



New South Wales

Gambling (Two-up) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Unlawful Gambling Bill 1998*.

Overview of Bill

The objects of this Bill are as follows:

- (a) to legalise the conduct of:
 - (i) games of two-up on Anzac Day, and
 - (ii) games of two-up in Broken Hill,
- (b) to ensure that those games:
 - (i) are conducted honestly and with appropriate controls to prevent fraudulent activity, and
 - (ii) are conducted free from criminal influence and exploitation,
- (c) to minimise, in the public interest, any adverse social effects of lawful gambling, and in particular to minimise the potential for lawful gambling to cause harm to individuals and families.

This Bill re-enacts the provisions of the *Gaming and Betting Act 1912* that presently allow the otherwise unlawful game of two-up to be conducted on Anzac Day, and in the City of Broken Hill, in certain circumstances.

The *Gaming and Betting Act 1912* is to be repealed by the proposed *Unlawful Gambling Act 1998*, and this Bill is part of a legislative package which involves rewriting the *Gaming and Betting Act 1912* in a more modern form.

Outline of provisions

Part 1 Preliminary

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 specifies the objects of the proposed Act as described in the above overview.

Clause 4 defines certain words and expressions used in the proposed Act. The term *Council* refers to the Council of the City of Broken Hill.

Part 2 Two-up on Anzac Day

Part 2 is based on section 20B of the *Gaming and Betting Act 1912*.

Clause 5 provides that Part 2 does not apply to the conduct of games of two-up on premises that are gambling premises (ie the Part will not operate to legalise games of two-up in illegal casinos).

Clause 6 provides that a game of two-up conducted on Anzac Day is not an unlawful game if it is conducted on premises in accordance with proposed section 7 or proposed section 8.

Clause 7 provides that a game of two-up is conducted in accordance with the proposed section if:

- (a) no payment or other benefit is, for the purpose of participating in the game, to be given or sought for the right to enter the premises on which the game is to be conducted, and
- (b) no payment or other benefit is to be given or sought for the right to participate in the game (otherwise than by the placing of money by way of a bet), and

- (c) no commission on, percentage of, or fee for, bets or winnings is to be given or sought by any person, whether or not a participant in the game.

Clause 8 provides that a game of two-up conducted in a registered club, being a game that involves any of the things listed in the above paragraphs, is conducted in accordance with the proposed section if the game is authorised by the club and the club has authorised the payments and other benefits to go to charity without forming part of the funds of the club.

Part 3 Two-up in Broken Hill

Part 3 is based on section 20C and Part 3A of the *Gaming and Betting Act 1912*.

Division 1 Authorisation to conduct two-up in Broken Hill

Clause 9 provides that a game of two-up conducted in Broken Hill is not an unlawful game if the game is conducted by or on behalf of the Broken Hill Council at an approved location in Broken Hill and in accordance with the Minister's authorisation.

Clause 10 enables the Minister to authorise games of two-up to be conducted by or on behalf of the Council in accordance with the conditions imposed by the Minister.

Clause 11 provides that the conditions of the authorisation may relate to such matters as the approval by the Minister of the persons who can conduct games of two-up on behalf of the Council. The Minister may impose a condition requiring the Council to pay a duty in connection with games of two-up conducted under the Part.

Clause 12 provides for the withdrawal of the Minister's approval of persons who may conduct games of two-up on the Council's behalf.

Clause 13 enables the conditions of the authorisation to be altered but only after the Minister gives notice of the proposed alteration and representations are allowed to be made.

Clause 14 provides for the revocation or suspension of the authorisation by the Minister. If a game of two-up is conducted when the authorisation is not in force, the game will be an unlawful game and the person conducting it will be committing an offence under the proposed *Unlawful Gambling Act 1998* (at present the offence of conducting an unlawful game is created under section 18 of the *Gaming and Betting Act 1912*).

Division 2 Supervision of conduct of two-up in Broken Hill

Clause 15 enables the Minister to direct the Council, or a person conducting games of two-up on behalf of the Council, to take certain action if the Minister is of the opinion that the integrity of any game of two-up is to be prejudiced by any irregularity in the conduct of the game or by the character or reputation of a person concerned in the conduct of the game.

Clause 16 enables the Minister to give directions concerning the termination of the employment or association of key employees.

Clause 17 provides for the appointment of two-up inspectors.

Clause 18 requires two-up inspectors to possess identification cards when exercising their functions.

Clause 19 specifies the functions of two-up inspectors. These include the powers of entry and inspection in relation to the conduct of games of two-up on the approved two-up premises.

Clause 20 provides for offences in relation to two-up inspectors.

Clause 21 enables the Minister to require information to be provided by key employees or by persons who conduct games of two-up on behalf of the Council.

Clause 22 provides for the appointment of a person to investigate and report on matters relating to the conduct of games of two-up.

Clause 23 enables the Minister to require key employees to undergo criminal records and probity checks.

Part 4 Miscellaneous

Clause 24 prohibits any person from betting with persons under the age of 18 years in relation to games of two-up.

Clause 25 provides a general defence for participants in a game of two-up that is unlawful.

Clause 26 enables the Council to make rules for the conduct of games of two-up in Broken Hill.

Clause 27 enables the Minister to delegate his or her functions under Part 3.

Clause 28 provides a safeguard for the proper disposal of fingerprints and palm prints obtained under Part 3.

Clause 29 ensures the confidentiality of information obtained under Part 3.

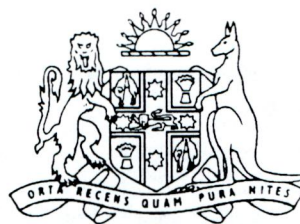
Clause 30 provides that offences under the proposed Act are to be dealt with summarily before a Local Court.

Clause 31 is a general regulation-making power.

Clause 32 gives effect to the Schedule of savings and transitional provisions.

Clause 33 provides for a review of the proposed Act after 5 years.

Schedule 1 contains savings and transitional provisions, including a power to make regulations of a savings and transitional nature consequent on the enactment of the proposed Act and the proposed *Unlawful Gambling Act 1998*.



New South Wales

Gambling (Two-up) Bill 1998

Contents

	Page
Part 1 Preliminary	
1 Name of Act	2
2 Commencement	2
3 Objects of Act	2
4 Definitions	2
Part 2 Two-up on Anzac Day	
5 Application of Part	4
6 Two-up on Anzac Day not unlawful	4
7 Conditions relating to payments or other benefits	4
8 Conditions relating to registered clubs	5

	Page
Part 3 Two-up in Broken Hill	
Division 1 Authorisation to conduct two-up in Broken Hill	
9 Two-up in Broken Hill not unlawful	6
10 Authorisation for Council to conduct games of two-up	6
11 Conditions of authorisation	7
12 Withdrawal of Minister's approval of persons who may conduct two-up on Council's behalf	8
13 Alteration of conditions of authorisation	9
14 Revocation or suspension of authorisation	9
Division 2 Supervision of conduct of two-up in Broken Hill	
15 Directions to Council and persons conducting two-up on Council's behalf	10
16 Directions concerning key employees	11
17 Appointment of two-up inspectors	12
18 Identification of two-up inspectors	12
19 Functions of two-up inspectors	13
20 Offences relating to two-up inspectors	14
21 Information concerning conduct of games of two-up	14
22 Investigations	15
23 Information relating to key employees	16
Part 4 Miscellaneous	
24 Prohibition on betting with minors	18
25 General defence for participants in unlawful games of two-up	18
26 Rules	18
27 Delegation	19
28 Destruction of fingerprints and palm prints	19
29 Secrecy	19
30 Proceedings for offences	21
31 Regulations	21
32 Savings and transitional provisions	22
33 Review of Act	22
Schedule 1 Savings and transitional provisions	23



New South Wales

Gambling (Two-up) Bill 1998

No. , 1998

A Bill for

An Act to legalise the conduct of games of two-up in certain circumstances.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Gambling (Two-up) Act 1998*.

2 Commencement

5

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

3 Objects of Act

The objects of this Act are as follows:

- (a) to legalise the conduct of: 10
 - (i) games of two-up on Anzac Day, and
 - (ii) games of two-up in Broken Hill,
- (b) to ensure that those games:
 - (i) are conducted honestly and with appropriate controls to prevent fraudulent activity, and 15
 - (ii) are conducted free from criminal influence and exploitation,
- (c) to minimise, in the public interest, any adverse social effects of lawful gambling, and in particular to minimise the potential for lawful gambling to cause harm to individuals and families. 20

4 Definitions

- (1) In this Act:

Anzac Day means 25 April in any year.

approved means approved by the Minister from time to time. 25

approved two-up premises means the location at which the Council is authorised by the Minister under Part 3 to conduct games of two-up in accordance with that Part.

Broken Hill means the local government area of the City of Broken Hill.

charitable purpose includes any benevolent, philanthropic or patriotic purpose.

Council means the Council of Broken Hill.

5

exercise a function includes perform a duty.

function includes a duty.

gambling premises has the same meaning as in the *Unlawful Gambling Act 1998*.

inspector means a person appointed under section 17.

10

key employee means a person (whether or not employed under a contract of service) who is:

- (a) employed in a managerial or supervisory capacity in relation to the conduct of games of two-up by or on behalf of the Council, or
- (b) authorised to make decisions, involving the exercise of games of two-up conducted by or on behalf of the Council, or
- (c) concerned or engaged, in any manner prescribed by the regulations, in the conduct of games of two-up by or on behalf of the Council.

15

20

premises includes:

- (a) a building or structure, or part of a building or structure (such as a room), or
- (b) land or a place (whether enclosed or built on or not), or
- (c) a vehicle or a vessel.

25

registered club has the same meaning as in the *Registered Clubs Act 1976*.

rules means rules made by the Council and approved by the Minister, relating to games of two-up conducted by or on behalf of the Council and that are in force under section 26.

30

(2) For the purposes of this Act:

- (a) references to a game of two-up extend to the betting and side betting associated with the game, and
- (b) references to participants in a game of two-up include persons engaged in such betting.

35

Part 2 Two-up on Anzac Day

5 Application of Part

This Part does not apply to the conduct of games of two-up:

- (a) on any premises that are gambling premises, or
- (b) on any premises, or class of premises, that are excluded by the regulations from the operation of this Part. 5

6 Two-up on Anzac Day not unlawful

- (1) A game of two-up that is conducted on Anzac Day:
 - (a) on any premises (including the premises of a registered club) in accordance with section 7, or 10
 - (b) on the premises of a registered club in accordance with section 8,

is not an unlawful game for the purposes of any Act or other law.

- (2) Without limiting subsection (1), nothing in the *Unlawful Gambling Act 1998* prohibits the playing or conducting of a game of two-up that is lawful because of this section. 15

7 Conditions relating to payments or other benefits

- (1) A game of two-up is conducted in accordance with this section if:
 - (a) no payment or other benefit is, for the purpose of participating in the game, given or sought for the right to enter the premises on which the game is to be conducted, and 20
 - (b) no payment or other benefit is given or sought for the right to participate in the game (otherwise than by the placing of money by way of a bet), and 25
 - (c) no commission on, percentage of, or fee for, bets or winnings is given or sought by any person, whether or not a participant in the game.

-
- (2) This section does not prevent payment of an entrance fee or charge to a licensed racecourse (within the meaning of the *Racing Administration Act 1998*) or other ground, so long as the fee or charge is not directly related to the game of two-up.

8 Conditions relating to registered clubs

5

A game of two-up that is conducted on the premises of a registered club, and that involves a payment, benefit, commission, percentage or fee referred to in section 7, is conducted in accordance with this section if:

- (a) the conduct of the game is authorised by the club, and 10
- (b) all payments or other benefits involved are authorised by the club to be entirely disposed of for the benefit of a charity or for a charitable purpose and are not to form part of the funds of the club, and
- (c) such other requirements (if any) as are prescribed by the regulations for the purposes of this subsection are 15
complied with.

Part 3 Two-up in Broken Hill

Division 1 Authorisation to conduct two-up in Broken Hill

9 Two-up in Broken Hill not unlawful

- (1) A game of two-up that is played in Broken Hill is not an unlawful game for the purposes of any Act or other law if the game is conducted by or on behalf of the Council: 5
 - (a) at an approved location in Broken Hill, and
 - (b) in accordance with any conditions specified in the Minister's authorisation under section 10.
- (2) Without limiting subsection (1), nothing in the *Unlawful Gambling Act 1998* prohibits the playing or conducting of a game of two-up that is lawful because of this section. 10
- (3) The approved two-up premises are declared not to be gambling premises. 10

10 Authorisation for Council to conduct games of two-up 15

- (1) The Minister may authorise the Council to conduct games of two-up at an approved location in Broken Hill.
- (2) The authorisation:
 - (a) is to be in writing, and
 - (b) may be given subject to such conditions as the Minister thinks fit to impose, and 20
 - (c) cannot be transferred to another person.
- (3) The authorisation remains in force for such period as is specified in the authorisation, unless it is sooner suspended or revoked under this Part. 25
- (4) Despite the provisions of any other Act or law, the Council, if so authorised, may:
 - (a) conduct games of two-up in Broken Hill in accordance with this Part, and

-
- (b) subject to the conditions of the authorisation, enter into arrangements with other persons to conduct games of two-up on behalf of the Council, and
 - (c) charge and receive payment from any person for the right:
 - (i) to enter the approved two-up premises, and 5
 - (ii) to participate in games of two-up, and
 - (d) receive a commission on, percentage of, or fee for, bets or winnings in respect of games of two-up.

11 Conditions of authorisation

- (1) The conditions that the Minister can impose when authorising the Council to conduct games of two-up may include conditions relating to any one or more of the following: 10
 - (a) the approval of persons who may conduct games of two-up on behalf of the Council, including the approval of the terms and conditions of any arrangements between the Council and such persons, 15
 - (b) the manner in which any funds received by the Council in connection with games of two-up are to be applied, and the giving of information by the Council to the Minister relating to such funds, 20
 - (c) the payment by the Council to the Minister (as duty to be paid by the Minister into the Consolidated Fund) of an amount from the funds received in connection with games of two-up conducted by or on behalf of the Council,
 - (d) the approved two-up premises, 25
 - (e) the days on which, and the times when, games of two-up may be conducted,
 - (f) the rules in accordance with which games of two-up are to be conducted,
 - (g) the display in the approved two-up premises of any such rules and other information relevant to the conduct of games of two-up, 30
 - (h) the giving of information (whether in the form of statements, returns or otherwise) by the Council or by a person conducting games of two-up on behalf of the 35

Council to the Minister relating to the conduct of games of two-up, including the operating and other costs incurred by the Council or person in conducting such games,

- (i) the auditing of the financial records of the Council, or of a person conducting games of two-up on behalf of the Council, relating to the conduct of games of two-up, including records of the operating and other costs incurred by the Council or person in conducting such games, 5
 - (j) the security requirements in respect of games of two-up,
 - (k) such other matters as the Minister thinks fit. 10
- (2) Without limiting subsection (1), it is a condition of the Council's authorisation to conduct games of two-up that the Council, or any person conducting games of two-up on behalf of the Council, must not in connection with any game of two-up:
- (a) accept any bet made otherwise than by means of money, or 15
 - (b) lend money or any other valuable thing, or
 - (c) extend any form of credit.

12 Withdrawal of Minister's approval of persons who may conduct two-up on Council's behalf

- (1) The Minister may withdraw approval of a person who may conduct games of two-up on behalf of the Council if the Minister is of the opinion that the integrity or apparent integrity of a game or games of two-up conducted by or on behalf of the Council is likely to be seriously prejudiced because of the criminal record, character or reputation of the person. 20
25
- (2) The Minister is not to withdraw approval of any such person unless the Minister:
 - (a) has given the Council and the person notice in writing of the proposed withdrawal, and
 - (b) has invited the Council and the person to make representations to the Minister, within the period specified in the notice, concerning the proposed withdrawal, and 30
 - (c) has, after the end of that period, considered any such representations.

(3) The withdrawal of approval takes effect:

- (a) 14 days after the day on which a notice, signed by the Minister, advising the Council and the person of the withdrawal is given to the Council and the person, or
- (b) if a later day is specified in the notice—on that day.

5

13 Alteration of conditions of authorisation

(1) The Minister may alter the conditions of the Council's authorisation to conduct games of two-up by imposing an additional condition or by amending, substituting or revoking a condition.

10

(2) The Minister must not make an alteration under this section unless the Minister:

- (a) has given the Council notice in writing setting out the terms of the proposed alteration and inviting the Council to make representations to the Minister, within the period specified in the notice, concerning the proposed alteration, and
- (b) has, after the end of that period, considered any representations so made by or on behalf of the Council.

15

(3) An alteration under this section takes effect:

20

- (a) 7 days after the day on which a notice advising the Council of the alteration is given to the Council by the Minister, or
- (b) if a later day is specified in the notice—on that day.

(4) Subsections (2) and (3) do not apply to an alteration made at the request of the Council. Such an alteration takes effect on the day specified in the notice advising of the alteration that is given by the Minister to the Council.

25

14 Revocation or suspension of authorisation

(1) The Minister may, by notice in writing given to the Council, revoke or suspend the authorisation to conduct games of two-up if:

30

- (a) any game of two-up conducted by or on behalf of the Council is not conducted in accordance with this Part, the rules or the conditions of the authorisation, or

- (b) the Council or a person conducting a game on behalf of the Council fails to comply with any direction given to the Council or the person under section 15 or 16.
- (2) The Minister may, by notice in writing given to the Council, revoke the authorisation if the Council applies to the Minister to have the authorisation revoked. 5
- (3) The Minister may suspend the authorisation, by notice in writing given to the Council, if the Minister considers it necessary or expedient to do so in order to secure compliance by the Council with a direction given to the Council under section 15 or 16. 10
- (4) The authorisation remains suspended:
 - (a) until the date specified in the notice of suspension, or
 - (b) if the notice so specifies—until the Minister is satisfied that the relevant direction has been complied with and the Minister further notifies the Council. 15
- (5) Any revocation or suspension under this section takes effect:
 - (a) on the day on which a notice of revocation or suspension is given to the Council, or
 - (b) if a later day is specified in the notice—on that day.

Division 2 Supervision of conduct of two-up in Broken Hill 20

15 Directions to Council and persons conducting two-up on Council's behalf

- (1) The Minister may, by notice in writing, direct the Council or any person conducting games of two-up on the Council's behalf to take, or to refrain from taking, such action as may be specified in the notice in relation to any game of two-up conducted by or on behalf of the Council. 25
- (2) The Minister is to give such a direction if the Minister is of the opinion that the integrity or apparent integrity of any game of two-up conducted by or on behalf of the Council is likely to be seriously prejudiced: 30
 - (a) by any irregularity or alleged irregularity of any kind, or

- (b) by the criminal record, character or reputation of any person concerned in the conduct of any such game, or
- (c) by any other fact or circumstance reported to the Minister.

16 Directions concerning key employees

- (1) If the Minister is of the opinion that the integrity or apparent integrity of any game of two-up conducted by or on behalf of the Council is likely to be seriously prejudiced: 5
 - (a) because of the criminal record of a key employee, or
 - (b) because of the character or reputation of a key employee,

the Minister may, by notice in writing, give a direction to the Council or other appropriate person that the employment or association by reason of which the key employee is a key employee of the Council or that other person be terminated immediately and not be renewed. 10
- (2) If a key employee refuses or fails to comply with a requirement of a notice served on the key employee under section 23, the Minister may, by notice in writing, give a direction to the Council or other appropriate person that the employment or association by reason of which the key employee is a key employee of the Council or that other person be terminated immediately and not be renewed. 15 20
- (3) The Council or other person to whom a direction is given under this section must give effect to the direction.
- (4) It is taken to be a condition of any agreement or other arrangement entered into between the Council or other person to whom a direction is given under this section and a key employee that the Council or other person has such rights as may be necessary to enable the Council or other person to give effect to the direction. 25
- (5) The termination of an employment or association in accordance with this section has effect despite any other Act or law, or any contract, award or enterprise or other agreement, and the Crown does not incur any liability because of such a termination. 30

- (6) The Minister may, by notice in writing served on the Council or other person to whom a direction is given under this section, revoke or vary the direction.
- (7) The Minister may, by notice in writing served on the Council or a person, require the Council or the person to furnish to the Minister: 5
 - (a) the names of any key employees of the Council or of the person and the positions held by them, and
 - (b) any other relevant particulars specified in the notice in relation to key employees. 10

17 Appointment of two-up inspectors

- (1) The Minister may appoint a public servant to be an inspector for the purposes of this Part.
- (2) A person is not eligible to be appointed as an inspector unless the person possesses the highest standard of integrity. 15
- (3) The question of whether a person possesses the highest standard of integrity is to be determined by the Minister.
- (4) For the purpose of making the determination, the Minister may cause to be carried out all investigations and inquiries that the Minister considers proper and, in particular, may obtain and consider a report from the Commissioner of Police in relation to any person being considered. 20
- (5) The Commissioner of Police is to furnish the report at the request of the Minister and may, for the purpose of the report, require a person to whom the report relates to consent to having his or her photograph, fingerprints or palm prints taken. 25
- (6) If a person refuses or fails to comply with a request by the Commissioner, the person is not eligible to be appointed to a position as an inspector while the refusal or failure continues.
- (7) An inspector is, in the exercise of the inspector's functions as an inspector, subject to the direction and control of the Minister. 30

18 Identification of two-up inspectors

- (1) An inspector is not authorised to exercise the functions of an inspector unless he or she is in possession of an identification card issued by the Minister. 35

- (2) If an inspector proposing to exercise the functions of an inspector fails to produce on demand his or her identification card, the inspector is not authorised to exercise those functions in relation to the person making the demand.

19 Functions of two-up inspectors

5

- (1) An inspector may, at any reasonable time, enter and remain on the approved two-up premises for the purpose of doing any one or more of the following:
- (a) observing the conduct and playing of a game of two-up,
 - (b) ascertaining whether the game is being properly conducted, 10
 - (c) ascertaining whether the provisions of this Part are being complied with,
 - (d) in any other respect, exercising his or her functions under this Part. 15
- (2) An inspector may do any one or more of the following:
- (a) require any person in possession of, or having control of, any documents relating to the conduct of a game of two-up to produce those documents for inspection and to answer questions or provide information relating to the documents, 20
 - (b) inspect any documents relating to the conduct of a game of two-up and take copies of, extracts from, or notes relating to, the documents,
 - (c) by notice in writing require a key employee or any other person concerned, in any capacity, in the conduct of a game of two-up, to attend before the inspector at a specified time and place and answer questions, or provide information, with respect to the conduct of any such game, 25
 - (d) exercise such other functions as may be prescribed by the regulations. 30
- (3) In exercising his or her functions, an inspector may call to his or her aid a police officer if the inspector is obstructed, or believes on reasonable grounds that he or she will be obstructed, in the exercise of those functions. 35

- (4) A police officer has, while acting in aid of an inspector under this section, the functions of an inspector.

20 Offences relating to two-up inspectors

A person must not:

- (a) obstruct or hinder an inspector when the inspector is exercising or attempting to exercise his or her functions as an inspector, or 5
- (b) fail to produce for inspection any documents relating to the conduct of a game of two-up in the possession, or under the control, of the person when required so to do by an inspector in the exercise of his or her functions as an inspector, or 10
- (c) fail without reasonable excuse to attend before an inspector and answer questions or supply information when required so to do by the inspector in the exercise of his or her functions as an inspector, or 15
- (d) provide to an inspector (whether in answer to a question asked by the inspector or otherwise) information which the person knows is false or misleading in a material particular. 20

Maximum penalty: 20 penalty units.

21 Information concerning conduct of games of two-up

- (1) The Minister may, by notice in writing, require a key employee or any person conducting a game of two-up by or on behalf of the Council: 25
 - (a) to provide the Minister or an inspector, in accordance with directions in the notice, with such information and documents relevant to the conduct of games of two-up by or on behalf of the Council as are specified in the notice, or 30
 - (b) to attend before the Minister or an inspector for examination in relation to any matters relevant to the conduct of such games and to answer any question relating to those matters.

- (2) A person who fails to comply with any such notice is guilty of an offence.

Maximum penalty: 20 penalty units.

- (3) A person (other than a corporation) is not excused from complying with a notice under this section on the ground that compliance might tend to incriminate the person but, if the person claims, before complying with the notice, that compliance might tend to incriminate the person, information provided in compliance with the notice is not admissible in evidence against the person in any criminal proceedings. 5 10
- (4) If documents are produced under this section, the Minister or inspector to whom they are produced may retain possession of the documents for such period as may reasonably be necessary to permit examination of the documents, the taking of extracts from the documents and the making of copies of the documents. 15
- (5) At any reasonable times during the period for which documents are retained under subsection (4), the Minister or inspector may permit inspection of the documents by a person who would be entitled to inspect them if they were not in the possession of the Minister or an inspector. 20
- (6) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

22 Investigations

- (1) The Minister may appoint a person to investigate and report on such matters and circumstances as are specified by the Minister and which relate to: 25
- (a) the conduct of a game of two-up, or
 - (b) any person who, in the opinion of the Minister, is an associate of a person conducting a game of two-up on behalf of the Council, or 30
 - (c) a specified person who, or a specified class of persons which includes persons who, in the opinion of the Minister, could affect the conduct of a game of two-up, or

- (d) a specified person who, or a specified class of persons which includes persons who, in the opinion of the Minister, could be in a position to exercise direct or indirect control over the Council in relation to the conduct of games of two-up by the Council or over a person conducting such games on behalf of the Council. 5
- (2) A person appointed to carry out an investigation may, for the purposes of the investigation, exercise:
 - (a) the functions conferred on the Minister under section 21, and 10
 - (b) such other functions of the Minister as are specified by the Minister in the instrument of appointment, as if the person were the Minister.
- (3) The exercise of functions under subsection (2) by a person other than the Minister has effect as if the functions had been exercised by the Minister. 15

23 Information relating to key employees

- (1) The Minister may, by notice in writing served on a key employee, require the key employee:
 - (a) to consent, in accordance with directions in the notice, to having his or her photograph, fingerprints and palm prints taken, and 20
 - (b) to provide, in accordance with directions in the notice, such information (verified by statutory declaration) relevant to the key employee as is specified in the notice, and 25
 - (c) to produce, in accordance with directions in the notice, such documents relevant to the key employee as are specified in the notice and to permit examination of the documents, the taking of extracts from them and the making of copies of them, and 30
 - (d) to furnish such authorities and consents as the Minister may require for the purpose of obtaining further information (including financial and other confidential information) from other persons and institutions. 35

- (2) The Minister is to refer to the Commissioner of Police copies of any photographs, fingerprints and palm prints taken in respect of a key employee under this section and any supporting information that the Minister considers to be appropriate for referral to the Commissioner. 5
- (3) The Commissioner of Police is to inquire into, and report to the Minister on, such matters concerning the key employee as the Minister may request.
- (4) A key employee is not excused from complying with a requirement of a notice under this section on the ground that compliance might tend to incriminate the employee. However, if the employee claims, before complying with the requirement, that compliance might tend to incriminate the employee, information provided in compliance with the requirement is not admissible in evidence against the employee in any criminal proceedings. 10 15
- (5) A key employee who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

Part 4 Miscellaneous

24 Prohibition on betting with minors

- (1) Any person who is concerned in the conduct or playing of a game of two-up in accordance with this Act must not make or accept any bet, or permit any bet to be made or accepted, with or from a minor in relation to any such game. 5

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

- (2) A person is not guilty of an offence under this section if the person proves that, before any such bet was made or accepted, acceptable proof of age for the minor was produced to the person. 10

- (3) This section does not limit any other offence under this or any other Act or law that relates to betting with or by minors.

- (4) In this section: 15

acceptable proof of age for a person means documentary evidence that might reasonably be accepted as applying to the person and as proving that the person is at least 18 years of age.

25 General defence for participants in unlawful games of two-up

If a game of two-up is unlawful because: 20

- (a) any of the requirements referred to in section 7 or 8 are not satisfied, or
(b) being a game that is conducted in the City of Broken Hill—it is not conducted in accordance with Part 3,

a participant in the game is not guilty of an offence under section 14 of the *Unlawful Gambling Act 1998* unless it is proved that the participant knew, or in the circumstances should have known or suspected, that the game was an unlawful game. 25

26 Rules

- (1) The Council may make rules for or with respect to the conduct of games of two-up by or on behalf of the Council in accordance with Part 3. 30

-
- (2) The rules are not to be inconsistent with this Act, the regulations or the conditions imposed by the Minister when authorising the Council to conduct games of two-up.

- (3) A rule:

- (a) must be approved in writing by the Minister before it is made, and 5
- (b) must be published in the Gazette, and
- (c) takes effect on and from the date of publication (or such later date as may be specified in the rule).

- (4) The power to make rules includes a power to amend or repeal a rule made in accordance with this section. 10

27 Delegation

The Minister may delegate to any public servant any of the Minister's functions under this Act, other than this power of delegation. 15

28 Destruction of fingerprints and palm prints

- (1) Any fingerprints or palm prints obtained under Part 3, and any copies of them, are to be destroyed if the key employee from whom they were obtained is no longer a key employee.
- (2) A person who has possession of any such fingerprints or palm prints, or copies of them, must deliver them to the Minister, in accordance with the written directions of the Minister, to enable subsection (1) to be complied with. 20

Maximum penalty (subsection (2)): 20 penalty units.

29 Secrecy

- (1) A person who acquires information in the exercise of functions under Part 3 must not, directly or indirectly, make a record of the information or divulge the information to another person, except in the exercise of functions under Part 3. 25

Maximum penalty: 50 penalty units. 30

- (2) Despite subsection (1), information may be divulged:
- (a) to a particular person or persons, if the Minister certifies that it is necessary in the public interest that the information be divulged to the person or persons, or
 - (b) to a person, or an authority, prescribed by the regulations, or 5
 - (c) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates.
- (3) It is not an offence under this section if, in any legal proceedings, a person divulges the information: 10
- (a) in answer to a question that the person is compellable to answer, or
 - (b) by providing a document or other thing that the person is compellable to produce.
- (4) An authority or person to whom information is divulged under this section, and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as they would be if that authority, person or employee were a person exercising functions under Part 3 and had acquired the information in the exercise of those functions. 15 20
- (5) This section does not apply to the divulging of information to, or the production of any document or other thing to, any of the following:
- (a) the Independent Commission Against Corruption, 25
 - (b) the National Crime Authority,
 - (c) the New South Wales Crime Commission,
 - (d) the Ombudsman,
 - (e) any other person or body prescribed by the regulations for the purposes of this subsection. 30
- (6) This section does not prevent a person being given access to a document in accordance with the *Freedom of Information Act 1989*, unless the document:

-
- (a) contains matter the disclosure of which could reasonably be expected to do any of the following:
- (i) prejudice the investigation of any contravention or possible contravention of the law (including any revenue law) whether generally or in a particular case, 5
 - (ii) enable the existence or identity of any confidential source of information, in relation to the enforcement or administration of the law, to be ascertained,
 - (iii) prejudice the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law (including any revenue law), or 10
- (b) is a document the disclosure of which would disclose any of the following information: 15
- (i) information concerning the business, commercial, professional or financial affairs of the Council in relation to the conduct of games of two-up, a key employee or a person conducting games of two-up on behalf of the Council, 20
 - (ii) information obtained in the course of an investigation of a key employee or any such person.
- (7) In this section, a reference to the divulging of information includes a reference to the production of a document or other thing and the provision of access to the document or other thing. 25

30 Proceedings for offences

Proceedings for an offence under this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

30

31 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

35

- (2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to any matter relating to the conduct of games of two-up in accordance with this Act.
- (3) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units. 5

32 Savings and transitional provisions

Schedule 1 has effect.

33 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. 10
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years. 15

Schedule 1 Savings and transitional provisions

(Section 32)

1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: 5
- this Act
- the *Unlawful Gambling Act 1998*
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date. 10
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 15
- (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. 20

2 Continuation of certain matters

- (1) The authorisation given to the Council under section 50D of the *Gaming and Betting Act 1912*, and in force immediately before the repeal of that section by the *Unlawful Gambling Act 1998*, is taken to be have been given under section 10 of this Act. 25
- (2) Any person holding office as an inspector under section 50K of the *Gaming and Betting Act 1912* immediately before the repeal of that section by the *Unlawful Gambling Act 1998* is taken to have been appointed as an inspector under this Act.
- (3) Any rules in force under section 50Q of the *Gaming and Betting Act 1912* immediately before the repeal of that section by the *Unlawful Gambling Act 1998* are taken to be rules made by the Council under section 26 of this Act. 30

Gambling (Two-up) Bill 1998

Schedule 1 Savings and transitional provisions

- (4) Without limiting subclauses (1)–(3), any act, matter or thing that had effect under Part 3A of the *Gaming and Betting Act 1912* immediately before the repeal of that Part by the *Unlawful Gambling Act 1998* is taken to have effect under this Act.