liabilities and employees**

- (1) The AJCPC may enter into an agreement or agreements with the AJC providing for the transfer from the AJC to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions. Such an agreement is referred to in this Part as a transfer agreement and operates to transfer the assets, rights, liabilities and employees concerned in accordance with the terms of the transfer agreement.
- (2) The regulations can direct the transfer from the AJC to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions. Such a regulation operates to transfer the assets, rights, liabilities or employees concerned in accordance with the terms of the regulation.
- (3) A transfer effected by a transfer agreement or by regulation under this clause is without consideration or compensation except such consideration or compensation as may be provided for by the transfer agreement or regulation.
- (4) The AJC must not transfer or otherwise deal with any asset that is concerned with the exercise of principal club functions, except with the consent of the AJCPC. Consent may be given under this subclause on a case by case basis or for a class of cases, as the AJCPC thinks fit.

- (5) A regulation under this clause takes effect on the day following the last day on which it is capable of being disallowed under section 41 of the *Interpretation Act 1987* (as modified by subclause (6)) or on such later day as may be specified in the regulation.
- (6) Despite section 41 of the *Interpretation Act 1987*, a resolution by a House of Parliament to disallow a regulation under this clause does not have effect unless the resolution is passed within 15 sitting days of the House after written notice of the making of the regulation is laid before that House under section 40 of that Act.

## **10 Effect of transfer of assets, rights and liabilities**

- (1) The following provisions have effect with respect to any asset, right or liability transferred by operation of this Part:
  - (a) the asset vests in the AJCPC by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance,
  - (b) the right or liability becomes by virtue of this clause the right or liability of the AJCPC,
  - (c) all proceedings relating to the asset, right or liability commenced before the transfer day by or against the AJC and pending immediately before the transfer day are taken to be proceedings pending by or against the AJCPC,
  - (d) any act, matter or thing done or omitted to be done in relation to the asset, right or liability before the transfer day by, to or in respect of the AJC is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the AJCPC,
  - (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the AJC is (to the extent that it relates to the asset, right or liability but subject to any regulations under this Schedule) to be read as, or as including, a reference to the AJCPC.
- (2) The operation of this Part is not to be regarded:
  - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
  - (c) as giving rise to any remedy by a party to a contract or instrument, or as causing or permitting the termination of any contract or instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
  - (d) as an event of default under any contract or instrument.
- (3) No attornment to the AJCPC by a lessee from the AJC is required.

## **11 Effect of transfer of staff**

- (1) An employee of the AJC who is transferred by operation of this Part is to be regarded for all purposes as having become an employee of the AJCPC, in accordance with the terms of transfer, on the transfer day.
- (2) Subject to any of the terms of transfer, the terms and conditions (including as to remuneration or duration of employment) on which a person becomes an employee of the AJCPC by operation of this Part are the same as those on which he or she was an employee of the AJC immediately before the transfer day.
- (3) Such part of the employee's remuneration as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 2 of Chapter 2 of the *Industrial Relations Act 1991* until the salary is, or the wages are, lawfully varied.
- (4) The employee retains any rights to annual leave, leave in the nature of long service leave and sick leave accrued or accruing to the person as an AJC employee. The employee's entitlement to any such leave is to be calculated:
  - (a) for such part of any period during which that leave accrued or was accruing as occurred before the transfer day, at the rate for the time being applicable to the person (as an AJC employee) before that day, and
  - (b) for such part of that period as occurred after the transfer day, at the rate for the time being applicable to the person (as an employee of the AJCPC) after that day.
- (5) Service with the AJC is taken to be service with the AJCPC for the purposes of the accrual of leave as an employee of the AJCPC.
- (6) An AJC employee who becomes an employee of the AJCPC by operation of this Part:
  - (a) is not entitled to receive any payment or other benefit merely because the person ceases to be an AJC employee, and
  - (b) is not entitled to claim dual benefits of the same kind for the same period of service.

## **12 Preservation of enterprise agreements**

The provisions of any enterprise agreement applicable to an AJC employee immediately before the employee is transferred by operation of this Part to employment of the AJCPC continue to apply to the employee as an employee of the AJCPC during the term of the agreement. The AJCPC is, for the purposes of this clause, taken to be a party to the enterprise agreement.

### **13 Stamp duty and fees**

A transfer agreement or an instrument executed only for a purpose ancillary to or consequential on the operation of this Part or the purpose of giving effect to this Part:

- (a) is not chargeable with stamp duty, and
- (b) is exempt from payment of any other fee or charge that would otherwise be payable under any other Act in respect of the registration of any such instrument.

## **Part 4 Miscellaneous**

### **14 Rules of Racing**

The continuity of the Rules of Racing is not affected by this Act. The local rules of racing made by the AJC (as in force immediately before the AJC ceases to exercise the function of making and amending local rules of racing) are taken to have been made by the AJCPC (once the AJCPC has assumed the function of making and amending those rules).

### **15 Pending appeals**

Any appeal pending under section 32 of the *Australian Jockey Club Act 1873* immediately before the AJCPC assumes its functions under Part 4 (Appeal Panel) is to continue and be heard and determined and the decision on the appeal given effect to as if this Act had not been enacted.

### **16 Actions of the AJC**

Anything done or commenced by or in relation to the AJC in respect of a function that the AJC ceases to exercise because of this Act has effect after the function is assumed by the AJCPC under this Act as if it had been done or commenced by or in relation to the AJCPC.

**Note—**

An existing delegation to a racing association by the AJC and licences issued by the AJC are examples of matters that this clause applies to.

## **Part 5 Provisions consequent on enactment of *AJC Principal Club Amendment Act 1997***

### **17 Commencement of certain amendments**

- (1) The amendments made to section 13 (1) (a) and 13 (3) by the *AJC Principal Club Amendment Act 1997* are taken to have commenced on the date of assent to this Act.
- (2) Clauses 21 and 22 of this Schedule are taken to have commenced on the date of assent to this Act.
- (3) Anything done before the commencement of this clause that could have been validly done had the amendments made by the *AJC Principal Club Amendment Act 1997* been

in force at the time that it was done is taken to have been validly done.

### **18 Change of name of AJC Principal Club**

- (1) The substitution of section 4 by the *AJC Principal Club Amendment Act 1997* effects the alteration of the name of the AJC Principal Club in terms of section 53 of the *Interpretation Act 1987* and accordingly that section applies.
- (2) A reference in Parts 1 to 4 of this Schedule to the AJCPC is to be read as a reference to the Board, except in relation to matters that occurred before that alteration took place.

#### **Note—**

Section 53 of the *Interpretation Act 1987* provides that if an Act alters the name of a body or office:

- (a) the body or office continues in existence under its new name so that its identity is not affected, and
- (b) a reference in any Act or instrument, or in any other document, to the body or office under its former name is to be read as a reference to the body or office under its new name (except in relation to matters that occurred before the alteration took place).

### **19 Change in eligibility criteria for nominated members**

- (1) Section 7 (1) (b1) and (b2) (as inserted by the *AJC Principal Club Amendment Act 1997*) apply only to nominations of members of the Board that are made on or after the commencement of those provisions.
- (2) A member of the Board who holds office under a nomination made before the commencement of section 7 (1) (b1) or (b2) does not cease to hold office by reason of becoming a person who is not eligible to be a member because of those provisions.

### **20 Change in method of electing and removing Chairperson and Deputy Chairperson**

Section 16 (4) (as substituted by the *AJC Principal Club Amendment Act 1997*) applies only in respect of an election or removal from office as Chairperson or Deputy Chairperson on or after its substitution.

### **21 Functions of committee of AJC**

A reference in clauses 2, 14 and 16 of this Schedule to the AJC includes a reference to the committee of the AJC.

### **22 Appeals**

- (1) The reference in clause 15 of this Schedule to any appeal pending under section 32 of the *Australian Jockey Club Act 1873* includes a reference to any appeal pending under the Rules of Racing.
- (2) The *Racing Appeals Tribunal Act 1983* continues to apply to and in respect of a decision referred to in section 15 of that Act (as in force immediately before its

amendment by Schedule 2 of this Act), whether made before or after the date of assent to this Act.

## **Part 6 Provision consequent on enactment of [Thoroughbred Racing Board Amendment Act 1998](#)**

### **23 Pending appeals**

An appeal from a decision of the Board that is pending immediately before the commencement of Schedule 1 [2] to the [Thoroughbred Racing Board Amendment Act 1998](#) is to continue to be heard and determined, and the decision on the appeal given effect to, as if that Act had not been enacted.

## **Part 7 Provisions consequent on enactment of [Thoroughbred Racing Board Further Amendment Act 1999](#)**

### **24 Definitions**

In this Part:

**amending Act** means the [Thoroughbred Racing Board Further Amendment Act 1999](#).

**new Board** means the Board as constituted by section 6, as substituted by the amending Act.

**old Board** means the Board as constituted immediately before the commencement of Schedule 1 [2] to the amending Act.

### **25 Continuation of Board**

The new Board is a continuation of, and the same legal entity as, the old Board.

### **26 Arrangements regarding first members of new Board**

- (1) The Minister is:
  - (a) to determine, by order published in the Gazette, the industry bodies that may nominate the persons who are to be the first members of the new Board referred to in section 6 (1) (e), and those that may nominate the persons referred to in section 6 (1) (f), and the criteria on which those members are to be nominated, and
  - (b) to call for nominations for the first nominated members of the new Board.
- (2) The nominations are to be in writing addressed to the Minister.
- (3) As soon as practicable after the commencement of Schedule 1 [2] to the amending Act, the nominated members of the Board:

- (a) are to commission at least 2 recruitment agencies to identify candidates with suitable expertise to hold the office of Chairperson, and
  - (b) are to hold a meeting for the purpose of selecting, by majority vote, the first Chairperson of the new Board from those candidates.
- (4) Until the first Chairperson of the new Board takes office, the nominated members of the Board have and may exercise the functions of the Board and are taken to be the Board.
- (5) The Minister may give directions generally for facilitating the constitution of the first membership of the new Board.

## **27 Term of office of first members of new Board**

- (1) The terms of office of the first members (other than the Chairperson and any additional members) of the new Board are taken to begin on the day that Schedule 1 [2] to the amending Act commences.
- (2) Half of the first nominated members of the new Board are to be nominated to have a term of office of 2 years (instead of the 4 year term provided for by section 9).
- (3) The nominators referred to in section 6 (1) (a)–(f) are to draw lots to determine which of the members that they nominate to the first membership of the new Board are to be nominated to have a 2 year term of office.

## **28 Members of old Board**

- (1) On the commencement of Schedule 1 [2] to the amending Act, a person (other than the Chief Executive) who held office as a member of the old Board:
- (a) ceases to hold that office, and
  - (b) is eligible (if otherwise qualified) to hold office as a member of the new Board.
- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.
- (3) If a nominated member of the old Board becomes a nominated member of the new Board, any term of office served as member of the old Board is not to be counted for the purposes of section 7 (4).

## **Schedule 2 (Repealed)**