



New South Wales

# Thoroughbred Racing Board Further Amendment Bill 1999

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Thoroughbred Racing Board Act 1996* as follows:

- (a) to reconstitute the NSW Thoroughbred Racing Board,
- (b) to provide for membership on the Board of a Chairperson who is to be selected by nominated members of the Board from candidates put forward by recruitment agencies,
- (c) to allow the Board to appoint, as the need arises, additional members of the Board with relevant expertise,
- (d) to provide for the remuneration of members of the Board,
- (e) to make miscellaneous minor and consequential amendments.

## 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.

## Schedule 1 Amendments

**Schedule 1 [1]** inserts definitions of *additional member*, *Chairperson*, *eligible industry body*, *nominated members* and *voting members* into the Act.

**Schedule 1 [2]** repeals and replaces section 6 of the Act. The new section provides for the reconstitution of the NSW Thoroughbred Racing Board (the Board). The Board is to consist of 4 members nominated by the Australian Jockey Club, the Sydney Turf Club, the Provincial Association of New South Wales and the Country Racing Council Limited, 2 members nominated by other eligible industry bodies (to be determined by the Board with the approval of the Minister) each of whom is to represent the interests of certain participants in the thoroughbred horse racing industry, a Chairperson (to be selected by the nominated members from candidates put forward by at least 2 recruitment agencies), the Chief Executive, and up to 2 additional members (to be appointed by the Board). All members other than the Chief Executive have the right to vote at Board meetings.

**Schedule 1 [3]** amends section 7 of the Act, so that certain eligibility criteria applying to the current voting members of the Board will apply to all proposed voting members of the Board.

**Schedule 1 [4]** amends section 7 of the Act, to impose additional eligibility criteria in relation to the offices of additional member and Chairperson of the Board. The proposed amendment also provides for the maximum number of consecutive terms or years for which voting members may hold office.

**Schedule 1 [5]** makes a consequential amendment.

**Schedule 1 [6]** and **[15]** make amendments consequential on the proposed change in the status of the office of Chairperson. (Under the amendments proposed to be made by Schedule 1 [2], the Chairperson is to be an independent member of the

Board rather than one of the nominated members elected by the Board to be Chairperson, as is presently the case).

**Schedule 1 [7]** repeals and replaces section 9 of the Act. The new section provides that the term of office for each nominated member and the Chairperson of the Board is to be 4 years. The term of office for each additional member is to be determined by the Board but is not to exceed 4 years.

**Schedule 1 [8]** repeals and replaces section 10 of the Act. The new section provides that each voting member of the Board is entitled to be paid remuneration consisting of a base amount (determined by the Statutory and Other Offices Remuneration Tribunal) adjusted annually in line with the annual percentage increase (if any) in the Consumer Price Index. Travelling and subsistence allowances are also available to voting members.

**Schedule 1 [9], [11] and [19]** make amendments to the effect that provisions that apply to the current voting members of the Board relating to certain duties, vacation of office, and transaction of business outside meetings or by telephone, are to apply to all proposed voting members of the Board.

**Schedule 1 [10]** amends section 12 of the Act, so that protection against personal liability currently provided for in the Act extends to all members of the Board.

**Schedule 1 [12]** makes a consequential amendment.

**Schedule 1 [13]** amends section 15 of the Act, to enable the Governor, on the recommendation of the Board, to remove the Chairperson from office on the same grounds on which the Governor may remove a nominated member.

**Schedule 1 [14]** also amends section 15 of the Act, to provide that the Board may remove an additional member of the Board from office at any time.

**Schedule 1 [16]** amends section 17 of the Act, to provide for the procedure that is to apply if the office of Chairperson becomes vacant.

**Schedule 1 [17]** makes a consequential amendment relating to the quorum for meetings of the Board.

**Schedule 1 [18]** provides that a failure to nominate a person to one of the categories of nominated members of the Board does not affect the membership of persons who are properly nominated in accordance with proposed section 6 (as inserted by Schedule 1 [2]), and that if an eligible industry body fails to participate in the nomination of a member referred to in proposed section 6 (1) (e) or (f), the nomination by the other eligible industry bodies or body, as the case may be, is taken to be effective for the purposes of the relevant provision.

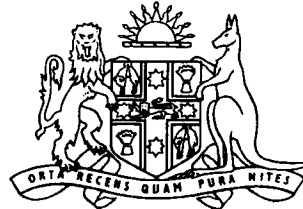
**Schedule 1 [20] and [21]** make consequential amendments.

**Schedule 1 [22]** amends Schedule 1 to the Act to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

**Schedule 1 [23]** inserts a new Part 7 into Schedule 1 which contains provisions of a savings and transitional nature consequent on the enactment of the proposed Act. In particular:

- (a) clause 25 provides that the new Board is a continuation of the old Board, and
- (b) clause 26 provides for arrangements regarding the constitution of the first membership of the new Board (These include that the Minister is to determine the criteria for nominating the first members of the Board referred to in proposed section 6 (1) (e) and (f), and the bodies that may nominate those persons, that the nominations of the first nominated members of the Board to hold office are to be made to the Minister, and that the first nominated members of the new Board are to hold a meeting to select the Chairperson as soon as practicable after the commencement of the proposed provisions relating to the reconstitution of the Board), and
- (c) clause 27 provides that the terms of office of the first members of the new Board (other than the Chairperson and any additional members) are taken to begin on the commencement of the proposed provisions relating to the reconstitution of the Board and that half of the first nominated members of the new Board are to be nominated to have a term of office of 2 years, and
- (d) clause 28 provides that members of the old Board (other than the Chief Executive) cease to hold that office on the commencement of the proposed provisions relating to the reconstitution of the Board.

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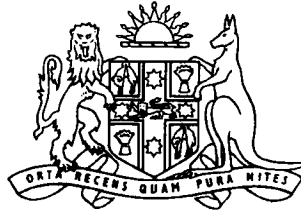
New South Wales

# Thoroughbred Racing Board Further Amendment Bill 1999

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New South Wales

# Thoroughbred Racing Board Further Amendment Bill 1999

No. , 1999

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## A Bill for

An Act to amend the *Thoroughbred Racing Board Act 1996* in relation to the constitution of the NSW Thoroughbred Racing Board and the remuneration of members of that Board; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Thoroughbred Racing Board Further Amendment Act 1999</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Thoroughbred Racing Board Act 1996 No 37</b>	8
The <i>Thoroughbred Racing Board Act 1996</i> is amended as set out in Schedule 1.	9 10

<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 3 Definitions</b>	3
	Insert in alphabetical order in section 3 (1):	4
	<i>additional member</i> means a member of the Board who is appointed to membership under section 6 (1) (i).	5 6
	<i>Chairperson</i> means the Chairperson of the Board.	7
	<i>eligible industry body</i> means any industry body for the time being eligible to nominate a member of the Board referred to in section 6 (1) (e) or (f).	8 9 10
	<i>nominated members</i> means the members of the Board who are nominated to membership under section 6 (1) (a)–(f).	11 12
	<i>voting members</i> means the nominated members, the Chairperson, and any additional members of the Board.	13 14
<b>[2]</b>	<b>Section 6</b>	15
	Omit the section. Insert instead:	16
	<b>6 Membership</b>	17
	(1) The Board consists of the following members:	18
	(a) one person nominated by the AJC,	19
	(b) one person nominated by the Sydney Turf Club,	20
	(c) one person nominated by the Provincial Association of New South Wales,	21 22
	(d) one person nominated by the Board of Directors of the Country Racing Council Limited,	23 24
	(e) one person jointly nominated by eligible industry bodies, who is to represent the interests of owners and breeders of thoroughbred racehorses,	25 26 27
	(f) one person jointly nominated by eligible industry bodies, who is to represent the interests of licensed trainers, licensed jockeys and apprentice jockeys,	28 29 30



licensed bookmakers and bookmakers' clerks, and stablehands and race club employees,	1 2
(g) one person selected by the nominated members of the Board, who is to be Chairperson,	3 4
(h) the Chief Executive,	5
(i) any person who is appointed for the time being by the Board as an additional member in accordance with subsection (4).	6 7 8
(2) The nominated members of the Board are to select, by majority vote, the Chairperson from among candidates identified by recruitment agencies as having suitable expertise to hold that office. The Board must commission at least 2 recruitment agencies to identify candidates from whom the selection is to be made.	9 10 11 12 13 14
(3) The Board, with the approval of the Minister, is to determine from time to time the industry bodies that are eligible to nominate the member referred to in subsection (1) (e), and those that are eligible to nominate the member referred to in subsection (1) (f), and the criteria on which those members are to be nominated.	15 16 17 18 19 20
(4) The Board may from time to time appoint as an additional member of the Board a person who the Board considers has expertise relevant to the functions exercisable by the Board. There must not be at any time more than 2 additional members of the Board.	21 22 23 24 25
(5) The Chief Executive does not have a vote at meetings of the Board.	26 27
(6) The nomination of a member for the purposes of this section is to be made in writing to the Board and is to take effect on the day specified in the nomination.	28 29 30
<b>[3] Section 7 Certain persons not eligible for membership</b>	31
Omit "nominated member" from section 7 (1).	32
Insert instead "voting member".	33

<b>[4] Section 7 (2)–(4)</b>	1
Omit section 7 (2) and (3). Insert instead:	2
(2) A person is also not eligible:	3
(a) to be selected as the Chairperson if the person is a member of a committee of any race club or racing association, or of any eligible industry body, or	4 5 6
(b) to be appointed as an additional member of the Board if the person is a member of any race club or racing association, or of any eligible industry body.	7 8 9
(3) A person who is a member of a racing club or racing association, or of any eligible industry body, is not to hold office as the Chairperson unless the person’s membership of the club, association or body is suspended for the duration of his or her term of office.	10 11 12 13 14
(4) A person is not eligible:	15
(a) to be a nominated member of the Board for more than 2 consecutive terms of office, or	16 17
(b) to be the Chairperson for more than 2 consecutive terms of office, or	18 19
(c) to be an additional member of the Board for more than 8 consecutive years,	20 21
but there is no limit on the number of non-consecutive terms for which a person can hold any such office. A term of office is counted for the purposes of this subsection even if the member did not serve out the full period of that term of office.	22 23 24 25
<b>[5] Section 8 Deputies of members</b>	26
Omit “or, in the case of a deputy of the member nominated by RIPAC, is not eligible to be a member nominated by RIPAC” from section 8 (1A).	27 28
<b>[6] Section 8 (2)</b>	29
Omit “Chairperson or” wherever occurring.	30

<b>[7] Section 9</b>	1
Omit the section. Insert instead:	2
<b>9 Term of office of members</b>	3
(1) The term of office of a voting member of the Board is as follows, unless the member sooner ceases to hold the office:	4
(a) a nominated member and the Chairperson of the Board each hold office for a period of 4 years,	5
(b) an additional member of the Board holds office for such period, not exceeding 4 years, as the Board determines.	6
(2) The term of office of a voting member of the Board begins:	7
(a) in the case of a nominated member, on the date on which the relevant nomination takes effect, and	8
(b) in any other case, on a date determined by resolution of the Board.	9
<b>[8] Section 10</b>	10
Omit the section. Insert instead:	11
<b>10 Remuneration</b>	12
(1) A voting member of the Board is entitled to be paid:	13
(a) remuneration consisting of a base amount adjusted annually in accordance with the annual percentage increase (if any) in the Consumer Price Index, and	14
(b) allowances to reimburse the member for expenses that he or she may incur (for travel or accommodation, for example).	15
(2) In this section:	16
<i>base amount</i> means an amount determined for the purposes of this section by the Statutory and Other Offices Remuneration Tribunal (which determination, whenever made, is taken to be effective on the commencement of this subsection).	17
<i>Consumer Price Index</i> means the number appearing in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.	18
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<b>[9] Section 11</b>	1
Omit the section. Insert instead:	2
<b>11 Duty of members to act in interests of public and industry</b>	3
It is the duty of each voting member of the Board to act in the public interest and in the interests of the horse racing industry as a whole. (For example, in the case of a nominated member, this duty requires the member to put the interests to which the duty relates before the interests of the body that nominated the member.)	4 5 6 7 8 9
<b>[10] Section 12 Personal liability</b>	10
Omit “nominated” wherever occurring.	11
<b>[11] Section 15 Vacation of office</b>	12
Omit “nominated member” from section 15 (1). Insert instead “voting member”.	13 14
<b>[12] Section 15 (1) (b)</b>	15
Insert “re-selected or reappointed, as the case may be,” after “re-nominated,”.	16 17
<b>[13] Section 15 (2)</b>	18
Insert “or the Chairperson” after “nominated member”.	19
<b>[14] Section 15 (4)</b>	20
Insert after section 15 (3):	21
(4) The Board may remove an additional member of the Board from office at any time.	22 23

<b>[15] Section 16</b>	1
Omit the section. Insert instead:	2
<b>16 Deputy Chairperson of Board</b>	3
(1) The nominated members of the Board may elect a Deputy Chairperson from among the nominated members. The Board may remove a person from office as Deputy Chairperson of the Board at any time.	4 5 6 7
(2) A member elected as Deputy Chairperson holds office as such for 2 years unless the member ceases to hold the office sooner. A member is eligible to be re-elected as Deputy Chairperson but is not eligible to serve more than 3 consecutive terms as Deputy Chairperson.	8 9 10 11 12
(3) A person ceases to hold office as Deputy Chairperson if he or she:	13 14
(a) resigns the office by instrument in writing addressed to the Board, or	15 16
(b) is removed from that office by the Board, or	17
(c) ceases to hold office as a member of the Board.	18
(4) The Deputy Chairperson does not cease to be a member of the Board merely because he or she ceases to be Deputy Chairperson.	19 20 21
<b>[16] Section 17 Member vacancies to be filled</b>	22
Omit section 17 (2). Insert instead:	23
(2) When the office of the Chairperson becomes vacant, a person is to be selected to fill the vacancy in accordance with section 6 (2).	24 25 26
(3) A person nominated or selected to fill a casual vacancy under this section is to hold office for the balance of the term of office of the person's predecessor or until the person sooner vacates the office. Such a person is eligible for re-nomination or re-selection, as the case may be, if otherwise qualified.	27 28 29 30 31

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<b>[17] Section 19 Procedure</b>	1
Omit section 19 (2). Insert instead:	2
(2) The quorum for a meeting of the Board is a majority of the voting members of the Board as constituted for the time being.	3 4
<b>[18] Section 19 (5) and (6)</b>	5
Insert after section 19 (4):	6
(5) A failure to nominate a person to a category of nomination specified in section 6 (1) (a)–(f) does not affect the membership of persons who are nominated in accordance with that section.	7 8 9
(6) If an eligible industry body fails to participate in the nomination of a member referred to in section 6 (1) (e) or (f), the nomination by the other eligible industry bodies or body, as the case may be, is taken to be effective for the purposes of the relevant provision.	10 11 12 13 14
<b>[19] Section 20 Transaction of business outside meetings or by telephone</b>	15
Omit “nominated members” from section 20 (1).	16
Insert instead “voting members”.	17
<b>[20] Section 35 Functions of RIPAC</b>	18
Omit section 35 (d).	19
<b>[21] Section 36 Procedure for nomination of Board member</b>	20
Omit the section.	21
<b>[22] Schedule 1 Savings and transitional provisions</b>	22
Insert at the end of clause 3 (1):	23
<i>Thoroughbred Racing Board Further Amendment Act 1999</i>	24

<b>[23] Schedule 1 Part 7</b>	1
Insert after Part 6:	2
<b>Part 7 Provisions consequent on enactment of Thoroughbred Racing Board Further Amendment Act 1999</b>	3 4 5
<b>24 Definitions</b>	6
In this Part:	7
<i>amending Act</i> means the <i>Thoroughbred Racing Board Further Amendment Act 1999</i> .	8 9
<i>new Board</i> means the Board as constituted by section 6, as substituted by the amending Act.	10 11
<i>old Board</i> means the Board as constituted immediately before the commencement of Schedule 1 [2] to the amending Act.	12 13
<b>25 Continuation of Board</b>	14
The new Board is a continuation of, and the same legal entity as, the old Board.	15 16
<b>26 Arrangements regarding first members of new Board</b>	17
(1) The Minister is:	18
(a) to determine, by order published in the Gazette, the industry bodies that may nominate the persons who are to be the first members of the new Board referred to in section 6 (1) (e), and those that may nominate the persons referred to in section 6 (1) (f), and the criteria on which those members are to be nominated, and	19 20 21 22 23 24
(b) to call for nominations for the first nominated members of the new Board.	25 26
(2) The nominations are to be in writing addressed to the Minister.	27

(3)	As soon as practicable after the commencement of Schedule 1 [2] to the amending Act, the nominated members of the Board:	1 2
(a)	are to commission at least 2 recruitment agencies to identify candidates with suitable expertise to hold the office of Chairperson, and	3 4 5
(b)	are to hold a meeting for the purpose of selecting, by majority vote, the first Chairperson of the new Board from those candidates.	6 7 8
(4)	Until the first Chairperson of the new Board takes office, the nominated members of the Board have and may exercise the functions of the Board and are taken to be the Board.	9 10 11
(5)	The Minister may give directions generally for facilitating the constitution of the first membership of the new Board.	12 13
<b>27</b>	<b>Term of office of first members of new Board</b>	<b>14</b>
(1)	The terms of office of the first members (other than the Chairperson and any additional members) of the new Board are taken to begin on the day that Schedule 1 [2] to the amending Act commences.	15 16 17 18
(2)	Half of the first nominated members of the new Board are to be nominated to have a term of office of 2 years (instead of the 4 year term provided for by section 9).	19 20 21
(3)	The nominators referred to in section 6 (1) (a)–(f) are to draw lots to determine which of the members that they nominate to the first membership of the new Board are to be nominated to have a 2 year term of office.	22 23 24 25
<b>28</b>	<b>Members of old Board</b>	<b>26</b>
(1)	On the commencement of Schedule 1 [2] to the amending Act, a person (other than the Chief Executive) who held office as a member of the old Board:	27 28 29
(a)	ceases to hold that office, and	30
(b)	is eligible (if otherwise qualified) to hold office as a member of the new Board.	31 32



Thoroughbred Racing Board Further Amendment Bill 1999

Schedule 1 Amendments

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| (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.  | 1<br>2<br>3      |
| (3) If a nominated member of the old Board becomes a nominated member of the new Board, any term of office served as member of the old Board is not to be counted for the purposes of section 7 (4). | 4<br>5<br>6<br>7 |