

# Betting and Racing Act 1998 No 114

[1998-114]



New South Wales

## Status Information

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### Provisions in force

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

### Notes—

- **Previously named**  
Racing Administration Act 1998

### 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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# Betting and Racing Act 1998 No 114



New South Wales

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# Betting and Racing 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 *Betting and Racing 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—

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

**approved body** means—

- (a) a non-proprietary association, or
- (b) a local council, or
- (c) a statutory land manager within the meaning of the *Crown Land Management Act*

2016.

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

**betting auditorium** means premises that are used for betting or wagering on races or declared betting events.

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

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

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

**betting service** means—

- (a) accepting or offering to accept a bet, or
- (b) inviting a person to place a bet, or
- (c) facilitating the placing of a bet.

**betting service provider** means a bookmaker, a person who operates a totalizator or a person who operates a betting exchange.

**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.

**declared betting event** means an event or class of event prescribed under section 18 as a declared betting event.

**declared betting event authority** means an authority granted under section 19.

**event** includes contingency.

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

**function** includes a duty.

**inspector** means a person appointed as an inspector under section 33M and includes, in relation to section 26I, a person authorised by a racing controlling body to exercise



the functions of an inspector under that section.

**licensed betting service provider** means a betting service provider that holds a licence or authority (however described) under the legislation of this or any other State or Territory to carry out its betting services (whether in that State or Territory, or elsewhere).

**licensed bookmaker** means a person who is authorised by a racing 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 racing controlling body responsible for the type of racing conducted by the corporation, club or body.

**publish** means disseminate or provide access to the public or a section of the public by oral, visual, written, electronic or other means (for example, by means of newspaper, radio, television, cinema or through the use of the Internet, subscription TV or other on-line communications system).

**race** means a greyhound race, harness race or horse race.

**racing 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—the Greyhound Welfare and Integrity Commission or, in relation to greyhound racing clubs, Greyhound Racing New South Wales.

**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.

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

**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.

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (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 racing 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 Enterprise, Investment and Trade.
- (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 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 inspector all relevant accounts, documents and records, and
  - (b) permit an inspector 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 inspector 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 inspector all relevant accounts, documents and records, and
  - (b) to permit an inspector 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 inspector 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) (Repealed)

(5) In exercising his or her functions under this section, an inspector may call to his or her

aid a police officer if the inspector 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 inspector under this section, the functions of an inspector.
- (7) (Repealed)

## **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 racing controlling body must not enter any racecourse under the administration or control of that racing 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 racing 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 racing controlling body responsible for that racing club.

Maximum penalty—20 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.

## **Division 3 Exclusion of persons from racecourses**

### **15A Definitions**

In this Division—

**Commissioner** means the Commissioner of Police.

**exclusion order** has the same meaning as in section 15B.

### **15B Commissioner of Police may exclude person from racecourses**

- (1) The Commissioner may, by written order (an **exclusion order**), exclude a person from licensed racecourses at any time during which there is a race meeting at the racecourse.
- (2) An exclusion order may be made only if the Commissioner is of the opinion it is necessary to do so in the public interest.
- (3) An exclusion order remains in force for the period specified in the order, unless sooner revoked by the Commissioner.
- (4) The Commissioner is to ensure that a written notice of the making of an exclusion order is given to—
  - (a) each racing controlling body, and
  - (b) if the person the subject of the exclusion order can be reasonably found by the Commissioner, that person.
- (5) The notice must set out the terms of the order and, if it is reasonably practicable to do so, include a photograph of the person the subject of the order.
- (6) Each racing controlling body that is given the notice must give a copy of the notice to

each non-proprietary association that is registered as a racing club by the racing controlling body.

- (7) The copy must be given as soon as practicable after the racing controlling body receives the notice.
- (8) The Commissioner is to—
  - (a) notify the appropriate authority in each State or Territory of the making of an exclusion order and the revocation of an exclusion order, and
  - (b) provide the appropriate authorities with the name of the person the subject of the exclusion order and, if practicable, a photograph of that person.
- (9) The Commissioner is not, under this or any other Act or law, required to give any reasons for making an exclusion order if the giving of those reasons would disclose the existence or content of any criminal intelligence report or other criminal information.
- (10) In this section—

***appropriate authority*** means—

- (a) in relation to a State or Territory (other than the Australian Capital Territory)—an authority exercising, in relation to the police force of that State or Territory, functions corresponding to the functions of the Commissioner in relation to the NSW Police Force, or
- (b) in relation to the Australian Capital Territory—the Commissioner of the Australian Federal Police.

### **15C Entering racecourse in breach of an exclusion order**

A person who is the subject of an exclusion order must not enter, or remain on, a racecourse at any time during which there is a race meeting being held at the racecourse.

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

### **15D Right to seek administrative review from Civil and Administrative Tribunal**

- (1) A person may apply to the Civil and Administrative Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#) of a decision to make an exclusion order applying to the person.
- (2) In determining the application, the Civil and Administrative Tribunal (and any Appeal Panel of the Tribunal in determining any internal appeal against the review under the [Civil and Administrative Tribunal Act 2013](#))—
  - (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence report or other criminal



information without the approval of the Commissioner, and

- (b) to prevent the disclosure of a criminal intelligence report or other criminal information, is to receive evidence and hear argument in the absence of the public, the applicant for the administrative review, the applicant's representative and any other interested party, unless the Commissioner approves otherwise.
- (3) If the Tribunal considers that information contained in a criminal intelligence report or other criminal information has not been properly identified, the Tribunal must ask the Commissioner whether the Commissioner wishes to withdraw the information from consideration by the Tribunal in its determination of the application.
- (4) Information that is withdrawn by the Commissioner must not be—
  - (a) disclosed to any person, or
  - (b) taken into consideration by the Tribunal in determining the application.
- (5) Section 53 (Internal reviews) of the [Administrative Decisions Review Act 1997](#) does not apply in relation to a decision referred to in subsection (1).

## **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 racing 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 Declared betting events**

### **17A Definitions**

- (1) In this Division—

**sporting event** includes a class of sporting events but does not include a race or any event related to racing.

**sports controlling body** for a sporting event means the person or body prescribed as the sports controlling body for the sporting event under section 17B.

- (2) The regulations may declare that an event or class of event is, or is not, a sporting event and any such declaration is conclusive for the purposes of this Division.

### **17B Sports controlling body**

- (1) The Minister may, by order published in the Gazette, prescribe a person or body as the sports controlling body for a sporting event.

**Note—**

Section 43(2) of the [Interpretation Act 1987](#) provides that if an Act confers a power to make an order, that power includes a power to amend or repeal the order.

- (2) There is to be no more than one sports controlling body for each sporting event.
- (3) The regulations may make provision for or with respect to the prescription of a person or body as a sports controlling body including, but not limited to, the making of applications, the provision of information and the prescription of fees.
- (4) The regulations may require a sports controlling body to notify the Minister of a change in the sports controlling body's circumstances.

### **18 Prescription of events as declared betting events**

- (1) The Minister may, by order published in the Gazette, prescribe an event or class of events (whether or not a sporting event) as a declared betting event.
- (2) An order prescribing a declared betting event must also prescribe the types of bets that are permitted to be made on the declared betting event.
- (3) A race cannot be prescribed as a declared betting event.

**Note—**

Events related to racing are not sporting events but can still be prescribed as declared betting events.

- (4) The Minister must not make an order that prescribes a declared betting event (or

permits a new type of bet to be made on a declared betting event) unless an application to make the order has been made by—

- (a) a licensed bookmaker who holds a declared betting event authority under Division 2A, or
  - (b) a licensee under the *Totalizator Act 1997*.
- (5) The Minister must, unless the Minister considers that it is not in the public interest to do so, give effect to an application to remove a type of bet that is permitted to be made on a declared betting event if—
- (a) the declared betting event is a sporting event, and
  - (b) the application is made by the sports controlling body for the sporting event.
- (6) An application under this section is to be made in the manner approved by the Minister and is to be accompanied by the fee (if any) prescribed by the regulations.

#### **18A Prescription of sporting events with sports controlling body**

- (1) This section applies to an order that prescribes a sporting event as a declared betting event (or that permits a new type of bet on a sporting event that has been prescribed as a declared betting event) but only if there is a sports controlling body for the sporting event.
- (2) The Minister must not make an order to which this section applies unless the Minister is satisfied that—
- (a) an integrity agreement that meets the requirements of this section is in place between the sports controlling body and the bookmaker or licensee who applied for the order (the **applicant**), and
  - (b) the applicant has consulted the sports controlling body in respect of the making of the application and the sports controlling body does not oppose the making of the order.
- (3) An integrity agreement referred to in this section must—
- (a) set out the measures that will be used to prevent, investigate and assist in the prosecution of any match fixing or other corrupt behaviour related to betting on the sporting event, and
  - (b) provide for funding to go to the sports controlling body for the purposes of implementing some or all of those measures (unless the sports controlling body does not want any such funding), and
  - (c) provide for the sharing of information between the sports controlling body and the applicant, and

- (d) provide for a consultation process that ensures that the applicant will, if the sports controlling body is the sports controlling body for a particular sporting event, consult with the sports controlling body before making any application under section 18(4) in respect of the sporting event.

**18B Prescription of sporting events without sports controlling body**

- (1) This section applies to an order that prescribes a sporting event as a declared betting event (or that permits a new type of bet on a sporting event that has been prescribed as a declared betting event) but only if there is no sports controlling body for the sporting event.
- (2) The Minister must not make an order to which this section applies in relation to a sporting event taking place in Australia unless the Minister is satisfied that the bookmaker or licensee who applied for the order has taken reasonable steps to consult with the key persons or bodies involved in the administration of the sporting event.
- (3) The Minister, in determining whether to make an order to which this section applies, is to take into consideration—
  - (a) the public interest, and
  - (b) any potential impact on the integrity of the sporting event, and
  - (c) if the order is in relation to a sporting event taking place in Australia, the views (if any) of the key persons or bodies involved in the administration of the sporting event.
- (4) For the purposes of this section, a class of sporting events takes place in Australia if at least one sporting event in that class takes place in Australia.

**18C Certain sports betting services prohibited**

- (1) A betting service provider must not, in New South Wales or elsewhere, offer a betting service in relation to a sporting event unless—
  - (a) the betting service provider is a licensed betting service provider, and
  - (b) an integrity agreement that meets the requirements of this section is in place between the sports controlling body for the sporting event and the licensed betting service provider.

Maximum penalty—

- (a) for an individual—
  - (i) 50 penalty units for a first offence, or

- (ii) 100 penalty units or imprisonment for 6 months (or both) for a second or subsequent offence, or
- (b) for a corporation—
  - (i) 250 penalty units for a first offence, or
  - (ii) 1,000 penalty units for a second or subsequent offence.
- (2) An integrity agreement referred to in this section must—
  - (a) set out the measures that will be used to prevent, investigate and assist in the prosecution of any match fixing or other corrupt behaviour related to betting on the sporting event, and
  - (b) provide for funding to go to the sports controlling body for the purposes of implementing some or all of those measures (unless the sports controlling body does not want any such funding), and
  - (c) provide for the sharing of information between the sports controlling body and the licensed betting service provider.
- (3) This section does not apply in relation to a sporting event held wholly outside of New South Wales.
- (4) This section does not require an integrity agreement to be in place at any time—
  - (a) during which there is no sports controlling body for the sporting event in respect of which the betting service is to be offered, or
  - (b) during the 6 months immediately following the prescription of a person or body as the sports controlling body for the sporting event.
- (5) For the purposes of this section, a class of sporting events is held wholly outside of New South Wales only if each sporting event in that class is held wholly outside of New South Wales.

### **18D Rules for declared betting events**

- (1) Rules may be made by any body approved by the Minister for or with respect to declared betting events.
- (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 Gazettes 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); No 25 of 8.2.2013, p 364; No 105 of 12.10.2018, pp 7518, 7550, n2018-3550, n2018-3551 and No 91 of 1.5.2020, pp 1708, 1739, n2020-1191, n2020-1192. From April 2021, PCO is no longer updating notes in provisions of in force titles about related gazette notices. To search for related gazette notices, please use the Gazette Search functionality.

## **Division 2A Declared betting event authorities**

### **19 Declared betting event authority**

(1) A bookmaker must not accept or make a bet on a declared betting event unless—

(a) the bookmaker is the holder of a declared betting event authority, and

(b) the bet is accepted or made in accordance with the conditions to which the authority is subject.

Maximum penalty—

(a) for an individual—

(i) 50 penalty units for a first offence, or

(ii) 100 penalty units or imprisonment for 6 months (or both) for a second or subsequent offence, or

(b) for a corporation—

(i) 250 penalty units for a first offence, or

(ii) 1,000 penalty units for a second or subsequent offence.

(2) The Minister may, on the application of a licensed bookmaker, grant a declared betting event authority to the bookmaker.

(3) An application under this section is to be made in the manner approved by the Minister and is to be accompanied by the fee (if any) prescribed by the regulations.

## **20 Conditions of declared betting event authority**

- (1) A declared betting event authority is subject to the following conditions—
  - (a) a condition that the licensed bookmaker who holds the authority must not accept or make a bet on a declared betting event unless—
    - (i) the bet is of a type that is permitted under Division 2 to be made on the declared betting event, and
    - (ii) accepting or making the bet is not in breach of any rule made under section 18D,
  - (b) any condition prescribed by the regulations,
  - (c) any condition imposed by the Minister by notice in writing to the licensed bookmaker who holds the authority.
- (2) Without limiting the 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) the giving of security by bankers for long-term bets,
  - (e) record keeping,
  - (f) auditing.

## **21 Conditions relating to records**

- (1) It is a condition of a declared betting event authority that the licensed bookmaker who holds the authority must, if required to do so by the Minister—
  - (a) make available for inspection and examination by an inspector all accounts, documents and records relevant to any declared betting event on which the bookmaker has accepted or made a bet, and
  - (b) permit the inspector 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 inspector with such information, in such form and verified in such manner, as the Minister may require, and



(d) make available for inspection by the inspector 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) (Repealed)

## **22 Duration and cancellation of declared betting event authority**

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

(2) The Minister may cancel a declared betting event authority if the Minister is satisfied—

(a) that the licensed bookmaker who holds the authority 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 not complied with rules made under section 18D in relation to a declared betting event, or

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

## **23 (Renumbered as section 18D)**

## **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 Returns and records**

### **26A-26F (Repealed)**

### **26G Returns by racing controlling bodies**

- (1) A racing controlling body must lodge with the Secretary of the Department of Enterprise, Investment and Trade 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 Secretary of the Department of Enterprise, Investment and Trade.
- (3) The return relating to a calendar year must be lodged by the date determined by the Secretary and notified to the racing 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 Secretary of the Department of Enterprise, Investment and Trade, 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 Secretary of the Department of Enterprise, Investment and Trade.

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 Secretary of the Department of Enterprise, Investment and Trade, 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 Secretary of the Department of Enterprise, Investment and Trade.

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 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 racing controlling body.
- (3) The record must be kept in a form approved by the relevant racing 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 racing 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—the identification issued to the inspector under section 33M, or
  - (b) in the case of an inspector authorised by a racing controlling body—an identification card issued by the racing controlling body.
- (7) In this section—

***inspector*** means—

- (a) an inspector appointed under section 33M, or
- (b) a person authorised by a racing 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 racing controlling body to carry on bookmaking.

## **Part 4 Betting information and advertising**

### **Division 1 Interpretation**

#### **27 Definitions**

In this Part—

***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.

***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.

**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.

**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, or cause to be published, any betting information.

Maximum penalty—

- (a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
  - (b) for a corporation—250 penalty units.
- (2) Subsection (1) does not operate to prohibit the publication of—
    - (a) betting information relating to a licensed betting service provider, or
    - (b) betting information (of the kind prescribed by the regulations) relating to a betting service provider (other than a licensed betting service provider) prescribed by the regulations.

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

- (1) A person must not publish, or cause to be published, 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 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—

- (a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
- (b) for a corporation—250 penalty units.

(2) Subsection (1) does not operate to prohibit the publication of an advertisement relating to a licensed betting service provider.

(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 betting service provider, or
- (b) to access information relating to those gambling operations.

Maximum penalty—

- (a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
- (b) for a corporation—250 penalty units.

(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—

- (a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
- (b) for a corporation—250 penalty units.

(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 betting service provider or prescribed person must not use NSW race field information unless the betting service provider 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—**

**Betting service provider** is defined in section 4(1) to mean a bookmaker, a person who operates a totalizator or a person who operates a betting exchange. **Bookmaker** is defined in that subsection 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 betting service provider 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 betting service provider.
- (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 [Competition and Consumer Act 2010](#) of the Commonwealth**

- (1) The following are specifically authorised by this Act for the purposes of the [Competition and Consumer Act 2010](#) 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 [Competition and Consumer Act 2010](#) 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 administratively reviewable by the Civil and Administrative Tribunal in an application made under section 33E, section 48 of the *Administrative Decisions Review 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 3 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 Administrative review by Civil and Administrative Tribunal of Minister's decision on appeal**

- (1) The appellant or respondent in an appeal under section 33D may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the decision of the Minister in the appeal.
- (2) Section 53 (Internal reviews) of the *Administrative Decisions Review 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 4A Responsible gambling**

### **Division 1 Preliminary**

#### **33G Interpretation**

- (1) In this Part—

**betting account** means an account held with a licensed betting service provider for the purposes of enabling the holder of the account to place a bet with the provider.

**gambling advertisement** means an advertisement that gives publicity to, or otherwise promotes or is intended to promote, participation in gambling activities, but does not include a totalizator advertisement within the meaning of section 79 of the *Totalizator Act 1997*.

#### **Note—**

A reference to a betting service provider means the following—

- (a) a bookmaker,
  - (b) a person who operates a totalizator,
  - (c) a person who operates a betting exchange.
- (2) The publication of a gambling advertisement to a website that provides the opportunity for, or facilitates or enables, dissemination of information to the public or a section of the public (whether or not the particular publication results in the dissemination of information to the public or a section of the public) constitutes the publication of a gambling advertisement for the purposes of this Part.
- (3) This Part does not limit the operation of any regulations relating to responsible practices in the conduct of gambling activities, including regulations restricting or prohibiting the conduct of promotions or other activities (including advertising).

### **33GA Inducements**

- (1) In this Part, **inducement** includes—
- (a) the offer of a credit, voucher, reward or other benefit, or
  - (b) the offer of a gambling product, or the offer of a condition or other aspect of a gambling product, that includes additional benefits or enhancements, or
  - (c) the offer of a gambling product, or the offer of a condition or other aspect of a gambling product, that is declared by the regulations to be a prohibited inducement.
- (2) A reference to an inducement in this Part includes an inducement that involves an offer that is not available to persons resident in New South Wales.
- (3) A reference to an inducement in this Part (other than in sections 33J and 33JA) does not include an inducement published or communicated by a licensed betting service provider to a person who has a betting account with the provider at the time an advertisement containing the inducement is published or the availability of the inducement is communicated to the person.

## **Division 2 Advertising and inducements**

### **33H Prohibitions on gambling-related advertisements**

- (1) A non-proprietary association or licensed betting service provider or any other person must not publish or communicate, or cause to be published or communicated, whether from in or outside New South Wales, any gambling advertisement that may be accessible to a person in New South Wales and that contravenes any requirement of this section.

Maximum penalty—

- (a) for an individual—100 penalty units, or
  - (b) for a corporation—1000 penalty units.
- (2) A gambling advertisement must not—
- (a) encourage a breach of the law, or
  - (b) depict children gambling, or
  - (c) be false, misleading or deceptive, or
  - (d) suggest that winning will be a definite outcome of participating in gambling activities, or
  - (e) suggest that participation in gambling activities is likely to improve a person's financial prospects, or
  - (f) promote the consumption of alcohol while engaging in gambling activities, or
  - (g) be published otherwise than in accordance with decency, dignity and good taste and, if the gambling advertisement takes the form of a television advertisement, in accordance with the *Commercial Television Industry Code of Practice* registered by the Australian Communications and Media Authority as in force on the day on which the gambling advertisement is published, or
  - (h) include any inducement to participate, or to participate frequently, in any gambling activity (including an inducement to open a betting account).
- (3) The regulations may prescribe an advisory statement that must be part of a gambling advertisement published—
- (a) in print, including a newspaper, magazine or poster, or
  - (b) in a form prescribed by the regulations.
- (4) A person including a non-proprietary association or licensed betting service provider, must not publish, or cause to be published, a gambling advertisement unless the advertisement complies with subsection (3).
- Maximum penalty—
- (a) for an individual—100 penalty units, or
  - (b) for a corporation—1,000 penalty units.
- (5) A non-proprietary association or licensed betting service provider or any other person must not enter into or extend the duration of any contract or arrangement for the publication or communication of any gambling advertisement that does not comply with this section.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1000 penalty units.

- (6) A person (other than a betting service provider) does not commit an offence under this section in respect of the publication or communication of a gambling advertisement if—
- (a) the gambling advertisement was in the form provided (directly or indirectly) or approved by or on behalf of a betting service provider for the purposes of its publication or communication, and
  - (b) the person has not been notified by or on behalf of the Minister that the publication or communication of the gambling advertisement may contravene this section.

### **33HA Prohibition on direct marketing**

- (1) A non-proprietary association or licensed betting service provider or other person must not provide a gambling advertisement directly to a betting account holder by email, SMS text message or other direct means, unless the holder has given express and informed consent to receiving gambling advertisements directly by that means and has not withdrawn the consent.
- (2) A non-proprietary association or licensed betting service provider or other person must not provide a gambling advertisement directly to a betting account holder by email, SMS text message or other direct means, unless the holder is provided with a means by which the holder can easily unsubscribe from receiving gambling advertisements.
- (3) A person who requests a licensed betting service provider to close the person's betting account is taken to have withdrawn consent to receive all gambling advertisements from or on behalf of the provider.
- (4) A person is taken to have withdrawn consent to receive all gambling advertisements from or on behalf of the provider if the person has not logged into the person's betting account for a period of 12 months.
- (5) For the purposes of this section, the withdrawal of consent to receive gambling advertisements takes effect 24 hours after a betting account holder notifies the licensed betting service provider that provides the account of the withdrawal of consent.
- (6) A person (other than a non-proprietary association or a licensed betting service provider) does not commit an offence under this section in respect of the provision of a gambling advertisement if—



- (a) the gambling advertisement was in the form provided (directly or indirectly) or approved by or on behalf of a non-proprietary association or a licensed betting service provider for the purposes of being provided, and
- (b) the person has not been notified by or on behalf of the Minister that the publication or communication of the gambling advertisement may contravene this section.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1000 penalty units.

### **331 Gambling-related advertisements during sporting fixtures**

- (1) This section applies to a sporting fixture that is, or is part of, a sporting event for which there is a sports controlling body.
- (2) A person must not publish a gambling advertisement in relation to a sporting fixture during the sporting fixture including during any breaks in the sporting fixture.

Maximum penalty—

- (a) for an individual—50 penalty units, or
  - (b) for a corporation—500 penalty units.
- (3) This section does not apply to an extended sporting fixture unless the Minister has published a notice in the Gazette that provides that this section is to apply to that fixture. The Minister may publish a notice if the Minister considers it to be in the public interest.
  - (4) This section does not apply to the following advertisements—
    - (a) an advertisement to the extent that it is published on the internet,
    - (b) an advertisement to the extent that it is published in gambling premises.
  - (5) For the avoidance of doubt, an advertisement that is in place before a sporting fixture commences (such as an advertisement on a billboard) is taken, for the purposes of this section, not to be published during the sporting fixture.

- (6) In this section—

***extended sporting fixture*** means—

- (a) a sporting fixture that is scheduled to take place over a period exceeding 4 hours,  
or

(b) a sporting fixture that takes place on multiple days.

**gambling premises** means a hotel, racing club or registered club within the meaning of the *Liquor Act 2007* or premises operated by a licensee (or an agent of a licensee) under the *Totalizator Act 1997* for the purposes of the conduct of a totalizator under that Act.

**sporting fixture** means a single match, game, contest, race (but not a race as defined in section 4) or fight, whether taking place on a single day or multiple days.

### 33J Gambling inducements

A non-proprietary association or licensed betting service provider or any other person must not offer or supply, or cause to be offered or supplied, any free or discounted liquor as an inducement to participate, or to participate frequently, in any gambling activity conducted at a racecourse.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a corporation—500 penalty units.

### 33JA Prohibited inducements

- (1) A non-proprietary association or licensed betting service provider or other person must not offer or supply, or cause to be offered or supplied, an inducement to a person for that person—
  - (a) to open a betting account, or
  - (b) to invite another person to open a betting account, or
  - (c) not to close a betting account.
- (2) A non-proprietary association or licensed betting service provider or other person must not offer or supply, or cause to be offered or supplied, an inducement to a person for that person to consent, or to not withdraw the person's consent, to receiving gambling advertisements.
- (3) Without limiting subsection (1), a licensed betting service provider must not offer or supply, or cause to be offered or supplied, a free bet to the holder of a betting account, unless all payouts from the free bet may be withdrawn from that account at any time.
- (4) A person (other than a non-proprietary association or a licensed betting service provider) does not commit an offence under this section in respect of the provision of offering an inducement or causing an inducement to be offered if—

- (a) the offer was in the form provided (directly or indirectly) or approved by or on behalf of a non-proprietary association or a licensed betting service provider for the purposes of being offered, and
- (b) the person has not been notified by or on behalf of the Minister that the offer may contravene this section.

(5) In this section—

**free bet** has the same meaning as it has in Part 4 of the *Betting Tax Act 2001*.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1000 penalty units.

## Division 3 Betting accounts

### 33JB Deposit limits for betting accounts

- (1) A licensed betting service provider that provides betting accounts must establish a scheme in accordance with this section that provides for the following—
  - (a) before the account is opened, the provider must require the potential betting account holder to indicate the limit on the amount of money that the holder may deposit into the betting account in a specified period and the period for which the particular limit is to apply (a **deposit limit**) or, if the potential holder does not wish to apply a limit, to expressly refuse to apply a deposit limit,
  - (b) a betting account opened with the provider must be subject to the limit so specified by the holder, unless the holder has expressly refused to apply a deposit limit,
  - (c) the provider must not accept an amount from the holder that exceeds the deposit limit,
  - (d) the holder may decrease the deposit limit at any time, with immediate effect,
  - (e) the holder may increase the deposit limit at any time, but an increase does not take effect until 7 days after the increase was requested.
- (2) The licensed betting service provider must ensure that the process for setting or changing a deposit limit is explained in plain language to a betting account holder or potential betting account holder and is prominently displayed—
  - (a) on the licensed betting service provider's website, and
  - (b) if the holder is able to place a bet using an internet application, website or

datacasting service, at the place at which the holder accesses the holder's account or via a single link from that place.

- (3) At the time a person opens a betting account and at least once every 12 months after a betting account is opened, the licensed betting service provider must provide information about the scheme and how it works to the person.
- (4) At least once every 12 months after a betting account is opened, the licensed betting service provider must—
  - (a) if the holder has set a deposit limit under the scheme—ask the holder if the holder wishes to change the deposit limit, and
  - (b) if the holder has refused to apply a deposit limit to the betting account—ask the holder if the holder wishes to set a deposit limit.
- (5) However, the licensed betting service provider must not provide the information under subsection (3) to a holder, or ask a holder about the matters specified in subsection (4), if the holder has not placed a bet using the account within the previous 12 months.
- (6) The regulations may provide for the manner in which information is to be provided, or a request or refusal made, under this section.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1000 penalty units.

### **33JC Closing betting accounts**

- (1) A licensed betting service provider that provides betting accounts must ensure that the process for closing a betting account—
  - (a) is simple and easy for the holder to use, and
  - (b) permits the account to be closed using any means by which the holder may place a bet and by telephone and email.
- (2) A licensed betting service provider that provides betting accounts must ensure that the process for closing a betting account is prominently displayed—
  - (a) on the licensed betting service provider's website, and
  - (b) if the holder is able to place a bet using an internet application, website or datacasting service, at the place at which the holder accesses the holder's account or via a single link from that place.

- (3) If the provider of a betting account that enables the holder to place a bet only by telephone does not have a website, the licensed betting service provider is not required to comply with subsection (2) but must provide details of the process for closing the account if requested to do so by the holder.
- (4) If a licensed betting service provider receives a request from a betting account holder to close the holder's account, the provider must—
  - (a) immediately cease to accept new bets from the holder, and
  - (b) close the account as soon as practicable after all bets made before the request are finalised.
- (5) The regulations may provide for the manner in which information is to be provided, or a request made, under this section.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1000 penalty units.

### **33JD Privacy of betting accounts**

- (1) A licensed betting service provider must not disclose information about a betting account except to—
  - (a) the holder of the betting account, or
  - (b) a person who is lawfully entitled to have access to the information, or
  - (c) a racing controlling body or a sports controlling body for integrity purposes, or
  - (d) a person prescribed by the regulations.
- (2) Subsection (1) does not apply to a licensed betting service provider if the [Privacy Act 1988](#) of the Commonwealth applies to the provider.
- (3) This section does not limit—
  - (a) section 33JE, or
  - (b) the exercise of powers under Part 4B.

### **33JE Records about betting account**

- (1) A licensed betting service provider must keep records showing details of betting accounts held by the provider, including copies of activity statements provided under this Division.
- (2) The records must—

- (a) be written, and
  - (b) be accurate, and
  - (c) as far as practicable, be up to date, and
  - (d) be kept in a form that can be reasonably read and copied by an inspector, and
  - (e) include any information required by the regulations to be included, and
  - (f) be kept by the licensed betting service provider for at least 7 years.
- (3) A licensed betting service provider must not fail to make the records available to an inspector if requested by the inspector to do so.

### **33JF Betting account activity statements**

- (1) A licensed betting service provider must, in accordance with this section, give the holder of a betting account a statement each month of transactions occurring in the betting account during the previous month (the **statement period**).
- (2) The statement must be as simple as practicable and easy for the holder of the betting account to understand.
- (3) The statement must not include gambling advertisements or inducements.
- (4) The statement must be given if there have been transactions made by the holder of the betting account during the statement period.
- (5) If there are no transactions made by the holder of the betting account during the statement period, the licensed betting service provider must not give a statement unless requested to do so by the holder.
- (6) The statement must be given by sending it to an email or postal address nominated by the holder of the betting account.
- (7) The statement must be provided free of charge except for a reasonable cost for postage if the statement is to be sent to a postal address.
- (8) The licensed betting service provider must comply with other requirements in relation to statements that are specified by the Minister by order published in the Gazette, including requirements about—
  - (a) the giving of statements, and
  - (b) the matters to be included in statements, and
  - (c) the form of statements.

### **33JG Offence**

A licensed betting service provider who fails to comply with a requirement imposed on the provider by this Division is guilty of an offence.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1,000 penalty units.

## **Division 4 Responsible gambling training**

### **33JH Definition**

In this Division—

**relevant individual**, for a licensed betting service provider, means an individual who—

- (a) is a director, employee or contractor of the provider, and
- (b) is involved in the provision of betting services by the provider, including being involved in decisions affecting the provision of the betting services.

### **33JI Provision of training**

- (1) A licensed betting service provider must ensure an individual receives responsible gambling training in accordance with this section if the individual is a relevant individual for the provider.
- (2) The responsible gambling training must comprise—
  - (a) initial training within 1 month after the individual becomes a relevant individual for the licensed betting service provider, and
  - (b) refresher training within a year after—
    - (i) the initial training, or
    - (ii) for an individual who has received refresher training—the previous refresher training.
- (3) A licensed betting service provider must ensure a relevant individual for the provider does not interact with a person who holds a betting account with the provider unless the individual has received initial training.
- (4) The Minister may, by order published in the Gazette—
  - (a) approve courses of responsible gambling training, or
  - (b) approve persons to provide approved courses, or

(c) specify minimum requirements for responsible gambling training, including requirements relating to the following—

- (i) the minimum content of courses,
- (ii) the testing of participants,
- (iii) the conduct of audits of courses and tests.

(5) The regulations may make provision about responsible gambling training.

### **33JJ Records about training**

(1) A licensed betting service provider must keep records showing details of the responsible gambling training received by relevant individuals for the provider.

(2) The records must—

- (a) be written, and
- (b) be accurate, and
- (c) as far as practicable, be up to date, and
- (d) be kept in a form that can be reasonably read and copied by an inspector, and
- (e) include any information required by the regulations to be included, and
- (f) be kept by the licensed betting service provider for at least 7 years after the training to which the records relate was conducted.

(3) A licensed betting service provider must not fail to make the records available to the following if requested to do so—

- (a) the employee to whom the records relate,
- (b) an inspector.

(4) The regulations may specify the way in which the records are to be made available under this section.

### **33JK Offence**

A licensed betting service provider who fails to comply with a requirement imposed on the provider by this Division is guilty of an offence.

Maximum penalty—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1,000 penalty units.



## **Part 4B Investigation and enforcement powers**

### **33K Definitions**

In this Part—

**GALA Act** means the *Gaming and Liquor Administration Act 2007*.

**Secretary** has the same meaning as in the *Gaming and Liquor Administration Act 2007*.

### **33L Purposes for which powers under this Part may be exercised**

Powers may be exercised under this Part for the following purposes—

- (a) for determining whether there has been compliance with or a contravention of this Act, and the regulations and instruments made under it,
- (b) for obtaining information or records for purposes connected with the administration of this Act and the regulations and instruments made under it,
- (c) in connection with exercising the functions of an inspector under this Act and the regulations and instruments made under it,
- (d) generally for administering this Act, and the regulations and instruments made under it, and promoting its objects.

### **33M Appointment and identification of inspectors**

- (1) The Secretary may appoint a Public Service employee to be an inspector for the purposes of this Act and the regulations and instruments made under it.
- (2) The Secretary is taken to have been appointed as an inspector.
- (3) The Secretary is to cause each inspector to be issued with a means of identification in the form approved by the Secretary.
- (4) In the course of exercising the functions of an inspector under this Act and the regulations and instruments made under it, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce the inspector's identification for inspection by the person unless to do so would defeat the purpose for which the functions are to be exercised.

### **33N Powers of inspectors**

An inspector has and may exercise the functions of an inspector under Divisions 2, 3, 4 and 6 of Part 4 of the GALA Act (as applied by section 330) for any of the purposes referred to in section 33L.

### **330 Application of GALA Act**

- (1) Sections 14 and 15 of the GALA Act apply to the appointment of an inspector under section 33M in the same way that they apply to the appointment of an inspector under the GALA Act.
- (2) The provisions of Divisions 2, 3, 4 and 6 of Part 4 of the GALA Act and sections 17 (Secrecy) and 37 (Protection from personal liability) apply to and in respect of this Act and the regulations and instruments made under it as if those provisions were part of this Act, but modified so that—
  - (a) references in those provisions to the gaming and liquor legislation were references to this Act and the regulations and instruments made under it, and
  - (b) references in those provisions to “this Act” and “this Part” were references to this Act and this Part, respectively, and
  - (c) references in those provisions to an inspector were references to inspectors appointed under section 33M, and
  - (d) references in sections 28(2) and 30(2) of the GALA Act to “the Authority” were references to the Secretary, and
  - (e) the reference in section 24(1) of the GALA Act to section 18 were a reference to section 33L, and
  - (f) section 35(2) of the GALA Act does not apply to the extent that it prevents a person from being excused from answering a question on the ground that the answer may tend to incriminate the person, and
  - (g) section 35(5)(b) of the GALA Act does not apply to the extent that it makes information obtained as a result of an answer given that might incriminate a person admissible.
- (3) For the avoidance of doubt, a prosecution of a person for an offence against a provision of the GALA Act (as applying under this section) is to be taken as if the offence were an offence under this Act.
- (4) The functions that an inspector has under Part 4 of the GALA Act are, for the purposes of any provision of this Act and the regulations and instruments made under it, taken to be functions under this Act and the regulations and instruments made under it.
- (5) If an inspector has functions in respect of a matter under both the GALA Act (as applying under this section) and under any other provision of this Act or the regulations made under it, the fact that there is a restriction on the exercise of a function under this Act or the regulations does not of itself operate to restrict the exercise by an inspector of any similar or the same function under the GALA Act.

## Part 5 Miscellaneous

### 34 Delegation

- (1) 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.
  - (b) (Repealed)
- (2) The Secretary of the Department of Enterprise, Investment and Trade may delegate the exercise of any function of the Secretary under this Act (other than this power of delegation) to—
  - (a) any person employed in the Public Service, or
  - (b) any person, or any class of persons, authorised for the purposes of this subsection by the regulations.

### 35 Proceedings for offences

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

#### 35AA Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.

**Note—**

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (6) In this section, **authorised officer** means a police officer or an inspector.

### **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, or cause to be published, 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 racing 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.

### **36AA Liability of directors etc for offences by corporation—offences attracting executive liability**

(1) For the purposes of this section, an **executive liability offence** is—

(a) an offence against any of the following provisions of this Act that is committed by a corporation—

(i) section 18C,

(ii) section 19,

(iii) section 33H,

- (iii) section 33HA,
  - (iv) section 33I,
  - (v) section 33J,
  - (vi) section 33JA,
  - (vii) section 33JB,
  - (viii) section 33JC, or
- (b) an offence against the regulations—
- (i) that is prescribed by the regulations as an offence to which this section applies, and
  - (ii) that is committed by a corporation.
- (2) A person commits an offence against this section if—
- (a) a corporation commits an executive liability offence, and
  - (b) the person is—
    - (i) a director of the corporation, or
    - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the executive liability offence, and
  - (c) the person—
    - (i) knows or ought reasonably to know that the executive liability offence (or an offence of the same type) would be or is being committed, and
    - (ii) fails to take all reasonable steps to prevent or stop the commission of that offence.

Maximum penalty—The maximum penalty for the executive liability offence if committed by an individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the executive liability offence.
- (5) This section does not affect the liability of the corporation for the executive liability offence, and applies whether or not the corporation is prosecuted for, or convicted of,

the executive liability offence.

(6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are accessories to the commission of the executive liability offence or are otherwise concerned in, or party to, the commission of the executive liability offence.

(7) In this section—

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

**reasonable steps**, in relation to the commission of an executive liability offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances—

(a) action towards—

(i) assessing the corporation's compliance with the provision creating the executive liability offence, and

(ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision,

(b) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the executive liability offence so far as the provision is relevant to them,

(c) action towards ensuring that—

(i) the equipment and other resources, and

(ii) the structures, work systems and other processes,

relevant to compliance with the provision creating the executive liability offence are appropriate in all the circumstances,

(d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the executive liability offence.

### **36B Liability of directors etc for offences by corporation—accessory to the commission of the offences**

(1) For the purposes of this section, a **corporate offence** is an offence against this Act or the regulations that is capable of being committed by a corporation.

(2) A person commits an offence against this section if—

- (a) a corporation commits a corporate offence, and
- (b) the person is—
  - (i) a director of the corporation, or
  - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the corporate offence, and
- (c) the person—
  - (i) aids, abets, counsels or procures the commission of the corporate offence, or
  - (ii) induces, whether by threats or promises or otherwise, the commission of the corporate offence, or
  - (iii) conspires with others to effect the commission of the corporate offence, or
  - (iv) is in any other way, whether by act or omission, knowingly concerned in, or party to, the commission of the corporate offence.

Maximum penalty—The maximum penalty for the corporate offence if committed by an individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the corporate offence.
- (5) This section does not affect the liability of the corporation for the corporate offence, and applies whether or not the corporation is prosecuted for, or convicted of, the corporate offence.
- (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are concerned in, or party to, the commission of the corporate offence.

### **36BA Evidence as to state of mind of corporation**

- (1) 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 state of mind, is evidence that the corporation had that state of mind.
- (2) In this section, the ***state of mind*** of a person includes—
  - (a) the knowledge, intention, opinion, belief or purpose of the person, and



(b) the person's reasons for the intention, opinion, belief or purpose.

### 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 an individual—

- (i) by delivering it personally to the individual, or
- (ii) by posting it, addressed to the individual at the individual's residential address, business address or address for service of notices, or
- (iii) by leaving it with a person apparently aged 16 years or more at the individual's residential address or business address, or
- (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the individual at the individual's address for service of electronic communications or facsimile transmissions, in accordance with the individual's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions, or

(b) in the case of a corporation—

- (i) by delivering it personally to a person concerned in the corporation's management, or
- (ii) by posting it, addressed to the corporation at the corporation's business address or address for service of notices, or
- (iii) by leaving it with a person apparently aged 16 years or more at the corporation's business address, or
- (iv) by sending it by means of electronic communication or facsimile transmission, addressed to the corporation at the corporation's address for service of electronic communications or facsimile transmissions, in accordance with the corporation's information technology requirements with respect to the receipt of electronic communications or facsimile transmissions.

(2) A reference in this section to a person's address of any particular kind includes a reference to the address of that kind—

(a) as last known to the Secretary, or

(b) as nominated by the person and provided to the Secretary.

(3) In this section, **business address** in relation to a person includes the address of any racecourse of which the person is the licensee.

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

#### **Part 2 Provisions consequent on enactment of [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.

## **Part 9 Provisions consequent on enactment of Racing Administration Amendment (Sports Betting National Operational Model) Act 2014**

### **18 Definition**

In this Part—

**amending Act** means the *Racing Administration Amendment (Sports Betting National Operational Model) Act 2014*.

### **19 Declared betting events**

- (1) This clause applies to a declared betting event that is in force under section 18 immediately before the substitution of that section by the amending Act (the **relevant day**).
- (2) A declared betting event to which this clause applies continues in force and is taken to have been prescribed as a declared betting event by an order under section 18(1) as substituted.
- (3) A type of bet that was approved in relation to a declared betting event to which this clause applies and that was in force under section 20(1)(b) immediately before the relevant day, is taken to be a type of bet prescribed by order as a bet that is permitted to be made on the declared betting event under section 18(2) as substituted.
- (4) The Minister may amend or repeal an order that is taken to have been made under this clause in the same way that the Minister can amend or repeal an order under section 18.

### **19A (Repealed)**

### **20 Rules for declared betting events**

A rule in respect of a declared betting event that was in force under section 23 immediately before that section was renumbered by the amending Act continues in force after that renumbering as a rule under section 18D in respect of the declared betting event.

### **21 Declared betting event authority**

An authorisation under section 19 that was held by a bookmaker immediately before the substitution of that section by the amending Act is taken to be a declared betting event authority held by the bookmaker under section 19 as substituted and is subject to any condition or restriction to which it was subject immediately before that substitution to the extent that any such condition does not conflict with the conditions referred to in section

20(1) as substituted.

## **Part 10 Provisions consequent on enactment of [Liquor and Gaming Legislation Amendment Act 2018](#)**

### **22 Definition**

In this Part—

**amending Act** means the [Liquor and Gaming Legislation Amendment Act 2018](#).

### **23 Inspectors**

A person who, immediately before the amendment of section 11, 21 or 26I by the amending Act, was an authorised officer or inspector within the meaning of that section is taken, on the commencement of the amendment, to have been appointed as an inspector under section 33M as inserted by the amending Act.

## **Part 11 Provisions consequent on enactment of [Gambling Legislation Amendment \(Online and Other Betting\) Act 2019](#)**

### **24 Application of amendments relating to betting accounts**

- (1) Sections 33HA and 33JA, as inserted by the [Gambling Legislation Amendment \(Online and Other Betting\) Act 2019](#), extend to betting account holders who held an account with a licensed betting service provider immediately before the commencement of the section concerned.
- (2) Sections 33JB and 33JC, as inserted by the [Gambling Legislation Amendment \(Online and Other Betting\) Act 2019](#), extend to betting accounts held by persons with a licensed betting service provider immediately before the commencement of the section concerned.

## **Part 12 Provisions consequent on enactment of [Racing and Gambling Legislation Amendment Act 2022](#)**

### **25 Provision of initial responsible gambling training**

- (1) This clause applies to a person who is a relevant individual for a licensed betting service provider on the commencement of section 33Jl.
- (2) Despite section 33Jl(2)(a), the licensed betting service provider must ensure the person receives initial training within 6 months after the commencement of section 33Jl.
- (3) Section 33Jl(3), does not apply to the person until the earlier of—
  - (a) 6 months after the commencement of section 33Jl, or



(b) the person no longer being a relevant individual for the betting service provider.