



New South Wales

Racing and Gambling Legislation Amendment Bill 2022

Explanatory note

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

Overview of Bill

This Bill—

- (a) amends the *Harness Racing Act 2009* and *Greyhound Racing Act 2017* to implement recommendations from statutory reviews of those Acts
- (b) makes consequential amendments to the *Racing Appeals Tribunal Act 1983*
- (c) amends the *Betting and Racing Act 1998* to implement the National Consumer Protection Framework for Online Wagering
- (d) makes other minor amendments.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 **Amendment of Betting and Racing Act 1998 No 114**

Schedule 1[1] enables the regulations to require a sports controlling body, prescribed under the *Betting and Racing Act 1998* (the *principal Act*), section 17B, to notify the Minister of a change in the sports controlling body's circumstances.

Schedule 1[2], [5] and [7] introduces a new Part 4A into the principal Act to gather responsible gambling provisions into a single Part.

Schedule 1[3] inserts a note about who is a licensed betting service provider.

Schedule 1[4] corrects an incorrect reference.

Schedule 1[6] permits the regulations under the principal Act to require gambling advertisements, other than printed advertisements, to contain an advisory statement.

Schedule 1[8] introduces new requirements for betting accounts, including requiring a licensed betting service provider to keep accounts private, keep records in relation to betting accounts and to provide statements to account holders. Failure to comply with the provisions is an offence with a maximum penalty of \$11,000 for an individual and \$110,000 for a corporation.

Schedule 1[8] also requires a licensed betting service provider to ensure certain individuals receive responsible gambling training and to keep records about the training. Failure to comply with the provisions is an offence with a maximum penalty of \$11,000 for an individual and \$110,000 for a corporation.

Schedule 1[9] inserts savings provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Greyhound Racing Act 2017 No 13

Schedule 2[1] updates the definition of *greyhound* for the *Greyhound Racing Act 2017*.

Schedule 2[2] sets out the objects of the *Greyhound Racing Act 2017*.

Schedule 2[3] updates a provision to provide that the Greyhound Welfare and Integrity Commission (the *Commission*) may, against or in relation to a relevant person, disqualify a specified greyhound, rather than disqualify and warn off a specified greyhound.

Schedule 3 Amendment of Harness Racing Act 2009 No 20

Schedule 3[1] sets out the objects of the *Harness Racing Act 2009* (the *principal Act*).

Schedule 3[2] replaces the definition of *racing official* and includes a definition of *recommended members list*.

Schedule 3[3] provides for Harness Racing New South Wales (*HRNSW*) to consist of the chief executive officer of HRNSW as well as 5 members appointed under the principal Act, section 6.

Schedule 3[4] provides for a time limit of 12 months on certain circumstances which currently prevent a person from being eligible to be a member of HRNSW.

Schedule 3[5] provides that the chief executive officer of HRNSW does not have a vote at meetings of HRNSW.

Schedule 3[6] updates provisions relating to a Selection Panel whose function is—

- (a) to prepare and provide to the Minister a list of persons recommended for appointment as members of HRNSW (a *recommended members list*), and
- (b) to recommend the term of office for each person recommended.

Schedule 3[6] also omits a redundant provision.

Schedule 3[7] inserts a function of HRNSW.

Schedule 3[8] requires HRNSW to prepare and publish a stakeholder engagement plan setting out certain matters.

Schedule 3[9] allows strategic plans prepared under the principal Act, section 12 to be combined into a single strategic plan for HRNSW and the harness racing industry.

Schedule 3[10] requires the annual report of HRNSW to include certain additional matters, including the strategic plan.

Schedule 3[11] requires HRNSW to make copies of the annual report available to the public free of charge rather than at a reasonable price.

Schedule 3[12] updates a provision relating to actions the Integrity Auditor must take after the investigation of a complaint.

Schedule 3[13] requires the Integrity Auditor to provide a report summarising the outcomes of investigations undertaken by the Integrity Auditor for inclusion in the annual report.

Schedule 3[15] updates certain membership requirements for the Harness Racing Industry Consultation Group (*HRICG*).

Schedule 3[17] sets out the persons an industry body must represent to be an industry body that may nominate a member of HRICG.

Schedule 3[18] prevents a person from being eligible to be a member of HRICG if the person resides outside New South Wales, and removes a provision preventing a person from being eligible to be a member of HRICG if the person is a member of the Selection Panel.

Schedule 3[19] requires HRICG to prepare a code of conduct for its members and to make the code of conduct publicly available.

Schedule 3[20] inserts proposed Part 5A into the principal Act which provides for a person aggrieved by certain decisions of a racing authority to appeal against the decision to the Appeal Panel. The proposed Part provides for the following matters in relation to the Appeal Panel—

- (a) the procedure on appeal,
- (b) the actions the Appeal Panel may take in relation to an appeal,
- (c) the membership and constitution of the Appeal Panel, including the appointment of a principal member and the remuneration of members,
- (d) the way in which the Appeal Panel makes decisions,
- (e) the power for rules to make provision about appeals under the proposed Act.

Schedule 3[22] provides for further circumstances in which the Minister may remove a member of HRNSW from office.

Schedule 3[23] removes an ability for HRNSW to otherwise determine a prohibition on a member, who has disclosed the nature of a pecuniary interest in a matter, from being present during deliberations of HRNSW, or taking part in a decision of HRNSW, in relation to the matter.

Schedule 3[24] removes a subclause prohibiting a member who has a pecuniary interest in a matter to which a disclosure relates, for the purpose of the making of a determination by HRNSW, from being present during deliberations of HRNSW in relation to the determination or the making of the determination.

Schedule 3[25] provides that the requirement for members of HRNSW to disclose pecuniary interests applies to a member of a committee of HRNSW in relation to a meeting of the committee in the same way it applies to a member of HRNSW in relation to a meeting of HRNSW.

Schedule 3[26] requires HRNSW to make the code of conduct adopted by HRNSW to be made publicly available on its website.

Schedule 3[27] provides for HRICG to transact business outside meetings or by telecommunication.

Schedule 3[28] inserts savings provisions consequent on the enactment of the proposed Act.

Schedule 3[14], [16] and [21] make minor amendments.

Schedule 4 Amendment of Racing Appeals Tribunal Act 1983 No 199

Schedule 4[1] updates a provision relating to appeals under the *Harness Racing Act 2009* to take account of the Appeal Panel proposed by Schedule 3[20].

Schedule 4[2] expands a provision to provide that the Greyhound Welfare and Integrity Commission is to meet the expenses incurred by the Tribunal in the exercise of its functions in an appeal to the Tribunal under the *Racing Appeals Tribunal Act 1983*, section 15A about a decision of the Commission.

Schedule 4[3] inserts savings provisions consequent on the enactment of the proposed Act.



New South Wales

Racing and Gambling Legislation Amendment Bill 2022

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New South Wales

Racing and Gambling Legislation Amendment Bill 2022

No. _____, 2022

A Bill for

An Act to amend the *Harness Racing Act 2009* and the *Greyhound Racing Act 2017* to implement recommendations from statutory reviews of the Acts; to consequentially amend the *Racing Appeals Tribunal Act 1983*; to amend the *Betting and Racing Act 1998* in relation to responsible gambling and betting accounts; and for other purposes.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Racing and Gambling Legislation Amendment Act 2022*.

3

2 Commencement

4

This Act commences as follows—

5

(a) for Schedule 3[20] and 4[1]—on a day or days to be appointed by proclamation,

6

7

(b) otherwise—on the date of assent to this Act.

8

Schedule 1	Amendment of Betting and Racing Act 1998 No 114	1
		2
[1] Section 17B Sports controlling body		3
	Insert after section 17B(3)—	4
	(4) The regulations may require a sports controlling body to notify the Minister of a change in the sports controlling body’s circumstances.	5 6
[2] Part 4A, heading		7
	Omit the heading. Insert instead—	8
	Part 4A Responsible gambling	9
	Division 1 Preliminary	10
[3] Section 33G(1), note		11
	Insert after section 33G(1)—	12
	Note— A reference to a betting service provider means the following—	13
	(a) a bookmaker,	14
	(b) a person who operates a totalizator,	15
	(c) a person who operates a betting exchange.	16
[4] Section 33G(2)		17
	Omit “publication of gambling information”.	18
	Insert instead “publication of a gambling advertisement”.	19
[5] Part 4A, Division 2, heading		20
	Insert after section 33GA—	21
	Division 2 Advertising and inducements	22
[6] Section 33H Prohibitions on gambling-related advertisements		23
	Omit section 33H(4). Insert instead—	24
	(3) The regulations may prescribe an advisory statement that must be part of a gambling advertisement published—	25 26
	(a) in print, including a newspaper, magazine or poster, or	27
	(b) in a form prescribed by the regulations.	28
	(4) A person including a non-proprietary association or licensed betting service provider, must not publish, or cause to be published, a gambling advertisement unless the advertisement complies with subsection (3).	29 30 31
	Maximum penalty—	32
	(a) for an individual—100 penalty units, or	33
	(b) for a corporation—1,000 penalty units.	34
[7] Part 4A, Division 3, heading		35
	Insert after section 33JA—	36

Division 3	Betting accounts	1
[8]	Sections 33JD–33JG	2
	Insert after section 33JC—	3
33JD	Privacy of betting accounts	4
(1)	A licensed betting service provider must not disclose information about a betting account except to—	5 6
(a)	the holder of the betting account, or	7
(b)	a person who is lawfully entitled to have access to the information, or	8
(c)	a racing controlling body or a sports controlling body for integrity purposes, or	9 10
(d)	a person prescribed by the regulations.	11
(2)	Subsection (1) does not apply to a licensed betting service provider if the <i>Privacy Act 1988</i> of the Commonwealth applies to the provider.	12 13
(3)	This section does not limit—	14
(a)	section 33JE, or	15
(b)	the exercise of powers under Part 4B.	16
33JE	Records about betting account	17
(1)	A licensed betting service provider must keep records showing details of betting accounts held by the provider, including copies of activity statements provided under this Division.	18 19 20
(2)	The records must—	21
(a)	be written, and	22
(b)	be accurate, and	23
(c)	as far as practicable, be up to date, and	24
(d)	be kept in a form that can be reasonably read and copied by an inspector, and	25 26
(e)	include any information required by the regulations to be included, and	27
(f)	be kept by the licensed betting service provider for at least 7 years.	28
(3)	A licensed betting service provider must not fail to make the records available to an inspector if requested by the inspector to do so.	29 30
33JF	Betting account activity statements	31
(1)	A licensed betting service provider must, in accordance with this section, give the holder of a betting account a statement each month of transactions occurring in the betting account during the previous month (the <i>statement period</i>).	32 33 34 35
(2)	The statement must be as simple as practicable and easy for the holder of the betting account to understand.	36 37
(3)	The statement must not include gambling advertisements or inducements.	38
(4)	The statement must be given if there have been transactions made by the holder of the betting account during the statement period.	39 40

(5)	If there are no transactions made by the holder of the betting account during the statement period, the licensed betting service provider must not give a statement unless requested to do so by the holder.	1 2 3
(6)	The statement must be given by sending it to an email or postal address nominated by the holder of the betting account.	4 5
(7)	The statement must be provided free of charge except for a reasonable cost for postage if the statement is to be sent to a postal address.	6 7
(8)	The licensed betting service provider must comply with other requirements in relation to statements that are specified by the Minister by order published in the Gazette, including requirements about—	8 9 10
(a)	the giving of statements, and	11
(b)	the matters to be included in statements, and	12
(c)	the form of statements.	13
33JG	Offence	14
	A licensed betting service provider who fails to comply with a requirement imposed on the provider by this Division is guilty of an offence.	15 16
	Maximum penalty—	17
(a)	for an individual—100 penalty units, or	18
(b)	for a corporation—1,000 penalty units.	19
Division 4	Responsible gambling training	20
33JH	Definition	21
	In this Division—	22
	<i>relevant individual</i> , for a licensed betting service provider, means an individual who—	23 24
(a)	is a director, employee or contractor of the provider, and	25
(b)	is involved in the provision of betting services by the provider, including being involved in decisions affecting the provision of the betting services.	26 27 28
33JI	Provision of training	29
(1)	A licensed betting service provider must ensure an individual receives responsible gambling training in accordance with this section if the individual is a relevant individual for the provider.	30 31 32
(2)	The responsible gambling training must comprise—	33
(a)	initial training within 1 month after the individual becomes a relevant individual for the licensed betting service provider, and	34 35
(b)	refresher training within a year after—	36
(i)	the initial training, or	37
(ii)	for an individual who has received refresher training—the previous refresher training.	38 39
(3)	A licensed betting service provider must ensure a relevant individual for the provider does not interact with a person who holds a betting account with the provider unless the individual has received initial training.	40 41 42
(4)	The Minister may, by order published in the Gazette—	43

(a)	approve courses of responsible gambling training, or	1
(b)	approve persons to provide approved courses, or	2
(c)	specify minimum requirements for responsible gambling training, including requirements relating to the following—	3 4
(i)	the minimum content of courses,	5
(ii)	the testing of participants,	6
(iii)	the conduct of audits of courses and tests.	7
(5)	The regulations may make provision about responsible gambling training.	8
33JJ	Records about training	9
(1)	A licensed betting service provider must keep records showing details of the responsible gambling training received by relevant individuals for the provider.	10 11 12
(2)	The records must—	13
(a)	be written, and	14
(b)	be accurate, and	15
(c)	as far as practicable, be up to date, and	16
(d)	be kept in a form that can be reasonably read and copied by an inspector, and	17 18
(e)	include any information required by the regulations to be included, and	19
(f)	be kept by the licensed betting service provider for at least 7 years after the training to which the records relate was conducted.	20 21
(3)	A licensed betting service provider must not fail to make the records available to the following if requested to do so—	22 23
(a)	the employee to whom the records relate,	24
(b)	an inspector.	25
(4)	The regulations may specify the way in which the records are to be made available under this section.	26 27
33JK	Offence	28
	A licensed betting service provider who fails to comply with a requirement imposed on the provider by this Division is guilty of an offence.	29 30
	Maximum penalty—	31
(a)	for an individual—100 penalty units, or	32
(b)	for a corporation—1,000 penalty units.	33
[9]	Schedule 1 Savings and transitional provisions	34
	Insert at the end of the Schedule, with appropriate Part and clause numbering—	35
Part	Provisions consequent on enactment of Racing and Gambling Legislation Amendment Act 2022	36 37
	Provision of initial responsible gambling training	38
(1)	This clause applies to a person who is a relevant individual for a licensed betting service provider on the commencement of section 33JI.	39 40

- (2) Despite section 33JI(2)(a), the licensed betting service provider must ensure the person receives initial training within 6 months after the commencement of section 33JI. 1
2
3
- (3) Section 33JI(3), does not apply to the person until the earlier of— 4
 - (a) 6 months after the commencement of section 33JI, or 5
 - (b) the person no longer being a relevant individual for the betting service provider. 6
7

Schedule 2	Amendment of Greyhound Racing Act 2017 No 13	1
[1]	Section 3 Definitions	2
	Omit the definition of <i>greyhound</i> . Insert instead—	3
	<i>greyhound</i> means a greyhound owned or kept—	4
	(a) in connection with greyhound racing, or	5
	(b) by a greyhound racing industry participant.	6
[2]	Section 3A	7
	Insert after section 3—	8
	3A Objects of Act	9
	The objects of this Act are as follows—	10
	(a) to provide for the efficient and effective regulation of the greyhound racing industry,	11
		12
	(b) to protect the interests of the greyhound racing industry and its stakeholders,	13
		14
	(c) to facilitate the development and operation of a sustainable and viable greyhound racing industry,	15
		16
	(d) to ensure the integrity of greyhound racing and associated betting in the public interest,	17
		18
	(e) to provide for the functions of regulatory bodies,	19
	(f) to provide for the protection and promotion of the welfare of greyhounds.	20
		21
[3]	Section 59 Disciplinary action that may be taken	22
	Omit section 59(1)(e). Insert instead—	23
	(e) disqualifying a specified greyhound,	24

Schedule 3	Amendment of Harness Racing Act 2009 No 20	1
[1] Section 2A		2
	Insert after section 2—	3
2A Objects of Act		4
	The objects of this Act are as follows—	5
	(a) to provide for the efficient and effective regulation of the harness racing industry,	6 7
	(b) to protect the interests of the harness racing industry and its stakeholders,	8 9
	(c) to facilitate the development and operation of a sustainable and viable harness racing industry,	10 11
	(d) to ensure the integrity of harness racing and associated wagering in the public interest,	12 13
	(e) to provide for the functions and the powers of regulatory bodies,	14
	(f) to ensure harness racing industry stakeholder engagement and participation in the strategic development of the harness racing industry as a whole,	15 16 17
	(g) to protect and promote the welfare of harness racing horses.	18
[2] Section 3 Definitions		19
	Omit section 3(1), definition of <i>racings official</i> . Insert instead—	20
	<i>racings official</i> means the following—	21
	(a) a member of HRNSW,	22
	(b) the chief executive officer of HRNSW,	23
	(c) a steward appointed by HRNSW,	24
	(d) a member of staff of HRNSW,	25
	(e) a member of the HRICG.	26
	<i>recommended members list</i> —see section 7(1)(a).	27
[3] Section 6 Membership		28
	Insert “the chief executive officer of HRNSW and” after “is to consist of” in section 6(1).	29
[4] Section 6(2)(a)		30
	Omit section 6(2)(a) and (b). Insert instead—	31
	(a) during the previous 12 months has been an employee, or a member of the governing body, of—	32 33
	(i) a harness racing club, or	34
	(ii) an eligible industry body, or	35
[5] Section 6(4A)		36
	Insert after section 6(4)—	37
	(4A) The chief executive officer of HRNSW does not have a vote at meetings of HRNSW.	38 39

[6] Sections 7–8A	1
Omit sections 7 and 8. Insert instead—	2
7 Selection Panel	3
(1) The Minister must establish a Selection Panel—	4
(a) to prepare and give to the Minister a list of persons recommended for appointment as members of HRNSW (a <i>recommended members list</i>), and	5 6 7
(b) to recommend the term of office for each person recommended.	8
(2) A member of the Selection Panel must consider the interests of the harness racing industry as a whole when exercising the functions of a member.	9 10
(3) The Selection Panel must consider the balance and diversity of the skills and experience of the members of HRNSW when preparing the recommended members list.	11 12 13
(4) The Selection Panel must recommend more than the number of persons required to be appointed.	14 15
(5) The Minister may appoint a person for a term of office that is different from the term of office recommended by the Selection Panel.	16 17
8 Eligibility to be included on recommended members list	18
(1) The Selection Panel must not include a person in the recommended members list if—	19 20
(a) the person is not eligible to be a member of HRNSW, or	21
Note— See section 6.	22
(b) the Panel is satisfied the person has a direct or indirect pecuniary interest in a matter that gives rise, or is likely to give rise, to a conflict of interest of a nature that is incompatible with membership of HRNSW.	23 24 25 26
(2) The Selection Panel may include a person in the recommended members list only if the Panel is satisfied—	27 28
(a) the person has experience in a senior administrative role, or at a senior level, in 1 or more of the following fields—	29 30
(i) business,	31
(ii) finance,	32
(iii) law,	33
(iv) marketing,	34
(v) technology,	35
(vi) commerce,	36
(vii) regulatory administration,	37
(viii) regulatory enforcement, and	38
(b) the person’s skills and experience are relevant to the functions of HRNSW.	39 40
(3) The Selection Panel must choose between persons for inclusion in the recommended members list on the basis of merit.	41 42
(4) The merit of a person is to be decided on the basis of the person’s abilities, qualifications, experience and personal qualities that are relevant to the exercise of the functions of HRNSW.	43 44 45

8A	Probity checks of persons to be included on recommended members list	1
(1)	Before including a person in the recommended members list, the Selection Panel must conduct a probity check of the person.	2 3
(2)	The level of scrutiny of a probity check is to be decided by the Minister.	4
(3)	The Minister must appoint a Probity Adviser to assist the Selection Panel to conduct probity checks.	5 6
[7]	Section 9 Functions of HRNSW	7
	Insert after section 9(2)(e)—	8
(f)	to initiate, develop and implement policies relating to the welfare of harness racing horses.	9 10
[8]	Section 12 Consultation and planning	11
	Omit section 12(2). Insert instead—	12
(2)	HRNSW must prepare and publish a plan (a <i>stakeholder engagement plan</i>) setting out—	13 14
(a)	the stakeholders to be engaged by HRNSW, and	15
(b)	the nature of the engagement, and	16
(c)	the times at which the engagement will occur.	17
[9]	Section 12(4)	18
	Omit the subsection. Insert instead—	19
(4)	The strategic plans under subsections (1) and (3) may be combined into a single strategic plan for HRNSW and the harness racing industry.	20 21
[10]	Section 16 Annual report of HRNSW	22
	Insert after section 16(2)—	23
(2A)	The report must also include the following—	24
(a)	for the period to which the annual report relates—progress reports on the implementation, in accordance with section 12, of—	25 26
(i)	the strategic plan of HRNSW and the harness racing industry, and	27
(ii)	the stakeholder engagement plan under section 12,	28
(b)	the report provided by the Integrity Auditor under section 27AA,	29
(c)	the report provided by the Chairperson of HRICG under section 34(4).	30
[11]	Section 16(4)	31
	Omit “at a reasonable price”. Insert instead “free of charge”.	32
[12]	Section 27	33
	Omit the section. Insert instead—	34
27	Action after investigation of complaint	35
(1)	The Integrity Auditor must prepare a written report of the results of the investigation of a complaint.	36 37
(2)	The Integrity Auditor must give a copy of the report to the following—	38
(a)	the racing official who was the subject of the investigation,	39

	(b) HRNSW,	1
	(c) the Minister.	2
	(3) The Integrity Auditor must inform the person who made the complaint that the report has been prepared and provided as required by this section.	3 4
[13]	Section 27AA	5
	Insert after section 27—	6
	27AA Summary of investigations undertaken	7
	The Integrity Auditor must provide a report for inclusion in the annual report of HRNSW that summarises the outcomes of investigations undertaken by the Integrity Auditor during the period to which the annual report relates.	8 9 10
[14]	Section 32 Membership	11
	Omit “one” from section 32(1)(a). Insert instead “1”.	12
[15]	Section 32(1)(b) and (c)	13
	Omit the paragraphs. Insert instead—	14
	(b) 1 person nominated by harness racing clubs that conduct more than 6 meetings in a calendar year,	15 16
	(c) 1 person nominated by harness racing clubs that conduct 6 or fewer meetings in a calendar year,	17 18
[16]	Section 32(2)	19
	Omit the subsection. Insert instead—	20
	(2) The Minister must decide, following consultation with HRNSW, which industry bodies (<i>eligible industry bodies</i>) may nominate members for the purposes of subsection (1)(d).	21 22 23
[17]	Section 32(8)	24
	Insert after section 32(7)—	25
	(8) In this section—	26
	<i>industry body</i> means a body representing 1 or more of the following—	27
	(a) breeders of harness racing horses,	28
	(b) owners of harness racing horses,	29
	(c) trainers of harness racing horses,	30
	(d) harness racing drivers,	31
	(e) stablehands for harness racing horses.	32
[18]	Section 33 Eligibility for membership	33
	Omit section 33(1)(a). Insert instead—	34
	(a) resides outside New South Wales, or	35
[19]	Section 33A	36
	Insert after section 33—	37
	33A Code of conduct	38
	(1) HRICG must prepare a code of conduct for its members.	39

(2)	HRICG must make the code of conduct publicly available.	1
[20]	Part 5A	2
	Insert after Part 5—	3
	Part 5A Appeal Panel	4
34A	Definitions	5
	In this Part—	6
	<i>convenor</i> , of the Appeal Panel for an appeal, means the principal member or other member appointed as convenor under section 34G.	7
	<i>principal member</i> means the principal member appointed under section 34F.	8
	<i>racing authority</i> means—	9
	(a) HRNSW, or	10
	(b) a racing official, or	11
	(c) a harness racing club.	12
34B	Right of appeal	13
(1)	A person aggrieved by any of the following decisions of a racing authority may appeal against the decision to the Appeal Panel—	14
(a)	a decision to disqualify or warn off a person,	15
(b)	a decision to disqualify a harness racing horse,	16
(c)	a decision to revoke or suspend the registration of a person,	17
(d)	a decision to fine a person a sum of \$200 or more,	18
(e)	a decision specified in the rules for the purposes of this section.	19
(2)	HRNSW has a right of appeal to the Appeal Panel against the following decisions of a racing authority—	20
(a)	a decision referred to in subsection (1)(a)–(d),	21
(b)	a decision to dismiss a charge against a person for contravention of the rules.	22
34C	Procedure on an appeal	23
(1)	An appeal to the Appeal Panel is to be conducted as a new hearing.	24
(2)	Fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision appealed against was made, may be given on the appeal.	25
(3)	The Appeal Panel may, subject to this Act and the rules, decide its own procedure.	26
(4)	On an appeal, the Appeal Panel—	27
(a)	is not required to act formally, and	28
(b)	may inform itself on a matter in a way it considers to be just and is not bound by the rules of evidence, and	29
(c)	must make its decision on the merits and justice of the case and is not required to follow legal precedent.	30
(5)	The Appeal Panel is to sit as in open court when hearing the appeal but may sit in private if the Appeal Panel considers it necessary to do so in the public interest or to protect the safety of a person.	31

(6)	In the exercise of the Appeal Panel’s functions on an appeal—	1
(a)	the convener of the Appeal Panel has the powers, authorities, protections and immunities conferred by the <i>Royal Commissions Act 1923</i> on a Commissioner appointed under that Act, Part 2, Division 1, and	2 3 4 5
(b)	the <i>Royal Commissions Act 1923</i> , except section 13 and Part 2, Division 2, applies, with any necessary modifications, to a witness summoned by, or appearing before, the Appeal Panel.	6 7 8
34D	Decisions on appeal	9
(1)	The Appeal Panel may do any of the following in relation to an appeal—	10
(a)	dismiss the appeal,	11
(b)	confirm the decision appealed against,	12
(c)	vary the decision by substituting a decision that could have been made by the racing authority,	13 14
(d)	refer a matter relating to the decision to the racing authority for rehearing in accordance with directions given by the Appeal Panel,	15 16
(e)	make another order in relation to the disposal of the appeal as the Appeal Panel thinks appropriate.	17 18
(2)	A decision of the Appeal Panel must be given effect.	19
34E	Membership of Appeal Panel	20
(1)	HRNSW must appoint suitably qualified persons to be members of the Appeal Panel.	21 22
(2)	A member of HRNSW cannot be a member of the Appeal Panel.	23
(3)	HRNSW must, subject to this section, decide the qualifications and disqualifications for membership of the Appeal Panel.	24 25
(4)	In making its decision, HRNSW must consider the need to minimise conflicts of interest, including conflicts arising from a person’s—	26 27
(a)	ownership of a harness racing horse, or	28
(b)	professional involvement in race preparation, or	29
(c)	professional or commercial dealings with a person who holds a registration under this Act.	30 31
(5)	At least 1 member of the Appeal Panel must be an Australian lawyer of at least 7 years standing.	32 33
(6)	A person is not eligible to be appointed as a member of the Appeal Panel if the person—	34 35
(a)	holds a registration under this Act, or	36
(b)	is currently warned off or disqualified, or	37
(c)	is a person whose name is currently on the Unpaid Forfeits List, under the Australian Harness Racing Rules, or	38 39
(d)	during the previous 10 years has been convicted—	40
(i)	in New South Wales of an offence which is punishable by imprisonment for 12 months or more, or	41 42
(ii)	in another jurisdiction of an offence which, if committed in New South Wales, would be an offence punishable by imprisonment for 12 months or more, or	43 44 45

- (e) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or 1
2
- (f) is a mentally incapacitated person. 3
- (7) A member of the Appeal Panel holds office for 4 years from appointment and is eligible, if otherwise qualified, to be reappointed. 4
5
- (8) The office of a member of the Appeal Panel becomes vacant if the member— 6
- (a) dies, or 7
- (b) completes a term of office and is not reappointed, or 8
- (c) resigns the office by written instrument addressed to HRNSW, or 9
- (d) is removed from office under subsection (9), or 10
- (e) becomes a person who is not eligible to be a member of the Appeal Panel. 11
12
- (9) The Minister may, on the recommendation of HRNSW, remove a member of the Appeal Panel from office for incapacity, incompetence or misbehaviour. 13
14
- 34F Appointment of principal member** 15
- (1) HRNSW must appoint a member of the Appeal Panel as the principal member. 16
- (2) The person appointed must be an Australian lawyer of at least 7 years standing. 17
- (3) The person appointed holds office as principal member for a period of 2 years and is eligible, if otherwise qualified, to be reappointed. 18
19
- (4) A person ceases to hold office as principal member if the person ceases to hold office as a member of the Appeal Panel. 20
21
- 34G Constitution of Appeal Panel** 22
- (1) If the Appeal Panel is required to hear an appeal, the principal member must constitute the Appeal Panel in accordance with this section. 23
24
- (2) More than 1 Appeal Panel may be constituted at the same time. 25
- (3) The Appeal Panel must comprise— 26
- (a) the convenor of the Appeal Panel, and 27
- (b) at least 2 other members. 28
- (4) The convenor must be— 29
- (a) the principal member, or 30
- (b) if the principal member is not available—a member who is— 31
- (i) appointed by the principal member, and 32
- (ii) an Australian lawyer of at least 7 years standing. 33
- (5) The convenor must preside at the hearing of an appeal. 34
- (6) The principal member must, if practicable, consult with the chief executive officer of HRNSW before— 35
36
- (a) convening an Appeal Panel, or 37
- (b) appointing a convenor. 38
- (7) The chief executive officer of HRNSW may, if the principal member is not available— 39
40
- (a) convene the Appeal Panel, or 41

(b)	appoint a convenor.	1
34H	Remuneration of members	2
(1)	The members of the Appeal Panel are entitled to be paid fees and expenses for hearing and deciding appeals.	3 4
(2)	The amount of the fees and expenses must be decided by HRNSW.	5
34I	How Appeal Panel makes decisions	6
(1)	A decision supported by a majority of the members of the Appeal Panel hearing an appeal is the decision of the Panel.	7 8
(2)	If the members of the Appeal Panel are evenly split on a question, the decision of the convenor of the Panel is the decision of the Panel.	9 10
34J	Rules may provide for appeals	11
	The rules may make provision about appeals under this Part, including—	12
(a)	the way to make an appeal, and	13
(b)	the procedure for hearing and determining an appeal.	14
[21]	Schedule 1 Provisions relating to members of HRNSW	15
	Omit “subclause (2)” from clause 5(1)(f). Insert instead “this clause”.	16
[22]	Schedule 1, clause 5(3) and (4)	17
	Insert after clause 5(2)—	18
(3)	The Minister may also remove a member from office if the Minister is satisfied the member has—	19 20
(a)	contravened clause 10, or	21
(b)	a pecuniary interest that is incompatible with continued membership.	22
(4)	The Minister may not remove a member from office under subclause (3) unless the Minister has first given the member an opportunity to show cause why the member should not be removed from office.	23 24 25
[23]	Schedule 1, clause 10(4)	26
	Omit “, unless HRNSW otherwise determines”.	27
[24]	Schedule 1, clause 10(5)	28
	Omit the subclause.	29
[25]	Schedule 1, clause 10(7)	30
	Insert after clause 10(6)—	31
(7)	This clause applies to a member of a committee of HRNSW in relation to a meeting of the committee in the same way it applies to a member of HRNSW in relation to a meeting of HRNSW.	32 33 34
[26]	Schedule 1, clause 16(4)	35
	Insert after clause 16(3)—	36
(4)	HRNSW must make the code of conduct publicly available on its website.	37

[27] Schedule 2 Provisions relating to HRICG	1
Insert after clause 5—	2
5A Transaction of business outside meetings or by telecommunication	3
(1) HRICG may transact business by the circulation of papers among all its members.	4 5
(2) The papers may be circulated by email or by other means of transmission of the information in the papers.	6 7
(3) If business is transacted by the circulation of papers, a written resolution approved in writing by a majority of the voting members is taken to be a decision of HRICG.	8 9 10
(4) The resolution must be recorded in the minutes of the meetings of HRICG.	11
(5) HRICG may transact business at a meeting at which members, or some members, participate by telephone or by other means but not if a member who speaks on a matter at the meeting cannot be heard by the other members.	12 13 14
(6) The Chairperson and each other member have the same voting rights as they have at an ordinary meeting of HRICG for—	15 16
(a) the approval of a resolution under subclause (3), or	17
(b) a meeting held in accordance with subclause (5).	18
[28] Schedule 3 Savings, transitional and other provisions	19
Insert at the end of the Schedule, with appropriate Part and clause numbering—	20
Part Provisions consequent on enactment of Racing and Gambling Legislation Amendment Act 2022	21 22
Definition	23
In this Part—	24
<i>amending Act</i> means the <i>Racing and Gambling Legislation Amendment Act 2022</i> .	25 26
Action after investigation of complaint	27
Section 27, as substituted by the amending Act, extends to an investigation commenced but not completed before the substitution.	28 29
Harness Racing Industry Consultation Group	30
(1) A person who, immediately before the commencement of the amending Act, was a member of the Harness Racing Industry Consultation Group appointed under—	31 32 33
(a) section 32(1)(b)—is taken to be have been nominated by harness racing clubs that conduct more than 6 meetings in a calendar year, or	34 35
(b) section 32(1)(c)—is taken to have been nominated by harness racing clubs that conduct 6 or fewer meetings in a calendar year.	36 37
(2) The person continues to hold office as a member, despite the amendments made to section 32 by the amending Act, until the office of the member becomes vacant.	38 39 40
Note— See Schedule 2, clause 2 for when an office of a member becomes vacant.	41

Appeal Panel

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Part 5A does not apply in relation to a decision made before the commencement of the Part.

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Schedule 4	Amendment of Racing Appeals Tribunal Act 1983	1
	No 199	2
[1] Section 15B		3
	Omit the section. Insert instead—	4
15B Appeals to Tribunal relating to harness racing		5
(1)	A person who is aggrieved by any of the following decisions may, in accordance with the regulations, appeal against the decision to the Tribunal—	6
(a)	a decision of the Appeal Panel on an appeal under the <i>Harness Racing Act 2009</i> ,	7
(b)	a decision for which an appeal is properly made to the Appeal Panel under the <i>Harness Racing Act 2009</i> if the Appeal Panel—	8
(i)	neglects or refuses to hear the appeal or	9
(ii)	fails to make a decision on the appeal,	10
(c)	a decision of HRNSW.	11
(2)	HRNSW may, in accordance with the regulations, appeal to the Tribunal against a decision referred to in subsection (1)(a) or (b).	12
[2] Section 20 Expenses of Tribunal		13
	Omit section 20(1)(b). Insert instead—	14
(b)	for an appeal to the Tribunal under section 15A about a decision—	15
(i)	of Greyhound Racing New South Wales—by Greyhound Racing New South Wales, or	16
(ii)	of the Greyhound Welfare and Integrity Commission—by the Commission, or	17
[3] Schedule 1 Savings and transitional provisions		18
	Insert at the end of the Schedule, with appropriate Part and clause numbering—	19
Part	Provisions consequent on enactment of Racing and Gambling Legislation Amendment Act 2022	20
		21
Definition		22
	In this Part—	23
	<i>amending Act</i> means the <i>Racing and Gambling Legislation Amendment Act 2022</i> .	24
Appeals to Tribunal relating to harness racing		25
	For a decision made before the substitution of section 15B by the amending Act, section 15B as in force immediately before the substitution continues to apply as if it had not been substituted.	26
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