



New South Wales

# Greyhound Racing Authority 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 *Greyhound Racing Authority Act 1985* for the following purposes:
    - (i) to reconstitute the Greyhound Racing Authority as a statutory corporation,
    - (ii) to constitute a Board of the Authority to exercise its commercial and other non-regulatory functions and to establish a Regulatory Committee of the Authority to exercise its regulatory functions,
    - (iii) to establish a Greyhound Racing Appeals Tribunal, and to provide for a right of appeal to the Tribunal from certain decisions of the Authority, stewards and committees of greyhound racing clubs,
    - (iv) to allow the Authority in conducting certain inquiries to examine witnesses on oath,
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- (v) to clarify that the Authority has a discretion in deciding whether to conduct proceedings in respect of its inquiries in public or in private,
- (b) to amend the *Defamation Act 1974* to clarify that certain defences (including absolute privilege) are available in defamation actions that concern:
  - (i) publications in the course of proceedings with respect to appeals under the *Greyhound Racing Authority Act 1985* and certain inquiries conducted by the Authority, and
  - (ii) reports published in respect of such appeals and 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 *Greyhound Racing Authority Act 1985* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Defamation Act 1974* set out in Schedule 2.

## **Schedule 1     Amendment of Greyhound Racing Authority Act 1985**

**Schedule 1 [1]** inserts certain definitions into the *Greyhound Racing Authority Act 1985*.

**Schedule 1 [2]–[4]** are consequential amendments concerning definitions.

**Schedule 1 [5]** inserts a new Part 2 (proposed sections 5–8F) dealing with the constitution and organisation of the Authority.

Proposed section 5 provides for the re-constitution of the Greyhound Racing Authority (NSW) as a statutory corporation.

Proposed section 6 provides for the constitution of the Board of the Authority. The Board is to consist of 7 directors to be appointed by the Governor from nominations made by greyhound racing clubs, participants in the greyhound racing industry and the Minister.

Proposed section 7 provides that the Board is responsible for exercising all non-regulatory functions of the Authority. These include the commercial functions of the Authority conferred by the Act or any other law (for example, the Authority's functions conferred by proposed sections 9A and 17B of the Act, and clauses 14 and 15 of Schedule 2 to the *Totalizator Act 1997*).

Proposed section 8 defines the *regulatory functions* of the Authority for the purposes of the Act, as follows:

- (a) functions relating to the control and regulation of greyhound racing as specified in section 9 (including the holding of inquiries in relation to those functions, and associated decision-making and disciplinary functions),
- (b) the function of making rules under the Act,
- (c) the functions of hearing and deciding appeals to the Authority and holding special inquiries under the Act,
- (d) the functions under sections 14 (reports and recommendations), 15 (production of club records) and 19 (delegation) to the extent they are exercised in relation to the regulatory functions of the Authority,
- (e) such functions as the Board may allocate to the Regulatory Committee or as are determined by the regulations,
- (f) such functions as the Minister determines are regulatory functions. (Proposed section 8 allows the Minister to conclusively determine the nature of a function if there is a dispute on the matter.)

Proposed section 8A establishes a Regulatory Committee, to consist of the 3 directors of the Board nominated by the Minister.

Proposed section 8B provides that the Regulatory Committee is responsible for exercising the regulatory functions of the Authority. In so doing, the Committee is subject to the control and direction of the Minister except in relation to the contents of a report or recommendation made by it to the Minister and its decisions on appeal or other disciplinary proceedings.

Proposed section 8C provides for the appointment of a chairperson and deputy chairperson of the Authority (who hold those positions on the Board and Regulatory Committee).

Proposed section 8D is a formal provision giving effect to Schedules 1 and 2 to the Act (which contain administrative provisions relating to directors and procedural provisions relating to the Board and Regulatory Committee).

Proposed section 8E provides for the employment of a chief executive officer by the Authority in consultation with the Minister.

Proposed section 8F provides for the employment of staff by the Authority.

The effect of the amendments made by **Schedule 1 [6]** and **[8]** is that the function of registering or refusing to register a greyhound racing club or trial track is a non-regulatory function to be exercised by the Board, while the function of registering or refusing to register a greyhound or an owner, trainer, bookmaker or other person associated with greyhound racing, is a regulatory function to be exercised by the Regulatory Committee.

The function of cancelling registration in relation to all of these subjects is a regulatory function to be exercised by the Regulatory Committee.

**Schedule 1 [7], [9] and [10]** are consequential amendments.

The effect of the amendment made by **Schedule 1 [11]** is that if rules are required to be made in relation to the non-regulatory functions of:

- (a) the registration of greyhound racing clubs and trial tracks, and
- (b) the charging for services of stewards appointed by the Authority and the determination of fees and charges for registration and for the transaction of other business with the Authority,

that rule-making is a regulatory function to be exercised by the Regulatory Committee.

**Schedule 1 [12]** removes the requirement that rules must be approved by the Governor.

**Schedule 1 [13] and [14]** are consequential amendments.

**Schedule 1 [15]** substitutes Part 4 (proposed sections 16–17B) dealing with matters relating to the Authority's finances.

Proposed section 16 describes the financial year of the Authority as the year commencing on 1 July.

Proposed section 17 provides that the Authority is liable for all expenses incurred by the Authority, and by the Tribunal in the exercise of its functions under the Act.

Proposed section 17A provides that the Authority may establish such accounts as it thinks fit.

The effect of proposed section 17B is that the charging of greyhound racing clubs for the services of stewards appointed by the Authority, and the

determination of fees and charges for registration and for the transaction of other business with the Authority, are non-regulatory functions to be exercised by the Board.

**Schedule 1 [16]** inserts a new Part 4A (proposed section 18–18K) dealing with disciplinary inquiries and appeals.

Proposed section 18 defines certain words and expressions for the purposes of the Part. An *appeal* means an appeal under Part 4A, and a *disciplinary inquiry* means a special inquiry (as provided for in the Act) following an appeal, or any other inquiry by the Authority for the purposes of taking disciplinary action.

Proposed section 18A provides a right of appeal to the Authority or the Tribunal from decisions of stewards or the committee of a greyhound racing club, or of a steward appointed by the Authority, as determined by the regulations. There is also a right of appeal to the Tribunal from decisions of the Authority, as determined by the regulations.

Proposed section 18B provides for matters of procedure concerning disciplinary inquiries and appeals. These include the power of the Authority to decide whether to conduct its disciplinary inquiries in public or in private, or partly in public and partly in private, and the power to examine witnesses on oath in conducting such inquiries.

Proposed section 18C provides that the Authority may conduct a special inquiry into a matter decided by the Tribunal on appeal if the Authority receives new information that may have resulted in a substantially different decision had it been given in evidence at the hearing of the appeal. After holding the special inquiry, the Authority may decide to take no further action or it may decide the matter differently from the Tribunal. If the latter, the Authority's decision replaces the Tribunal's decision and is not appealable.

Proposed section 18D contains a regulation-making power in relation to appeals and special inquiries.

Proposed section 18E defines certain words and expressions for the purposes of the provisions relating to the establishment of the Greyhound Racing Appeals Tribunal.

Proposed section 18F provides for the establishment of the Tribunal.

Proposed sections 18G–18J deal with the appointment of a qualified person as the Tribunal and the appointment of assessors to assist the Tribunal. A *qualified person* is a judge of any court in NSW, a retired judge of any court, or a person qualified to be appointed as a Judge of the District Court.

Proposed section 18K is a formal provision giving effect to Schedule 2A (which contains administrative provisions relating to the Tribunal).

**Schedule 1 [17]** substitutes section 19 which deals with the delegation of the Authority's functions. Under proposed section 19 the only regulatory functions of the Authority that are delegable are those concerning the registering of, or refusal to register, greyhounds, owners, trainers, bookmakers or other persons associated with greyhound racing. All other functions of the Authority are delegable except the power of delegation conferred by the section.

The item also inserts section 19A which protects a director, the chief executive officer, a steward and other persons acting under the direction of the Authority, from personal liability for acts done in good faith for the purpose of executing the Act or any other Act or the rules.

**Schedule 1 [18]** removes an obsolete provision.

**Schedule 1 [19]** specifies the procedure for authenticating certain documents.

**Schedule 1 [20]** is a consequential amendment. The item also inserts proposed section 23A which provides that the exercise of a function of the Authority by the Board or the Committee cannot be challenged on the ground that it should have been exercised by the other body.

**Schedule 1 [21]–[27]** are consequential amendments.

**Schedule 1 [28]** substitutes Schedule 2 which provides for various procedural matters relating to the Board and the Regulatory Committee.

**Schedule 1 [29]** inserts a new Schedule 2A which provides for various administrative matters relating to the Tribunal.

**Schedule 1 [30]** and **[31]** are consequential amendments.

**Schedule 1 [32]** inserts a new Part 2 into Schedule 3, containing provisions of a savings or transitional nature consequent on the enactment of the proposed amending Act. In particular:

- (a) clause 9 provides that the new Authority is a continuation of the old Authority, and
- (b) clause 10 provides that members of the old Authority cease to hold that office on the commencement of the proposed provisions relating to the reconstitution of the Authority, and

- (c) clause 11 provides that the existing chief executive is to continue in office as chief executive officer for the balance of his or her appointment, and
- (d) clause 12 provides that appeals that are lodged and not yet heard, or that are partly or fully heard but not yet decided, on the commencement of the proposed provisions relating to appeals, are to be heard or reheard (as the case may be) and determined in accordance with the Act as amended by the proposed amending Act, and
- (e) clause 13 provides for transitional arrangements in relation to fees and charges for registration or for the transaction of other business with the Authority.

## **Schedule 2      Amendment of Defamation Act 1974**

**Schedule 2 [1]** inserts section 17DC into the Act to clarify that a defence of absolute privilege is available to a claim for defamation involving:

- (a) a publication in the course of an appeal under the *Greyhound Racing Authority Act 1985* or in the course of proceedings in respect of an inquiry that the Authority conducts in exercise of its regulatory functions, or
- (b) a publication by the Authority or the Greyhound Racing Appeals Tribunal in an official report of such appeal or by the Authority in a report it makes in respect of such an inquiry.

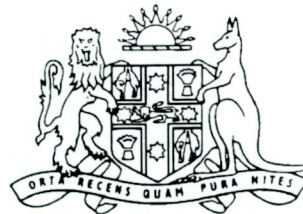
Currently, a publication may occur by reports, articles, letters, notes, pictures, spoken words, or any other thing, to any recipient.

**Schedule 2 [2]** amends clause 2 of Schedule 2 to the Act to include proceedings at an inquiry conducted by the Authority in the exercise of its regulatory functions, and proceedings on an appeal to the Authority or the Tribunal, 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.





First print



New South Wales

# Greyhound Racing Authority Amendment Bill 1998

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New South Wales

## Greyhound Racing Authority Amendment Bill 1998

No. , 1998

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### **A Bill for**

An Act to amend the *Greyhound Racing Authority Act 1985* to reconstitute the Greyhound Racing Authority (NSW), to provide for the management of the Authority and to constitute the Greyhound Racing Appeals Tribunal; to amend the *Defamation Act 1974* in relation to defences for a publication with respect to proceedings or reports of certain inquiries and appeals conducted by the Authority and the Tribunal; and for related purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Greyhound Racing Authority 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 Greyhound Racing Authority Act 1985 No 119**

The *Greyhound Racing Authority Act 1985* is amended as set out in Schedule 1.

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**4 Amendment of Defamation Act 1974 No 18**

The *Defamation Act 1974* is amended as set out in Schedule 2.

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## Schedule 1 Amendment of Greyhound Racing Authority Act 1985

(Section 3)

### [1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

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*Board* means the Board of the Authority as established by section 6.

*chairperson* means the chairperson of the Authority appointed under section 8C.

*chief executive officer* means the chief executive officer of the Authority employed by the Authority under section 8E.

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*deputy chairperson* means the deputy chairperson of the Authority appointed under section 8C.

*director* means a director of the Board, and includes a director in his or her capacity as a member of the Regulatory Committee.

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*Regulatory Committee* means the Regulatory Committee of the Authority as established by section 8A.

*regulatory functions*—see section 8.

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*Tribunal* means the Greyhound Racing Appeals Tribunal as established by section 18F.

### [2] Section 3 (1), definitions of “Chairman”, “Fund” and “member”

Omit the definitions.

### [3] Section 3 (3)

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Omit the subsection.

### [4] The whole Act

Omit “chairman” wherever occurring. Insert instead “chairperson”.

**[5] Part 2**

Omit the Part. Insert instead:

**Part 2 Greyhound Racing Authority**

**Division 1 Constitution of the Authority**

**5 Constitution of Authority**

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- (1) There is constituted by this Act a body corporate with the corporate name of the Greyhound Racing Authority (NSW).
- (2) The Authority has the functions conferred or imposed on the Authority by or under this or any other Act or law. 10
- (3) The Authority is, for the purposes of any Act, a statutory body representing the Crown.

**Division 2 Board of Authority**

**6 Constitution of Board**

- (1) The Authority is to have a Board consisting of 7 directors appointed by the Governor. 15
- (2) Of the directors:
  - (a) one is to be jointly nominated by The New South Wales Greyhound Breeders Owners and Trainers' Association Ltd and the New South Wales National Coursing Association Limited, and 20
  - (b) two are to be nominated by greyhound racing clubs (other than those referred to in paragraph (a)), with at least one of those nominees being nominated as a representative of TAB clubs, and 25
  - (c) one is to be nominated by participants in the greyhound racing industry (being owners, trainers, bookmakers or other persons involved with greyhound racing), and
  - (d) three are to be nominated by the Minister. 30
- (3) A person is not eligible to be nominated as a director if he or she is an officer or employee of a greyhound racing club or is otherwise concerned in the management or control of any such club.

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- (4) The chairperson of the Authority is to be the chairperson of the Board and the deputy chairperson of the Authority is to be deputy chairperson of the Board.
- (5) The Minister is to determine, by order published in the Gazette, the manner in which, and the criteria on which, the persons referred to in subsection (2) (b) and (c) are to be nominated. 5
- (6) For the purposes of subsection (2) (b), a **TAB club** is a greyhound racing club on a majority of whose race meetings TAB Limited conducts an off-course totalizator (within the meaning of the *Totalizator Act 1997*). 10

#### **7 Role of Board**

- (1) The Board is responsible for exercising the functions of the Authority other than its regulatory functions.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Authority by, or with the authority of, the Board is taken to have been done by the Authority. 15
- (3) The Board is not subject to the control or direction of the Minister.

### **Division 3 Regulatory Committee of Authority 20**

#### **8 Meaning of "regulatory functions"**

- (1) For the purposes of this Act, the **regulatory functions** of the Authority are the following functions of the Authority:
- (a) the functions relating to the control and regulation of greyhound racing as specified in section 9 (including the functions of initiating or conducting inquiries in relation to the control and regulation of greyhound racing, and any disciplinary or decision-making functions with respect to such inquiries), 25
- (b) the function of making rules under this Act,
- (c) the functions of hearing and deciding appeals to the Authority and of holding special inquiries under section 18C, 30
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- (d) the functions under sections 14 and 15 (to the extent that those functions are exercised for the purpose of the regulatory functions of the Authority),
  - (e) the function under section 19 (to the extent that the function is exercised to delegate regulatory functions), 5
  - (f) such functions as the Board may allocate to the Regulatory Committee,
  - (g) such functions as are determined or designated to be regulatory functions in accordance with subsection (2) or the regulations. 10
- (2) If a dispute arises as to whether a function is a regulatory function, the Minister may resolve the dispute. The Minister's determination is final and conclusive of the matter. 15

**8A Establishment of Regulatory Committee**

- (1) There is established a committee of the Authority known as the Regulatory Committee.
- (2) The Regulatory Committee is to consist of the 3 directors appointed on the nomination of the Minister. 20
- (3) The chairperson of the Authority is to be the chairperson of the Committee and the deputy chairperson of the Authority is to be deputy chairperson of the Committee.

**8B Role of Regulatory Committee**

- (1) The Regulatory Committee is responsible for exercising the regulatory functions of the Authority. 25
- (2) Any act, matter or thing done in the name of, or on behalf of, the Authority by, or with the authority of, the Regulatory Committee is taken to have been done by the Authority. 30
- (3) The Regulatory Committee is subject to the control and direction of the Minister except in relation to the following matters:



- 
- (a) the contents of a report or recommendation made by it to the Minister,
  - (b) the decision on any appeal or other disciplinary proceedings.
- (4) Subsection (1) does not limit the functions of stewards appointed by the Authority under the rules. 5

**Division 4 Officers and staff of Authority**

**8C Chairperson and deputy chairperson**

- (1) One of the directors appointed on the nomination of the Minister is to be appointed as chairperson of the Authority by the instrument appointing the person as director or by a subsequent instrument executed by the Governor. 10
- (2) One of the directors appointed on the nomination of the Minister is to be appointed as the deputy chairperson of the Authority by the instrument appointing the person as director or by a subsequent instrument executed by the Governor. 15

**8D Provisions relating to directors and procedure of Board and Regulatory Committee** 20

- (1) Schedule 1 has effect with respect to the directors.
- (2) Schedule 2 has effect with respect to the procedure of the Board and the Regulatory Committee.

**8E Chief executive officer of Authority**

- (1) The Authority may, in consultation with the Minister, employ a chief executive officer of the Authority. 25
- (2) The chief executive officer is responsible for the day-to-day management of the Authority subject to, and in accordance with, the policies and other decisions of:
- (a) the Regulatory Committee, with respect to the day-to-day management of the Authority concerning its regulatory functions, and 30
  - (b) the Board, with respect to the day-to-day management of the Authority concerning its other functions. 35

**8F Staff of Authority**

- (1) The Authority may employ such other staff as it requires to exercise its functions.
- (2) The Authority may fix the salary, wages and other conditions of its staff (including the chief executive officer) in so far as they are not fixed by or under any other Act or law. 5
- (3) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the staff (including the chief executive officer) of the Authority. 10
- (4) The Authority may engage consultants for the purposes of getting expert advice.

**[6] Section 9 Control and regulation of greyhound racing**

Omit section 9 (2) (a). Insert instead:

- (a) register or refuse to register: 15
  - (i) any owner, trainer or bookmaker or other person associated with greyhound racing, or
  - (ii) any greyhound,
- (a1) cancel the registration of:
  - (i) any greyhound racing club, or 20
  - (ii) any greyhound trial track, or
  - (iii) any owner, trainer or bookmaker or other person associated with greyhound racing, or
  - (iv) any greyhound,

**[7] Section 9 (4) 25**

Omit the subsection.

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**[8] Section 9A**

Insert after section 9:

**9A Registration of clubs and tracks**

- (1) The Authority may, in accordance with the rules, register or refuse to register: 5
  - (a) any greyhound racing club, or
  - (b) any greyhound trial track.
- (2) The Authority may not refuse to register a club or track under this section for the purpose of taking disciplinary action. 10

**[9] Section 10 Authority may make rules**

Insert "the following" after "with respect to" in section 10 (2).

**[10] Section 10 (2) (h), (k) and (m)**

Omit the paragraphs.

**[11] Section 10 (2A)**

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Insert after section 10 (2):

- (2A) The Authority may make rules, not inconsistent with this Act, for or with respect to:
  - (a) the registration of greyhound racing clubs and greyhound trial tracks, and 20
  - (b) the fees and charges referred to in section 17B.

**[12] Section 10 (4)**

Omit the subsection.

**[13] Section 11 Appeals to the Authority**

Omit the section.

**[14] Section 12 Authority may grant or lend money from Fund**

Omit the section.

**[15] Part 4**

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Omit the Part. Insert instead:

**Part 4 Finance**

**16 Financial year**

- (1) The financial year of the Authority is the year commencing on 1 July. 10
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

**17 Expenses**

The Authority is liable for the following expenses: 15

- (a) all expenses (including remuneration and allowances payable to directors, the chief executive officer and other staff of the Authority) incurred by the Authority in the exercise of its functions, 20
- (b) all expenses (including remuneration and allowances payable under clause 3 of Schedule 2A) incurred by the Tribunal in the exercise of its functions under this Act.

**17A Accounts**

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The Authority may establish such accounts as it thinks appropriate for the money received and expended by the Authority.

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**17B Fees and charges**

- (1) If a steward appointed by the Authority acts at a meeting for greyhound racing held by a greyhound racing club, the Authority may charge the club for the services of the steward. 5
- (2) The Authority may determine the fees and charges payable for registration or for the transaction of other business with the Authority.

**[16] Part 4A**

Insert after Part 4: 10

**Part 4A Appeals and disciplinary inquiries**

**Division 1 Rights and procedures concerning appeals and inquiries**

**18 Definitions**

In this Part: 15

*appeal* means an appeal under this Part.

*disciplinary inquiry* means a special inquiry under section 18C or any other inquiry by the Authority for the purpose of taking disciplinary action.

**18A Appeals** 20

- (1) A person who is aggrieved by a decision:
- (a) of the stewards or the committee of a greyhound racing club, or
  - (b) of a steward appointed by the Authority,

may, in accordance with the regulations, appeal against the decision to the Authority or the Tribunal as determined by the regulations. 25

- (2) A person who is aggrieved by a decision of the Authority (other than a decision in respect of an appeal under subsection (1)) may, in accordance with the regulations, appeal against the decision to the Tribunal. 30

- (3) The decision of the Authority or the Tribunal on appeal under this section is final and conclusive and is taken to be a decision of the person or body whose decision is the subject of the appeal.
- (4) Subsection (3) does not preclude the operation of section 18C. 5

**18B Proceedings on appeal and disciplinary inquiries**

- (1) Proceedings on an appeal to the Authority under section 18A are to be held as in open court at a meeting of the Regulatory Committee at which a quorum is present. 10
- (2) Proceedings on an appeal to the Tribunal under section 18A are to be held as in open court before the Tribunal.
- (3) Proceedings in respect of a disciplinary inquiry of the Authority may be conducted in public or in private, or partly in public and partly in private, as the Authority may decide. 15
- (4) In conducting a disciplinary inquiry, the Authority may examine any witness on oath or affirmation, or by use of a statutory declaration.

**18C Special inquiry following appeal to Tribunal** 20

- (1) The Authority may hold a special inquiry into a matter that the Tribunal has decided on an appeal if:
  - (a) the Authority receives information that was not available as evidence at the hearing of the appeal, and 25
  - (b) the Authority is satisfied that the information may have resulted in a substantially different decision if it had been given in evidence at the hearing of the appeal.
- (2) The Authority may determine the manner in which a special inquiry is to be held. 30
- (3) After holding a special inquiry into a matter that has been decided on an appeal, the Authority may:
  - (a) decide to take no further action, or

- 
- (b) make a decision that differs from the decision of the Tribunal, in which case the different decision has effect as the decision of the Tribunal instead of the Tribunal's decision.
- (4) Section 18A (2) does not apply to a decision made under this section. 5

**18D Regulations concerning appeals**

- (1) The regulations may make provision for or with respect to the following:
- (a) appeals to the Authority or Tribunal under this Act, 10
- (b) special inquiries under section 18C,
- (c) the procedure at or in connection with appeals under this Act and special inquiries under section 18C, 15
- (d) the suspension of a decision appealed against under this Act, or the subject of a special inquiry under section 18C, pending the determination of the appeal or inquiry,
- (e) the payment of fees and costs in respect of appeals under this Act and special inquiries under section 18C, 20
- (f) any matters incidental to or connected with appeals under this Act and special inquiries under section 18C. 25
- (2) Without affecting the generality of subsection (1), the regulations may:
- (a) prescribe classes of matters in respect of which appeals may not be made under this Act, or
- (b) provide that no appeals may be made under this Act except in respect of prescribed classes of matters. 30

**Division 2 Greyhound Racing Appeals Tribunal**

**18E Definitions**

- In this Part: 35
- assessor* means a person appointed as an assessor of the Tribunal under section 18I.

*court* includes the Industrial Relations Commission of New South Wales.

*qualified person* means a judge of any court in New South Wales, a retired judge of any court (whether or not in New South Wales) or a person qualified to be appointed as a Judge of the District Court. 5

**18F Greyhound Racing Appeals Tribunal**

For the purposes of this Act, there is established a Tribunal to be known as the Greyhound Racing Appeals Tribunal. 10

**18G Appointment of Tribunal**

The Minister may, on the recommendation of the Attorney General, appoint a qualified person as the Tribunal.

**18H Appointment of acting Tribunal** 15

- (1) The Minister may from time to time, on the recommendation of the Attorney General, appoint:
- (a) a qualified person to act as the Tribunal:
    - (i) during the illness or absence of the person appointed as the Tribunal, or 20
    - (ii) during a vacancy in the office of the Tribunal, or
    - (iii) on such occasions or in respect of such appeals as the person appointed as the Tribunal directs, and 25
  - (b) another qualified person to act as the Tribunal in accordance with paragraph (a) but only during the illness or absence of the person appointed to act as the Tribunal under paragraph (a).
- (2) A qualified person is taken to be the Tribunal while acting as the Tribunal. 30



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- (3) More than one sitting of the Tribunal may be held at the same time, but the person appointed as the Tribunal and a person appointed to act as the Tribunal must not sit on the same appeal.

**18I Appointment of assessors**

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The Minister may, for the purposes of this Act, appoint persons the Minister believes have special knowledge of, and experience in, the racing industry to be assessors of the Tribunal.

**18J Functions of assessors**

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- (1) The Tribunal may, in hearing appeals under this Act, be assisted by one or more assessors.
- (2) An assessor assisting the Tribunal as referred to in subsection (1) may assist and advise the Tribunal, but must not adjudicate on any matter before the Tribunal.

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**18K Provisions relating to Tribunal**

Schedule 2A has effect.

**[17] Sections 19 and 19A**

Omit section 19. Insert instead:

**19 Delegation**

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- (1) Subject to subsection (2), the Authority may delegate the exercise of its functions to:
- (a) a director, the chief executive officer or other member of the staff of the Authority, or
- (b) a committee comprised of, or a combination of, those persons.
- (2) The Authority may not delegate the following of its functions:

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- (a) the power of delegation conferred by subsection (1),
- (b) the regulatory functions of the Authority (other than those referred to in section 9 (2) (a)).
- (3) Subsection (2) does not limit the functions of stewards appointed by the Authority under the rules. 5

**19A Protection from personal liability**

Anything done or omitted to be done by:

- (a) the Authority, or
- (b) the Board, or 10
- (c) the Regulatory Committee, or
- (d) any director, or
- (e) the chief executive officer, or
- (f) any steward appointed by the Authority, or
- (g) any person acting under the direction of the Authority, 15

does not subject a director, the chief executive officer, a steward, or a person so acting, personally to any action, liability, claim or demand if the thing was done or omitted to be done in good faith for the purposes of executing this or any other Act or the rules. 20

**[18] Section 20 Annual report**

Omit the section.

**[19] Section 21**

Omit the section. Insert instead: 25

**21 Authentication of certain documents**

Any summons, process, demand, order, notice, statement, direction or other document requiring authentication by the Authority is sufficiently authenticated without the seal of the Authority if signed by the chairperson, the chief executive officer, or any other member of staff authorised to do so by the chief executive officer. 30

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**[20] Sections 23 and 23A**

Omit section 23. Insert instead:

**23 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of the following matters:

- (a) the constitution of the Board or the Regulatory Committee,
- (b) any resolution of the Board or the Regulatory Committee,
- (c) the appointment of, or the holding of office by, any director,
- (d) the presence of a quorum at any meeting of the Board or the Regulatory Committee.

**23A No challenge on ground that function exercised by wrong body**

The exercise of a function of the Authority by the Board or the Regulatory Committee cannot be challenged on the ground that it should have been exercised by the other body.

**[21] Section 25 Regulations**

Insert "or section 9A or" after "section 9 (2)" wherever occurring in section 25 (5).

**[22] Schedule 1, heading**

Omit the heading. Insert instead:

**Schedule 1 Provisions relating to directors**

(Section 8D)

**[23] Schedule 1**

Omit "member" and "members" wherever occurring except clause 7 (2) (a).

Insert instead "director" and "directors", respectively.

**[24] Schedule 1, clause 2 (2)**

Omit clause 2 (2). Insert instead:

- (2) Such an acting director is to be appointed from the same category of nomination (as specified in section 6 (2)) as the person he or she is replacing. 5

**[25] Schedule 1, clause 2 (7)**

Insert after clause 2 (6):

- (7) A person is not eligible to be appointed to act in the office of a director if he or she is an officer or employee of a greyhound racing club or is otherwise concerned in the management or control of any such club. 10

**[26] Schedule 1, clauses 6 and 7**

Omit "Authority" wherever occurring.  
Insert instead "Board or the Regulatory Committee".

**[27] Schedule 1, clause 9** 15

Omit the clause.

**[28] Schedule 2**

Omit the Schedule. Insert instead:

**Schedule 2 Provisions relating to procedure of Board and Regulatory Committee** 20  
(Section 8D)

**1 General procedure**

The procedure for the calling of meetings of the Board or the Regulatory Committee and for the conduct of business at those meetings is, subject to this Act, to be determined by the Board or the Committee. 25

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## 2 Failure to nominate

A failure to nominate a person to a category of nomination specified in section 6 (2) does not affect the appointment of the directors who are nominated in accordance with that section.

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## 3 Quorum

The quorum:

- (a) for a meeting of the Board is a majority of directors for the time being, and
- (b) for a meeting of the Regulatory Committee is 2 members.

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## 4 Person presiding at Board meetings

- (1) The chairperson is to preside at a meeting of the Board, or in the absence of the chairperson, the deputy chairperson, or in the absence of both, another director elected as the chairperson for the meeting by the directors present.
- (2) The chairperson is to preside at a meeting of the Regulatory Committee, or in the absence of the chairperson, the deputy chairperson.
- (3) The person presiding at a meeting of the Board or the Regulatory Committee has a deliberative vote and, if the votes cast at the meeting are equal in number, has a second or casting vote.

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## 5 Voting

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A decision supported by a majority of the votes at a meeting of the Board or the Regulatory Committee at which a quorum is present is the decision of the Board or the Committee.

**[29] Schedule 2A**

Insert after Schedule 2:

**Schedule 2A Provisions relating to Tribunal**

(Section 18K)

- 1 Term of office** 5
- Subject to this Act, a person appointed as:
- (a) the Tribunal, or
  - (b) an assessor,
- is to hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment. 10
- 2 Effect of appointment of a judge as Tribunal**
- (1) A person's tenure of the office of judge of a court, or the person's rank, title, status, precedence, salary or other rights or privileges as a holder of that office, is not affected by: 15
    - (a) the appointment of the person as, or to act as, the Tribunal, or
    - (b) the person's service as the Tribunal.
  - (2) A judge of any court may exercise the functions of a judge of that court despite holding office as, or acting as, the Tribunal. 20
  - (3) The service, as the Tribunal, of a judge of any court is, for all purposes, taken to be service as a judge of that court. 25
- 3 Remuneration**
- A person (not being a judge of any court) holding office as, or acting as, the Tribunal and an assessor are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of each of them. 30

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#### 4 Vacation of office

- (1) A person (being a judge of any court) holding office as the Tribunal is taken to have vacated that office if the person:
- (a) ceases to be a judge of that court, or 5
  - (b) resigns that office by instrument in writing addressed to the Minister.
- (2) A person (not being a judge of any court) holding office as the Tribunal or a person holding office as an assessor is taken to have vacated that office if the person:
- (a) dies, or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration, or 15
  - (c) becomes a mentally incapacitated person, or
  - (d) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or 20
  - (e) resigns that office by instrument in writing addressed to the Minister, or 25
  - (f) is removed from office by the Minister under subclause (3).
- (3) The Minister may remove from office:
- (a) a person (not being a judge of any court) holding office as, or appointed to act as, the Tribunal, or 30
  - (b) an assessor.

#### 5 Effect of Public Sector Management Act 1988

The *Public Sector Management Act 1988* does not apply to or in respect of the appointment of:

- (a) a person as, or to act as, the Tribunal, or
- (b) an assessor,

and a person holding office as, or acting as, the Tribunal or an assessor is not, as the Tribunal or an assessor, subject to that Act.

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#### **6 Staff to assist Tribunal**

For the purposes of this Act, and if the Minister so approves, the Tribunal may make use of the services of:

- (a) any staff of the Authority, or
- (b) any staff of a Department in the Minister's administration.

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### **[30] Schedule 3 Savings, transitional and other provisions**

Insert before clause 1:

#### **Part 1 General**

##### **1A Regulations**

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

this Act

*Greyhound Racing Authority Amendment Act 1998*

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- (2) A provision of a regulation authorised by this clause may, if the regulations so provide, take effect as from the date of assent to the Act concerned or as from a later day.

- (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:

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(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.

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**[31] Schedule 3, clause 8**

Omit the clause.

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**[32] Schedule 3, Part 2**

Insert at the end of Schedule 3:

**Part 2 Provisions consequent on enactment of Greyhound Racing Authority Amendment Act 1998**

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**8 Definitions**

In this Part:

*amending Act* means the *Greyhound Racing Authority Amendment Act 1998*.

*new Authority* means the Authority as constituted by Schedule 1 [5] to the amending Act.

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*old Authority* means the Authority as constituted immediately before the commencement of Schedule 1 [5] to the amending Act.

**9 Continuation of Authority**

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The new Authority is a continuation of, and the same legal entity as, the old Authority.

### 10 Members of Authority

- (1) On the commencement of Schedule 1 [5] to the amending Act, a person who held office as a member of the old Authority:
- (a) ceases to hold that office, and 5
  - (b) is eligible (if otherwise qualified) to be appointed as a director.
- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office. 10
- (3) A reference in any other Act or instrument to a member of the Authority is taken to be a reference to a director.

### 11 Chief executive

The person employed by the Authority as chief executive immediately before the commencement of Schedule 1 [5] to the amending Act is taken to be duly employed as chief executive officer under section 8E for the balance of his or her term of employment as chief executive. 15

### 12 Appeals

- (1) An appeal to the Authority that is lodged but not heard immediately before the commencement of Schedule 1 [16] to the amending Act is to be heard and determined, and the decision on the appeal given effect to, in accordance with this Act as amended by the amending Act. 20  
25
- (2) An appeal to the Authority that is partly heard, or fully heard but not yet determined, immediately before the commencement of Schedule 1 [16] to the amending Act, is to be reheard and determined, and the decision on appeal given effect to, in accordance with this Act as amended by the amending Act. The rehearing is taken to be a new hearing and the previous hearing has no effect. 30
- (3) The right to appeal to the Tribunal under section 18A (as inserted by the amending Act) extends to decisions made before the commencement of Schedule 1 [16] to the amending Act. 35

**13 Fees and charges**

The fees and charges for registration or for the transaction of other business with the Authority that are prescribed by the rules (as in force immediately before the commencement of Schedule 1 [10] to the amending Act) continue in force until such time as the Authority determines other fees and charges in accordance with this Act as amended by the amending Act.

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**14 Rules**

The rules in force under this Act are taken to be made under this Act as amended by the amending Act.

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## Schedule 2 Amendment of Defamation Act 1974

(Section 4)

### [1] Section 17DC

Insert before section 17E:

#### 17DC Matters arising under the Greyhound Racing Authority Act 1985 5

There is a defence of absolute privilege:

- (a) for a publication in the course of an appeal under the *Greyhound Racing Authority Act 1985*, and
- (b) for a publication by the Greyhound Racing Appeals Tribunal or the Greyhound Racing Authority (NSW) in an official report of its decision in respect of any such appeal and of the reasons for that decision, and 10
- (c) for a publication in the course of proceedings in respect of an inquiry conducted by that Authority in the exercise of its regulatory functions (including the exercise of any such function by a steward of that Authority), and 15
- (d) for the publication by that Authority of a report it makes in respect of such an inquiry. 20

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

Insert before clause 2 (14):

- (13B) without limiting the operation of any other subclause, proceedings: 25
  - (a) at an inquiry conducted by the Greyhound Racing Authority (NSW) in the exercise of its regulatory functions (including the exercise of any such function by a steward of that Authority), and 30

- (b) on an appeal to that Authority or the Greyhound Racing Appeals Tribunal under the *Greyhound Racing Authority Act 1985*.