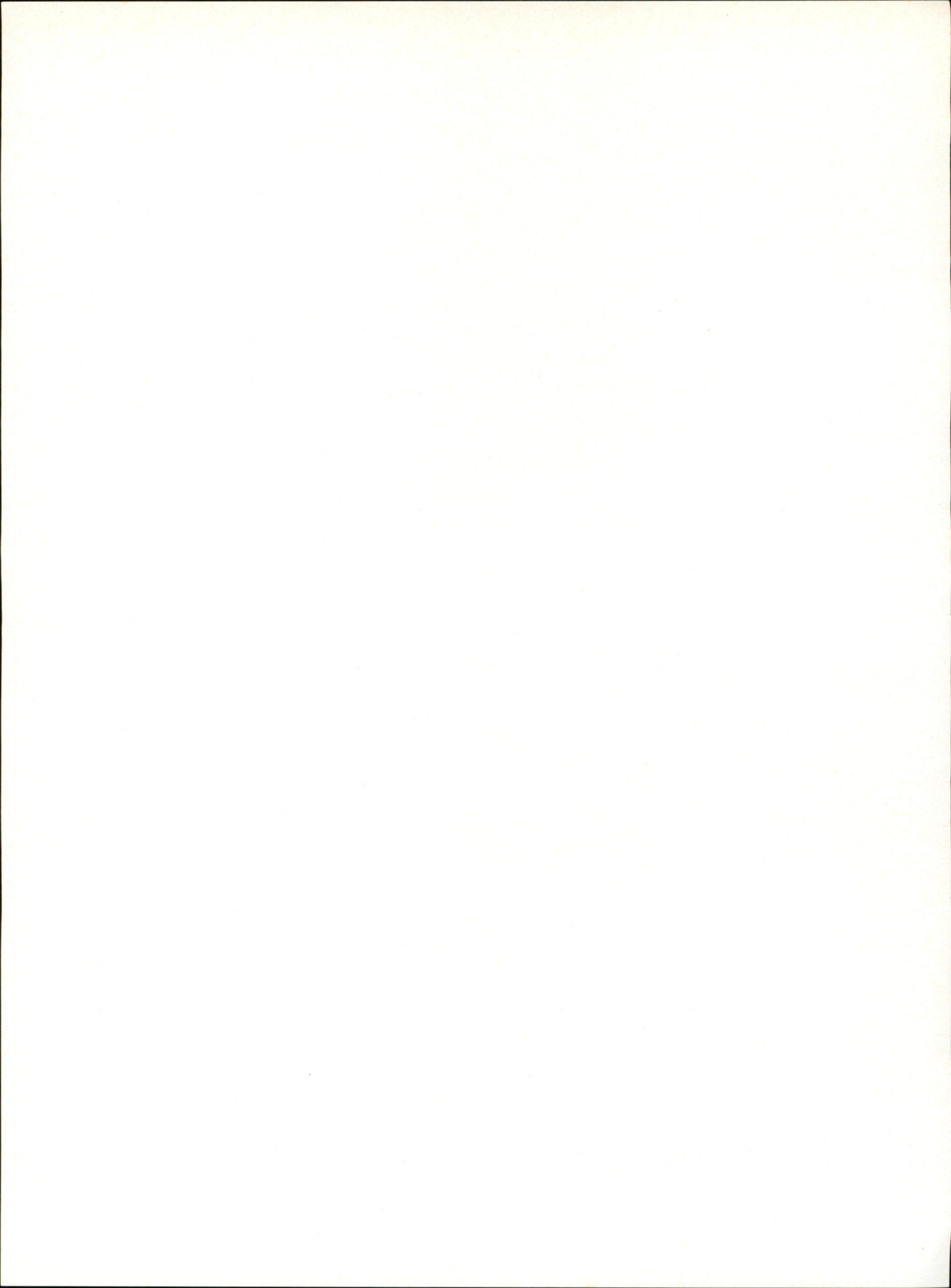


RACING APPEALS TRIBUNAL BILL

*Schedule of the amendment referred to in Legislative Council's Message of
3 November, 1983.*

Page 8, clause 19, line 19. *Before "The" insert "A member of".*

28993A



CONCURRENCE COPY

RACING APPEALS TRIBUNAL BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Defamation (Racing Appeals Tribunal) Amendment Bill, 1983, is cognate with this Bill.

The object of this Bill is to constitute a Racing Appeals Tribunal ("the Tribunal") to hear appeals from decisions of the Committee of the Australian Jockey Club ("the Club") relating to racing.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Interpretation.

Clause 5 constitutes the Tribunal.

Clause 6 authorises the Minister to appoint a qualified person (being a Judge of the District Court or a person qualified to be appointed as such a Judge) as the Tribunal.

Clause 7 authorises the Minister to appoint a qualified person to act as the Tribunal when necessary.

Clause 8 allows the person appointed as, or to act as, the Trotting Appeals Tribunal to be appointed as, or to act as, the Tribunal.

Clause 9 provides that a person of or above the age of 70 years is not eligible to be appointed as, or to act as, the Tribunal.

Clause 10 provides that the term of office of a person appointed as the Tribunal shall not exceed 3 years, but allows the person to be re-appointed.

Clause 11 preserves the rights and privileges of a Judge of the District Court who is appointed as, or to act as, the Tribunal.

Clause 12 authorises the payment of remuneration to the person holding office as, or acting as, the Tribunal.

Clause 13 specifies the circumstances in which the person holding office as, or acting as, the Tribunal vacates office.

Clause 14 excludes the operation of the Public Service Act, 1979, in relation to the Tribunal and declares that the office of the Tribunal is not an office or place of profit under the Crown.

Clause 15 confers a right of appeal to the Tribunal in respect of decisions of the Committee of the Club on an appeal under section 32 of the Australian Jockey Club Act 1873 or under the Rules of Racing of the Club.

Clause 16 specifies that appeals under the proposed Act shall be held as in open court before the Tribunal.

Clause 17 provides that the decision of the Tribunal on an appeal shall be final and conclusive.

Clause 18 authorises the making of regulations relating to appeals under the proposed Act, including regulations specifying the class of cases in which an appeal may not be made under the proposed Act.

Clause 19 makes provision for the staff of the Tribunal.

Clause 20 requires the Club to meet the expenses of the Tribunal.

Clause 21 makes special provision with respect to the age of the first person appointed as the Tribunal.

Clause 22 provides for offences under the proposed Act or regulations to be dealt with in a summary manner.

Clause 23 empowers the making of regulations.

RACING APPEALS TRIBUNAL BILL, 1983

No. , 1983.

A BILL FOR

An Act to constitute a Racing Appeals Tribunal to hear appeals from certain decisions of the Committee of the Australian Jockey Club; and for other purposes.

[MR CLEARY—21 *September*, 1983.]

See also Defamation (Racing Appeals Tribunal) Amendment Bill, 1983.

Racing Appeals Tribunal.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Racing Appeals Tribunal Act, 1983".

Commencement.

- 10
2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.
(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrangement.

- 15
3. This Act is arranged as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSTITUTION OF RACING APPEALS TRIBUNAL—ss. 5–14.

PART III.—APPEALS TO TRIBUNAL—ss. 15–18.

PART IV.—MISCELLANEOUS—ss. 19–23.

Racing Appeals Tribunal.

Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Club” means the Australian Jockey Club;

5 “qualified person” means a Judge of the District Court or a person qualified to be appointed as a Judge of the District Court;

“regulation” means a regulation made under this Act;

“Tribunal” means the Racing Appeals Tribunal constituted by this Act.

10 (2) In this Act, a reference to—

(a) a function includes a reference to a power, authority and duty; and

(b) the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

15

PART II.

CONSTITUTION OF RACING APPEALS TRIBUNAL.

Racing Appeals Tribunal.

5. There is hereby constituted a tribunal under the name of the “Racing Appeals Tribunal”.

20 **Appointment of Tribunal.**

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

Racing Appeals Tribunal.

Appointment of acting Tribunal.

7. The Minister may from time to time, upon the recommendation of the Attorney General, appoint a qualified person to act as the Tribunal during the illness or absence of the person appointed as the Tribunal or
5 during a vacancy in the office of the Tribunal, and the qualified person, while so acting, shall be deemed to be the Tribunal.

Trotting Appeals Tribunal may be appointed as Tribunal.

8. Nothing in this or any other Act prevents a person from holding office as, or acting as, the Tribunal and at the same time holding office as, or
10 acting as, the Trotting Appeals Tribunal constituted by the Trotting Authority Act, 1977.

Age of person appointed as Tribunal.

9. A person of or above the age of 70 years is not eligible to be appointed as, or to act as, the Tribunal.

15 Term of office.

10. Subject to this Act, a person appointed as the Tribunal shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

20 Effect of appointment of a Judge of the District Court as the Tribunal.

11. (1) The appointment of a person who is a Judge of the District Court as, or to act as, the Tribunal shall not, nor shall the person's service as the Tribunal, affect the person's tenure of the office of Judge of the District Court or the person's rank, title, status, precedence, salary or other rights
25 or privileges as a holder of that office.

Racing Appeals Tribunal.

(2) A Judge of the District Court may, notwithstanding that he or she holds office as, or acts as, the Tribunal, exercise the functions of a Judge of the District Court.

(3) The service, as the Tribunal, of a Judge of the District Court shall, for all purposes, be taken to be service as a Judge of the District Court.

Remuneration.

10 12. A person (not being a Judge of the District Court) holding office as, or acting as, the Tribunal is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Vacation of office.

13. (1) A person (being a Judge of the District Court) holding office as the Tribunal shall be deemed to have vacated that office if the person—

- 15 (a) ceases to be a Judge of the District Court; or
(b) resigns that office by instrument in writing addressed to the Minister.

(2) A person (not being a Judge of the District Court) holding office as the Tribunal shall be deemed to have vacated that office if the person—

- 20 (a) dies;
(b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
25 (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Racing Appeals Tribunal.

- (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable;
- 5 (e) resigns that office by instrument in writing addressed to the Minister;
- (f) attains the age of 70 years; or
- (g) is removed from office by the Minister under subsection (3).

(3) The Minister may remove from office a person (not being a
10 Judge of the District Court)—

- (a) holding office as the Tribunal; or
- (b) appointed to act as the Tribunal.

Effect of certain other Acts.

14. (1) The provisions of the Public Service Act, 1979, do not apply to
15 or in respect of the appointment of a person as, or to act as, the Tribunal, and a person holding office as, or acting as, the Tribunal is not, as the Tribunal, subject to the provisions of that Act.

(2) The office of the Tribunal shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

20

PART III.**APPEALS TO TRIBUNAL.****Appeals to Tribunal.**

15. Any person who is aggrieved by—
- (a) a decision of the Committee of the Club—
- 25 (i) on an appeal under section 32 of the Australian Jockey Club Act 1873; or

Racing Appeals Tribunal.

- (ii) under the Rules of Racing of the Club; or
- (b) a decision in respect of which an appeal is made to the Committee of the Club under section 32 of that Act but which that Committee neglects or refuses to hear and determine,
- may, in accordance with the regulations, appeal against the decision to the Tribunal.

Appeals to be heard in open court.

16. Proceedings on an appeal under this Act shall be held as in open court before the Tribunal.

10 Decision of Tribunal final.

17. The decision of the Tribunal in respect of an appeal under this Act shall, notwithstanding anything to the contrary in section 32 of the Australian Jockey Club Act 1873, be final and conclusive and shall be deemed to be the decision of the Committee of the Club.

15 Regulations respecting appeals.

18. (1) The regulations may make provision for or with respect to appeals to the Tribunal under this Act and, in particular, for or with respect to—

- 20 (a) the procedures to be followed at or in connection with any appeals under this Act;
- (b) the suspension of a decision appealed against under this Act pending the determination of the appeal;
- (c) the payment of fees and costs in respect of appeals under this Act; and
- 25 (d) any matters incidental to or connected with appeals under this Act.

Racing Appeals Tribunal.

(2) Without affecting the generality of subsection (1), the regulations may—

- (a) prescribe classes of matters in respect of which appeals may not be made under this Act; or
- 5 (b) provide that no appeals may be made under this Act except in respect of prescribed classes of matters.

PART IV.

MISCELLANEOUS.

Staff to assist Tribunal.

10 19. (1) For the purposes of this Act, the Tribunal may, with the approval of the Minister, make use of the services of—

- (a) any officers or servants of the Committee of the Club; or
- (b) any officers or temporary employees of a Department administered by the Minister.

15 (2) The Minister may, by order in writing, direct the Committee of the Club to make available for the use of the Tribunal, in such manner as may be specified in the order, the services of any officers or servants of that Committee.

(3) The Committee of the Club shall not fail or refuse to comply
20 with an order under subsection (2).

Penalty (subsection (3)): \$500.

Expenses of Tribunal.

25 20. (1) Unless the Minister otherwise determines, the expenses (including remuneration payable under section 12) incurred by the Tribunal in the exercise of the functions of the Tribunal under this Act shall be met by the Club.

Racing Appeals Tribunal.

(2) If the Club fails to meet any expenses it is required to meet under subsection (1), the Minister may recover the amount of those expenses from the Club as a debt in any court of competent jurisdiction.

Special provision relating to age of first person appointed as Tribunal.

5 **21.** A reference in sections 9 and 13 (2) (f) to the age of 70 years shall, in respect of—

(a) the first appointment of a person as the Tribunal and any re-appointment of the person; and

(b) the holding of office by the person,

10 be read and construed as a reference to the age of 71 years.

Proceedings for offences.

22. Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

15 Regulations.

23. (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.

20 **(2)** A regulation may impose a penalty not exceeding \$500 for any contravention thereof.

(3) A provision of a regulation may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

Racing Appeals Tribunal.

- (b) apply differently according to different factors of a specified kind;
or
 - (c) authorise any matter or thing to be from time to time determined,
applied or regulated by any specified person or body,
- 5 or may do any combination of those things.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

(50c)

RACING APPEALS TRIBUNAL ACT, 1983, No. 199

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 199, 1983.

An Act to constitute a Racing Appeals Tribunal to hear appeals from certain decisions of the Committee of the Australian Jockey Club; and for other purposes. [Assented to, 31st December, 1983.]

See also Defamation (Racing Appeals Tribunal) Amendment Act, 1983.

Racing Appeals Tribunal.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Racing Appeals Tribunal Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.
(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrangement.

3. This Act is arranged as follows:—

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—CONSTITUTION OF RACING APPEALS TRIBUNAL—*ss.* 5–14.

PART III.—APPEALS TO TRIBUNAL—*ss.* 15–18.

PART IV.—MISCELLANEOUS—*ss.* 19–23.

Racing Appeals Tribunal.

Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Club” means the Australian Jockey Club;

“qualified person” means a Judge of the District Court or a person qualified to be appointed as a Judge of the District Court;

“regulation” means a regulation made under this Act;

“Tribunal” means the Racing Appeals Tribunal constituted by this Act.

(2) In this Act, a reference to—

- (a) a function includes a reference to a power, authority and duty;
and
- (b) the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

PART II.

CONSTITUTION OF RACING APPEALS TRIBUNAL.

Racing Appeals Tribunal.

5. There is hereby constituted a tribunal under the name of the “Racing Appeals Tribunal”.

Appointment of Tribunal.

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

Racing Appeals Tribunal.

Appointment of acting Tribunal.

7. The Minister may from time to time, upon the recommendation of the Attorney General, appoint a qualified person to act as the Tribunal during the illness or absence of the person appointed as the Tribunal or during a vacancy in the office of the Tribunal, and the qualified person, while so acting, shall be deemed to be the Tribunal.

Trotting Appeals Tribunal may be appointed as Tribunal.

8. Nothing in this or any other Act prevents a person from holding office as, or acting as, the Tribunal and at the same time holding office as, or acting as, the Trotting Appeals Tribunal constituted by the Trotting Authority Act, 1977.

Age of person appointed as Tribunal.

9. A person of or above the age of 70 years is not eligible to be appointed as, or to act as, the Tribunal.

Term of office.

10. Subject to this Act, a person appointed as the Tribunal shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Effect of appointment of a Judge of the District Court as the Tribunal.

11. (1) The appointment of a person who is a Judge of the District Court as, or to act as, the Tribunal shall not, nor shall the person's service as the Tribunal, affect the person's tenure of the office of Judge of the District Court or the person's rank, title, status, precedence, salary or other rights or privileges as a holder of that office.

Racing Appeals Tribunal.

(2) A Judge of the District Court may, notwithstanding that he or she holds office as, or acts as, the Tribunal, exercise the functions of a Judge of the District Court.

(3) The service, as the Tribunal, of a Judge of the District Court shall, for all purposes, be taken to be service as a Judge of the District Court.

Remuneration.

12. A person (not being a Judge of the District Court) holding office as, or acting as, the Tribunal is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Vacation of office.

13. (1) A person (being a Judge of the District Court) holding office as the Tribunal shall be deemed to have vacated that office if the person—

- (a) ceases to be a Judge of the District Court; or
- (b) resigns that office by instrument in writing addressed to the Minister.

(2) A person (not being a Judge of the District Court) holding office as the Tribunal shall be deemed to have vacated that office if the person—

- (a) dies;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Racing Appeals Tribunal.

- (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable;
- (e) resigns that office by instrument in writing addressed to the Minister;
- (f) attains the age of 70 years; or
- (g) is removed from office by the Minister under subsection (3).

(3) The Minister may remove from office a person (not being a Judge of the District Court)—

- (a) holding office as the Tribunal; or
- (b) appointed to act as the Tribunal.

Effect of certain other Acts.

14. (1) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a person as, or to act as, the Tribunal, and a person holding office as, or acting as, the Tribunal is not, as the Tribunal, subject to the provisions of that Act.

(2) The office of the Tribunal shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

PART III.**APPEALS TO TRIBUNAL.****Appeals to Tribunal.**

15. Any person who is aggrieved by—

- (a) a decision of the Committee of the Club—
 - (i) on an appeal under section 32 of the Australian Jockey Club Act 1873; or

Racing Appeals Tribunal.

- (ii) under the Rules of Racing of the Club; or
- (b) a decision in respect of which an appeal is made to the Committee of the Club under section 32 of that Act but which that Committee neglects or refuses to hear and determine,
- may, in accordance with the regulations, appeal against the decision to the Tribunal.

Appeals to be heard in open court.

16. Proceedings on an appeal under this Act shall be held as in open court before the Tribunal.

Decision of Tribunal final.

17. The decision of the Tribunal in respect of an appeal under this Act shall, notwithstanding anything to the contrary in section 32 of the Australian Jockey Club Act 1873, be final and conclusive and shall be deemed to be the decision of the Committee of the Club.

Regulations respecting appeals.

18. (1) The regulations may make provision for or with respect to appeals to the Tribunal under this Act and, in particular, for or with respect to—

- (a) the procedures to be followed at or in connection with any appeals under this Act;
- (b) the suspension of a decision appealed against under this Act pending the determination of the appeal;
- (c) the payment of fees and costs in respect of appeals under this Act; and
- (d) any matters incidental to or connected with appeals under this Act.

Racing Appeals Tribunal.

(2) Without affecting the generality of subsection (1), the regulations may—

- (a) prescribe classes of matters in respect of which appeals may not be made under this Act; or
- (b) provide that no appeals may be made under this Act except in respect of prescribed classes of matters.

PART IV.

MISCELLANEOUS.

Staff to assist Tribunal.

19. (1) For the purposes of this Act, the Tribunal may, with the approval of the Minister, make use of the services of—

- (a) any officers or servants of the Committee of the Club; or
- (b) any officers or temporary employees of a Department administered by the Minister.

(2) The Minister may, by order in writing, direct the Committee of the Club to make available for the use of the Tribunal, in such manner as may be specified in the order, the services of any officers or servants of that Committee.

(3) A member of the Committee of the Club shall not fail or refuse to comply with an order under subsection (2).

Penalty (subsection (3)): \$500.

Expenses of Tribunal.

20. (1) Unless the Minister otherwise determines, the expenses (including remuneration payable under section 12) incurred by the Tribunal in the exercise of the functions of the Tribunal under this Act shall be met by the Club.

Racing Appeals Tribunal.

(2) If the Club fails to meet any expenses it is required to meet under subsection (1), the Minister may recover the amount of those expenses from the Club as a debt in any court of competent jurisdiction.

Special provision relating to age of first person appointed as Tribunal.

21. A reference in sections 9 and 13 (2) (f) to the age of 70 years shall, in respect of—

- (a) the first appointment of a person as the Tribunal and any re-appointment of the person; and
- (b) the holding of office by the person,

be read and construed as a reference to the age of 71 years.

Proceedings for offences.

22. Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Regulations.

23. (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.

(2) A regulation may impose a penalty not exceeding \$500 for any contravention thereof.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;

Racing Appeals Tribunal.

- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined,
applied or regulated by any specified person or body,
or may do any combination of those things.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET,
*By Deputation from
His Excellency the Governor.*

*Government House,
Sydney, 31st December, 1983.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984



