

Racing Administration Act 1998 No 114

[1998-114]



New South Wales

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Provisions in force

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

Notes—

- **See also**
[Miscellaneous Acts Amendment \(Directors' Liability\) Bill 2011](#)

Authorisation

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Racing Administration Act 1998 No 114



New South Wales

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

Part 1 Preliminary

1 Name of Act

This Act is the *Racing Administration Act 1998*.

2 Commencement

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

3 Objects of Act

The objects of this Act are as follows:

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

4 Definitions

(1) In this Act:

approved body means:

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

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

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

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

betting authority means an authority under section 19.

bookmaker includes any person who:

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

controlling body means:

- (a) in relation to horse racing other than harness racing—Racing New South Wales, and
- (b) in relation to harness racing—Harness Racing New South Wales, and
- (c) in relation to greyhound racing—Greyhound Racing New South Wales.

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

exercise a function includes perform a duty.

function includes a duty.

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

licensed racecourse means a racecourse licensed under this Act.

licensee means the approved body that holds a racecourse licence.

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

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

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

non-proprietary association means a corporation, club, or other unincorporated

body of persons, formed for the purpose of promoting and conducting race meetings, the constitution of which:

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

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

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

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

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

racing club includes an association of racing clubs.

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

(2) (Repealed)

(3) Notes included in this Act do not form Part of this Act.

Part 2 Racecourses

Division 1 Licensing of racecourses

5 Requirement for racecourses to be licensed

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

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

Maximum penalty:

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

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

6 Application for racecourse licence

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

7 Issue and classes of racecourse licence

- (1) The Minister may, if satisfied that the proposed licensee is an approved body, issue a racecourse licence in respect of the racecourse concerned.
- (2) The following are the classes of racecourse licences:
 - (a) licences for meetings for horse racing,
 - (b) licences for meetings for harness racing,
 - (c) licences for meetings for greyhound racing.
- (3) More than one class of licence may be issued in respect of a racecourse.

8 Conditions of racecourse licence

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

9 Duration and cancellation of racecourse licence

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

another licence).

10 Limitation on number of licences approved bodies can hold

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

11 Provisions relating to inspection of records

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

Maximum penalty: 20 penalty units.

- (4) An authorised officer may not exercise the functions of an authorised officer under this section unless the officer is in possession of an identification card issued by the Minister. In the course of exercising the functions of an authorised officer under this

section, the officer must, if requested to do so by any person, produce the officer's identification card to the person.

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

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

Division 2 Other provisions relating to racecourses

12 Days on which race meetings are prohibited

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

13 Certain persons prohibited from entering racecourses

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

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

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

14 Punters' clubs

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

Maximum penalty: 50 penalty units.

- (2) In this section:

punters' club means a syndicate that involves a group of persons contributing

money into a fund for the purposes of betting that money:

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

15 Harness racing on showgrounds

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

Part 3 Authorisation of certain betting activities

Division 1 Authorised telephone or electronic betting

16 Authority to conduct telephone or electronic betting

- (1) The Minister may, in writing, authorise a licensed bookmaker to accept or make bets:
 - (a) by telephone, or
 - (b) electronically by means of the Internet, subscription TV or such other on-line communications systems as may be approved by the Minister,while the bookmaker is at a licensed racecourse or on premises approved under section 16A as premises at which the bookmaker may conduct telephone or electronic betting.
- (2) An application for an authority under this section is to be made to the Minister in the manner approved by the Minister.
- (3) The reasonable costs incurred by the Minister in determining an application for an authority under this section, including testing of the equipment to be used by the applicant, are payable to the Minister by the applicant unless the Minister determines otherwise in a particular case.
- (4) The Minister may require part or full payment in advance of the amount the Minister

determines is payable by the applicant and may refuse to deal with the application until the required payment is made.

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

16A Approved premises for conduct of telephone or electronic betting

- (1) The controlling body that authorises a licensed bookmaker to carry on bookmaking may approve premises in New South Wales that are not on a licensed racecourse as premises at which the bookmaker may conduct telephone or electronic betting pursuant to an authority under section 16.
- (2) An approval under this section is to be in writing and may be given subject to conditions. An approval may be revoked by notice in writing to the bookmaker.
- (3) In addition to any other conditions to which an approval under this section is subject, it is a condition of an approval that the approved premises must not be open to, or available for use by, the public or a section of the public.
- (4) A condition of an approval under this section operates as a condition to which the relevant authority under section 16 is subject.

17 Offence of conducting unauthorised telephone or electronic betting

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

Maximum penalty:

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

Division 2 Authorised betting event

18 Declared betting events

- (1) The Minister may, by order published in the Gazette, declare any sporting event (other than horse racing, harness racing or greyhound racing) or other event, or class of sporting or other events, whether held in New South Wales or elsewhere, to be declared betting events.
- (2) In this section, **event** includes contingency.

19 Authorised betting event bookmakers

- (1) The Minister may, in writing, authorise a licensed bookmaker to take bets, on any declared betting events specified in the authorisation, at any licensed racecourse.
- (2) An application for a betting authority is to be made to the Minister in the manner approved by the Minister.

19A Liability of directors of authorised companies

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

20 Conditions of authorisation

- (1) A betting authority is subject to:
 - (a) such conditions as may be prescribed by the regulations, and
 - (b) such conditions as the Minister may impose generally, by order published in the Gazette, in relation to taking of bets on declared betting events, and
 - (c) such other conditions as the Minister may, from time to time, impose by notice in writing given to the authorised betting event bookmaker concerned.
- (2) Without limiting conditions that may be prescribed or imposed by the Minister, conditions may relate to any of the following:
 - (a) different requirements for different declared betting events,

- (b) minimum bets,
- (c) methods of betting, including arrangements for the use of telecommunications equipment,
- (d) requirements for the giving of security by bankers for long-term bets,
- (e) requirements for record keeping by authorised betting event bookmakers,
- (f) audit requirements for authorised betting event bookmakers.

21 Conditions relating to records

- (1) It is a condition of a betting authority that the authorised betting event bookmaker must, if required to do so by the Minister:
 - (a) make available for inspection and examination by an authorised person all accounts, documents and records relevant to any declared betting event on which the bookmaker has taken bets, and
 - (b) permit the authorised person to enter, at any reasonable time, any premises or part of premises (other than a dwelling-house) occupied or used by or on behalf of the bookmaker, and to make copies of or take extracts from those accounts, documents and records, and
 - (c) provide the authorised person with such information, in such form and verified in such manner, as the Minister may require, and
 - (d) make available for inspection by the authorised person any computer records, devices or programs that are used in connection with, or that relate to, any electronic betting activities carried on by the bookmaker.
- (2) Nothing in this section affects any power conferred by or under any other Act in relation to the inspection and examination of accounts, documents and records of any bookmaker.
- (3) In this section:

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

22 Duration and cancellation of authorisation

- (1) A betting authority remains in force until it is cancelled by the Minister.
- (2) The Minister may cancel a betting authority if the Minister is satisfied:
 - (a) that the authorised betting event bookmaker has failed to comply with any condition to which the authority is subject, or

- (b) that the bookmaker is no longer a licensed bookmaker, or
- (c) that the bookmaker has failed to conduct declared betting event in accordance with the rules made under section 23, or
- (d) that the authority should be cancelled for any other cause the Minister thinks fit.

23 Rules for declared betting events

- (1) Rules may be made by any body approved by the Minister for or with respect to declared betting event at a licensed racecourse.
- (2) The rules are not to be inconsistent with this Act, the regulations or the conditions (if any) imposed by the Minister.
- (3) The power to make rules includes a power to make a rule to amend or repeal a rule made in accordance with this section.
- (4) Any rule made under this section must, before it is made, be approved in writing by the Minister.
- (5) When it is so made, the rule:
 - (a) is required to be published in the Gazette, and
 - (b) takes effect on and from the date of publication (or such later date as may be specified in the rule).

Editorial note—

For rules under this section, see Gazette No 121 of 15.9.2000, p 10615 (as amended by Gazettes No 128 of 22.8.2003, p 8047; No 163 of 10.10.2003, p 10037; No 132 of 28.10.2005, p 9229 and No 92 of 14.7.2006, p 5719).

Division 3 Authorised betting auditoriums

24 Authorisation of betting auditoriums

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

(b) is to identify the premises in which it is proposed to conduct the betting auditorium, and

(c) is to be made to the Minister in the manner approved by the Minister.

25 Conditions of authorisation

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

(a) to such conditions (if any) as may be prescribed by this Act or the regulations, and

(b) to such conditions as the Minister may impose when giving the authorisation, and

(c) to such other conditions as the Minister may, from time to time, impose by notice in writing given to the non-proprietary association or syndicate authorised to establish and conduct the betting auditorium.

26 Duration and cancellation of authorisation

(1) An authority to establish and conduct a betting auditorium on a licensed racecourse remains in force until it is cancelled by the Minister.

(2) The Minister may, by notice in writing given to the non-proprietary association or syndicate concerned, cancel an authority to establish and conduct a betting auditorium if the Minister is satisfied:

(a) that the non-proprietary association or syndicate has failed to comply with any conditions to which the authority is subject, or

(b) that the non-proprietary association has ceased to conduct race meetings on the racecourse, or

(c) that the racecourse licence has been cancelled, or

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

Part 3A Authorisation of bookmakers

26A-26F (Repealed)

26G Returns by controlling bodies

(1) A controlling body must lodge with the Director-General of the Department of Gaming and Racing a return setting out the name and address of every bookmaker licensed or registered by it, or to whom a permit has been given by it to carry on business as a bookmaker.

(2) The return must be in a form approved by the Director-General of the Department of Gaming and Racing.

- (3) The return relating to a calendar year must be lodged by the date determined by the Director-General and notified to the controlling body in writing.

Maximum penalty: 100 penalty units.

26GA Returns by racing clubs

- (1) A racing club must, within 2 working days after the conclusion of a race meeting held by the club, lodge with the Director-General of the Department of Gaming and Racing, a return setting out the betting turnover details of every bookmaker who fielded at the race meeting.
- (2) The return must be in a form approved by the Director-General of the Department of Gaming and Racing.

Maximum penalty: 100 penalty units.

26GB Returns by bookmakers

- (1) A bookmaker who fielded at a race meeting held by a racing club must, at the conclusion of the race meeting, lodge with a representative of the racing club appointed by the racing club for the purpose, or such other person as may be determined by the Director-General of the Department of Gaming and Racing, a return setting out the details of the betting turnover of the bookmaker at the race meeting.
- (2) The return must be in a form approved by the Director-General of the Department of Gaming and Racing.

Maximum penalty: 100 penalty units.

26GC Bookmakers to keep records

- (1) A bookmaker, including a former bookmaker, must keep a written record, setting out the true and accurate particulars of:
 - (a) every bet made with the bookmaker, and
 - (b) every bet back made by the bookmaker.
- (2) The record:
 - (a) must indicate the horse races, harness races, greyhound races or declared betting events in connection with which the bets or bets back were made with or by the bookmaker, and
 - (b) must include any other particular required by the relevant controlling body.
- (3) The record must be kept in a form approved by the relevant controlling body.
- (4) The record must be kept for at least 5 years after the bet or bet back to which it

relates is made.

Maximum penalty: 100 penalty units.

26GD Accuracy of bookmakers records

A person must not enter, or permit to be entered, in a written record required to be kept under section 26GC entries that are false, misleading or fictitious or bets made in fictitious names.

Maximum penalty: 100 penalty units.

26H Minister may furnish information

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

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

26I Inspection of records

- (1) This section applies to any book, document, or other record containing any entry relating to a bet made with, or a bet back made by, a bookmaker.
- (2) A bookmaker and an employee or agent of a bookmaker who has custody or control of a book, document or record to which this section applies must permit an inspector to inspect and take copies of any such book, document, or record either on a racecourse or elsewhere.
- (3) Any police officer and any inspector:
 - (a) may, either on a racecourse or elsewhere, demand the production of any book, document, or record that the police officer or the inspector has reasonable grounds for believing is being, or has been, used for the purpose of making entries concerning bets, and
 - (b) may, if any breach of this Part or the regulations relating to this Part appears to have been committed, retain possession of the book, document, or record.
- (4) Any inspector may at any reasonable time enter any racecourse or premises approved under section 16A for the purpose of exercising the functions conferred on the

inspector by this section.

(5) A person must not:

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

Maximum penalty: 100 penalty units.

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

- (a) in the case of an inspector authorised by the Minister—an identification card issued by the Minister, or
- (b) in the case of an inspector authorised by a controlling body—an identification card issued by the controlling body.

(7) In this section:

inspector means:

- (a) a person authorised in writing by the Minister either generally or in a particular case to be an inspector under this section, or
- (b) a person designated by a controlling body to exercise the functions of an inspector under this section, but only in relation to the exercise of those functions with respect to bookmakers authorised by the relevant controlling body to carry on bookmaking.

Part 4 Betting information and advertising

Division 1 Interpretation

27 Definitions

In this Part:

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

betting exchange means a facility, electronic or otherwise, that enables persons:

- (a) to place or accept, through the operator of the facility, wagers with other persons, or
- (b) to place with the operator of the facility wagers that, on acceptance, are matched with opposing wagers placed with and accepted by the operator,

but does not include a facility, electronic or otherwise, that enables persons to place wagers only with a bookmaker or a totalizator.

betting information includes information or advice as to:

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

betting or betting odds includes totalizator dividends.

licensed wagering operator means a wagering operator that holds a licence or authority (however described) under the legislation of this or any other State or Territory to carry out its wagering operations (whether in that State or Territory or elsewhere).

NSW race field information means information that identifies, or is capable of identifying, the name or number of a horse or greyhound:

- (a) as a horse or greyhound that has been nominated for, or is otherwise taking part in, an intended race to be held at any race meeting on a licensed racecourse in New South Wales, or
- (b) as a horse or greyhound that has been scratched or withdrawn from an intended race to be held at any race meeting on a licensed racecourse in New South Wales.

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

race field information use approval means an approval granted under section 33A.

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

relevant racing control body means:

- (a) in relation to horse racing other than harness racing—Racing New South Wales, and
- (b) in relation to harness racing—Harness Racing New South Wales, and
- (c) in relation to greyhound racing—Greyhound Racing New South Wales.

totalizator has the same meaning as in section 6 of the [Totalizator Act 1997](#).

wagering operator means a bookmaker, a person who operates a totalizator or a person who operates a betting exchange.

working day means any day that is not a Saturday, Sunday or public holiday.

28 (Repealed)

Division 2 General offences

29 Publication of betting information

(1) A person must not publish any betting information.

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

(2) Subsection (1) does not operate to prohibit the publication of:

(a) betting information relating to a licensed wagering operator, or

(b) betting information (of the kind prescribed by the regulations) relating to a wagering operator (other than a licensed wagering operator) prescribed by the regulations.

30 Advertising betting information and betting services

(1) A person must not publish an advertisement:

(a) indicating that the person (or any other person) is prepared:

(i) to provide betting information, or

(ii) to bet on any race that is to be held at a race meeting, or

(iii) to bet on any declared betting event, or

(b) that is designed to induce a person to obtain betting information, or

(c) that invites any person to make, or take a share in, a bet on any horse race, harness race, greyhound race or declared betting event, or

(d) that relates to any gambling operations or services carried on by a person who is not a licensed bookmaker.

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

(2) Subsection (1) does not operate to prohibit the publication of an advertisement relating to a licensed wagering operator.

(2A) This section does not limit the operation of any regulations relating to responsible practices in the conduct of betting, including regulations restricting or prohibiting the conduct of promotions or other activities (including advertising).

(3) A person must not provide by means of the Internet, subscription TV or other on-line communications system any service that enables a person:

(a) to access the gambling operations carried on by any person other than a licensed wagering operator, or

(b) to access information relating to those gambling operations.

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

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

31 Premises used for publishing betting information or betting services

(1) A person is guilty of an offence if the person:

(a) uses premises for the purpose of publishing:

(i) betting information, or

(ii) any advertisement that relates to any betting services, or

(b) knowingly permits premises to be used for such a purpose, or

(c) has the control or management of premises that are used for such a purpose, or

(d) is involved in conducting a business on premises that are used for such a purpose.

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

(2) Subsection (1) does not apply in relation to:

(a) information of the kind referred to in section 29 (2), or

(b) any advertisement of the kind referred to in section 30 (2).

32 (Repealed)

Division 3 Use of NSW race field information

32A Meaning of “use NSW race field information”

For the purposes of this Division, a person **uses NSW race field information** only if the person, whether in Australia or elsewhere:

(a) publishes any NSW race field information, or

(b) communicates any NSW race field information to a person (regardless of whether the person already knew the information), or

(c) acknowledges or confirms any NSW race field information communicated to the person (including acknowledging or confirming the information by accepting, or facilitating the making of, a bet), or

(d) makes a written or electronic record (such as a betting ticket, statement of account or

notice) that contains or refers to any NSW race field information (regardless of whether the record is communicated to any person), or

- (e) uses any NSW race field information in a manner prescribed by the regulations, or
- (f) causes any of the activities referred to in paragraphs (a)-(e) to occur.

33 Use of NSW race field information restricted

- (1) A wagering operator or prescribed person must not use NSW race field information unless the wagering operator or person:
 - (a) is authorised to do so by a race field information use approval and complies with the conditions (if any) to which the approval is subject, or
 - (b) is authorised to do so by or under the regulations.

Note—

In this Division, a **wagering operator** is defined to include a bookmaker, a person who operates a totalizator or a person who operates a betting exchange (see section 27). **Bookmaker** is defined in section 4 to include any person who:

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

Maximum penalty:

- (a) in the case of a corporation—500 penalty units, or
 - (b) in any other case:
 - (i) for a first offence—50 penalty units or imprisonment for 12 months (or both), and
 - (ii) for a second or subsequent offence—100 penalty units or imprisonment for 2 years (or both).
- (2) It is a defence to a prosecution for an offence against this section if a wagering operator proves that the use of NSW race field information:
 - (a) did not occur in connection with the making or accepting of a bet (or the offer to make or accept a bet), and
 - (b) did not occur in the course of the business of the wagering operator.
 - (3) In this section, **prescribed person** means a person (or a person belonging to a class of persons) prescribed by the regulations.

33A Relevant racing control body may grant race field information use approvals

- (1) The relevant racing control body in relation to an intended race (or class of races) to be held at any race meeting on a licensed racecourse in New South Wales may grant approval to a person to use NSW race field information (a **race field information use approval**) in respect of that race or class of races if the person has made an application for that approval under this Division.
- (2) A relevant racing control body may (but need not) impose any of the following kinds of conditions on a race field information use approval that it grants:
 - (a) a condition that the holder of the approval pay a fee or a series of fees of an amount or amounts and in the manner specified in the approval (being a fee or fees imposed in accordance with any requirements prescribed by the regulations),
 - (b) such other conditions as may be specified in the approval (being conditions of a kind that are prescribed as permissible conditions by the regulations).
- (3) Any fee that is payable under a race field information use approval is a debt due to the relevant racing control body that granted the approval and is recoverable as such in a court of competent jurisdiction.
- (4) A relevant racing control body that grants a race field information use approval may, by written notice to the holder of the approval, cancel or vary the terms of the approval on any grounds prescribed by the regulations.
- (5) If a relevant racing control body cancels or varies a race field information use approval, the body must provide the holder of the approval with written reasons indicating why the approval was cancelled or varied (as the case may be).

33B Applications for race field information use approvals

- (1) A person who wishes to use NSW race field information may apply to the relevant racing control body in relation to the intended race (or class of races) to which the information relates for a race field information use approval in respect of the race or class of races.
- (2) An application for a race field information use approval (an **approval application**) must be:
 - (a) made in the manner and in the time as may be prescribed by the regulations, and
 - (b) accompanied by such information as may be prescribed by the regulations.
- (3) In determining an approval application, the relevant racing control body to which the application is made must:
 - (a) consult with each racing club that intends to conduct the race or class of races in

respect of which the approval is sought, and

(b) take into account such criteria in relation to the determination of the application (if any) as may be prescribed by the regulations.

(4) Without limiting subsection (3) (b), any criteria that are prescribed by the regulations for the purposes of that paragraph may specify:

(a) the kinds of matters that may or must be taken into account in determining an approval application, and

(b) the kinds of matters that must not be taken into account in determining an approval application.

(5) If a relevant racing control body to which an approval application is made determines that a race field information use approval should not be granted to the applicant (or should be granted subject to any condition imposed under section 33A (2)), the body must provide the applicant with written reasons indicating why the application was rejected or the conditions were imposed (as the case may be).

33C Authorisations for section 51 of the [Trade Practices Act 1974](#) of the Commonwealth

(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) any agreement entered into between:

(i) 2 or more relevant racing control bodies in relation to the appointment of an agent to collect, or the collection by such an agent or any of the relevant racing control bodies of, fees that are payable to those bodies under race field information use approvals granted by them, or

(ii) one or more relevant racing control bodies and any corresponding body of another State or Territory in relation to the appointment of an agent to collect, or the collection by such an agent or any of the relevant racing control bodies of, fees that are payable to those bodies in relation to the use of race field information,

(b) the conduct of those bodies and any agent in negotiating and entering into any such agreement,

(c) the conduct of those bodies and any agent in performing any such agreement.

(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*.

(3) In this section:

agreement includes a contract, arrangement or understanding.

33D Appeals to Minister

- (1) A person may appeal to the Minister against any of the following decisions of a relevant racing control body:
 - (a) a decision of the body to reject an application by the person for a race field information use approval,
 - (b) a decision of the body to impose a condition under section 33A (2) (other than a condition relating to the payment of a fee or series of fees) on a race field information use approval,
 - (c) a decision of the body to cancel a race field information use approval held by the person,
 - (d) a decision of the body to vary any term of a race field information use approval held by the person (other than a term relating to the payment of a fee or series of fees).
- (2) An appellant must give notice to the following person and body of the grounds of the appellant's appeal in the form and manner approved by the Minister from time to time:
 - (a) the Minister,
 - (b) the relevant racing control body that made the decision appealed against.
- (3) The relevant racing control body that made the decision appealed against is to be the respondent in the appeal.
- (4) A notice under subsection (2) must be given within 20 working days (or within such longer period as the Minister may allow) after the date on which the appellant was notified of the decision of the relevant racing control body that is being appealed.
- (5) In determining an appeal, the Minister may appoint a person that the Minister considers has suitable qualifications to act as an arbitrator (the **arbitrator**) to furnish a report to the Minister with respect to the appeal containing:
 - (a) a recommendation as to whether the appeal should, in the opinion of the arbitrator, be dismissed or allowed either unconditionally or subject to such conditions as may be specified in the report, and
 - (b) the reasons for the recommendation.
- (6) The unsuccessful party to an appeal is to pay the costs of any arbitrator appointed by

the Minister under subsection (5).

- (7) The Minister, after considering any report that is furnished to the Minister under subsection (5), may:
- (a) dismiss the appeal, or
 - (b) allow the appeal either unconditionally or subject to such conditions as the Minister thinks proper to impose, or
 - (c) if the appeal is against the imposition of conditions, refuse to approve the application for a race field information use approval from the determination of which the appeal has been made, or
 - (d) return the report to the arbitrator concerned and request further consideration of the report.

Note—

As the decision of the Minister in an appeal under this section is a decision that is reviewable by the Administrative Decisions Tribunal under section 33E, section 48 of the [Administrative Decisions Tribunal Act 1997](#) requires the Minister to give the appellant and respondent in the appeal written notice of the decision on the appeal. Division 2 of Part 2 of Chapter 5 of that Act enables the appellant and respondent to request written reasons for the Minister's decision.

- (8) The decision of the Minister under subsection (7) (other than a decision under subsection (7) (d)) has effect as if it were a decision of the relevant racing control body from whose decision the appeal is made.

33E Review by Administrative Decisions Tribunal of Minister's decision on appeal

- (1) The appellant or respondent in an appeal under section 33D may apply to the Administrative Decisions Tribunal for a review of the decision of the Minister in the appeal.
- (2) Section 53 (Internal reviews) of the [Administrative Decisions Tribunal Act 1997](#) does not apply to a decision of the Minister in an appeal under section 33D.

33F Effect of race field information use approval limited

For the avoidance of doubt, the granting of a race field information use approval does not operate to authorise the holder of the approval to do (or omit to do) anything in relation to a race to be held at any race meeting on a licensed racecourse in New South Wales other than to use the NSW race field information to which the approval relates in accordance with the terms of the approval.

Part 5 Miscellaneous

34 Delegation

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

- (a) this power of delegation, and
- (b) the appointment of authorised officers for the purposes of section 11.

35 Proceedings for offences

Proceedings for an offence under this Act are to be dealt with summarily before the Local Court.

35A Remedial orders

- (1) A court that finds a person guilty of an offence against this Act or the regulations, being an offence prescribed by the regulations for the purposes of this section, may, in addition or as an alternative to any penalty that it may impose for the offence, make either or both of the following orders:
 - (a) an order requiring the person to publish an advertisement correcting any information contained in any betting information or advertisement published by the person that the court is satisfied on the evidence before it is false, misleading or deceptive and giving directions (if any) that the court considers appropriate as to the time, form, extent and manner of publication,
 - (b) an order requiring any one or more of the following:
 - (i) the person,
 - (ii) if the person is a corporation, a director of the corporation or a person concerned in the management of the corporation,
 - (iii) an employee of the person,to undertake any specified course of training that the court considers will promote responsible practices in the conduct of betting activities by the person.
 - (2) A person who, without lawful excuse, fails to comply with an order under this section is guilty of an offence.
- Maximum penalty: 20 penalty units.

36 Evidence

- (1) In any proceedings for an offence under this Act, any allegation in the information in

respect of the offence that:

- (a) any race meeting mentioned in the information was held at a place and on a date specified in the information, or
- (b) a warning off or disqualification by a controlling body in respect of a person is in force,

is evidence of the truth of the allegation concerned unless the contrary is proved.

(2) If an advertisement referred to in Part 4 refers to a person as being the person:

- (a) by whom or on whose behalf the advertisement is published, or
- (b) who is prepared to make or receive bets, or
- (c) by whom or on whose behalf information or advice has been or will be provided,

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

(2A) If a written publication or communication (including on the Internet) of NSW race field information refers to a person as being the person by whom or on whose behalf the publication or communication is made, the person so referred to is, in the absence of proof to the contrary, taken to have published or communicated the information.

(3) For the purposes of subsections (2) and (2A), a person is taken to be referred to in such an advertisement or written publication or communication if the person is mentioned or referred to:

- (a) by name, or
- (b) by any other name or designation:
 - (i) that is used or assumed by the person, or
 - (ii) by which the person is usually known, or
 - (iii) that is usually applied to the person's business or business premises.

(4) If such an advertisement or written publication or communication refers to a telephone number, post office box or an address, the person renting the telephone or post office box, or the occupier of the premises to which the address, is, in the absence of proof to the contrary, taken to have caused the advertisement or written publication or communication to be published.

36A Disclosure of information

(1) Any information acquired by a person in the exercise of functions under this Act may be disclosed to the Chief Commissioner of State Revenue.

(2) This section does not limit the other persons to whom information may be disclosed.

36B Offences by corporations

- (1) If a corporation contravenes (whether by act or omission) any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision, unless the person satisfies the court that:
 - (a) the corporation contravened the provision without the actual, imputed or constructive knowledge of the person, or
 - (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
 - (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.
- (2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.
- (4) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the corporation had that intention.

36C Giving of notices and other documents

- (1) For the purposes of this Act, a notice or other document may be given to a person (or a notice or other document may be served on a person):
 - (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.

37 Regulations

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

38 Savings and transitional provisions

Schedule 1 has effect.

39 Review of Act

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

40 Certificate evidence

In proceedings for an offence under section 33, a certificate purporting to be given by a relevant racing control body certifying that:

- (a) a specified wagering operator or other person was or was not the holder of a race field information use approval at a specified time or during a specified period, or
- (b) specified information is NSW race field information,

is admissible and is prima facie evidence of the particulars certified in and by the certificate.

Schedule 1 Savings and transitional provisions

(Section 38)

Part 1 Preliminary

1 Savings and transitional regulations

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

this Act

the *Unlawful Gambling Act 1998*

the *Racing and Totalizator Legislation Amendment Act 2000*

the *Betting Tax Act 2001*

the *Racing Legislation Amendment (Bookmakers) Act 2002*

the *State Revenue Legislation Amendment (Budget) Act 2002*

the *Racing Legislation Amendment Act 2006*

the *Racing Administration Amendment Act 2008*

the *Wagering Legislation Amendment Act 2010*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of *Unlawful Gambling Act 1998* and this Act

2 Definitions

In this Part:

new Act means the *Unlawful Gambling Act 1998*.

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

3 Continuation of existing racecourse licences

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

4 Continuation of certain betting authorisations

- (1) An authorisation under section 6C of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be an authorisation under section 16 of this Act but only to the extent that it authorises the licensed bookmaker concerned to accept or make bets by telephone.
- (2) An order made under section 6C (6) of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be an order made under section 16 (6) of this Act.

- (3) An order made under section 57EA of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be an order made under section 18 of this Act.
- (4) A sports betting authority given under section 57EB of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be a sports betting authority given under section 19 of this Act.
- (5) An authorisation under section 57EG of the repealed Act, and in force immediately before the repeal of that section by the new Act, is taken to be an authorisation under section 24 of this Act.

Part 3 Provisions consequent on enactment of [Betting Tax Act 2001](#)

5 Licences, certificates of registration and permits

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

6 Authorities

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

7 Continuity of office of Committee member

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

Part 4 Provisions consequent on enactment of [State Revenue Legislation Amendment \(Budget\) Act 2002](#)

8 State bookmakers tax authority

A State bookmakers tax authority in force immediately before the commencement of Schedule 5 [1] to the [State Revenue Legislation Amendment \(Budget\) Act 2002](#) is taken to be a State bookmakers authority issued under section 26D.

Part 5 Provisions consequent on enactment of [Racing Legislation Amendment Act 2006](#)

9 Definition

In this Part:

amending Act means the *Racing Legislation Amendment Act 2006*.

10 Previous offences under section 33 may be taken into account in determining penalties

- (1) Section 33 (as substituted by the amending Act) applies to acts or omissions that occur on or after the day on which the provision of the amending Act that substitutes the section commences.
- (2) However, an offence against section 33 (as in force at any time before its substitution by the amending Act) may be taken into account in deciding whether an offence against section 33 (as substituted by the amending Act) is a second or subsequent offence against the substituted section for the purposes of determining the penalty for the offence.

Part 6 Provisions consequent on enactment of *Racing Administration Amendment Act 2008*

11 Definition

In this Part:

amending Act means the *Racing Administration Amendment Act 2008*.

12 Race field publication approvals deemed to be race field information use approvals

- (1) A race field publication approval in force immediately before the commencement of the amending Act is taken, with all necessary modifications but subject to the regulations, to be a race field information use approval.
- (2) Without limiting subclause (1), such a race field publication approval that authorises a person to publish a NSW race field in respect of a specified race or class of races is taken to authorise the person to use NSW race field information in respect of that race or class of races.

Part 7 Provisions consequent on enactment of *Racing Legislation Amendment Act 2009*

13 Existing approvals under section 15

An approval given for the purposes of section 15 (1) by the Greyhound and Harness Racing Regulatory Authority constituted under the *Greyhound and Harness Racing Administration Act 2004* before its dissolution is taken to have been given by Harness Racing New South Wales under that subsection.

Part 8 Provisions consequent on enactment of *Wagering Legislation*

Amendment Act 2010

14 Definition

In this Part:

2010 amending Act means the *Wagering Legislation Amendment Act 2010*.

15 Existing sports betting events

A declaration of an event as a sports betting event that is in force under section 18 immediately before the replacement of that section by the 2010 amending Act is taken, after the replacement of that section, to be a declaration of the event as a declared betting event.

16 Existing sports betting authorities

- (1) A sports betting authority in force under section 19 immediately before the amendment of that section by the 2010 amending Act is taken, after the amendment of that section, to have been issued as a betting authority.
- (2) The authorisation of a licensed bookmaker to take bets on sports betting events is taken, after that amendment, to be an authorisation to take bets on declared betting events.

17 Dissolution of the Bookmakers Revision Committee

The Bookmakers Revision Committee is dissolved.