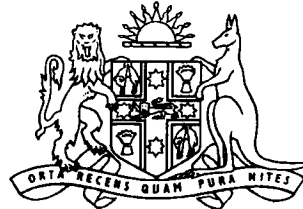


Passed by both Houses



New South Wales

Racing Legislation Amendment (Bookmakers) Bill 2002

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Greyhound Racing Authority Act 1985 No 119	2
4 Amendment of Harness Racing New South Wales Act 1977 No 57	2
5 Amendment of Thoroughbred Racing Board Act 1996 No 37	2
6 Amendment of Racing Administration Act 1998 No 114	2
7 Amendment of Unlawful Gambling Act 1998 No 113	2
Schedules	
1 Amendment of Greyhound Racing Authority Act 1985	3
2 Amendment of Harness Racing New South Wales Act 1977	7
3 Amendment of Thoroughbred Racing Board Act 1996	11
4 Amendment of Racing Administration Act 1998	15
5 Amendment of Unlawful Gambling Act 1998	19

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2002*



New South Wales

Racing Legislation Amendment (Bookmakers) Bill 2002

Act No , 2002

An Act to amend the *Greyhound Racing Authority Act 1985*, the *Harness Racing New South Wales Act 1977* and the *Thoroughbred Racing Board Act 1996* to provide for the authorisation of proprietary companies as bookmakers; and for related purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Racing Legislation Amendment (Bookmakers) Act 2002*.

2 Commencement

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.

4 Amendment of Harness Racing New South Wales Act 1977 No 57

The *Harness Racing New South Wales Act 1977* is amended as set out in Schedule 2.

5 Amendment of Thoroughbred Racing Board Act 1996 No 37

The *Thoroughbred Racing Board Act 1996* is amended as set out in Schedule 3.

6 Amendment of Racing Administration Act 1998 No 114

The *Racing Administration Act 1998* is amended as set out in Schedule 4.

7 Amendment of Unlawful Gambling Act 1998 No 113

The *Unlawful Gambling Act 1998* is amended as set out in Schedule 5.

Schedule 1 Amendment of Greyhound Racing Authority Act 1985

(Section 3)

[1] Section 9AA

Insert after section 9:

9AA Registration of bookmakers

- (1) An application for registration as a bookmaker may be made:
 - (a) by a natural person of or over the age of 18 years, or
 - (b) by a proprietary company.
- (2) The Authority must refuse to grant an application for registration of a proprietary company as a bookmaker unless satisfied that the company is an eligible company.
- (3) For the purposes of this section, an *eligible company* means a proprietary company that is taken to be registered in New South Wales for the purposes of the *Corporations Act 2001* of the Commonwealth and in which:
 - (a) each director, shareholder and person concerned in the management of the company is of or over the age of 18 years, and
 - (b) each director is registered as an individual as a bookmaker under this Act, and
 - (c) each director is a shareholder and person concerned in the management of the company, and
 - (d) each shareholder who is not a director is a close family member of a director, and
 - (e) each shareholder or person concerned in the management of the company who is not a director is, in the opinion of the Authority, a fit and proper person to be registered as an individual as a bookmaker under this Act, and
 - (f) subject to the regulations, no person (other than a shareholder) has any interest in the shares or assets of the company.

- (4) It is a condition of a company's registration as a bookmaker that:
- (a) the company continues to be an eligible company, and
 - (b) no shareholder or person concerned in the management of the company, other than a director, is registered as an individual as a bookmaker under this Act, and
 - (c) no director, shareholder or person concerned in the management of the company:
 - (i) carries on the business of a bookmaker, otherwise than on behalf of the company, in relation to any greyhound, horse or harness race, at a meeting for greyhound racing in New South Wales, or
 - (ii) carries on the business of an authorised sports betting bookmaker, otherwise than on behalf of the company, at a racecourse licensed for greyhound racing, or
 - (iii) is a director, shareholder or person concerned in the management of, or is an employee or agent of, any other company that is registered as a bookmaker under this Act, or
 - (iv) has a financial interest in any business of a bookmaker that is carried on by any such other company under the authority of its registration under this Act, and
 - (d) no director, shareholder or person concerned in the management of the company:
 - (i) is registered or otherwise authorised as an individual to carry on, or carries on, the business of a bookmaker, bookmaker's clerk or turf commission agent, or a totalizator business, in another Australian State or Territory, or
 - (ii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is registered or otherwise authorised to carry on, or that carries on, any such business in another Australian State or Territory, or

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- (iii) is an employee or agent of any individual, partnership or corporation referred to in the preceding subparagraphs, or
 - (iv) has a financial interest in the business of a bookmaker or turf commission agent, or a totalizator business, that is authorised to be carried on or is carried on in another Australian State or Territory, and
- (e) no director, shareholder or person concerned in the management of the company:
- (i) is registered or otherwise authorised as an individual to carry on, or carries on, the business of a bookmaker, bookmaker's clerk or turf commission agent, or a totalizator business, or any other kind of betting, wagering, gambling or gaming business, in another country, or
 - (ii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is registered or otherwise authorised to carry on, or that carries on, any such business in another country, or
 - (iii) is an employee or agent of any individual, partnership or corporation referred to in the preceding subparagraphs, or
 - (iv) has a financial interest in the business of a bookmaker or turf commission agent, or a totalizator business, or any other kind of betting, wagering, gambling or gaming business, that is authorised to be carried on or is carried on in another country.
- (5) In subsection (4) (c), (d) and (e), a reference to carrying on the business of a bookmaker, or the business of a bookmaker's clerk or turf commission agent, includes a reference to acting as a bookmaker, or a bookmaker's clerk or turf commission agent.
- (6) The condition set out in subsection (4) (d) does not extend to a person who is a director of a company that is registered as a bookmaker under this Act if:
- (a) the person is the sole director of the company, and

- (b) the relevant matters referred to in subsection (4) (d) (i), (ii), (iii) or (iv) are disclosed in writing to the Authority at the time the company applies for registration as a bookmaker under this Act or, if they do not occur until after that time, within 2 working days after they occur.
- (7) The Authority may suspend or cancel the registration of a company as a bookmaker if satisfied that any condition referred to in subsection (4) is contravened in respect of the company. This does not limit the powers of the Authority to suspend or cancel the registration of a company as a bookmaker under section 9.
- (8) Any debt that is incurred by a company in carrying on business as a bookmaker registered under this Act is enforceable jointly and severally against all persons who are directors of the company at the time the debt is incurred (whether or not they are directors at the time the debt is sought to be enforced).
- (9) In this section:
- authorised sports betting bookmaker*** has the same meaning as in section 4 of the *Racing Administration Act 1998*.
- close family member of a director*** means:
- (a) a spouse, de facto partner, parent, child, brother or sister of the director, or
- (b) a person who has a relationship with the director that is prescribed by the regulations for the purposes of this definition.
- financial interest*** in a bookmaking business means an entitlement to receive any of the income from the business.
- meeting for greyhound racing*** has the same meaning as in section 4 of the *Racing Administration Act 1998*.
- racecourse licensed for greyhound racing*** means a racecourse in respect of which a licence for meetings for greyhound racing granted under section 7 of the *Racing Administration Act 1998* is in force.

[2] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1A (1):

Racing Legislation Amendment (Bookmakers) Act 2002

Schedule 2 Amendment of Harness Racing New South Wales Act 1977

(Section 4)

[1] Section 9A

Insert after section 9:

9A Registration of bookmakers

- (1) An application for registration as a bookmaker may be made:
 - (a) by a natural person of or over the age of 18 years, or
 - (b) by a proprietary company.
- (2) HRNSW must refuse to grant an application for registration of a proprietary company as a bookmaker unless satisfied that the company is an eligible company.
- (3) For the purposes of this section, an *eligible company* means a proprietary company that is taken to be registered in New South Wales for the purposes of the *Corporations Act 2001* of the Commonwealth and in which:
 - (a) each director, shareholder and person concerned in the management of the company is of or over the age of 18 years, and
 - (b) each director is registered as an individual as a bookmaker under this Act, and
 - (c) each director is a shareholder and person concerned in the management of the company, and
 - (d) each shareholder who is not a director is a close family member of a director, and
 - (e) each shareholder or person concerned in the management of the company who is not a director is, in the opinion of HRNSW, a fit and proper person to be registered as an individual as a bookmaker under this Act, and
 - (f) subject to the regulations, no person (other than a shareholder) has any interest in the shares or assets of the company.

- (4) It is a condition of a company's registration as a bookmaker that:
- (a) the company continues to be an eligible company, and
 - (b) no shareholder or person concerned in the management of the company, other than a director, is registered as an individual as a bookmaker under this Act, and
 - (c) no director, shareholder or person concerned in the management of the company:
 - (i) carries on the business of a bookmaker, otherwise than on behalf of the company, in relation to any harness, horse or greyhound race, at a meeting for harness racing in New South Wales, or
 - (ii) carries on the business of an authorised sports betting bookmaker, otherwise than on behalf of the company, at a racecourse licensed for harness racing, or
 - (iii) is a director, shareholder or person concerned in the management of, or is an employee or agent of, any other company that is registered as a bookmaker under this Act, or
 - (iv) has a financial interest in any business of a bookmaker that is carried on by any such other company under the authority of its registration under this Act, and
 - (d) no director, shareholder or person concerned in the management of the company:
 - (i) is registered or otherwise authorised as an individual to carry on, or carries on, the business of a bookmaker, bookmaker's clerk or turf commission agent, or a totalizator business, in another Australian State or Territory, or
 - (ii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is registered or otherwise authorised to carry on, or that carries on, any such business in another Australian State or Territory, or

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- (iii) is an employee or agent of any individual, partnership or corporation referred to in the preceding subparagraphs, or
 - (iv) has a financial interest in the business of a bookmaker or turf commission agent, or a totalizator business, that is authorised to be carried on or is carried on in another Australian State or Territory, and
- (e) no director, shareholder or person concerned in the management of the company:
- (i) is registered or otherwise authorised as an individual to carry on, or carries on, the business of a bookmaker, bookmaker's clerk or turf commission agent, or a totalizator business, or any other kind of betting, wagering, gambling or gaming business, in another country, or
 - (ii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is registered or otherwise authorised to carry on, or that carries on, any such business in another country, or
 - (iii) is an employee or agent of any individual, partnership or corporation referred to in the preceding subparagraphs, or
 - (iv) has a financial interest in the business of a bookmaker or turf commission agent, or a totalizator business, or any other kind of betting, wagering, gambling or gaming business, that is authorised to be carried on or is carried on in another country.
- (5) In subsection (4) (c), (d) and (e), a reference to carrying on the business of a bookmaker, or the business of a bookmaker's clerk or turf commission agent, includes a reference to acting as a bookmaker, or a bookmaker's clerk or turf commission agent.
- (6) The condition set out in subsection (4) (d) does not extend to a person who is a director of a company that is registered as a bookmaker under this Act if:
- (a) the person is the sole director of the company, and

- (b) the relevant matters referred to in subsection (4) (d) (i), (ii), (iii) or (iv) are disclosed in writing to HRNSW at the time the company applies for registration as a bookmaker under this Act or, if they do not occur until after that time, within 2 working days after they occur.
- (7) HRNSW may suspend or cancel the registration of a company as a bookmaker if satisfied that any condition referred to in subsection (4) is contravened in respect of the company. This does not limit the powers of HRNSW to suspend or cancel the registration of a company as a bookmaker under section 9.
- (8) Any debt that is incurred by a company in carrying on business as a bookmaker registered under this Act is enforceable jointly and severally against all persons who are directors of the company at the time the debt is incurred (whether or not they are directors at the time the debt is sought to be enforced).
- (9) In this section:
- authorised sports betting bookmaker* has the same meaning as in section 4 of the *Racing Administration Act 1998*.
- close family member of a director* means:
- (a) a spouse, de facto partner, parent, child, brother or sister of the director, or
- (b) a person who has a relationship with the director that is prescribed by the regulations for the purposes of this definition.

financial interest in a bookmaking business means an entitlement to receive any of the income from the business.

meeting for harness racing has the same meaning as in section 4 of the *Racing Administration Act 1998*.

racecourse licensed for harness racing means a racecourse in respect of which a licence for meetings for harness racing granted under section 7 of the *Racing Administration Act 1998* is in force.

[2] Schedule 5 Savings and transitional provisions

Insert at the end of clause 1 (1):

Racing Legislation Amendment (Bookmakers) Act 2002

Schedule 3 Amendment of Thoroughbred Racing Board Act 1996

(Section 5)

[1] Section 14A

Insert after section 14:

14A Licensing of bookmakers

- (1) An application for a bookmaker licence may be made:
 - (a) by a natural person of or over the age of 18 years, or
 - (b) by a proprietary company.
- (2) The Board must refuse to licence a proprietary company as a bookmaker unless satisfied that the company is an eligible company.
- (3) For the purposes of this section, an *eligible company* means a proprietary company that is taken to be registered in New South Wales for the purposes of the *Corporations Act 2001* of the Commonwealth and in which:
 - (a) each director, shareholder and person concerned in the management of the company is of or over the age of 18 years, and
 - (b) each director is licensed as an individual as a bookmaker under this Act, and
 - (c) each director is a shareholder and person concerned in the management of the company, and
 - (d) each shareholder who is not a director is a close family member of a director, and
 - (e) each shareholder or person concerned in the management of the company who is not a director is, in the opinion of the Board, a fit and proper person to be licensed as an individual as a bookmaker under this Act, and
 - (f) subject to the regulations, no person (other than a shareholder) has any interest in the shares or assets of the company.

- (4) It is a condition of a bookmaker licence granted to a company that:
- (a) the company continues to be an eligible company, and
 - (b) no shareholder or person concerned in the management of the company, other than a director, is licensed as an individual as a bookmaker under this Act, and
 - (c) no director, shareholder or person concerned in the management of the company:
 - (i) carries on the business of a bookmaker, otherwise than on behalf of the company, in relation to any horse, harness or greyhound race, at a meeting for horse racing in New South Wales, or
 - (ii) carries on the business of an authorised sports betting bookmaker, otherwise than on behalf of the company, at a racecourse licensed for horse racing, or
 - (iii) is a director, shareholder or person concerned in the management of, or is an employee or agent of, any other company that is licensed as a bookmaker under this Act, or
 - (iv) has a financial interest in any business of a bookmaker that is carried on by any such other company under the authority of its licence under this Act, and
 - (d) no director, shareholder or person concerned in the management of the company:
 - (i) is licensed or otherwise authorised as an individual to carry on, or carries on, the business of a bookmaker, bookmaker's clerk or turf commission agent, or a totalizator business, in another Australian State or Territory, or
 - (ii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is licensed or otherwise authorised to carry on, or that carries on, any such business in another Australian State or Territory, or

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- (iii) is an employee or agent of any individual, partnership or corporation referred to in the preceding subparagraphs, or
 - (iv) has a financial interest in the business of a bookmaker or turf commission agent, or a totalizator business, that is authorised to be carried on or is carried on in another Australian State or Territory, and
- (e) no director, shareholder or person concerned in the management of the company:
- (i) is licensed or otherwise authorised as an individual to carry on, or carries on, the business of a bookmaker, bookmaker's clerk or turf commission agent, or a totalizator business, or any other kind of betting, wagering, gambling or gaming business, in another country, or
 - (ii) is a director, shareholder or person concerned in the management of a corporation, or is a member of a partnership, that is licensed or otherwise authorised to carry on, or that carries on, any such business in another country, or
 - (iii) is an employee or agent of any individual, partnership or corporation referred to in the preceding subparagraphs, or
 - (iv) has a financial interest in the business of a bookmaker or turf commission agent, or a totalizator business, or any other kind of betting, wagering, gambling or gaming business, that is authorised to be carried on or is carried on in another country.
- (5) In subsection (4) (c), (d) and (e), a reference to carrying on the business of a bookmaker, or the business of a bookmaker's clerk or turf commission agent, includes a reference to acting as a bookmaker, or a bookmaker's clerk or turf commission agent.
- (6) The condition set out in subsection (4) (d) does not extend to a person who is a director of a company that is licensed as a bookmaker under this Act if:
- (a) the person is the sole director of the company, and

(b) the relevant matters referred to in subsection (4) (d) (i), (ii), (iii) or (iv) are disclosed in writing to the Board at the time the company applies for a bookmaker licence under this Act or, if they do not occur until after that time, within 2 working days after they occur.

(7) The Board may suspend or cancel a bookmaker licence granted to a company if satisfied that any condition referred to in subsection (4) is contravened in respect of the company. This does not limit the powers of the Board to suspend or cancel the registration of a company as a bookmaker under section 14.

(8) Any debt that is incurred by a company in carrying on business as a bookmaker licensed under this Act is enforceable jointly and severally against all persons who are directors of the company at the time the debt is incurred (whether or not they are directors at the time the debt is sought to be enforced).

(9) In this section:

authorised sports betting bookmaker has the same meaning as in section 4 of the *Racing Administration Act 1998*.

close family member of a director means:

- (a) a spouse, de facto partner, parent, child, brother or sister of the director, or
- (b) a person who has a relationship with the director that is prescribed by the regulations for the purposes of this definition.

financial interest in a bookmaking business means an entitlement to receive any of the income from the business.

meeting for horse racing has the same meaning as in section 4 of the *Racing Administration Act 1998*.

racecourse licensed for horse racing means a racecourse in respect of which a licence for meetings for horse racing granted under section 7 of the *Racing Administration Act 1998* is in force.

Racing Legislation Amendment (Bookmakers) Bill 2002

Amendment of Thoroughbred Racing Board Act 1996

Schedule 3

[2] Schedule 1 Savings and transitional provisions

Insert at the end of clause 3 (1):

Racing Legislation Amendment (Bookmakers) Act 2002

Schedule 4 Amendment of Racing Administration Act 1998

(Section 6)

[1] Section 17 Offence of conducting unauthorised telephone or electronic betting

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

Insert instead:

Maximum penalty:

- (a) 100 penalty units, in the case of an offence committed by a corporation, or
- (b) 50 penalty units or imprisonment for 12 months (or both), in the case of an offence committed by an individual.

[2] Section 19A

Insert after section 19:

19A Liability of directors of authorised companies

Any debt that is incurred by a company in carrying on business as an authorised sports betting bookmaker is enforceable jointly and severally against all persons who are directors of the company at the time the debt is incurred (whether or not they are directors at the time the debt is sought to be enforced).

[3] Section 26D State bookmakers tax authority

Omit section 26D (4). Insert instead:

- (4) Without limiting the grounds on which an application may be refused, the Committee may refuse to issue a State bookmakers tax authority if it is satisfied:
 - (a) that a bookmaker has failed to pay an amount due in accordance with the provisions of the *Betting Tax Act 2001*, or

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- (b) that a bookmaker has been convicted of an offence under the *Taxation Administration Act 1996* in relation to the assessment, collection or payment of betting tax under the *Betting Tax Act 2001*, or
 - (c) that a bookmaker has been convicted of an offence under this Act or the *Unlawful Gambling Act 1998*, or
 - (d) in the case of an application by a bookmaker that is a company, that a director, shareholder or person concerned in the management of the company has, as an individual, failed to pay an amount due as referred to in paragraph (a) or been convicted of an offence as referred to in paragraph (b) or (c), or
 - (e) in the case of an application by an individual bookmaker, that the individual was a director, shareholder or person concerned in the management of a company bookmaker at a time when the company failed to pay an amount due as referred to in paragraph (a) or committed an offence for which it was convicted as referred to in paragraph (b) or (c).

[4] Section 26E

Omit the section. Insert instead:

26E Committee may revoke State bookmakers tax authority if taxation not paid

The Committee may revoke a State bookmakers tax authority issued under this Part if it is satisfied:

- (a) that a bookmaker has failed to pay an amount due in accordance with the provisions of the *Betting Tax Act 2001*, or
- (b) that a bookmaker has been convicted of an offence under the *Taxation Administration Act 1996* in relation to the assessment, collection or payment of betting tax under the *Betting Tax Act 2001*, or
- (c) that a bookmaker has been convicted of an offence under this Act or the *Unlawful Gambling Act 1998*, or

- (d) that a bookmaker has ceased to hold a licence, certificate of registration or permit issued by any racing club, or
- (e) in the case of an authority issued to a bookmaker that is a company, that a director, shareholder or person concerned in the management of the company has, as an individual, failed to pay an amount due as referred to in paragraph (a), been convicted of an offence as referred to in paragraph (b) or (c), or ceased to hold a licence, certificate or permit as referred to in paragraph (d), or
- (f) in the case of an authority issued to an individual bookmaker, that the individual was a director, shareholder or person concerned in the management of a company bookmaker at a time when the company failed to pay an amount due as referred to in paragraph (a), committed an offence for which it was convicted as referred to in paragraph (b) or (c), or ceased to hold a licence, certificate or permit as referred to in paragraph (d).

[5] Section 36B

Insert after section 36A:

36B Offences by corporations

- (1) If a corporation contravenes (whether by act or omission) any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision, unless the person satisfies the court that:
 - (a) the corporation contravened the provision without the actual, imputed or constructive knowledge of the person, or
 - (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
 - (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.

- (2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.
- (4) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the corporation had that intention.

[6] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

the Racing Legislation Amendment (Bookmakers) Act 2002

Schedule 5 Amendment of Unlawful Gambling Act 1998

(Section 7)

[1] Section 9 Offence of unlawful bookmaking

Omit the matter setting out the maximum penalty for offences under section 9 (2).

Insert instead:

Maximum penalty:

- (a) for a first offence, 200 penalty units (in the case of an offence committed by a corporation) or 100 penalty units or imprisonment for 2 years or both (in the case of an offence committed by an individual), or
- (b) for a second or subsequent offence, 1,000 penalty units (in the case of an offence committed by a corporation) or 500 penalty units or imprisonment for 2 years or both (in the case of an offence committed by an individual).

[2] Schedule 1 Savings and transitional provisions

Omit “of this Act” from clause 1 (1). Insert instead:

of this Act and the following Acts:

Racing Legislation Amendment (Bookmakers) Act 2002