

# Australian Jockey Club Act 2008 No 52

[2008-52]



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—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2008](#)

### 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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# Australian Jockey Club Act 2008 No 52



New South Wales

An Act to provide for the transfer of the business undertaking of the Australian Jockey Club to Australian Jockey Club Limited and for the granting of further leases of Randwick Racecourse; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Australian Jockey Club Act 2008*.

### 2 Commencement

This Act commences on the date of assent to this Act.

### 3 Objects of Act

The objects of this Act are as follows:

- (a) to transfer the lease of Randwick Racecourse vested in the Chairman of the Committee of the unincorporated Australian Jockey Club to Australian Jockey Club Limited (ACN 130 406 852) and to provide for the lease to be issued for a further term or terms,
- (b) to provide for the functions of Australian Jockey Club Limited in relation to Randwick Racecourse,
- (c) to transfer the remainder of the business undertaking of the unincorporated Australian Jockey Club to Australian Jockey Club Limited,
- (d) to repeal the *Australian Jockey Club Act 1873* and to re-enact (with modifications) some of the provisions of that Act that have continuing application,
- (e) to make provision for matters of a savings or transitional nature,
- (f) to make consequential amendments to certain other Acts and statutory instruments.

### 4 Interpretation

(1) **Definitions** In this Act:

**AJC** means the club known as the Australian Jockey Club as referred to in the [Australian Jockey Club Act 1873](#).

**AJC Limited** means Australian Jockey Club Limited (ACN 130 406 852), and includes its successors and permitted assigns.

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

**club rules** means:

- (a) in relation to the AJC—the document entitled the *Constitutional Rules of the Australian Jockey Club*, as in force from time to time, and
- (b) in relation to AJC Limited—the constitution of the company and any other document issued by AJC Limited that contains rules concerning membership of the company, as in force from time to time.

**commencement day** means the day on which this Act commences.

**Corporations Act** means the [Corporations Act 2001](#) of the Commonwealth.

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

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

**general law** means the common law and equity (as modified from time to time by legislation).

**instrument** means an instrument (other than this Act or an instrument made under this Act) or any other document that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order, process or other instrument issued by a court or tribunal.

**legislation** includes:

- (a) any statute of a legislature (whether enacted or made in Australia or elsewhere), and
- (b) any proclamation, regulation, rule, by-law, order or any other kind of subordinate legislation (however described) made under the authority of a statute of a legislature (whether enacted or made in Australia or elsewhere).

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

**power** includes an authority.

**Racecourse lease** means any of the following:

- (a) any lease of Randwick Racecourse granted to AJC Limited by the Racecourse trustees under section 10,
- (b) any lease of Randwick Racecourse originally granted to the AJC under section 3A of the *Australian Jockey Club Act 1873* that, by operation of Part 3, is vested in AJC Limited.

**Racecourse trustees** means the trustees for the time being of Randwick Racecourse.

**Randwick Racecourse** means:

- (a) the land comprised in Certificate of Title Folio Identifier 1/130234, and
- (b) the land comprised in Certificate of Title Folio Identifier 1642/752011, and
- (c) the land comprised in Certificate of Title Folio Identifier 1588/752011,

and includes any buildings, structures, fixtures, fittings and other improvements on that land.

**regulatory authorisation** means any licence, permit, consent, entitlement, accreditation or other authority under State legislation.

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

**State legislation** means any legislation of the State.

**the State** means New South Wales.

- (2) **When events or other things occur** If this Act provides for an event or other thing to occur on a particular day, that event or thing is taken to occur at the beginning of that day.

- (3) **Notes** Notes included in this Act do not form part of this Act.

## **Part 2 Randwick Racecourse**

### **Division 1 Functions of AJC Limited**

#### **5 AJC Limited has functions while lessee**

AJC Limited has the functions conferred or imposed on it by or under this Part only while it is the lessee of Randwick Racecourse.

## **6 Functions of AJC Limited in relation to Randwick Racecourse**

AJC Limited has the following functions in relation to Randwick Racecourse:

- (a) to manage, use and maintain the land that comprises the Racecourse for the purpose of a public racecourse and associated activities,
- (b) to manage, use and maintain that land for any other purpose authorised by or under this Part or the Racecourse lease.

## **7 Use of Racecourse for additional activities**

- (1) AJC Limited may, with the consent of the Racecourse trustees and subject to such terms and conditions as the trustees think fit, use (or permit the use of) all or any part of Randwick Racecourse for the purposes of an activity, or class of activities, that AJC Limited would otherwise not be authorised to conduct (or allow another person to conduct).
- (2) The use of Randwick Racecourse in accordance with any consent given under this section is not to be regarded as a breach of the Racecourse lease.
- (3) Nothing in this section affects the operation of any other State legislation for the time being applicable to or in respect of any activity or class of activities referred to in this section.

## **8 Maintenance and erection of buildings and improvements**

- (1) AJC Limited may maintain any buildings and other improvements within Randwick Racecourse.
- (2) AJC Limited may erect or re-erect buildings and other improvements within Randwick Racecourse if AJC Limited considers it necessary or expedient to do so for or in connection with the use of the Racecourse.

## **Division 2 Racecourse trustees**

### **9 Appointment of trustees**

- (1) Despite the repeal of the [Australian Jockey Club Act 1873](#), the Governor may continue to appoint new trustees for Randwick Racecourse to replace any trustee who:
  - (a) dies, or
  - (b) resigns, or
  - (c) ceases to reside in the State, or
  - (d) becomes incapable of acting as a trustee.
- (2) Subject to this Act, the Racecourse trustees continue to hold Randwick Racecourse



subject to the trust referred to in the preamble to the *Australian Jockey Club Act 1873*.

## **Division 3 Leasing of Racecourse**

### **10 Further lease of Randwick Racecourse**

- (1) On the surrender of any Racecourse lease that is in force, the Racecourse trustees may grant a further lease or leases, on such terms and conditions as they see fit, of all or any part of Randwick Racecourse to AJC Limited for a period not exceeding 99 years.
- (2) A lease granted under this section may contain options for the lessee to renew the lease for a further period or periods.
- (3) If the lease contains options for renewal of the lease by the lessee, the aggregate of the original period and the further period or periods must not exceed 99 years.
- (4) When granting the first lease under this section, the Racecourse trustees must take such action as is necessary to ensure that the State (or the Crown in right of the State) does not breach any contractual obligation that the State (or the Crown in right of the State) has to procure the granting of a new lease of Randwick Racecourse to the AJC or its successors.
- (5) The Minister may, by order in writing served on each of the Racecourse trustees, give such directions to the trustees as the Minister thinks fit concerning the period, terms or conditions of the first lease to be granted under this section for the purpose of ensuring that the State (or the Crown in right of the State) does not breach any of its contractual obligations in relation to the granting of the lease.
- (6) The Racecourse trustees:
  - (a) must comply with any directions given under subsection (5), and
  - (b) are not to be regarded as having acted in breach of trust if they comply with a requirement imposed by this section or with any directions given under subsection (5).
- (7) AJC Limited is, subject to any Racecourse lease, authorised to grant subleases and licences to use any part of Randwick Racecourse while it is the lessee of the Racecourse.
- (8) The grant of a lease under this section does not affect the continued operation of any sublease or licence to use Randwick Racecourse (or any part of the Racecourse) previously granted by or on behalf of the AJC or AJC Limited.
- (9) If a Racecourse lease provides for the payment of damages by the AJC or AJC Limited in the event of the non-fulfilment by the AJC or AJC Limited of a term or condition of the lease, those damages are taken to be liquidated damages and may be recovered

as such by the Racecourse trustees in any court of competent jurisdiction.

## **11 Trade practices authorisations**

- (1) The following are specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*:
  - (a) the giving of directions under section 10 and the conduct of any person in compliance with any such directions,
  - (b) any lease entered into between the Racecourse trustees and AJC Limited as provided by section 10,
  - (c) the conduct of those bodies and any agent in negotiating and entering into any such lease,
  - (d) the conduct of those bodies and any agent in performing the terms of any such lease.
- (2) Anything authorised to be done by this section is authorised only to the extent to which it would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.

## **Division 4 Use of Racecourse**

### **12 By-laws**

- (1) AJC Limited may make by-laws, not inconsistent with this Act or any other law, for or with respect to any of the following matters:
  - (a) the admission and expulsion of members or former members of the AJC or AJC Limited and other persons from Randwick Racecourse (or from any building, structure or other part of the Racecourse),
  - (b) rates, tolls or charges to be paid for admission to Randwick Racecourse (or to any building, structure or other part of the Racecourse),
  - (c) any other matter concerning or connected with the use or management of Randwick Racecourse.
- (2) The by-laws may create offences punishable by an amount not exceeding 5 penalty units.
- (3) A by-law has no effect unless approved by the Governor.

#### **Note—**

Any by-law made by a person or body that requires the approval of the Governor is a statutory rule for the purposes of the *Interpretation Act 1987*. Accordingly, it must be published in the Gazette in order to come into force.

- (4) Nothing in this section (including subsection (3)) limits any other power that AJC Limited has apart from this section (including under the Corporations Act) to make, amend or repeal its club rules or to otherwise deal with its members or business.

### **13 Exclusion of persons from Racecourse**

- (1) AJC Limited may refuse a person admission to, or expel a person from, any part of Randwick Racecourse (or cause a person to be refused admission or expelled) if:
- (a) the person is a member or former member of the AJC or AJC Limited who has been disqualified pursuant to the club rules of the AJC or AJC Limited, or
  - (b) there are reasonable grounds for believing that the person's presence on the Racecourse would be undesirable in the interests of the public using the Racecourse or prejudicial to the proper conduct of racing at the Racecourse.
- (2) The provisions of subsection (1) are in addition to, and not in derogation of, any power to refuse admission or expel a person that is conferred by or under the by-laws or other legislation or at general law.

### **14 Trespass on Randwick Racecourse**

A person must not wilfully trespass on any part of Randwick Racecourse (or any building or structure located within that Racecourse).

Maximum penalty: 50 penalty units.

**Note—**

Division 2 (Criminal destruction and damage) of Part 4 of the [Crimes Act 1900](#) contains a number of offences involving damage to property.

## **Part 3 Transfer of business undertaking of AJC to AJC Limited**

### **15 Interpretation**

- (1) In this Part:

**AJC Chairman** means the Chairman of the AJC Committee, and includes any person who formerly held that office.

**AJC Committee** means the Committee of the AJC, and includes a former Committee of the AJC.

**AJC Committee member** means any member of the AJC Committee, and includes any person who formerly held that office.

**AJC member** means any member of the AJC, and includes any person who is a former member of the AJC.

**AJC officer** means the AJC Chairman or any other AJC Committee member.

**AJC's assets** means:

- (a) all of the assets vested (whether absolutely or contingently) in, or otherwise held by, the AJC Chairman on behalf of the AJC (whether under the *Australian Jockey Club Act 1873* or otherwise) immediately before the commencement day, and
- (b) all of the assets purportedly vested (whether absolutely or contingently), or otherwise held, in the name of the AJC instead of the AJC Chairman immediately before the commencement day,

and includes (without limitation) any lease of Randwick Racecourse granted to the AJC as provided by the *Australian Jockey Club Act 1873*.

**Note—**

The *Australian Jockey Club Act 1873* provided for land and other property of the AJC to be vested in the AJC Chairman for the time being.

**AJC's business undertaking** means all of the following:

- (a) AJC's assets,
- (b) AJC's liabilities,
- (c) AJC's rights,
- (d) AJC's regulatory authorisations.

**AJC's liabilities** means all actual or potential liabilities of the AJC (including any actual or potential liability enforceable against an AJC officer under the *Australian Jockey Club Act 1873* or otherwise in his or her capacity as such) immediately before the commencement day.

**AJC's regulatory authorisations** means all regulatory authorisations in force that are held by or on behalf of the AJC immediately before the commencement day, including (without limitation) each of the following:

- (a) any licence held by or on behalf of the AJC that is in force under the *Liquor Act 1982* or the *Liquor Act 2007*,
- (b) any poker machine entitlements or licences held by or on behalf of the AJC under the *Gaming Machines Act 2001*,
- (c) any licence held by or on behalf of the AJC that is in force under the *Racing Administration Act 1998*,
- (d) any certificate of registration held by or on behalf of the AJC that is in force under the *Registered Clubs Act 1976*,

(e) any licence held by or on behalf of the AJC that is in force under the *Totalizator Act 1997*.

**AJC's rights** means all actual or potential rights of the AJC (including any actual or potential right enforceable by an AJC officer under the *Australian Jockey Club Act 1873* or otherwise in his or her capacity as such) immediately before the commencement day.

**conduct** includes any act or omission.

(2) A reference in this Part to a potential right or liability being enforceable by or against a specified person immediately before the commencement day is a reference to the right or liability being so enforceable at that time assuming it had been an actual right or liability rather than a potential right or liability.

## 16 Vesting of AJC's assets

(1) AJC's assets vest in, and become the assets of, AJC Limited by virtue of this section on the commencement day:

(a) without the need for any further conveyance, transfer, assignment or assurance, and

(b) free of any estate or interest that any AJC member may have had in the assets immediately before the commencement day by reason of being a member.

(2) Without limiting subsection (1), any lease of Randwick Racecourse granted to the AJC under the *Australian Jockey Club Act 1873* that is in force immediately before the commencement day vests in AJC Limited as lessee on the commencement day for the remainder of the period of the lease (and subject to the same conditions and restrictions that applied in relation to the original lease).

(3) No attornment to AJC Limited by a lessee or sublessee from the AJC is required.

## 17 Transfer of AJC's regulatory authorisations

(1) Each of AJC's regulatory authorisations (an **original regulatory authorisation**) becomes the regulatory authorisation of AJC Limited (the **transferred regulatory authorisation**) on the commencement day for the purposes of the State legislation under which the original regulatory authorisation was issued or given (the **relevant State legislation**).

(2) A transferred regulatory authorisation:

(a) has effect as if it had been issued to AJC Limited for the remainder of the period (if any) for which the original regulatory authorisation was issued, unless it is sooner cancelled, forfeited, surrendered or otherwise ceases to have effect under the relevant State legislation, and

- (b) is subject to the same terms, conditions and endorsements as the original regulatory authorisation until those terms, conditions or endorsements are altered, varied or revoked in accordance with the relevant State legislation.
- (3) The following provisions of the *Registered Clubs Act 1976* do not apply in relation to AJC Limited in the specified circumstances:
  - (a) section 10 (1) (c) and (d) of that Act do not apply in relation to AJC Limited for the period of 6 months after the commencement day,
  - (b) such provisions of that Act, or the regulations made under that Act, as may be prescribed by the regulations under this Act do not apply in the circumstances (if any) specified in the regulations under this Act (being circumstances that relate to the operation of this Part).

**Note—**

Section 41J (Disposal by registered club of real property) of the *Registered Clubs Act 1976* has no operation in relation to the transfer of the AJC's core property by operation of this Part because the disposal has been effected by this Part rather than the AJC.

- (4) The Minister is not to recommend the making of a regulation for the purposes of subsection (3) (b) unless the Minister administering the *Registered Clubs Act 1976* has consented to the making of the regulation.
- (5) The person or body (a **regulatory body**) that has the function under the relevant State legislation of issuing regulatory authorisations of the same kind as a transferred regulatory authorisation must, at the request of AJC Limited, re-issue the transferred regulatory authorisation in the name of AJC Limited (with substantially the same terms, conditions and endorsements as the transferred regulatory authorisation).
- (6) No fee or charge is payable by AJC Limited to a regulatory body for or in respect of the exercise of any function by the regulatory body in connection with the transfer or re-issue of a regulatory authorisation by operation of, or under, this section.

**18 Rights and liabilities of AJC become those of AJC Limited**

- (1) AJC's rights become by virtue of this section the rights of AJC Limited on the commencement day and may be exercised without regard to any fetters on the exercise of those rights that were enforceable by any AJC members immediately before the commencement day by reason of being members.
- (2) AJC's liabilities become by virtue of this section the liabilities of AJC Limited on the commencement day.
- (3) Without limiting subsection (2), any indemnity granted by or on behalf of the AJC to an AJC officer before the commencement day with respect to conduct in his or her capacity as such is enforceable against AJC Limited on and from the commencement

day as if AJC Limited had granted the indemnity.

### **19 Contracts and arrangements with AJC**

On and from the commencement day (and without limiting sections 16, 18 and 24), AJC Limited is entitled to the benefit and subject to the burden of, and is taken to be a party to, any contract or arrangement in force immediately before the commencement day that was entered into by the AJC (or by a person on behalf of the AJC) with any person as if AJC Limited were named in the contract or arrangement instead of the AJC (or the person on behalf of the AJC).

### **20 Proceedings against AJC may be taken against AJC Limited**

- (1) All proceedings by or against the AJC (whether or not those proceedings are commenced using the name of the AJC Chairman) that:
  - (a) are pending immediately before the commencement day, and
  - (b) relate to any part of AJC's business undertaking,are taken on and from the commencement day to be proceedings pending by or against AJC Limited.
- (2) Nothing in this Part renders defective any proceedings by or against the AJC, the AJC Committee, any AJC officer or any AJC member (whether or not those proceedings are commenced using the name of the AJC Chairman).

### **21 Acts or omissions of AJC taken to be those of AJC Limited**

- (1) Any act, matter or thing done or omitted to be done before the commencement day by, to or in respect of the AJC in relation to any part of AJC's business undertaking is (to the extent to which that act, matter or thing has any force or effect) taken on and from the commencement day to have been done or omitted to be done by, to or in respect of AJC Limited.
- (2) Without limiting subsection (1), that subsection extends to any conduct (whether unconscionable, misleading, deceptive or otherwise) of any AJC officer in his or her capacity as such.

### **22 Certain references to AJC to be read as references to AJC Limited**

- (1) Subject to subsection (2) and the regulations, on and from the commencement day any reference in any instrument to the AJC, the AJC Committee or any AJC officer while acting on behalf of the AJC is (to the extent to which it relates to any part of AJC's business undertaking) to be read as a reference to AJC Limited.
- (2) Subsection (1) does not apply in relation to any reference of the kind referred to in that subsection in any Act or other statutory instrument that is amended by Schedule

2.

### **23 Assets, rights and liabilities outside of New South Wales**

(1) If any asset that forms part of AJC's assets:

- (a) is vested in or held by an AJC officer under the law of an external jurisdiction immediately before the commencement day, and
- (b) does not, despite section 16, become the asset of AJC Limited under the law of that jurisdiction,

the AJC officer:

- (c) subject to paragraph (d), holds the asset, for the purposes of the law of New South Wales, in trust for the sole benefit of AJC Limited until such time as the asset becomes the asset of AJC Limited under the law of the external jurisdiction or the trust is otherwise terminated, and
- (d) if it is possible for the AJC officer to vest the asset in AJC Limited under the law of that external jurisdiction by effecting a conveyance, transfer, assignment or assurance and AJC Limited directs it—must, in accordance with any such direction, effect any such conveyance, transfer, assignment or assurance.

**Note—**

For example, paragraph (d) enables AJC Limited to direct that the legal title to an asset be transferred to it as the beneficial owner of the asset.

(2) The trust created by subsection (1) (c) is to be treated, for all purposes, as if it was a bare trust declared by the AJC officer *inter vivos*.

**Note—**

The general law relating to the law of trusts applies to the trust created by subsection (1) (c).

(3) AJC Limited is the person nominated by this Act for the purposes of appointing a new trustee under Division 1 of Part 2 of the *Trustee Act 1925* in respect of the trust created by subsection (1) (c).

**Note—**

The provisions of Division 1 of Part 2 of the *Trustee Act 1925* provide for the appointment and removal of trustees.

(4) If any right that forms part of AJC's rights (being rights that are not also part of AJC's assets):

- (a) is exercisable by an AJC officer under the law of an external jurisdiction, and
- (b) does not, despite section 18 (1), become a right of AJC Limited on or after the commencement day under the law of that jurisdiction,



the AJC officer (or any person entitled to exercise the right instead of the AJC officer) must exercise that right in accordance with any directions given by AJC Limited from time to time.

(5) If any liability that forms part of AJC's liabilities:

(a) is a liability enforceable against an AJC officer under the law of an external jurisdiction, and

(b) does not, despite section 18 (2), become a liability of AJC Limited on or after the commencement day under the law of that jurisdiction,

the AJC officer (or, if the officer is deceased, the estate of the officer) is entitled to be indemnified by AJC Limited against the liability.

(6) In this section:

**external jurisdiction** means any of the following:

(a) a State (other than New South Wales),

(b) a Territory,

(c) the Commonwealth,

(d) a jurisdiction outside of Australia.

## **24 Cessation of certain personal rights and liabilities of AJC officers**

If any asset, right or liability (whether actual or potential) or any regulatory authorisation becomes that of AJC Limited by operation of this Part:

(a) any AJC officer who held any such asset, or in whom such an asset was vested, ceases on and from the commencement day:

(i) to hold, or be vested with, the asset, and

(ii) to have any rights or liabilities associated with holding or being vested with the asset, and

(b) any AJC officer who could have exercised or otherwise enforced any such right ceases on and from the commencement day to have the power to exercise or otherwise enforce the right, and

(c) any AJC officer against whom any such liability was or could have been enforceable ceases on and from the commencement day to be the person against whom that liability may be enforced, and

(d) any AJC officer who held any such regulatory authorisation ceases on and from the commencement day:

- (i) to hold the authorisation, and
- (ii) to have any rights or liabilities associated with holding the authorisation.

## **25 Employees of AJC taken to be employees of AJC Limited**

- (1) Any person who, immediately before the commencement day, was an employee of the AJC is taken on and from that day to be an employee of AJC Limited on the same terms and conditions as under the person's contract of employment with the AJC immediately before that day.
- (2) The terms and conditions of employment of any employee referred to in subsection (1) may, after the commencement day, be changed in the same way as they could have been before the commencement day.
- (3) The service with the AJC of an employee referred to in subsection (1) is taken to be service with AJC Limited for all purposes and the employee's accrued entitlements with the AJC are taken to be accrued entitlements with AJC Limited.
- (4) An employee referred to in subsection (2) is not entitled to payment (including, without limitation, any payment in lieu of leave or any damages or other compensation, whether under legislation, contract or otherwise) arising out of, or resulting from, the operation of this Part.
- (5) Nothing in this section affects the continued application (if any) of any industrial instrument under the *Industrial Relations Act 1996* to the employment of an employee referred to in subsection (2).

## **26 Certification to registration authorities**

- (1) In this section:

**registration authority** means a person or body that has functions under any law in connection with the keeping of a register in respect of assets, rights or liabilities.

- (2) AJC Limited may lodge with a registration authority a certificate certifying as to such information as may reasonably be required by the registration authority to enable the registration authority to exercise any function of the authority arising in connection with the transfer of any asset, right or liability to AJC Limited by operation of this Part.
- (3) Such a certificate is to be accepted and acted upon by the registration authority and, despite any other law, the registration authority is not entitled to require that the information concerned be provided to it in any particular form or in any particular manner.
- (4) No fee or charge is payable by AJC Limited to a registration authority for or in respect of the exercise of any function by the registration authority in connection with the transfer of an asset, right or liability by operation of this Part.

## **27 No compensation payable**

No compensation is payable to any person or body in connection with the operation of this Part in respect of any asset, right, liability or regulatory authorisation.

## **28 Confirmation of operation of this Part**

- (1) The Minister may, by notice in writing, confirm that particular employees, assets, rights, liabilities or regulatory authorisations have become the employees, assets, rights, liabilities or regulatory authorisations of AJC Limited by operation of this Part.
- (2) Such a notice is evidence of that fact.

## **Part 4 Miscellaneous**

### **29 Repeal of [Australian Jockey Club Act 1873](#)**

The [Australian Jockey Club Act 1873](#) is repealed.

### **30 AJC not dissolved**

- (1) Subject to Part 3, nothing in this Act (including the repeal of the [Australian Jockey Club Act 1873](#)) operates to dissolve or terminate the AJC.
- (2) Accordingly, the AJC is not required to wind up its affairs or pay its liabilities and distribute its assets as a result of the operation of this Act.
- (3) However, the AJC may (but need not) be dissolved, and its affairs wound up, in accordance with any relevant law applicable to the dissolution of unincorporated associations of persons.

### **31 Act to bind State and other jurisdictions**

- (1) This Act binds the State and, in so far as the legislative power of the Parliament of New South Wales permits, the other States, the Territories and the Commonwealth.
- (2) Without limiting subsection (1), this Act has effect despite any privilege or immunity of the Crown in any of its capacities.
- (3) This Act does not make any State or Territory, the Commonwealth, or the Crown in any of its capacities, liable to be prosecuted for an offence.
- (4) A reference in this section to a State, Territory or the Commonwealth includes a reference to the Government of the State, Territory or Commonwealth.

### **32 Extraterritorial operation of Act**

- (1) It is the intention of the Parliament of New South Wales that the operation of this Act should, as far as possible, include operation in relation to the following:

- (a) things situated in or outside the territorial limits of the State,
  - (b) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of the State,
  - (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of another State, a Territory, the Commonwealth or a foreign country.
- (2) Without limiting subsection (1), it is the intention of the Parliament of New South Wales that the provisions of this Act have an operation in relation to the things, acts, transactions and matters referred to in that subsection even if the rules of private international law (whether at general law or as provided by legislation) would require the application of a law other than this Act instead of the provisions of this Act.

### **33 Effect of this Act on contracts, instruments and related matters**

The operation of this Act (and, in particular, Part 3) is not to be regarded as:

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

### **34 Exemption from State tax**

(1) In this section:

**exempt matter** means any of the following:

- (a) the transfer of any employees, assets, rights, liabilities or regulatory authorisations by operation of Part 3 (including, without limitation, any instrument executed only for a purpose ancillary to or consequential on the operation of Part 3),
- (b) anything certified by the Minister in writing as having been done in consequence of such a transfer (for example, the transfer or registration of an interest in land).

**State tax** means application or registration fees, stamp duty or any other tax, duty, fee or charge imposed by any State legislation or other law of the State.

(2) State tax is not payable in relation to:

- (a) an exempt matter, or
- (b) anything done because of, or for a purpose connected with or arising out of, an exempt matter.

### **35 Service or giving of documents**

- (1) A document that is authorised or required by this Act or the regulations to be served on or given to any person may be served or given:
  - (a) in the case of a natural person:
    - (i) by delivering it to the person personally, or
    - (ii) by sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or
    - (iii) by sending it by facsimile transmission to the facsimile number of the person, or
  - (b) in the case of a body corporate:
    - (i) by leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or
    - (ii) by sending it by facsimile transmission to the facsimile number of the body corporate.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person in any other manner.

### **36 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.

### **37 Nature of proceedings for offences**

Proceedings for an offence under this Act or the by-laws may be dealt with summarily before the Local Court.

### **38 Savings, transitional and other provisions**

Schedule 1 has effect.

### **39 Amendment of other Acts and statutory instruments**

The Acts and other statutory instruments specified in Schedule 2 are amended as set out in that Schedule.

### **40 Review of Act**

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

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

(Section 38)

### **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 Provision consequent on enactment of this Act**

#### **2 Existing by-laws taken to be by-laws made under this Act**

Any by-law made under section 12 of the *Australian Jockey Club Act 1873* that is in force immediately before the commencement day is taken to have been made under section 12

of this Act, and may be amended and repealed accordingly.

## **Schedule 2 Amendment of other Acts and statutory instruments**

(Section 39)

### **2.1 Australian Jockey Club (Randwick Racecourse) By-law**

#### **[1] Clause 1 Name of By-law**

Insert “1981” after “By-law” where secondly occurring.

#### **[2] Clause 3 Definitions**

Insert in alphabetical order:

**AJC** and **AJC Limited** are defined in the Act.

**Club** means AJC Limited.

**club rules** is defined in the Act.

#### **[3] Clause 3, definition of “Curator”**

Omit “the Committee” wherever occurring. Insert instead “AJC Limited”.

#### **[4] Clause 3, definition of “member”**

Omit the definition. Insert instead:

**member**, in relation to the Club, means a person who is a member of the Club, as determined from time to time by its club rules, and includes any person who is a member of the AJC as determined from time to time under its club rules.

#### **[5] Clause 3, definition of “Racecourse”**

Omit the definition. Insert instead:

**Racecourse** has the same meaning as Randwick Racecourse has in the Act.

#### **[6] Clause 3, definition of “the Act”**

Omit “1873”. Insert instead “2008”.

#### **[7] Clause 5 Rates, tolls and charges**

Omit “For the purposes of sections 12 and 23 of the Act, the following rates, tolls and charges are prescribed:” from clause 5 (1).

Insert instead “The following rates, tolls and charges are prescribed in relation to admission to the Racecourse:”.

**[8] Clauses 5 (2) and 13 (2)**

Omit “The Committee” wherever occurring. Insert instead “AJC Limited”.

**[9] Clauses 6, 7 (1), 8 (1) and (3), 9, 11 (a) and (f), 13 (1) (a), (b) and (f) and 14 (1)**

Omit “the Committee” wherever occurring. Insert instead “AJC Limited”.

**[10] Clause 6 (c)**

Omit “Rules of Racing of the Australian Jockey Club”.

Insert instead “Rules of Racing (within the meaning of the *Thoroughbred Racing Act 1996*)”.

**[11] Clause 6 (d)**

Omit “the Club”. Insert instead “the AJC or AJC Limited”.

**[12] Clause 10 Entry to judge’s box etc**

Omit “a member of the Committee” and “authorised in that behalf by the Committee” wherever occurring.

Insert instead “a director or the Secretary/General Manager of the Club” and “authorised for that purpose by the Club”, respectively.

**[13] Clause 11 Offences**

Omit “vested in and held under the Act by the chairman” from clause 11 (h).

Insert instead “of AJC Limited”.

**[14] Clause 15**

Omit the clause. Insert instead:

**15 Penalty**

The penalty for an offence against this By-law is 1 penalty unit.

**[15] Clause 16 Savings and transitional provisions**

Insert at the end of the clause:

- (2) Any act, matter or thing done by the Committee of the AJC that, immediately before the commencement of the amendments to this By-Law made by the *Australian*



*Jockey Club Act 2008*, had effect under (or for the purposes of) a provision of this By-Law continues to have effect under (or for the purposes of) that provision as if it had been done by AJC Limited.

**[16] Schedule 1 Savings and transitional provisions**

Insert “of the AJC” after “the Committee” wherever occurring in clause 2.

**2.2 Registered Clubs Act 1976 No 31**

**Section 30 Rules of registered clubs**

Insert “Limited (ACN 130 406 852)” after “Australian Jockey Club” in section 30 (6) (a).

**2.3 Subordinate Legislation Act 1989 No 146**

**Schedule 4 Excluded instruments**

Omit “1873” from item 6. Inserted instead “2008”.

**2.4 Thoroughbred Racing Act 1996 No 37**

**[1] Section 3 Definitions**

Omit the definition of **AJC** from section 3 (1). Insert instead:

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

**[2] Section 13 Functions of Racing NSW**

Insert after section 13 (3) (before the note):

(4) In this section:

**AJC** means the club known as the Australian Jockey Club as referred to in the *Australian Jockey Club Act 1873* on the commencement of this section.

**[3] Schedule 1 Savings and transitional provisions**

Insert in clause 1 in alphabetical order:

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

**[4] Schedule 1**

Insert at the end of the Schedule (with appropriate Part and clause numbers):

## Part Provision consequent on enactment of **Australian Jockey Club Act 2008**

### Amendments made by **Australian Jockey Club Act 2008**

The amendments made to this Act by the *Australian Jockey Club Act 2008* do not affect the nomination of a person by the Australian Jockey Club (as referred to in the *Australian Jockey Club Act 1873*) for the purposes of any provision of this Act and any such nomination continues to have effect despite those amendments.

### 2.5 Totalizator Act 1997 No 45

#### Section 6B Major racing bodies

Insert “Limited (ACN 130 406 852)” after “Australian Jockey Club” in section 6B (1) (a).

### 2.6 Water Savings Order 2005

#### Schedule 1 Designated water users—businesses

Insert “Limited (ACN 130 406 852)” after “Australian Jockey Club”.

### 2.7 World Youth Day Act 2006 No 106

#### [1] Section 3 Definitions

Omit the definition of **AJC** from section 3 (1). Insert instead:

**AJC** means the club known as the Australian Jockey Club as referred to in the *Australian Jockey Club Act 1873*, and includes AJC Limited on and from the commencement of the *Australian Jockey Club Act 2008*.

**AJC Limited** has the same meaning as in the *Australian Jockey Club Act 2008*.

#### [2] Section 3 (3) and (4)

Insert after section 3 (2):

(3) On and from the commencement of the *Australian Jockey Club Act 2008*, the following provisions apply (except in relation to the provisions of this section and section 44G (3) and (4)):

- (a) a reference in this Act or the regulations to the Committee of the AJC is to be read as including a reference to the directors of AJC Limited,
- (b) a reference in this Act or the regulations to a member of the Committee of the AJC is to be read as including a reference to a director or the secretary of AJC

Limited,

- (c) a reference in this Act or the regulations to the AJC Constitutional Rules is to be read as including a reference to the constitution of AJC Limited,
- (d) a reference in this Act or the regulations to the *Australian Jockey Club Act 1873* is to be read as including a reference to the *Australian Jockey Club Act 2008*.

**Note—**

The *Australian Jockey Club Act 2008* provided for the employees, assets, rights, liabilities and regulatory authorisations of the AJC to become those of AJC Limited on and from the day on which that Act commenced. However, the Act did not otherwise operate to dissolve the AJC.

- (4) The provisions of subsection (3) extend to references in any regulations (including regulations for the purposes of section 44C) that were made before the commencement of that subsection.

**[3] Schedule 1 Savings, transitional and other provisions**

Insert before clause 1:

Part 1 **General**

**[4] Schedule 1, Part 2**

Insert at the end of the Schedule:

## **Part 2 Provision consequent on enactment of *Australian Jockey Club Act 2008***

### **2 Existing directions bind AJC Limited**

Any direction in force under section 44C immediately before the commencement of the *Australian Jockey Club Act 2008* that was given to the AJC or the AJC Committee binds AJC Limited and its directors and other officers as if it had been given to AJC Limited and its directors and other officers.

## **2.8 World Youth Day Regulation 2008**

### **Clause 3 Prescribed persons and bodies for purposes of directions under section 44C of Act**

Insert at the end of the clause:

**Note—**

Section 3 (3) and (4) of the Act operate to update references in this clause to the AJC, the Committee of the AJC and any member of the Committee to include references to AJC Limited, the directors of AJC Limited and any director or the secretary of AJC Limited, respectively.