

# Greyhound and Harness Racing Administration Act 2004 No 36

[2004-36]



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—

- **Does not include amendments by**
  - [Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)
  - [Miscellaneous Acts Amendment \(Same Sex Relationships\) Act 2008 No 23](#) (not commenced)

### Authorisation

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New South Wales

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# Greyhound and Harness Racing Administration Act 2004 No 36



New South Wales

An Act to constitute the Greyhound and Harness Racing Regulatory Authority; to constitute the Greyhound and Harness Racing Appeals Tribunal; to make consequential amendments to certain Acts; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Greyhound and Harness Racing Administration Act 2004*.

### 2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Parts 1 and 2 and Schedule 1 commence on the date of assent.

### 3 Definitions

- (1) In this Act:

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

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

**greyhound racing, greyhound racing club** and **greyhound trial track** have the same meanings as in the *Greyhound Racing Act 2002*.

**greyhound racing assessor** means a person appointed as a greyhound racing assessor of the Tribunal under Division 3 of Part 4.

**GRNSW** means Greyhound Racing New South Wales constituted by the *Greyhound Racing Act 2002*.

**harness racing** and **harness racing club** have the same meanings as in the *Harness Racing Act 2002*.

**harness racing assessor** means a person appointed as a harness racing assessor of the Tribunal under Division 3 of Part 4.

**HRNSW** means Harness Racing New South Wales constituted by the [Harness Racing Act 2002](#).

**rule:**

- (a) in relation to greyhound racing, means a rule made under section 15, and
- (b) in relation to harness racing, means a rule made under section 16.

**the Authority** means the Greyhound and Harness Racing Regulatory Authority constituted by Part 2.

**Tribunal** means the Greyhound and Harness Racing Appeals Tribunal constituted by Part 4.

- (2) A reference in this Act to a **person associated with greyhound racing** is a reference to the following:
  - (a) a person who handles greyhounds at a greyhound race or trial,
  - (b) a bookmaker's clerk,
  - (c) a greyhound breeder,
  - (d) a person who manages or controls a greyhound trial track,
  - (e) a person who is an officer or employee of a greyhound racing club or is otherwise concerned in the management or control of any such club,
  - (f) any other person prescribed by the regulations for the purposes of this subsection.
- (3) A reference in this Act to a **person associated with harness racing** is a reference to the following:
  - (a) a person who handles horses at a harness race,
  - (b) a bookmaker's clerk,
  - (c) a breeder of horses for harness racing,
  - (d) a person who is an officer or employee of a harness racing club or is otherwise concerned in the management or control of any such club,
  - (e) any other person of a class prescribed by the regulations for the purposes of this subsection.
- (4) Notes included in this Act do not form part of this Act.

## **Part 2 Greyhound and Harness Racing Regulatory Authority**

### **4 Constitution of Greyhound and Harness Racing Regulatory Authority**

- (1) There is constituted by this Act a body corporate with the corporate name of the Greyhound and Harness Racing Regulatory Authority.
- (2) The Authority is subject to the direction and control of the Minister except in relation to the following matters:
  - (a) the contents of a report or recommendation made by it to the Minister,
  - (b) the decision on any appeal or other disciplinary proceedings.
- (3) The Authority is, for the purposes of any Act, a statutory body representing the Crown.
- (4) Schedule 1 has effect with respect to the Authority.

### **5 Membership of Authority**

- (1) The Authority is to consist of 5 members appointed by the Governor, on the recommendation of the Minister.
- (2) The Minister must ensure that at least one of the persons recommended for appointment as a member has, in the opinion of the Minister, suitable legal qualifications and at least 4 of the persons so recommended have, in the opinion of the Minister, one or more of the following qualifications:
  - (a) experience in management or administration,
  - (b) experience in enforcement or policing of regulatory schemes,
  - (c) veterinary qualifications,
  - (d) knowledge of the racing or wagering industries.
- (3) The following persons are not eligible to be appointed as members of the Authority:
  - (a) a person who is, or has been at any time in the year immediately preceding the time of appointment, a member of the committee of a greyhound racing club or a harness racing club,
  - (b) a member or employee of a greyhound racing club or a harness racing club,
  - (c) a person licensed or registered under this Act, the *Greyhound Racing Act 2002*, the *Harness Racing Act 2002* or the *Thoroughbred Racing Board Act 1996*,
  - (d) a person with a financial interest in an animal intended for racing under the *Greyhound Racing Act 2002* or the *Harness Racing Act 2002*.

## **6 Chairperson and deputy chairperson**

- (1) The Governor is to appoint one of the members of the Authority as chairperson of the Authority by the instrument appointing the person as member or by a subsequent instrument executed by the Governor.
- (2) The Governor is to appoint one of the members of the Authority as the deputy chairperson of the Authority by the instrument appointing the person as member or by a subsequent instrument executed by the Governor.

## **7 Functions of Authority**

- (1) The Authority has the functions conferred or imposed on it by or under this or any other Act or law.
- (2) The Authority may affiliate with such organisations, whether in or out of New South Wales, as the Authority considers appropriate.
- (3) Nothing in this Act confers on the Authority power to conduct meetings for greyhound racing or harness racing on its own behalf.
- (4) The Authority cannot employ any staff.

### **Note—**

Staff may be employed under Chapter 1A of the [Public Sector Employment and Management Act 2002](#) in the Government Service to enable the Authority to exercise its functions.

## **8 Dealings with property on trust or condition**

The Authority may accept, hold and administer property on trust or subject to a condition that the property be applied for or towards any one or more of the following purposes:

- (a) the promotion or welfare of greyhound or harness racing or the greyhound or harness racing industry,
- (b) the assistance of persons who are or have, at any time, been associated with the greyhound or harness racing industry,
- (c) the assistance of persons who are or have, at any time, been the dependants of persons referred to in paragraph (b).

## **9 Restriction on dealings with land**

The powers of the Authority to purchase, exchange, take on lease, hold, dispose of, and otherwise deal with land must not be exercised except with the consent of the Minister and subject to such conditions as the Minister may, in giving his or her consent, impose.

## **10 Chief executive officer of Authority**

- (1) The Minister may, on the recommendation of the Authority, appoint a chief executive



officer of the Authority.

- (1A) The employment of the chief executive officer is subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*, but is not subject to Chapter 1A of that Act.
- (2) The chief executive officer is responsible for the day-to-day management of the Authority.

## **11 (Repealed)**

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

## **Division 1 Registration**

### **12 Registration of greyhounds, horses and persons associated with greyhound or harness racing**

- (1) The Authority may:
  - (a) in accordance with the rules made in relation to greyhound racing, register or refuse to register any greyhound, or any owner, trainer or bookmaker or other person associated with greyhound racing, or
  - (b) in accordance with the rules made in relation to harness racing, register or refuse to register any harness racing horse, or any owner, trainer or driver of harness racing horses, or bookmaker or other person associated with harness racing.
- (2) The Authority must not refuse to register:
  - (a) any greyhound or any person under subsection (1) (a) unless it is of the opinion that it would be in the best interests of the greyhound racing industry to do so, or
  - (b) any harness racing horse or any person under subsection (1) (b) unless it is of the opinion that it would be in the best interests of the harness racing industry to do so.

### **13 Registration of bookmakers**

- (1) An individual over the age of 18 years or a proprietary company may apply to the Authority for registration as a bookmaker in relation to greyhound racing or harness racing or both.
- (2) Despite section 12 (2), the Authority must refuse to grant an application for registration of a proprietary company as a bookmaker unless satisfied that the company is an eligible company.
- (3) For the purposes of this section, **eligible company** means a proprietary company that is registered under 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 registered 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 Authority, a fit and proper person to be registered as an individual as a bookmaker under this Act, and
- (f) no shareholder or person concerned in the management of the company, other than a director, is registered as an individual as a bookmaker under this Act, and
- (g) 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 company's registration as a bookmaker that:

- (a) the company continues to be an eligible company, and
- (b) no director, shareholder or person concerned in the management of the company:
  - (i) is a director, shareholder or person concerned in the management of, or is an employee or agent of, any other company that is registered as a bookmaker under this Act, or
  - (ii) has a financial interest in any business of a bookmaker that is carried on by any such other company under the authority of its registration under this Act, or
  - (iii)-(vi) (Repealed)
  - (vii) is registered 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
  - (viii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is registered or otherwise authorised to carry on, or that carries on, any such business in another country, or
  - (ix) is an employee or agent of any individual, partnership or corporation referred

to in subparagraph (vii) or (viii), or

- (x) 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) It is a condition of a company's registration as a bookmaker in relation to greyhound racing that no director, shareholder or person concerned in the management of the company:
- (a) carries on the business of a bookmaker, otherwise than on behalf of the company, in relation to any greyhound, horse or harness race, at a meeting for greyhound racing in New South Wales, or
  - (b) carries on the business of an authorised sports betting bookmaker, otherwise than on behalf of the company, at a racecourse licensed for greyhound racing.
- (6) It is a condition of a company's registration as a bookmaker in relation to harness racing that no director, shareholder or person concerned in the management of the company:
- (a) carries on the business of a bookmaker, otherwise than on behalf of the company, in relation to any greyhound, horse or harness race, at a meeting for harness racing in New South Wales, or
  - (b) carries on the business of an authorised sports betting bookmaker, otherwise than on behalf of the company, at a racecourse licensed for harness racing.
- (7) In subsection (4) (b) 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.
- (8) (Repealed)
- (9) The Authority may suspend or cancel the registration of a company as a bookmaker if satisfied that any condition referred to in subsections (4)-(6) is contravened in respect of the company. This does not limit the powers of the Authority to suspend or cancel the registration of a company as a bookmaker under section 14.
- (10) Any debt that is incurred by a company in carrying on business as a bookmaker registered 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).
- (11) 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 greyhound racing** and **meeting for harness racing** have the same meanings as in section 4 of the *Racing Administration Act 1998*.

**proprietary company** has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

**racecourse licensed for greyhound racing** means a racecourse in respect of which a licence for meetings for greyhound racing granted under section 7 of the *Racing Administration Act 1998* is in force.

**racecourse licensed for harness racing** means a racecourse in respect of which a licence for meetings for harness racing granted under section 7 of the *Racing Administration Act 1998* is in force.

#### **14 Disciplinary and occupational health and safety action may be taken by Authority**

- (1) The Authority may, in accordance with the rules made in relation to greyhound racing, do any of the following:
  - (a) cancel the registration of:
    - (i) any greyhound racing club, or
    - (ii) any greyhound trial track, or
    - (iii) any greyhound, or
    - (iv) any owner, trainer or bookmaker or other person associated with greyhound racing,
  - (b) disqualify, either permanently or temporarily, any owner, trainer or bookmaker or other person associated with greyhound racing,
  - (c) disqualify any greyhound, either permanently or temporarily,
  - (d) prohibit any person from participating in or associating with greyhound racing in any specified capacity,

- (e) prohibit any greyhound from competing in any greyhound race or trial,
  - (f) impose fines, not exceeding 200 penalty units, on any greyhound racing club or on any owner, trainer or bookmaker or other person associated with greyhound racing for breaches of the rules,
  - (g) suspend, for such term as the Authority thinks fit, any right or privilege conferred by this Act or the rules on any owner, trainer or bookmaker or other person associated with greyhound racing,
  - (h) prohibit any person registered under the rules from taking part in any meeting for greyhound racing held by any greyhound racing club that is not registered under the rules.
- (2) The Authority may, in accordance with the rules made in relation to harness racing, do any of the following:
- (a) cancel the registration of:
    - (i) any harness racing club, or
    - (ii) any harness racing horse, or
    - (iii) any owner, trainer or driver of harness racing horses, or bookmaker or other person associated with harness racing,
  - (b) disqualify, either permanently or temporarily, any owner, trainer or driver of harness racing horses, or bookmaker or other person associated with harness racing,
  - (c) prohibit any person from participating in or associating with harness racing in any specified capacity,
  - (d) prohibit any horse from competing in any harness race,
  - (e) prohibit any person from attending or taking part in a harness racing meeting,
  - (f) impose fines, not exceeding 200 penalty units, on any harness racing club or on any owner, trainer or driver of harness racing horses, or bookmaker or other person associated with harness racing for breaches of the rules,
  - (g) suspend, for such term as the Authority thinks fit, any right or privilege conferred by this Act or the rules on any owner, trainer or driver of harness racing horses, or bookmaker or other person associated with harness racing,
  - (h) prohibit any person registered under the rules from taking part in any meeting for harness racing held by any harness racing club that is not registered under the rules.

- (3) Any fine imposed under subsection (1) (f) or (2) (f) is to be paid to and be the property of the Authority.
- (4) The Authority may only take action under this section for disciplinary purposes or for the purposes of occupational health and safety.

## **Division 2 Rules**

### **15 Rules in relation to greyhound racing**

- (1) The Authority may make rules, not inconsistent with this Act, for or with respect to the control and regulation of greyhound racing.
- (2) Without limiting the generality of subsection (1), the Authority may make rules for or with respect to the following:
  - (a) any of the matters referred to in section 19 or 20 of the *Greyhound Racing Act 2002*,
  - (b) any of the matters referred to in section 12 (1) (a) or 14 (1),
  - (c) the effect of a disqualification of, or other penalty imposed on, a person or greyhound under section 14 (1),
  - (d) the allocation to greyhound racing clubs of dates on which they may conduct greyhound racing meetings and greyhound races,
  - (e) the holding and conduct of meetings for greyhound racing and of races or trials at any such meeting,
  - (f) the keeping of greyhounds that are in the care or custody of persons registered under the rules,
  - (g) the breeding of greyhounds (including the registration or recording of sires, services and litters),
  - (h) the naming and identification of greyhounds,
  - (i) the adoption by the Authority (with or without inquiry) of penalties imposed by clubs or authorities conducting or controlling greyhound racing, horse racing or harness racing, whether in or out of New South Wales,
  - (j) the appointment of stewards by the Authority and the functions of those stewards (including functions that do not relate to meetings for greyhound racing),
  - (k) conferring on stewards appointed by the Authority the same functions as are exercisable by the Authority under Division 1,
  - (l) the extent to which and the circumstances in which stewards appointed by the

Authority may exercise their functions to the exclusion of stewards of greyhound racing clubs,

(m) prohibiting any or all of the following:

- (i) betting or wagering at any place where a greyhound trial or training race is held,
- (ii) the award, in respect of any greyhound trial or training race, of any money,
- (iii) the making of a charge for the admission of persons (not being persons in charge of greyhounds) to a greyhound trial track,

(n) the registration of greyhound racing clubs and greyhound trial tracks,

(o) the fees and charges referred to in section 37.

(3) The following rules may be made only on the recommendation of GRNSW:

- (a) a rule for or with respect to any of the matters referred to in section 19 or 20 of the *Greyhound Racing Act 2002*,
- (b) a rule for or with respect to any of the matters referred to in subsection (2) (d) or (n),
- (c) a rule for or with respect to any of the matters referred to in subsection (2) (g), but only if that rule relates to breeding policy issues,
- (d) a rule for or with respect to any other matter prescribed by the regulations for the purposes of this paragraph.

## **16 Rules in relation to harness racing**

- (1) The Authority may make rules, not inconsistent with this Act or the regulations, for or with respect to the control and regulation of harness racing.
- (2) Without limiting the generality of subsection (1), the Authority may make rules for or with respect to the following:
  - (a) any of the matters referred to in section 22 or 23 of the *Harness Racing Act 2002*,
  - (b) any of the matters referred to in section 12 (1) (b) or 14 (2),
  - (c) the effect of a disqualification of, or other penalty imposed on, a person or harness racing horse under section 14 (2),
  - (d) the allocation to harness racing clubs of dates on which they may conduct harness racing meetings and harness races,
  - (e) the holding and conduct of harness racing meetings and of races at any such

meeting,

- (f) the keeping of horses that are in the care or custody of persons registered under the rules,
- (g) the breeding of harness racing horses,
- (h) the naming and identification of harness racing horses,
- (i) the appointment of stewards by the Authority and the functions of those stewards (including functions that do not relate to meetings for harness racing),
- (j) conferring on stewards appointed by the Authority the same functions as are exercisable by the Authority under Division 1,
- (k) the extent to which and the circumstances in which stewards appointed by the Authority may exercise their functions to the exclusion of stewards of harness racing clubs,
- (l) the fees and charges referred to in section 37.

(3) The following rules may be made only on the recommendation of HRNSW:

- (a) a rule for or with respect to any of the matters referred to in section 22 or 23 of the *Harness Racing Act 2002*,
- (b) a rule for or with respect to any of the matters referred to in subsection (2) (d),
- (c) a rule for or with respect to any of the matters referred to in subsection (2) (g), but only if that rule relates to breeding policy issues,
- (d) a rule for or with respect to any other matter prescribed by the regulations for the purposes of this paragraph.

## **17 Rules generally**

(1) A provision of a rule made under this Division may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors, or
- (b) apply differently according to different factors of a specified kind, or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(2) A rule made under this Division may not be made for or with respect to any of the matters for or with respect to which regulations may be made by virtue of this Act



(section 50 (1) (b) excepted).

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

### **Division 1 Interpretation**

#### **18 Definitions**

In this Part:

**appeal** means an appeal under this Part.

**court** includes the Industrial Relations Commission of New South Wales.

**disciplinary inquiry** means a special inquiry or any other inquiry by the Authority for the purpose of taking disciplinary action.

**judge** includes a judicial member of the Industrial Relations Commission.

**qualified person** means a judge of any court in New South Wales, a retired judge of any court (whether or not in New South Wales) or a person qualified to be appointed as a Judge of the District Court.

**special inquiry** means a special inquiry under section 24.

### **Division 2 Rights and procedures concerning appeals and inquiries**

#### **19 Appeals to Authority and Tribunal**

- (1) Any person who is aggrieved by a decision of any of the following may, in accordance with the regulations, appeal against the decision to the Authority or the Tribunal as determined by the regulations:
  - (a) a harness racing club,
  - (b) a greyhound racing club or a steward of a greyhound racing club,
  - (c) a steward of the Authority.
- (2) Any of the following persons or bodies that are aggrieved by a decision of the Authority (including a decision of the Authority in respect of an appeal under subsection (1)) may, in accordance with the regulations, appeal against the decision to the Tribunal:
  - (a) any person,
  - (b) a greyhound racing club,
  - (c) a harness racing club.

- (3) If the person aggrieved under subsection (1) is the Authority, the appeal under that subsection is to be made to the Tribunal.

## **20 Proceedings before Authority**

- (1) An appeal to the Authority under section 19 (1) is to be held as in open court at a meeting of the Authority at which a quorum is present.
- (2) Proceedings in respect of a disciplinary inquiry of the Authority may be conducted in public or in private, or partly in public and partly in private, as the Authority may decide.
- (3) In conducting a disciplinary inquiry, the Authority may examine any witness on oath or affirmation, or by use of a statutory declaration.
- (4) The decision of the Authority is final and is taken (except for the purposes of an appeal to the Tribunal) to be a decision of the person or body whose decision is the subject of the appeal.

## **21 Proceedings before Tribunal**

- (1) An appeal to the Tribunal under section 19 against a decision of the Authority on an appeal under section 19 (1) is to be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision appealed against was made, may be given on the appeal.
- (2) Proceedings on an appeal are to be held as in open court before the Tribunal.

## **22 Persons required to attend hearings or produce documents**

- (1) The Tribunal may, by written notice served on any person, require the person to attend at a time, date and place specified in the notice for the purpose of:
  - (a) giving evidence relating to an appeal being heard or to be heard by the Tribunal, or
  - (b) producing any document, relating to such an appeal, specified in the notice that is in the person's possession or under the person's control.
- (2) A person who is served with a notice under this section must not, without reasonable excuse, fail or refuse to comply with the requirements of the notice.

Maximum penalty: 5 penalty units.

- (3) A person who is served with a notice under this section is to be given at the time of service an amount sufficient to cover the travelling and any other expenses likely to be incurred by the person in attending at the time, date and place specified in the notice.

### **23 Determination of appeal**

- (1) The Tribunal may do any of the following in respect of an appeal:
  - (a) dismiss the appeal,
  - (b) confirm the decision appealed against or vary the decision by substituting any decision that could have been made by the steward, club or Authority (as the case requires),
  - (c) in the case of an appeal under section 19 (2), refer any matter relating to the decision appealed against to the Authority for rehearing (in accordance with directions given by the Tribunal),
  - (d) make such other order in relation to the disposal of the appeal as the Tribunal thinks fit.
- (2) The decision of the Tribunal is final and is taken (except for the purposes of a special inquiry) to be a decision of the person or body whose decision is the subject of the appeal.

### **24 Special inquiry by Authority**

- (1) The Authority may hold a special inquiry into a matter that the Tribunal has determined on an appeal under section 19 if:
  - (a) the Authority receives information that was not available as evidence at the hearing of the appeal, and
  - (b) the Authority is satisfied that the information may have resulted in a substantially different decision if it had been given in evidence at the hearing of the appeal.
- (2) The Authority may determine the manner in which a special inquiry is to be held.
- (3) After holding a special inquiry into a matter that has been decided on an appeal, the Authority may:
  - (a) decide to take no further action, or
  - (b) make a decision that differs from the decision of the Tribunal, in which case the different decision has effect as the decision of the Tribunal instead of the Tribunal's decision.
- (4) Section 19 (2) does not apply to a decision made under this section.

### **25 Regulations concerning appeals and special inquiries**

- (1) The regulations may make provision for or with respect to the following:
  - (a) appeals to the Authority or Tribunal under this Act,

- (b) special inquiries,
  - (c) the procedure at or in connection with appeals under this Act and special inquiries,
  - (d) the suspension of a decision appealed against under this Act, or the subject of a special inquiry, pending the determination of the appeal or inquiry,
  - (e) the payment of fees and costs in respect of appeals under this Act and special inquiries,
  - (f) any matters incidental to or connected with appeals under this Act and special inquiries.
- (2) Without affecting the generality of subsection (1), the regulations may:
- (a) prescribe classes of matters in respect of which appeals may not be made under this Act, or
  - (b) provide that no appeals may be made under this Act except in respect of prescribed classes of matters.

## **Division 3 Greyhound and Harness Racing Appeals Tribunal**

### **26 Greyhound and Harness Racing Appeals Tribunal**

For the purposes of this Act there is constituted a Tribunal to be known as the Greyhound and Harness Racing Appeals Tribunal.

### **27 Appointment of Tribunal**

The Minister may, on the recommendation of the Attorney General, appoint a qualified person as the Tribunal.

### **28 Appointment of acting Tribunal**

- (1) The Minister may from time to time, on the recommendation of the Attorney General, appoint:
- (a) a qualified person to act as the Tribunal:
    - (i) during the illness or absence of the person appointed as the Tribunal, or
    - (ii) during a vacancy in the office of the Tribunal, or
    - (iii) on such occasions or in respect of such appeals as the person appointed as the Tribunal directs, and
  - (b) another qualified person to act as the Tribunal in accordance with paragraph (a), but to act only during the illness or absence of the person appointed to act as the Tribunal under paragraph (a).

- (2) A qualified person is taken to be the Tribunal while acting as the Tribunal.
- (3) More than one sitting of the Tribunal may be held at the same time, but the person appointed as the Tribunal and a person appointed to act as the Tribunal must not sit on the same appeal.

### **29 Appointment of greyhound racing assessors and harness racing assessors**

The Minister may, for the purposes of this Act, appoint:

- (a) persons the Minister believes have special knowledge of, and experience in, the greyhound racing industry to be greyhound racing assessors of the Tribunal, and
- (b) persons the Minister believes have special knowledge of, and experience in, the harness racing industry to be harness racing assessors of the Tribunal.

### **30 Functions of greyhound racing assessors and harness racing assessors**

- (1) The Tribunal may, in hearing an appeal under this Act:
  - (a) be assisted by one or more greyhound racing assessors if the appeal relates to greyhound racing, and
  - (b) be assisted by one or more harness racing assessors if the appeal relates to harness racing.
- (2) A greyhound racing assessor or harness racing assessor assisting the Tribunal as referred to in subsection (1) may assist and advise the Tribunal, but must not adjudicate on any matter before the Tribunal.

### **31 Provisions relating to Tribunal**

Schedule 2 has effect.

## **Part 5 Administration**

### **32 Records**

- (1) The Authority is to keep records for the purposes of this Act, the *Greyhound Racing Act 2002* and the *Harness Racing Act 2002* relating to its own functions and the registration functions of GRNSW and HRNSW.
- (2) GRNSW and HRNSW are to ensure that the relevant information is passed on to the Authority to enable it to perform its record-keeping functions under this section.
- (3) The Authority is to allow:
  - (a) GRNSW access to the records kept under this section that relate to the registration functions of GRNSW, and

- (b) HRNSW access to the records kept under this section that relate to the registration functions of HRNSW.

### **33 Meetings of the Authority and GRNSW and HRNSW**

- (1) GRNSW and the Authority are to meet with each other at least twice a year to co-ordinate the carrying out of their functions under this Act and the *Greyhound Racing Act 2002*.
- (2) HRNSW and the Authority are to meet with each other at least twice a year to co-ordinate the carrying out of their functions under this Act and the *Harness Racing Act 2002*.

## **Part 6 Finance**

### **34 Financial year**

- (1) Subject to subsection (2), the financial year of the Authority is the year commencing on 1 July.
- (2) A different financial year for the Authority may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

### **35 Expenses**

The Authority is liable for the following expenses:

- (a) all expenses (including remuneration and allowances payable to members of the Authority, the chief executive officer of the Authority and the other staff of the Authority) incurred by the Authority in the exercise of its functions,
- (b) all expenses (including remuneration and allowances payable under clause 3 of Schedule 2) incurred by the Tribunal in the exercise of its functions.

### **36 Accounts**

The Authority may establish such accounts as it thinks appropriate for the money received and expended by the Authority.

### **37 Fees and charges**

- (1) If a steward appointed by the Authority acts at a meeting for greyhound racing held by a greyhound racing club or at a meeting for harness racing held by a harness racing club, the Authority may charge the club for the services of the steward.
- (2) The Authority may determine the fees and charges payable for registration or for the transaction of other business with the Authority under this or any other Act.

### 38 Funding of Authority

- (1) The Authority is to submit a draft annual budget to the Minister before the beginning of each of its financial years. The draft annual budget is to be submitted at the time and in a form directed by the Minister.
- (2) The draft annual budget must include a statement (the **funding statement**) specifying the proportions of the total annual budget for the Authority that should relate to greyhound racing and to harness racing respectively. These proportions are to be expressed as 2 percentages that add up to 100 percent of the total annual budget.
- (3) After considering the draft annual budget submitted by the Authority for a financial year, the Minister is to determine:
  - (a) the total amount to be allowed for the funding of the Authority for the financial year concerned (the **total funding** for the Authority), and
  - (b) the amount of funding that GRNSW is to provide to the Authority for the financial year calculated by multiplying the total funding for the Authority by the proportion for greyhound racing specified in the funding statement (the **greyhound racing funding** for the Authority), and
  - (c) the amount of funding that HRNSW is to provide to the Authority for the financial year calculated by multiplying the total funding for the Authority by the proportion for harness racing specified in the funding statement (the **harness racing funding** for the Authority).
- (4) As soon as practicable after determining funding amounts for a financial year under subsection (3), the Minister is to cause:
  - (a) written notice to be given to GRNSW of the total funding and the greyhound racing funding for the Authority for the financial year, and
  - (b) written notice to be given to HRNSW of the total funding and the harness racing funding for the Authority for the financial year.
- (5) The Minister may vary the amount of the greyhound racing funding or the harness racing funding at any time by serving written notice on GRNSW or HRNSW respectively.
- (6) GRNSW is to provide annual funding to the Authority equal to the greyhound racing funding for the Authority for the financial year concerned. The amount is to be paid in the manner and at the times directed by the Minister.

**Note—**

Section 49 of the [Greyhound Racing Act 2002](#) makes provision in relation to the source of this funding by GRNSW.

- (7) HRNSW is to provide annual funding to the Authority equal to the harness racing funding for the Authority for the financial year concerned. The amount is to be paid in the manner and at the times directed by the Minister.

**Note—**

Section 51 of the *Harness Racing Act 2002* makes provision in relation to the source of this funding by HRNSW.

### **39 Financial reporting to the Minister**

- (1) The Authority is to provide financial reports to the Minister at such times as the Minister may determine.
- (2) The financial reports are to be submitted in a form determined by the Minister.

## **Part 7 Miscellaneous**

### **40 Reports and recommendations by Authority**

The Authority must, when so directed by the Minister, or may, of its own motion, investigate and furnish to the Minister a report and recommendation with respect to any matter relevant to greyhound or harness racing, including any matter with respect to which rules may be made under Division 2 of Part 3.

### **41 Production of club records to Authority**

- (1) In this section:

**records** includes:

- (a) documents, registers and other records of information, and
- (b) invoices, receipts, orders for the payment of money, bills of exchange, promissory notes, vouchers and other records of transactions, and
- (c) such working papers and other documents as are necessary to explain the methods and calculations by which accounts are made up,

however compiled, recorded or stored.

- (2) The Authority may at any time, by notice in writing, give a direction to:

- (a) a greyhound racing club, or
- (b) a person who is or has been an officer or employee of, or an agent, banker, solicitor, auditor or other person acting in any capacity for or on behalf of, a greyhound racing club (including a greyhound racing club that is in the course of being wound up or has been dissolved), or
- (c) a person who manages or controls a greyhound trial track,



requiring the production, at such time and place as are specified in the direction, of such records relating to the affairs of the greyhound racing club or greyhound trial track as are so specified.

(3) The Authority may at any time, by notice in writing, give a direction to:

(a) a harness racing club, or

(b) a person who is or has been an officer or employee of, or an agent, banker, solicitor, auditor or other person acting in any capacity for or on behalf of a harness racing club (including a harness racing club that is in the course of being wound up or has been dissolved),

requiring the production, at such time and place as are specified in the direction, of such records relating to the affairs of the harness racing club as are so specified.

(4) Where any records relating to the affairs of a greyhound racing club, a greyhound trial track, or a harness racing club are compiled, recorded or stored by means of a mechanical, electronic or other device, a direction under subsection (2) or (3) may require the production of a document containing a clear reproduction in writing of the whole or any part of those records.

(5) A person must not, when required under subsection (2) or (3) to produce a record:

(a) refuse or neglect to produce the record, or

(b) produce a record that contains information that to the person's knowledge is false or misleading in a material particular unless the person discloses that fact when producing the record.

Maximum penalty: 5 penalty units.

(6) A reference in this section to:

(a) the affairs of a greyhound racing club is a reference to the affairs of the greyhound racing club that relate, directly or indirectly, to greyhound racing, and

(b) the affairs of a harness racing club is a reference to the affairs of the harness racing club that relate, directly or indirectly, to harness racing.

## **42 Secrecy**

(1) A person who acquires information in the exercise of a function under this Act, the [Greyhound Racing Act 2002](#) or the [Harness Racing Act 2002](#) must not directly or indirectly make a record of the information or divulge it to another person except in the exercise of functions under this Act, the [Greyhound Racing Act 2002](#) or the [Harness Racing Act 2002](#).

Maximum penalty: 50 penalty units.

- (2) Despite subsection (1), information may be divulged:
- (a) to a particular person or persons, if the Minister certifies that it is necessary in the public interest that the information be divulged to the person or persons, or
  - (b) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates, or
  - (c) to GRNSW, HRNSW, the Authority or Racing New South Wales, or
  - (d) to the Director-General of the Department of Gaming and Racing, or
  - (e) to a person or body prescribed by the regulations.
- (3) It is not an offence under this section if, in legal proceedings, a person:
- (a) divulges information in answer to a question that the person is compellable to answer, or
  - (b) produces a document or other thing that the person is compellable to produce.
- (4) A body or person to whom information is divulged under this section, and a person or employee under the control of that body or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as they would be if that body, person or employee were a person exercising functions under this Act and had acquired the information in the exercise of those functions.
- (5) This section does not apply to the divulging of information to any of the following:
- (a) the Independent Commission Against Corruption,
    - (a1) the Inspector of the Independent Commission Against Corruption,
  - (b) the Australian Crime Commission,
  - (c) the New South Wales Crime Commission,
  - (d) the Ombudsman,
  - (e) the Police Integrity Commission,
  - (f) the Inspector of the Police Integrity Commission,
  - (g) any other person or body prescribed by the regulations for the purposes of this subsection.
- (6) This section does not prevent a person being given access to a document in accordance with the [Freedom of Information Act 1989](#).
- (7) In this section, a reference to the divulging of information includes a reference to the

production of a document or other thing and the provision of access to the document or other thing.

#### **43 Delegation**

- (1) The Authority may delegate the exercise of its functions under this or any other Act or law to:
  - (a) a member of the Authority or the chief executive officer of the Authority, or
  - (b) a committee comprised of, or a combination of, those persons.
- (2) Despite subsection (1), the Authority must not delegate a function relating to the suspension or cancellation of registration or the taking of any other disciplinary action.

#### **44 Protection from personal liability**

Anything done or omitted to be done by:

- (a) the Authority, or
- (b) a member of the Authority, or
- (c) the chief executive officer of the Authority, or
- (d) any person acting under the direction of the Authority,

does not subject the member, chief executive officer or a person so acting personally to any action, liability, claim or demand if the thing was done or omitted to be done in good faith for the purposes of executing this or any other Act.

#### **45 Authentication of certain documents**

Any summons, process, demand, order, notice, statement, direction or other document requiring authentication by the Authority is sufficiently authenticated without the seal of the Authority if signed by the chairperson of the Authority, the chief executive officer of the Authority, or any other member of staff of the Authority authorised to do so by the chief executive officer.

#### **46 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of the following matters:

- (a) the constitution of the Authority,
- (b) any resolution of the Authority,
- (c) the appointment of, or the holding of office by, any member of the Authority,
- (d) the presence of a quorum at any meeting of the Authority.

#### **47 Service of instruments**

Any instrument to be served on any person under this Act or the regulations may be served:

- (a) personally, or
- (b) by leaving it, at the place of residence or business of the person last known to the person serving the instrument, with some other person apparently over the age of 16 years, or
- (c) by post addressed to the person at the place of residence or business of the person last known to the person serving the instrument.

#### **48 Recovery of money**

(1) Any charge, fee, fine, or other money due to the Authority under this or any other Act or law may be recovered by the Authority as a debt in a court of competent jurisdiction.

(2) In this section:

***fine*** means a fine imposed under section 14 (1) (f) or (2) (f).

#### **49 Proceedings for offences**

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court.

#### **50 Regulations**

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to:

(a) 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, and

(b) any matter for or with respect to which rules may be made under Division 2 of Part 3.

(2) If there is any inconsistency between the regulations and the rules made under Division 2 of Part 3, the regulations prevail.

(3) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

(4) A reference in Division 1 of Part 3 to the rules includes a reference to regulations in so far as the regulations make provision for or with respect to any of the matters mentioned in that Division.

## 51 Repeals

The following regulations are repealed:

- (a) *Greyhound Racing (Appeals) Regulation 1999*,
- (b) *Harness Racing (Appeals) Regulation 1999*.

## 52 (Repealed)

## 53 Savings, transitional and other provisions

Schedule 4 has effect.

## 54 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 Provisions relating to Authority

(Section 4 (4))

### 1 Definitions

In this Schedule:

**Chairperson** means the Chairperson of the Authority.

**Deputy Chairperson** means the Deputy Chairperson of the Authority.

**member** means any member of the Authority.

### 2 Terms of office of members

Subject to this Schedule, a member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### 3 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

#### **4 Deputies**

- (1) The Governor may, from time to time, appoint persons to be the deputies of members, and the Governor may revoke any such appointment.
- (2) In the absence of a member, a deputy appointed under subclause (1) may act in the place of the member.
- (3) The Chairperson may determine which deputy appointed under subclause (1) may act in the place of an absent member.
- (4) While acting in the place of a member, a person:
  - (a) has all the functions of the member and is taken to be a member, and
  - (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

#### **5 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is absent from 4 consecutive meetings of the Authority of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or
  - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (f) becomes a mentally incapacitated person, or
  - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (h) becomes a person who is not eligible to be a member, or

(i) is removed from office by the Minister under subclause (2).

(2) The Minister may at any time remove a member from office.

## **6 Filling of vacancy in office of member**

If the office of any member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

## **7 Presiding member**

(1) The Chairperson is to preside at a meeting of the Authority, or in the absence of the Chairperson, the Deputy Chairperson.

(2) In the absence of the Chairperson and the Deputy Chairperson, the members present at the meeting are to appoint a member to preside at the meeting.

(3) The person presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## **8 Voting**

A decision supported by a majority of the votes cast at a meeting of the Authority at which a quorum is present is the decision of the Authority.

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

(1) The Authority may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Authority for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Authority.

(2) The Authority 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 any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1), or

(b) a meeting held in accordance with subclause (2),

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

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Authority.

(5) Papers may be circulated among the members for the purposes of subclause (1) by

facsimile or other transmission of the information in the papers concerned.

## **10 Disclosure of pecuniary interests**

(1) If:

- (a) a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of the Authority, 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 Authority.

(2) A disclosure by a member at a meeting of the Authority 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 that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause must be recorded by the Authority 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 a reasonable fee determined by the Authority.

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

- (a) be present during any deliberation of the Authority with respect to the matter, or
- (b) take part in any decision of the Authority with respect to the matter.

(5) For the purposes of the making of a determination by the Authority under subclause (4), a member who has a pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Authority for the purpose of making the determination, or
- (b) take part in the making by the Authority of the determination.

(6) A contravention of this clause does not invalidate any decision of the Authority.



## **11 Pecuniary interests required to be disclosed**

- (1) For the purposes of clause 10, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided by subclauses (3)–(5).
- (2) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter.
- (3) For the purposes of clause 10, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
  - (a) the person, or
  - (b) another person with whom the person is associated as provided by this clause.
- (4) A person is taken to have a pecuniary interest in a matter if:
  - (a) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, has a pecuniary interest in the matter, or
  - (b) the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.
- (5) However, a person is not taken to have a pecuniary interest in a matter as referred to in subclause (4):
  - (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a statutory body or is employed by the Crown, or
  - (c) just because the person is a member of a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

## **12 General procedure**

The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Authority.

## **13 Quorum**

The quorum for a meeting of the Authority is a majority of its members.

#### **14 First meeting**

The Minister may call the first meeting of the Authority in such manner as the Minister thinks fit.

#### **15 Code of conduct**

- (1) The Authority must adopt a code of conduct to be observed by members, deputy members and staff of the Authority.
- (2) The code of conduct must be approved by the Minister before it is adopted.
- (3) The Authority must review its code of conduct at least every 3 years and make such changes to it as it considers appropriate.
- (4) Any changes proposed to the code of conduct must be approved by the Minister.

#### **16 Effect of certain other Acts**

- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a member.
- (2) If by or under any Act provision is made:
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

### **Schedule 2 Provisions relating to Tribunal**

(Section 31)

#### **1 Term of office**

Subject to this Act, a person appointed as:

- (a) the Tribunal, or
- (b) a greyhound racing assessor or harness racing assessor,

is to hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

## **2 Effect of appointment of a judge as Tribunal**

- (1) A person's tenure of the office of judge of a court, or the person's rank, title, status, precedence, salary or other rights or privileges as a holder of that office, is not affected by:
  - (a) the appointment of the person as, or to act as, the Tribunal, or
  - (b) the person's service as the Tribunal.
- (2) A judge of any court may exercise the functions of a judge of that court despite holding office as, or acting as, the Tribunal.
- (3) The service, as the Tribunal, of a judge of any court is, for all purposes, taken to be service as a judge of that court.

## **3 Remuneration**

The following persons are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person:

- (a) a person (not being a judge of any court) holding office as, or acting as, the Tribunal,
- (b) a greyhound racing assessor or harness racing assessor.

## **4 Vacation of office**

- (1) A person (being a judge of any court) holding office as the Tribunal is taken to have vacated that office if the person:
  - (a) ceases to be a judge of that court, or
  - (b) resigns that office by instrument in writing addressed to the Minister.
- (2) A person (not being a judge of any court) holding office as the Tribunal or a person holding office as a greyhound racing assessor or harness racing assessor is taken to have vacated that office if the person:
  - (a) dies, or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (c) becomes a mentally incapacitated person, or
  - (d) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable,

or

(e) resigns that office by instrument in writing addressed to the Minister, or

(f) is removed from office by the Minister under subclause (3).

(3) The Minister may remove from office:

(a) a person (not being a judge of any court) holding office as, or appointed to act as, the Tribunal, or

(b) a greyhound racing assessor or harness racing assessor.

## **5 Effect of *Public Sector Employment and Management Act 2002***

The *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of:

(a) a person as, or to act as, the Tribunal, or

(b) a greyhound racing assessor or harness racing assessor,

and a person holding office as, or acting as, the Tribunal or a greyhound racing assessor or harness racing assessor is not, as the Tribunal or a greyhound racing assessor or harness racing assessor, subject to that Act.

## **6 Staff to assist Tribunal**

For the purposes of this Act and if the Minister so approves, the Tribunal may make use of the services of:

(a) any staff of the Authority, or

(b) any staff of a Department in the Minister's administration.

## **Schedule 3 (Repealed)**

## **Schedule 4 Savings, transitional and other provisions**

(Section 53)

## **Part 1 General**

### **1 Regulations**

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

    this Act

(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 this Act**

### **Division 1 Interpretation**

#### **2 Definitions**

In this Part:

**former Authority** means the Greyhound Racing Authority constituted by the [Greyhound Racing Act 2002](#) or the Harness Racing Authority constituted by the [Harness Racing Act 2002](#).

**new Authority** means the Greyhound and Harness Racing Regulatory Authority constituted by Part 2.

### **Division 2 Dissolution of former Authorities**

#### **3 Dissolution of former Authorities**

- (1) Each former Authority is dissolved.
- (2) No remuneration or compensation is payable to any member of a former Authority as a result of its dissolution.
- (3) The new Authority is taken for all purposes (including the rules of private international law) to be a continuation of, and the same legal entity as, a former Authority.

#### **4 References to former Authorities**

Any reference in any other Act, in any instrument made under another Act, or in any document of any kind, to a former Authority is taken to include a reference to the new Authority.

#### **5 Transfer of assets, rights and liabilities of former Authorities**

- (1) In this clause:

**transferee**, in relation to the transfer of an asset, right or liability by or under this clause, means the body to which the asset, right or liability is transferred.

**transferor**, in relation to the transfer of an asset, right or liability by or under this clause, means the body from which the asset, right or liability is transferred.

- (2) On the dissolution of a former Authority, the assets, rights and liabilities of that former Authority are transferred to the new Authority.
- (3) The Minister may, by order in writing, transfer to GRNSW or HRNSW such of the assets, rights and liabilities of the new Authority that were transferred to the new Authority by subclause (2) and as are specified or referred to in the order.
- (4) One or more orders may be made under subclause (3) at the same or at different times.
- (5) An order under subclause (3) may be made on such terms and conditions as are specified in the order.
- (6) On and from the date on which any asset, right or liability is transferred by subclause (2) or under subclause (3), the following provisions have effect with respect to the transfer:
  - (a) the transferred asset vests in the transferee by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance,
  - (b) the transferred rights and liabilities become by virtue of this clause the rights and liabilities of the transferee,
  - (c) all proceedings relating to the asset, right or liability commenced before the transfer day by or on behalf of, or against, the transferor and pending immediately before the transfer day are taken to be proceedings pending by or against the transferee,
  - (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 transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee.
- (7) The operation of this clause 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 an instrument, or as causing or permitting the termination of any 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 other instrument.

(8) No attornment to the new Authority by a lessee of a former Authority is required.

## **6 Duty and other 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 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.

## **7 Actions of former Authorities**

Anything done by a former Authority relating to a registration, suspension, disqualification or prohibition under the *Greyhound Racing Act 2002* or *Harness Racing Act 2002* before the dissolution of that former Authority is, after that dissolution, taken to have been done by the new Authority under the relevant provisions of those Acts and this Act (as the case may be) and has effect accordingly.

## **Division 3 Staff of former Authorities transferred to new Authority**

### **8 Staff of former Authorities**

(1) On the dissolution of a former Authority:

(a) the chief executive officer of the Authority ceases to hold office, and

(b) each member of staff of the former Authority other than the chief executive officer of the Authority is transferred to the employment of the new Authority.

(2) A chief executive officer of a former Authority who ceases to hold office because of this clause is not entitled to any remuneration or compensation because of so ceasing to hold office, but is eligible (if otherwise qualified) to be appointed as the chief executive officer of the new Authority.

(3) Each such member of staff becomes after the transfer a member of staff of the new Authority and continues (until other provision is duly made) to be employed in accordance with the awards, agreements and determinations applying, immediately before the transfer, to members of the staff of the former Authority.

(4) Neither the contract of employment nor the period of employment of each member of staff concerned is taken to have been broken by the operation of this Act for the purposes of any law, award or agreement relating to the employment of that member of staff.

- (5) Without limiting this clause, this Act does not affect any accrued rights that the member of staff concerned had immediately before the transfer in relation to any kind of leave.
- (6) A member of staff concerned is not entitled to receive any payment or other benefit merely because the member ceases to be an employee of a former Authority.
- (7) A member of staff concerned is not entitled to claim, both under this Act and under any other Act, dual benefits of the same kind for the same period of service.

## **Division 4 Staff of new Authority transferring to HRNSW or GRNSW**

### **9 Interpretation**

- (1) In this Division:

**LGSS** means the local government superannuation scheme.

**relevant employee** means a person who:

- (a) is employed by HRNSW or GRNSW, and
  - (b) immediately before being so employed was an employee of the new Authority, and
  - (c) was, at any time while being employed by the new Authority, a member of or contributor to a STC scheme.
- (2) Expressions used in this Division have the same meanings as in the [Superannuation Administration Act 1996](#).

### **10 Transfer of employees to another superannuation scheme**

- (1) The Treasurer may by order in writing transfer a relevant employee from a STC scheme to:
  - (a) the LGSS, or
  - (b) another superannuation scheme (whether or not established under an Act) that is designated by the Treasurer for the purposes of this clause by order in writing.
- (2) The superannuation scheme to which a person is transferred under this clause is referred to in this Division as the new scheme and the person is referred to in this Division as a transferred person.
- (3) The Treasurer is not to make such an order in respect of a person unless the person has, no later than 3 months after the date on which the person ceased to be employed by the new Authority, elected, by notice in writing given to the Trustee, to transfer to the new scheme.



- (4) The Treasurer and SAC are to take all necessary steps generally to facilitate the superannuation coverage of transferred persons by the new scheme.
- (5) For that purpose, the Treasurer may enter into arrangements with the trustee of the new scheme, including arrangements for the amendment of any relevant trust deed.
- (6) Section 127 of the *Superannuation Administration Act 1996* does not limit or otherwise affect the operation of this clause and in particular does not prevent the transfer to the LGSS of transferred persons or the superannuation coverage of transferred persons by the LGSS.
- (7) An order under this clause may be made to take effect on and from a day specified in the order, whether or not the day specified is earlier than the day of publication of the order.

## **11 Regulations**

- (1) Regulations may be made for or with respect to the transfer of a relevant employee from a STC scheme to the new scheme in accordance with a direction of the Treasurer under this Division.
- (2) In particular, regulations may be made for or with respect to the following:
  - (a) the transfer of assets and liabilities of a STC scheme, in respect of a transferred person, to the new scheme,
  - (b) the transfer of assets and liabilities within a STC scheme, or between any such schemes, from any reserve in respect of the employer or former employer of a transferred person to the Crown's reserve,
  - (c) the preservation or deferral of benefits of transferred persons,
  - (d) the entitlements, rights and obligations under the new scheme of a transferred person,
  - (e) providing for the resolution, by a prescribed authority or person, of all disputes, or of any prescribed class of disputes, concerning the entitlements, rights and obligations of a transferred person under the new scheme.
- (3) A regulation made under this clause has effect despite any provision of an Act under which a STC scheme is constituted.
- (4) A provision of a regulation made under this clause may be made to take effect on and from a day on which an order under clause 10 takes effect, whether or not that day is earlier than the day of publication of the regulation.

## **12 Mobility between new scheme and public sector schemes**

For the purposes of section 128A of the *Superannuation Administration Act 1996*, a

transferred person is taken to be an employee referred to in section 128A (3) (a) of that Act.

### **13 Employment of employees of new Authority by GRNSW and HRNSW**

- (1) In the period of 12 months after the new Authority is constituted:
  - (a) GRNSW must notify employees of the new Authority whenever it intends to fill a position in the staff of GRNSW, and give the notified employees a reasonable opportunity to apply for the position, and
  - (b) HRNSW must notify employees of the new Authority whenever it intends to fill a position in the staff of HRNSW, and give the notified employees a reasonable opportunity to apply for the position.
- (2) A person who:
  - (a) applies for a position to be filled as referred to in subclause (1), and
  - (b) is employed by the new Authority at the time of making the application, and
  - (c) was transferred to that employment by the operation of clause 8, and
  - (d) at the time of transfer was performing substantially the same duties for a former Authority as are required to be performed in the position to be filled,is to be considered for the position in preference to any other applicant for the position who is not such a person.
- (3) The employment of a person referred to in subclause (2) who is appointed to a position in the staff of GRNSW or HRNSW in accordance with this clause is not to be terminated within the period of 12 months after the commencement of the employment on the ground of redundancy arising from the operation of this Act.

## **Division 5 Appeals and disciplinary inquiries**

### **14 Greyhound and Harness Racing Appeals Tribunal**

- (1) The Greyhound Racing Appeals Tribunal established by the [Greyhound Racing Act 2002](#) is abolished on the commencement of Schedule 3.5 [12].
- (2) On the abolition of the Greyhound Racing Appeals Tribunal, any person:
  - (a) holding office as the Greyhound Racing Appeals Tribunal immediately before its abolition by this Act:
    - (i) ceases to hold that office, and
    - (ii) is eligible (if otherwise qualified) to be appointed as the Greyhound and Harness Racing Appeals Tribunal, and

- (iii) is not entitled to any compensation by reason of ceasing to hold office as the Greyhound Racing Appeals Tribunal, or
- (b) holding office as an assessor of the Greyhound Racing Appeals Tribunal immediately before its abolition by this Act:
  - (i) ceases to hold that office, and
  - (ii) is eligible (if otherwise qualified) to be appointed as a greyhound racing assessor of the Greyhound and Harness Racing Appeals Tribunal, and
  - (iii) is not entitled to any compensation by reason of ceasing to hold office as an assessor of the Greyhound Racing Appeals Tribunal.
- (3) The Harness Racing Appeals Tribunal established by the *Harness Racing Act 2002* is abolished on the commencement of Schedule 3.6 [19].
- (4) On the abolition of the Harness Racing Appeals Tribunal any person:
  - (a) holding office as the Harness Racing Appeals Tribunal immediately before its abolition by this Act:
    - (i) ceases to hold that office, and
    - (ii) is eligible (if otherwise qualified) to be appointed as the Greyhound and Harness Racing Appeals Tribunal, and
    - (iii) is not entitled to any compensation by reason of ceasing to hold office as the Harness Racing Appeals Tribunal, or
  - (b) holding office as an assessor of the Harness Racing Appeals Tribunal immediately before its abolition by this Act:
    - (i) ceases to hold that office, and
    - (ii) is eligible (if otherwise qualified) to be appointed as a harness racing assessor of the Greyhound and Harness Racing Appeals Tribunal, and
    - (iii) is not entitled to any compensation by reason of ceasing to hold office as an assessor of the Harness Racing Appeals Tribunal.

## 15 Appeals and inquiries

- (1) Any appeal under the *Greyhound Racing Act 2002* or the *Harness Racing Act 2002* (the **former Acts**) that has not been finally determined at the commencement of this clause may continue to be dealt with under this Act.
- (2) Nothing in this clause enables a person to appeal under this Act against a decision if the person has appealed against the decision under a former Act and the appeal has

been finally determined under that Act.

- (3) Any inquiry commenced under, but not finished before, the repeal of Part 4 of a former Act may be continued by the new Authority under the corresponding provisions of this Act.

## **16 References to former Tribunals**

Any reference in any other Act, in any instrument made under another Act, or in any document of any kind, to the Greyhound Racing Appeals Tribunal or Harness Racing Appeals Tribunal is taken to include a reference to the Greyhound and Harness Racing Appeals Tribunal.

## **Division 6 Miscellaneous**

### **17 Rules**

- (1) Any rules made (or taken to be made) under the *Greyhound Racing Act 2002* and in force immediately before the commencement of this clause are taken to be rules in relation to greyhound racing made under, and in accordance with, this Act by the new Authority.
- (2) Any rules made (or taken to be made) under the *Harness Racing Act 2002* and in force immediately before the commencement of this clause are taken to be rules in relation to harness racing made under, and in accordance with, this Act by the new Authority.

### **18 Accounts**

An account established under section 46 (2) of the *Greyhound Racing Act 2002* or section 48 (2) of the *Harness Racing Act 2002* is taken to have been established under section 36 of this Act.

### **19 Operation of Part**

The operation of this Part is subject to the regulations.