



New South Wales

Thoroughbred Racing Board Amendment Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Thoroughbred Racing Board Act 1996* to clarify that the NSW Thoroughbred Racing Board has a discretion in deciding whether to conduct proceedings in respect of its inquiries in public or in private,
 - (b) to amend the *Thoroughbred Racing Board Act 1996* and the *Racing Appeals Tribunal Act 1983* to provide a right of direct appeal to the Racing Appeals Tribunal from certain decisions of the Board (relating to disciplinary matters such as disqualification or warning off, revocation or suspension of licence, and imposition of a penalty), and to remove the present right of appeal from such decisions to the Appeal Panel,
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- (c) to amend the *Defamation Act 1974* to clarify that certain defences (including absolute privilege) are available in defamation actions that concern publications in the course of proceedings with respect to inquiries conducted by the Board, and reports published in respect of such inquiries.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Thoroughbred Racing Board Act 1996* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Racing Appeals Tribunal Act 1983* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to the *Defamation Act 1974* set out in Schedule 3.

Schedule 1 Amendment of Thoroughbred Racing Board Act 1996

Schedule 1 [1] amends section 19 of the *Thoroughbred Racing Board Act 1996* to clarify that the Board has a discretion to decide whether to conduct its inquiries in public or in private, or partly in public and partly in private.

Schedule 1 [2] amends section 42 of the Act to remove the right of appeal to the Appeal Panel that currently lies from certain decisions of the Board. This amendment is consequential on **Schedule 2 [1]** to the proposed Act which provides for a right of direct appeal to the Racing Appeal Tribunal from such decisions.

Schedule 1 [3] enables regulations of a savings and transitional nature to be made as a consequence of the amendments made by the proposed Act.

Schedule 1 [4] inserts a savings and transitional provision (relating to pending appeals) as a consequence of the amendments made by the proposed Act.

Schedule 2 Amendment of Racing Appeals Tribunal Act 1983

Schedule 2 [1] amends section 15 of the *Racing Appeals Tribunal Act 1983* to provide for a direct appeal to the Tribunal from decisions of the Board. The *Racing Appeals Tribunal Regulation 1994* currently provides that the Tribunal may hear an appeal only in respect of certain decisions (being decisions that relate to specified disciplinary matters such as disqualification or warning off, revocation or suspension of licence, or imposition of a penalty).

Schedule 2 [2] inserts a formal provision giving effect to proposed Schedule 1.

Schedule 2 [3] inserts Schedule 1 into the Act. Clause 1 of that Schedule enables regulations of a savings or transitional nature to be made as a consequence of the amendments made by the proposed Act. Clause 2 of that Schedule is a savings and transitional provision (relating to pending appeals) that is consequential on the amendments made by the proposed Act.

Schedule 3 Amendment of Defamation Act 1974

Schedule 3 [1] inserts section 17DB into the *Defamation Act 1974* to clarify that a defence of absolute privilege is available to a claim for defamation involving:

- (a) a publication in the course of proceedings in respect of an inquiry the Board conducts, or
- (b) publication by the Board of a report it makes in respect of such an inquiry.

Currently, a publication may occur by reports, articles, letters, notes, pictures, spoken words, or any other thing, to any recipient.

Schedule 3 [2] amends clause 2 of Schedule 2 to the Act to include proceedings at an inquiry conducted by the Board in the definition of *protected report*. The Act provides a defence to a claim for defamation in relation to the fair publication of such a report. The defence extends to the later publication of a copy of the report and an extract or summary of the report.



New South Wales

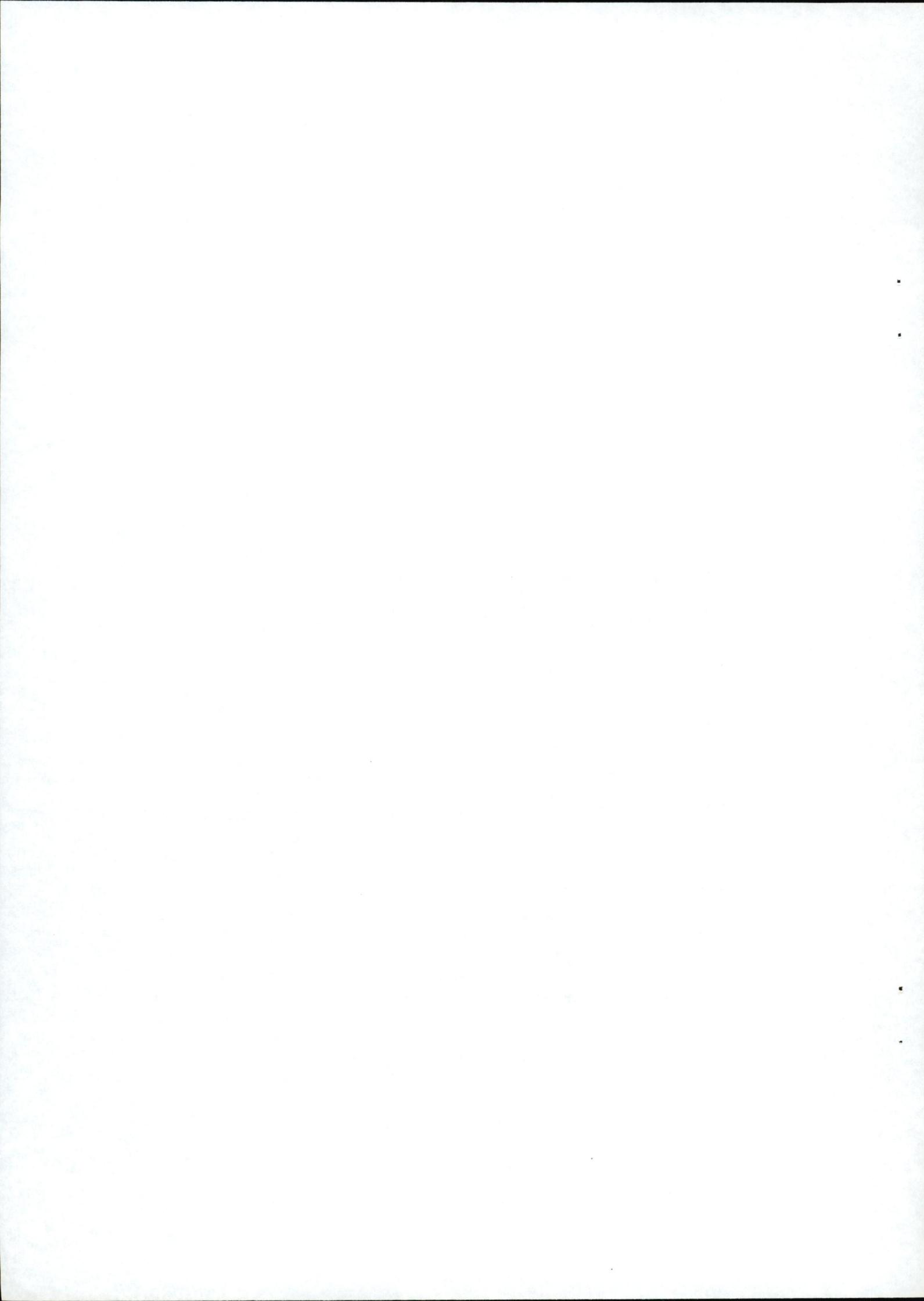
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New South Wales

Thoroughbred Racing Board Amendment Bill 1998

No. , 1998

A Bill for

An Act to amend the *Thoroughbred Racing Board Act 1996* in relation to the conduct of inquiries by the NSW Thoroughbred Racing Board; to amend that Act and the *Racing Appeals Tribunal Act 1983* in relation to appeals from certain decisions of the Board; to amend the *Defamation Act 1974* in relation to defences for a publication with respect to proceedings or reports of inquiries conducted by the Board; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Thoroughbred Racing Board Amendment Act 1998*.

2 Commencement

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

3 Amendment of Thoroughbred Racing Board Act 1996 No 37

The *Thoroughbred Racing Board Act 1996* is amended as set out in Schedule 1.

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4 Amendment of Racing Appeals Tribunal Act 1983 No 199

The *Racing Appeals Tribunal Act 1983* is amended as set out in Schedule 2.

5 Amendment of Defamation Act 1974 No 18

The *Defamation Act 1974* is amended as set out in Schedule 3.

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Schedule 1 Amendment of Thoroughbred Racing Board Act 1996

(Section 3)

[1] Section 19 Procedure

Insert after subsection (1):

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(1A) Proceedings in respect of an inquiry conducted by the Board may be conducted in public or in private, or partly in public and partly in private, as the Board may decide.

[2] Section 42 Right of appeal

Omit section 42 (2) (b).

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[3] Schedule 1 Savings and transitional provisions

Insert at the end of clause 3 (1):

Thoroughbred Racing Board Amendment Act 1998

[4] Schedule 1, Part 6

Insert after clause 22:

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Part 6 Provision consequent on enactment of Thoroughbred Racing Board Amendment Act 1998

23 Pending appeals

An appeal from a decision of the Board that is pending immediately before the commencement of Schedule 1 [2] to the *Thoroughbred Racing Board Amendment Act 1998* is to continue to be heard and determined, and the decision on the appeal given effect to, as if that Act had not been enacted.

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Schedule 2 Amendment of Racing Appeals Tribunal Act 1983

(Section 4)

[1] Section 15 Appeals to Tribunal

Insert at the end of section 15 (b): 5

, or

(c) a decision of the Board,

[2] Section 24

Insert after section 23:

24 Savings and transitional provisions 10

Schedule 1 has effect.

[3] Schedule 1

Insert at the end of the Act:

Schedule 1 Savings and transitional provisions 15
(Section 24)

1 Savings and transitional regulations

- (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the *Thoroughbred Racing Board Amendment Act 1998*.
- (2) A provision of a regulation authorised by this clause may, if the regulations so provide, take effect on the date of assent to that Act or a later date. 20

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- (3) To the extent to which a provision of a regulation authorised by this clause takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:
- (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 5
 - (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. 10

2 Pending appeals

The amendment made by Schedule 2 [1] to the *Thoroughbred Racing Board Amendment Act 1998* applies to decisions that the Board makes before or after the commencement of that amendment, other than those in respect of which an appeal is pending immediately before the commencement. 15

Schedule 3 Amendment of Defamation Act 1974

(Section 5)

[1] Section 17DB

Insert after section 17DA:

17DB Matters arising under the Thoroughbred Racing Board Act 1996 5

There is a defence of absolute privilege:

- (a) for a publication in the course of proceedings in respect of an inquiry conducted by the NSW Thoroughbred Racing Board, and 10
- (b) for the publication by the Board of a report it makes in respect of such an inquiry.

[2] Schedule 2 Proceedings of public concern and official and public documents and records

Insert after clause 2 (13): 15

- (13A) without limiting the operation of any other subclause, proceedings at an inquiry conducted by the NSW Thoroughbred Racing Board under the *Thoroughbred Racing Board Act 1996*,