

# Australian Jockey Club Act 1873 (Private Act)

[1873-ajc]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Notes—

- **Repeal**

The Act was repealed by sec 29 of the [Australian Jockey Club Act 2008 No 52](#) with effect from 1.7.2008.

### Authorisation

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# Australian Jockey Club Act 1873 (Private Act)



New South Wales

An Act to extend the period for which the Trustees of the Randwick Racecourse are enabled to grant Leases thereof and to enable the Members of the "Australian Jockey Club" to sue and be sued in the name of the Chairman for the time being of the Committee of the said Club and for other purposes.

## Preamble

**WHEREAS** by deed-poll or grant from the Crown bearing date the fifteenth day of June in the year of our Lord one thousand eight hundred and sixty-three under the hand of His Excellency Sir John Young then Governor-in-Chief of the Colony of New South Wales and under the seal of the said Colony All that piece or parcel of land in the said Colony containing by admeasurement two hundred and two acres be the same more or less situate in the County of Cumberland Parish of Alexandria at Randwick commencing at a point on the southern side of the road leading from the old Botany Road to the village of Coogee bearing east one degree north and distant forty-five chains and south twenty-two chains and seventeen links from the north-eastern corner of S. Terry's five hundred and seventy acres and bounded thence on the east by a line bearing south-west one degree east twenty-eight chains and twelve links on the south by a line bearing west one degree south forty-two chains and sixty links to the eastern side of the old Botany Road on the west by that road north-westerly to its intersection with the east boundary of S. Terry's grant of five hundred and seventy acres aforesaid and thence by part of that boundary bearing north one degree west forty-one chains and fifty links to the north-eastern corner of that land on the north by part of the south boundary-fence of the Water Reserve bearing east one degree north sixteen chains and fifty links to the above mentioned road leading from the old Botany Road and on the north-east by that road bearing south-easterly to the point of commencement With all the rights and appurtenances thereto belonging was granted unto the Honorable Edward Deas Thomson Companion of the Bath Richard Jones of Sydney in the said Colony Esquire and William Bede Dalley of same place Esquire Upon trust in their discretion to permit and suffer the said land or any part thereof to be used by such persons clubs or associations at such times and upon such terms and conditions as the said Edward Deas Thomson Richard Jones and William Bede Dalley or any other trustees of the said land appointed as thereafter provided should think fit and proper for any of the purposes thereafter described that is to say Firstly As a racecourse upon which horse-races may be run under the direction of the Australian Jockey Club or of any other club or association then existing or which may hereafter be founded for

the purpose of horse-racing Secondly As a training-ground for the purposes of training horses intended to race and also for the erection of training-stables and temporary dwellings for the use of the persons engaged in training race-horses Thirdly As a cricket-ground or place at and upon which the game of cricket may be played Fourthly For the erection of butts or targets for rifle-shooting Fifthly And for any other public amusement or purpose which His Excellency the Governor of our said Colony for the time being with the advice of the Executive Council thereof may from time to time declare to be a public amusement or purpose for which the said lands or any part thereof shall or may be used Provided always and it was thereby declared that it should or might be lawful for the Trustees for the time being of the said lands for any of the purposes aforesaid to make all any or every such rules and regulations for the use of the said land or any part thereof and to vary or alter the same from time to time as they might think fit for any of the purposes aforesaid And also by writing under their hands to grant upon such terms and conditions as to them should seem expedient to the Australian Jockey Club or to any other club or association then formed or which should or might thereafter be formed for the purposes of horse-racing or for the purpose of promoting or engaging in any other public amusement or purpose for which it was intended that the lands should or might be used as aforesaid the exclusive right to use and occupy the said lands or any part or parts thereof as the said Trustees should in their discretion think fit for any number of years not exceeding seven years commencing from the time of the signing in writing by which the right of using the said lands should be granted to any such club or association as aforesaid Provided always and it was thereby declared that when and so often as the said Edward Deas Thomson Richard Jones and William Bede Dalley or any trustee or trustees to be appointed by virtue hereof should die resign cease to reside in the Colony of New South Wales or become incapable of acting in the trusts thereby created it should be lawful for the Governor for the time being of the said Colony with the advice of the Executive Council thereof from time to time by writing under his hand to name and appoint a new trustee or trustees in the place and stead of any trustee or trustees so dying resigning ceasing to reside in the said Colony of New South Wales or becoming incapable of acting in the said trusts and thereupon the said lands should be conveyed and assured by the surviving continuing trustees or trustee or by the heirs of the last surviving trustee their or his heirs or assigns upon the trusts and for the intents and purposes thereinbefore created and declared of and concerning the said land And whereas the said Richard Jones having resigned his said office of trustee Alfred Cheeke of Sydney aforesaid Esquire was duly appointed a trustee in his place and stead And whereas the said trustees have for some years past permitted the Members of the Australian Jockey Club to have the use and enjoyment of the said land for the purpose of horse-racing and the said Australian Jockey Club have expended large sums of money in making forming and improving a course for horses to race on and a tan-gallop for horses to train on and in erecting fences stands and other buildings on the said land in connection with horse-racing And whereas the said Australian Jockey Club are desirous of erecting a new Grand Stand on the said land and of forming a training-gallop inside the course so formed as aforesaid and of erecting other permanent improvements on the said land And whereas in order to enable them to raise money for such improvements they have applied to the said trustees for a lease of the said

land which the said trustees are willing to grant And whereas the term of seven years for which the said trustees have power to grant such lease being insufficient to enable the said Club to obtain the money for such improvements it is desirable that power should be given to the said trustees to grant a longer lease in manner hereinafter mentioned And whereas the Members of the said Club are desirous of obtaining authority to borrow money for the purpose of improving the said lands and of obtaining the power and privileges hereinafter granted:

### 1 Name of Act

This Act may be cited for all purposes as the *Australian Jockey Club Act 1873*.

### 2 Interpretation clause

In this Act:

The term **Club** means the Australian Jockey Club.

The term **Committee** means the Committee for the time being of the Club.

The term **Chairman** means the person who is the Chairman for the time being of the Committee.

The term **Justice** means a Justice of the Peace acting in and for the Colony of New South Wales.

The term **Building** means any house outhouse stand booth stable shed tent fence or other building edifice or erection of any description whatsoever for the time being standing or being upon any land for the time being vested under or by virtue of this Act in the Chairman.

### 3 Power to trustees to grant leases

It shall and may be lawful for the said Honorable Edward Deas Thomson Alfred Cheeke and William Bede Dalley as such trustees or other the trustees for the time being of the said grant of the fifteenth day of June one thousand eight hundred and sixty-three and they are hereby authorized by writing under their hands to grant upon such terms and conditions as to them shall seem expedient to the said Australian Jockey Club or to any other club or association now formed or which may hereafter be formed for the purposes of horse-racing or for the purpose of promoting or engaging in any other public amusement or purpose for which it is intended the said land should or might be used as aforesaid the exclusive right to use and occupy the said lands or any part or parts thereof as the said trustees should in their discretion think fit for any number of years not exceeding twenty-one years commencing from the time of signing the writing by which the said land shall be granted with power also for the said trustees or the trustees for the time being of the said grant from time to time to renew any such lease for any further term not exceeding twenty-one years from the granting thereof and with power also in

any such lease or any renewal thereof to make such stipulations with reference to any buildings to be erected on said land as they may think proper.

### **3A Extension of leasing powers**

Upon the surrender of the lease relating to the said land granted pursuant to section three of this Act and subsisting at the commencement of the *Australian Jockey Club (Amendment) Act 1961*, and notwithstanding the provisions of the said section, it shall and may be lawful for the trustees for the time being and they are hereby authorised by writing under their hands to grant at an annual rental of two dollars upon such terms and conditions as to them shall seem expedient to the said Australian Jockey Club for the purposes mentioned in the said section the exclusive right to use and occupy Randwick Racecourse or any part or parts thereof as such trustees should in their discretion think fit for any number of years not exceeding fifty commencing from the time of signing the writing by which the said Racecourse shall be granted with power also for such trustees from time to time to renew such lease for any further term not exceeding fifty years from the granting thereof.

Such terms and conditions shall, in the case of the lease first granted under this section, include terms and conditions requiring the Australian Jockey Club to effect and carry out to the satisfaction of the Minister upon the said Racecourse within the periods specified in such lease or such extended periods as the Minister may deem fit:

- (a) works and improvements for the better accommodation of members of the public and members of the Australian Jockey Club and generally for the convenience of persons using or resorting to the said Racecourse including provisions for modern totalisator facilities,
- (b) works and improvements for the convenience of persons training racehorses, and
- (c) such amenities and other improvements as the Minister may approve.

Where the lease provides for the payment of damages by the Australian Jockey Club upon the non-fulfilment by the Australian Jockey Club of any terms and conditions of the lease such damages shall be deemed to be liquidated damages and may be recovered as such by the trustees in any court of competent jurisdiction.

In this section **Randwick Racecourse** means the land referred to in section three of this Act and the lands described in the Schedules to the *Centenary Celebration (Amendment) Act 1934* and the *Centenary Celebration (Amendment) Act 1959*.

### **3B Use of Randwick Racecourse for additional purposes**

- (1) The club may, with the consent of the trustees for the time being of Randwick Racecourse and subject to such terms and conditions as they determine, use, or permit the use of, the Racecourse, or such part or parts thereof as the trustees determine, for the purpose of holding any meeting, entertainment or other function,

whether or not members of the public may ordinarily procure admission thereto.

- (2) Any consent and any determination under subsection one of this section may be of general or limited application and may be varied, substituted or revoked from time to time by the trustees for the time being.
- (3) Nothing in subsection one of this section affects the operation of any other Act for the time being applicable to or in respect of any meeting, entertainment or other function referred to in this section.
- (4) The Crown grants issued in respect of Randwick Racecourse shall be deemed to authorize the use of the Racecourse, or any part or parts thereof, in accordance with this section.
- (5) The use of Randwick Racecourse, or any part or parts thereof, in accordance with this section shall be deemed not to constitute a breach of any covenant, condition or stipulation contained in a lease granted (whether before or after the commencement of the [Australian Jockey Club \(Amendment\) Act 1970](#)) under section 3A of this Act.
- (6) This section has effect notwithstanding any other provision of this Act.
- (7) In this section **Randwick Racecourse** has the meaning ascribed thereto by section 3A of this Act.

#### **4 Actions to be in the name of the chairman**

All actions suits and proceedings at law or in equity for any cause matter or thing happening after this Act to be commenced instituted prosecuted or carried on by or on behalf of the said club or wherein the said club is or shall be in any way concerned against any person or persons body or bodies politic or corporate whether a member or members of the club or otherwise and may be lawfully commenced instituted and prosecuted or carried on in the name of the chairman at the time any such action suit or proceedings shall be commenced or instituted as the nominal plaintiff complainant or petitioner for and on behalf of the club and all actions suits and proceedings as aforesaid to be commenced instituted or prosecuted against the club or any of the members thereof as such shall be commenced instituted and prosecuted against the chairman as the nominal defendant for and on behalf of the club or members and in all indictments and informations it shall be lawful to state the property of the club to be the property of such chairman and any offence committed with intent to injure or defraud the club shall and lawfully may in any prosecution for the same be stated or laid to have been committed with intent to injure or defraud the said chairman and any offender or offenders may thereupon be lawfully convicted of any such offence in all other allegations or indictments informations or other proceedings it shall and may be lawful and sufficient to state the name of such chairman and the death resignation or removal or other act of such chairman shall not abate any such action suit or prosecution but the same may be continued where it left off and prosecuted and concluded in the name of any person who



may be or may become chairman.

#### **5 Memorial of the chairman's name to be recorded in the Supreme Court**

A memorial of the names of the chairman and of each of the members of the committee respectively in the form or to the effect set forth in the Schedule to this Act signed by such chairman and by a majority of the committee shall be recorded upon oath in the Supreme Court of the Colony of New South Wales within one calendar month after the passing of this Act and when and so often as any chairman or member of committee shall be newly elected a memorial of the name of such newly elected chairman or member in the same form and to the same effect as the abovementioned memorial signed by such newly elected chairman or member and by a majority of the committee at the time of such election shall in like manner be recorded upon oath in the said Supreme Court within one calendar month next after every such chairman or member shall be elected and for all purposes whatsoever the production of the memorial recorded as by this Act directed or of an office or examined copy thereof shall be received as sufficient and conclusive evidence in all Courts of Justice or before any person having by law or by consent of parties authority to receive evidence of all the matters contained or set forth in such memorial and that the members of committee who signed such memorial formed a majority of the committee at the respective times aforesaid nor shall any proof be required of the authority of the person before whom the oath verifying the said memorial shall appear to have been sworn to administer such oath.

#### **6 No action to be brought until memorial is recorded**

Until such memorial as hereinbefore first mentioned shall be recorded in the manner herein directed no action suit or other proceeding shall be brought by the club or any of the members thereof in the name of the chairman of the committee of the club under the authority of this Act.

#### **7 Effect of judgment against the chairman**

Every judgment and every decree or order which shall be at any time after the passing of this Act obtained against the chairman on behalf of the club shall and may take effect and be enforced and execution thereon be issued against the property and effects of the club.

#### **8 Chairman may hold lands**

It shall be lawful for such chairman and his successors in office from time to time to purchase any lands on behalf of the said club or to accept a lease of and to hold by demise from the said trustees for the purposes of this Act the said lands so granted as aforesaid or from any other persons any other lands it may be thought desirable to lease.

#### **9 Lands and other property to be vested in chairman**

All lands tenements and hereditaments real and personal and all personal chattels and effects which are now vested in or held by any person or persons whomsoever in trust for

or for the benefit of the club or the members thereof shall immediately upon the passing of this Act become and be vested in and be held by the chairman and his successors in such office in trust for the club and in the like manner as if such chairman and his respective successors in such office were in law a corporation sole and as if the personalty were real estate and all lands tenements and hereditaments real and personal and all personal chattels and effects which may hereafter be contracted for or be acquired by or belong to the club or the members thereof collectively may be conveyed assigned and assured to and shall therefrom become vested in the chairman and his successors in such office in trust for the club and in the like manner as if such chairman and his respective successors in such office were in law a corporation sole and as if the personalty were real estate.

#### **10 Lands vested in chairman to be held for racecourse only**

The lands by this Act authorized to be demised to the chairman shall be held by the chairman and his successors in office only for the purpose of being maintained and used for a public racecourse or for one or other of the purposes in the said deed of grant mentioned under and subject to the provisions of this Act and any by-laws to be made under and by virtue hereof.

#### **11 Committee may maintain buildings already erected and erect others**

The committee may maintain any building now standing and being upon the said land so to be vested in the chairman or any part thereof and may also from time to time build or erect upon the said land or any other land for the time being vested in the chairman either in addition to or substitution for the buildings now standing thereon all such other buildings as may in the opinion of the committee be necessary or expedient for or in connection with the use of the said land as a public racecourse.

#### **12 Committee may make by-laws**

The committee or an absolute majority in number of such committee present at any meeting duly summoned for that purpose may from time to time subject to the special provisions of this Act make such by-laws as they may think fit for regulating all matters concerning or connected with any lands authorized by this Act to be leased to the said chairman on behalf of the club or any lands which may hereafter be vested in the chairman of the said committee and the admission thereto and expulsion therefrom of members of the club or any persons respectively and for the general management of the said racecourse and may from time to time by any other by-laws alter or repeal any such by-laws Provided that no such by-laws be repugnant to the laws for the time being in force in New South Wales and every by-law shall be reduced into writing and shall be signed by the chairman.

#### **13 Approval of by-laws**

A by-law made under this Act shall be submitted to the Governor for approval.

**14, 15 (Repealed)**

**16 Governor in Council may repeal by-laws**

The Governor in Council may at any time by order in Council declare that from a time to be named in such order and not less than six months from the date of the publication of such order in the Government Gazette any by-law made under this Act shall be repealed and from and after the time so named in such order such by-law shall unless previously repealed under the provisions herein contained be absolutely repealed and of no effect Provided always that such repeal shall not interfere with or affect any action suit prosecution or other proceeding commenced before the time of such repeal but the same shall be continued as if no such repeal had taken place.

**17 Public notification of by-laws**

A copy of all by-laws made under this Act for the time being in force shall be painted on boards or printed on paper and pasted on boards and hung up and affixed and continued in some conspicuous place at or near the principal entrance to the said racecourse and also on the front or other conspicuous part of the grand stand on the said racecourse so as to give public notice thereof to the parties interested therein or affected thereby and such boards shall from time to time be renewed as often as the by-laws thereon or any part thereof shall be obliterated or destroyed and no penalty imposed by any such by-laws shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

**18 By-laws to be binding on all parties**

Such by-laws when so published and affixed shall be binding upon and be observed by all parties and shall be sufficient to justify all persons acting under the same and for proof of the publication of any such by-laws it shall be sufficient to prove that a printed paper or painted board containing a copy of such by-laws was affixed and continued in manner by this Act directed and in case of its being afterwards displaced or damaged then that such paper or board was replaced as soon as conveniently might be.

**19 Offences against by-laws**

Any person offending against any by-law made under this Act shall forfeit for every such offence any sum not exceeding ten dollars to be imposed by such by-law as a penalty for any such offence and to be recovered by information or complaint before any Justice and if the infraction or non-observance of any of such by-laws be attended with danger or annoyance to the public or hindrance to the committee or any of the officers of the said club or the public in the lawful use of the said racecourse it shall be lawful for the committee or any member officer or servant thereof summarily to interfere to obviate or remove such danger annoyance or hindrance and that without prejudice to any penalty incurred by the infraction of any such by-law.

## **20 Obstructing officers etc of committee or trespassing upon racecourse**

Whosoever shall wilfully obstruct or impede any officer servant or agent of the committee in the execution of his duty upon any land for the time being vested in the chairman or upon or in any building or premises connected therewith or wilfully trespass upon any such land building or premises or remove or wilfully injure any building enclosure post tree or shrub upon any such land shall on conviction thereof before a Justice forfeit and pay for every such offence over and above the amount of the injury done any sum not exceeding twenty dollars.

## **21 Transient offender may be arrested**

Any member officer or servant of the committee and all persons called by him to his assistance may seize and detain any person who shall have committed any offence against the provisions of this Act or of the by-laws made under this Act and whose name and residence shall not be given to such member officer or servant upon his requiring the same to be given and give such offender in charge to a police constable who shall convey him with all convenient dispatch before some Justice without any warrant or other authority than this Act and such Justice shall proceed with all convenient dispatch to the hearing of the complaint against the offender.

## **22 Liability to penalty not to relieve from other liabilities**

Notwithstanding the liability of any person to any penalty under the provisions of this Act or of the by-laws made under this Act he shall not be relieved from any other liability to which he would have been subject if this Act had not been passed.

## **23 Committee may fix tolls and charges**

The committee may from time to time determine and vary at pleasure the scale of tolls and charges to be levied or taken for admission to any land for the time being vested in the chairman or to any building standing or being thereon and may demand recover and receive such tolls and charges from any person coming upon such land or any part thereof or into or upon any such building.

## **24 Chairman may let lands buildings or tolls**

The chairman may demise for any particular race meeting or meetings or for any other amusement or sport any portion of the land for the time being vested in the chairman or any building erected thereon or all or any of the tolls or charges demandable under and by virtue of this Act and the lessee his collectors servants and agents shall have the same powers of demanding recovering and receiving the said tolls and charges as are hereby given to the committee.

## **25 Power to borrow**

It shall be lawful for the said committee in the name of the chairman from time to time as

they shall see fit on behalf of the said club for any purpose connected with the said club to procure advances and to borrow money by way of cash credit bond mortgage debentures or otherwise howsoever and to pay off and discharge such advances in such manner as may be agreed on.

## **26 Minister may authorize inspection of racecourse and buildings**

The Minister may when he thinks fit authorize any proper person to inspect the whole or any part of the land for the time being vested in the chairman and all or any buildings thereon and the person so authorized on producing (if required) to any member officer or servant of the committee requiring the same his authority may at all reasonable times enter upon and examine the said land and the buildings erected and being thereon and may exercise all such powers and authority as may be required for the purpose of such inspection.

## **27 Minister may give notice to repair etc**

If the person so as aforesaid authorized to inspect the said land premises and buildings certify under his hand to the Minister that in his opinion the surface of the said land or any part thereof is imperfectly kept in order for the purpose of a public racecourse or that any building thereon is in want of repair or is unsafe to the public or in any other respect improper or unfit for use and which said certificate shall contain a detailed statement of all such defects and want of repair the Minister may by notice in writing under his seal addressed to the chairman require the committee within a reasonable time after receipt of such notice well and sufficiently to repair and make good all or any of such defects and want of repair.

## **28 Service of notice**

Every such notice with a true copy of such certificate as aforesaid shall be personally served upon the chairman or some member or officer of the committee and a true copy of such notice shall be fixed upon some part of the land or buildings the subject of such notice and every such notice so served as aforesaid and a copy of which shall have been so fixed as aforesaid shall be deemed to have been duly served.

## **29 Committee to repair etc upon notice**

The committee shall within a reasonable time after service of such notice in manner aforesaid well and sufficiently repair and make good all such defects and want of repair mentioned in the said certificate as by the said notice they shall be required to do.

## **30 Club not to be incorporated**

Nothing herein contained shall extend or be deemed taken or construed to extend to incorporate the club or the members thereof or to relieve or to discharge them or any of them from any responsibility duties contracts or obligations whatsoever which they would be subject or liable to either between the club and others or between the individual

members in the club or any of them if this Act had not been passed.

**31 Exclusion from Randwick Racecourse of undesirable persons**

- (1) A person may be refused admission to the lands referred to in section ten of this Act or may be expelled therefrom if he is a person for the time being under disqualification by the committee pursuant to the rules of racing of the club for the time being in force, or if there are reasonable grounds for believing that his presence on the said lands would be undesirable in the interests of the public resorting thereto, or prejudicial to the proper conduct of racing.
- (2) Subsection one of this section shall be construed as supplemental to and not in derogation of or limited by the foregoing provisions of this Act relating to by-laws.

**32 (Repealed)**

**Schedule**

(Section 5)

**Australian Jockey Club**

MEMORIAL of the name of the chairman of the committee of the "Australian Jockey Club" to be recorded in the Supreme Court of the Colony of New South Wales pursuant to an Act of the Parliament of New South Wales passed in the \_\_\_\_\_ year of the reign of Her Majesty Queen Victoria No \_\_\_\_\_.

	A.B.		Chairman.
	C.D.	}	Committee.
	E.F.		
	&c.		
(Signed)	A.B.		Chairman.
	C.D.	}	Members of Committee of said Club and being a majority of such Committee.
	E.F.		
	&c.		

I, G.H., of \_\_\_\_\_, make oath and say that I was present and did see the foregoing memorial signed by the abovenamed chairman and also by the respective members of the committee whose names appear thereto and that the members of the committee signing form a majority of the committee of the "Australian Jockey Club".

Sworn this \_\_\_\_\_ day of \_\_\_\_\_ 187\_\_\_\_\_ before }  
me,—