

FIRST PRINT

## WAGGA WAGGA RACECOURSE BILL 1993 (No. 2)

NEW SOUTH WALES



### EXPLANATORY NOTE

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

The objects of this Bill are:

- to provide for Wagga Wagga Racecourse to be continued as a public reserve for horse racing and other public purposes;
- to confirm the status of the existing reserve trust;
- to facilitate the incorporation of the existing Murrumbidgee Turf Club and to transfer the assets of that Club to the body corporate resulting from that incorporation; and
- to consequentially repeal the Murrumbidgee Turf Club Act 1876.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the proposed Act to commence on a day to be fixed by proclamation.

**Clause 3** defines certain expressions used in the proposed Act. The expressions defined are "assets", "liabilities", "rights", "the former Club", "the former trustee", "the incorporated Club" and "Wagga Wagga Racecourse".

**Clause 4** clarifies the current status of the land comprising the Wagga Wagga Racecourse. The 1866 deed-poll or grant of the land from the Crown to certain persons will, to the extent that it applies to the Wagga Wagga Racecourse, be revoked and the land is to be Crown land dedicated for the following purposes:

- use as a racecourse for holding horse races;
- use as a training ground where race horses can be trained;
- use as a cricket ground or for any other form of sporting or recreational activity;
- use for any other public amusement or public purpose declared by the Governor-in-Council.

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*Wagga Wagga Racecourse 1993 (No. 2)*

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Part 5 of the Crown Lands Act 1989 will apply to the Racecourse. Under that Part a dedication of land for a public purpose may be revoked. Parliament, however, can disallow such revocation.

**Clause 5** continues the reserve trust established under the Crown Lands Act 1989 as trustee of the Wagga Wagga Racecourse for the purposes of that Act. The reserve trust is to have the corporate name of "Wagga Wagga Racecourse Reserve Trust". The appointment of the members of the existing trust board is confirmed.

**Clause 6** makes it clear that nothing in the Murrumbidgee Turf Club Act 1876 prevents the members of the Murrumbidgee Turf Club from becoming incorporated as a body corporate under any law that enables persons to form a body corporate. As soon as practicable after the Club has become incorporated, the Minister will be required to publish in the Gazette a notice to the effect that the body corporate resulting from the incorporation is the incorporated Murrumbidgee Turf Club.

**Clause 7** provides that, on the publication in the Gazette of the notice referred to in proposed section 6, the assets, rights and liabilities of the former Club (including the assets currently held by the chairman of the Club on its behalf) are to vest in the incorporated Club.

**Clause 8** enables the Governor to make a proclamation repealing the Murrumbidgee Turf Club Act 1876 at any time on or after the publication in the Gazette of the certificate of the Minister referred to in proposed section 6.

**Clause 9** empowers the Governor to make regulations for the purposes of the proposed Act, including regulations of a savings or transitional nature.

**Schedule 1** contains a description of the land comprising the Wagga Wagga Racecourse.

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FIRST PRINT

**WAGGA WAGGA RACECOURSE BILL 1993 (No. 2)**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

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**SCHEDULE 1—WAGGA WAGGA RACECOURSE—DESCRIPTION OF LAND**

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# **WAGGA WAGGA RACECOURSE BILL 1993 (No. 2)**

NEW SOUTH WALES



No. , 1993

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## **A BILL FOR**

An Act to provide for Wagga Wagga Racecourse to be continued as a public reserve for horse racing and for other purposes; to provide for the assets, rights and liabilities of the Murrumbidgee Turf Club to be vested in a body corporate to be formed by the members of that Club; and to repeal the Murrumbidgee Turf Club Act 1876.

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*Wagga Wagga Racecourse 1993 (No. 2)*

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

**Short title**

1. This Act may be cited as the Wagga Wagga Racecourse Act 1993.

**Commencement**

- 5 2. This Act commences on a day to be appointed by proclamation.

**Definitions**

3. In this Act:

10 “**assets**” means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents;

“**liabilities**” means all liabilities, debts and obligations (whether present or future and whether vested or contingent);

15 “**rights**” means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent);

“**the former Club**” means the members of the unincorporated body known as the Murrumbidgee Turf Club;

20 “**the former trustee**”, in relation to Wagga Wagga Racecourse, means the trustee for the Racecourse holding office under Division 4 of Part 5 of the Crown Lands Act 1989 immediately before the commencement of this Act;

“**the incorporated Club**” means the body corporate declared by the Minister under this Act to be the incorporated Murrumbidgee Turf Club;

25 “**Wagga Wagga Racecourse**” means the land described in Schedule 1.

**Status of Wagga Wagga Racecourse**

- 30 4. (1) The deed-poll or grant from the Crown, dated 10 September 1866, granting Wagga Wagga Racecourse to Thomas Wardle Hammond, Edward Charles Pearson and Henry Wallace and their heirs and assigns is, to the extent that it applies to the Wagga Wagga Racecourse, cancelled and revoked.

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(2) The Wagga Wagga Racecourse is declared to be land vested in the Crown that is dedicated under section 80 of the Crown Lands Act 1989 for the following public purposes:

- (a) for use as a racecourse for horse racing;
- (b) for use as a training ground for race horses; 5
- (c) for use as a cricket ground or for any other form of sporting or recreational activity;
- (d) for any other form of public amusement or public purpose that the Governor has, by order published in the Gazette, declared to be a form of public amusement or public purpose for which the Racecourse, or a specified part of the Racecourse, is permitted to be used. 10

(3) Part 5 of the Crown Lands Act 1989 (Dedication and reservation of land), and such of the other provisions of that Act as are relevant to the operation of that Part, apply to the Wagga Wagga Racecourse. This subsection has effect despite subsection (2). 15

(4) Nothing in this section affects the operation of any lease of the Wagga Wagga Racecourse that was in force immediately before the commencement of this Act.

(5) No attornment to the reserve trust by a lessee or sublessee from the former trustee is required. 20

**Continuation of Wagga Wagga Racecourse Reserve Trust**

5. For the purposes of Division 4 of Part 5 of the Crown Lands Act 1989 (Formation of reserve trusts):

- (a) the former trustee continues as a reserve trust and as a corporation constituted by that Act with the corporate name of "Wagga Wagga Racecourse Reserve Trust"; and 25
- (b) the appointment of the reserve trust as trustee of the Wagga Wagga Racecourse is confirmed; and
- (c) each of the persons holding office as members of the trust board of the former trustee immediately before the commencement of this Act continues in office as a member of the trust board of the reserve trust. 30



**Incorporation of the former Club**

6. (1) Nothing in the Murrumbidgee Turf Club Act 1876 prevents the former Club from being incorporated under any law enabling persons to form a body corporate.

- 5 (2) On being satisfied that the former Club has become incorporated as a body corporate, the Minister must, by notice in writing published in the Gazette, declare the body corporate to be the incorporated Murrumbidgee Turf Club for the purposes of this Act.

10 **Assets, rights and liabilities of the former Club to vest in the incorporated Club**

7. (1) On the date of publication of the notice referred to in section 6, the following provisions have effect:

- 15 (a) the assets of the former Club vest in the incorporated Club by force of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the former Club become by force of this section the rights and liabilities of the incorporated Club;
- 20 (c) all legal proceedings by or on behalf of, or against, the former Club begun before, and pending immediately before, that date are taken to be legal proceedings pending by or on behalf of, or against, the incorporated Club;
- 25 (d) any thing done or omitted to be done in relation to the former Club before that date by, to or in respect of that Club is, to the extent that it continues to have effect, taken to have been done, or omitted to be done, by, to or in respect of the incorporated Club;
- (e) a reference in any Act, or any document (including an instrument made under an Act), to the former Club is, subject to any regulations in force under section 9, to be read as, or as including, a reference to the incorporated Club.
- 30 (2) In this section, the assets of the former Club include any lease of the Wagga Wagga Racecourse to the chairman of the former Club that was in existence immediately before the date referred to in subsection (1).



*Wagga Wagga Racecourse 1993 (No. 2)*

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(3) The operation of this section is not to be regarded:

(a) as a breach of contract or confidence or otherwise as a civil wrong;  
or

(b) as a breach of any contractual provision prohibiting, restricting or  
regulating the assignment or transfer of assets, rights and liabilities; 5  
or

(c) as giving rise to any remedy by a party to an instrument, or as  
causing or permitting the termination of any instrument, because of  
a change in the beneficial or legal ownership of any asset, right or  
liability. 10

(4) The operation of this section is not to be regarded as an event of  
default under any contract or other instrument.

(5) No attornment to the incorporated Club by a lessee or sublessee  
from the former Club is required.

**Repeal of the Murrumbidgee Turf Club Act 1876** 15

8. (1) The Murrumbidgee Turf Club Act 1876 is repealed on a date to  
be appointed by proclamation published in the Gazette.

(2) The date is not to be a date that is earlier than the date of  
publication of the notice referred to in section 6.

**Regulations** 20

9. (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) The regulations may contain provisions of a savings or transitional  
nature consequent on the enactment of this Act. 25

(3) A provision referred to in subsection (2) may, if the regulations so  
provide, take effect as from the date of assent to this Act or a later date.

(4) To the extent to which a provision referred to in subsection (2)  
takes effect from a date that is earlier than the date of its publication in  
the Gazette, the provision does not operate so as: 30

(a) to affect, in a manner prejudicial to any person (other than the State  
or an authority of the State), the rights of that person existing  
before the date of its publication; or

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*Wagga Wagga Racecourse 1993 (No. 2)*

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- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication.
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5                    **SCHEDULE 1—WAGGA WAGGA  
RACECOURSE—DESCRIPTION OF LAND**

(Sec. 3)

The land comprising the Wagga Wagga Racecourse is as follows:

- 10            All that parcel of land at Wagga Wagga in the City of Wagga Wagga, Parish of South Wagga Wagga, County of Wynyard, of about 60.26 hectares comprising the remainder of portion 209 of the Parish and contained in Certificate of Title Volume 15139 Folio 250 at the Land Titles Office, Sydney.
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## **WAGGA WAGGA RACECOURSE BILL 1993**

### **SECOND READING SPEECH - LEGISLATIVE COUNCIL**

MR PRESIDENT

I MOVE THAT THIS BILL BE NOW READ A SECOND TIME.

THE LEGISLATION BEFORE THE HOUSE WAS PREPARED IN RESPONSE TO AN APPROACH FROM THE MURRUMBIDGEE TURF CLUB.

FOR OVER 100 YEARS THE WAGGA WAGGA RACECOURSE HAS BEEN OCCUPIED AND USED BY THE MURRUMBIDGEE TURF CLUB FOR HORSE RACING. THE RACECOURSE IS LOCATED ON CROWN LAND WHICH IS ADMINISTERED UNDER THE PROVISIONS OF THE MURRUMBIDGEE TURF CLUB ACT, A PRIVATE ACT OF PARLIAMENT.

IN 1866 THE RACECOURSE WAS VESTED IN TRUSTEES UNDER A CROWN GRANT TO BE USED AS A RACECOURSE, TRAINING GROUND, CRICKET GROUND AND FOR ANY OTHER PUBLIC PURPOSE WHICH MIGHT BE APPROVED BY THE GOVERNOR FROM TIME TO TIME.





WITH THE ENACTMENT OF THE MURRUMBIDGEE TURF CLUB ACT IN 1876, THE TRUSTEES WERE AUTHORISED TO GRANT A LONG TERM LEASE OF THE RACECOURSE TO THE MURRUMBIDGEE TURF CLUB AND TO CONFER A MEASURE OF LIMITED LIABILITY AND PROTECTION ON MEMBERS OF THE CLUB. THE EXISTING LEASE FOR THE RACECOURSE EXPIRES IN THE YEAR 2003.

THE CURRENT TRUSTEES OF THE RACECOURSE ARE ALSO COMMITTEE MEMBERS OF THE TURF CLUB.

THE CLUB HAS EXPRESSED CONCERN AT ITS UNINCORPORATED STATUS AND THE POTENTIAL FOR PERSONAL LIABILITY WHICH IS CONSIDERED AN UNREASONABLE BURDEN TO BE CARRIED BY THE CHAIRMAN, COMMITTEE AND MEMBERS OF THE CLUB.

IN ADDITION, THE CLUB HAS INDICATED THAT IT HAS BEEN HINDERED BY THE RESTRICTIONS THE ACT PLACES ON IT WITH REGARD TO THE USES TO WHICH THE RACECOURSE LAND CAN BE PUT AND IT HAS ARGUED THAT THESE TYPES OF CONSTRAINTS ARE NOT IMPOSED UPON THE OVERWHELMING MAJORITY OF OTHER RACE CLUBS WHICH CONDUCT RACE MEETINGS ON CROWN LAND.



THE MURRUMBIDGEE TURF CLUB HAS GROWN INTO ONE OF THE MAJOR COUNTRY THOROUGHBRED RACING AND TRAINING VENUES IN THE STATE AND CONDUCTS OVER TWENTY MEETINGS EACH YEAR, INCLUDING THE VERY SUCCESSFUL THREE DAY GOLD CUP CARNIVAL FEATURING THE WAGGA GOLD CUP AND THE WAGGA TOWN PLATE.

IN ADDITION, THE CLUB HAS RECENTLY FINISHED BUILDING A NEW GRANDSTAND AT THE RACECOURSE WITH ASSISTANCE PROVIDED FROM THE RACECOURSE DEVELOPMENT FUND AND IS IN THE PROCESS OF EXTENSIVELY UPGRADING ITS TRAINING FACILITIES.

THE RACECOURSE PROVIDES AN IDEAL VENUE FOR THE HOLDING OF OTHER FORMS OF SPORT AND RECREATION AND THE PROPOSED LEGISLATION WILL REMOVE THE UNNECESSARY CONSTRAINTS ON THE CLUB IN REGARD TO THE USE OF THE LAND.

IN ESSENCE, THE MURRUMBIDGEE TURF CLUB IS A PROGRESSIVE RACE CLUB GOVERNED BY AN ANTIQUATED ACT.





THE LEGISLATION WILL EMPOWER THE MURRUMBIDGEE TURF CLUB TO BE INCORPORATED AS A COMPANY LIMITED BY GUARANTEE UNDER THE CORPORATIONS ACT. UPON INCORPORATION, ALL ASSETS AND LIABILITIES OF THE FORMER UNINCORPORATED CLUB WILL BE TRANSFERRED TO THE COMPANY WHICH WILL SUPERCEDE IT.

THIS WILL INCLUDE THE LEASE OF THE WAGGA WAGGA RACECOURSE RESERVE AND OTHER ASSETS HELD BY OR VESTED IN THE CHAIRMAN OF THE CLUB ON THE CLUB'S BEHALF BY OPERATION OF THE MURRUMBIDGEE TURF CLUB ACT, 1876.

THE LEGISLATION WILL REPEAL THE MURRUMBIDGEE TURF CLUB ACT 1876 AND DECLARE FOR THE AVOIDANCE OF ANY DOUBT, THAT THE WAGGA WAGGA RACECOURSE RESERVE IS A RESERVE WITHIN THE MEANING OF AND SUBJECT TO THE PROVISIONS OF PART 5 OF THE CROWN LANDS ACT 1989.

FINALLY, THE LEGISLATION WILL RESOLVE ANY ANCILLARY MATTERS ARISING OUT OF THE REPEAL OF THE 1876 ACT, THE TRANSFER OF ASSETS AND LIABILITIES TO THE CLUB'S INCORPORATED SUCCESSOR AND ITS OCCUPATION AND USE OF THE WAGGA WAGGA RACECOURSE RESERVE.



THE LEGISLATION IS SUPPORTED BY THE MINISTER FOR SPORT, RECREATION AND RACING AND THE MINISTER FOR CONSERVATION AND LAND MANAGEMENT. OFFICERS FROM THOSE MINISTERS' DEPARTMENTS HAVE BEEN INSTRUMENTAL IN THE PREPARATION OF THE BILL.

I BELIEVE THE LEGISLATION WILL GREATLY ASSIST THE MURRUMBIDGEE TURF CLUB IN ITS ADMINISTRATION OF HORSE RACING AT WAGGA WAGGA AND WILL NO DOUBT BE WELL RECEIVED BY BOTH THE CLUB AND THE PEOPLE OF WAGGA WAGGA ALIKE.

I COMMEND THE BILL TO THE HOUSE.





# **WAGGA WAGGA RACECOURSE ACT 1993 No. 109**

**NEW SOUTH WALES**



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9. Regulations

**SCHEDULE 1—WAGGA WAGGA RACECOURSE—DESCRIPTION OF LAND**

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# **WAGGA WAGGA RACECOURSE ACT 1993 No. 109**

NEW SOUTH WALES



## **Act No. 109, 1993**

An Act to provide for Wagga Wagga Racecourse to be continued as a public reserve for horse racing and for other purposes; to provide for the assets, rights and liabilities of the Murrumbidgee Turf Club to be vested in a body corporate to be formed by the members of that Club; and to repeal the Murrumbidgee Turf Club Act 1876. [Assented to 2 December 1993]

*Wagga Wagga Racecourse Act 1993 No. 109*

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

**Short title**

1. This Act may be cited as the Wagga Wagga Racecourse Act 1993.

**Commencement**

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

**Definitions**

3. In this Act:

“**assets**” means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents;

“**liabilities**” means all liabilities, debts and obligations (whether present or future and whether vested or contingent);

“**rights**” means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent);

“**the former Club**” means the members of the unincorporated body known as the Murrumbidgee Turf Club;

“**the former trustee**”, in relation to Wagga Wagga Racecourse, means the trustee for the Racecourse holding office under Division 4 of Part 5 of the Crown Lands Act 1989 immediately before the commencement of this Act;

“**the incorporated Club**” means the body corporate declared by the Minister under this Act to be the incorporated Murrumbidgee Turf Club;

“**Wagga Wagga Racecourse**” means the land described in Schedule 1.

**Status of Wagga Wagga Racecourse**

4. (1) The deed-poll or grant from the Crown, dated 10 September 1866, granting Wagga Wagga Racecourse to Thomas Wardle Hammond, Edward Charles Pearson and Henry Wallace and their heirs and assigns is, to the extent that it applies to the Wagga Wagga Racecourse, cancelled and revoked.



*Wagga Wagga Racecourse Act 1993 No. 109*

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(2) The Wagga Wagga Racecourse is declared to be land vested in the Crown that is dedicated under section 80 of the Crown Lands Act 1989 for the following public purposes:

- (a) for use as a racecourse for horse racing;
- (b) for use as a training ground for race horses;
- (c) for use as a cricket ground or for any other form of sporting or recreational activity;
- (d) for any other form of public amusement or public purpose that the Governor has, by order published in the Gazette, declared to be a form of public amusement or public purpose for which the Racecourse, or a specified part of the Racecourse, is permitted to be used.

(3) Part 5 of the Crown Lands Act 1989 (Dedication and reservation of land), and such of the other provisions of that Act as are relevant to the operation of that Part, apply to the Wagga Wagga Racecourse. This subsection has effect despite subsection (2).

(4) Nothing in this section affects the operation of any lease of the Wagga Wagga Racecourse that was in force immediately before the commencement of this Act.

(5) No attornment to the reserve trust by a lessee or sublessee from the former trustee is required.

**Continuation of Wagga Wagga Racecourse Reserve Trust**

5. For the purposes of Division 4 of Part 5 of the Crown Lands Act 1989 (Formation of reserve trusts):

- (a) the former trustee continues as a reserve trust and as a corporation constituted by that Act with the corporate name of "Wagga Wagga Racecourse Reserve Trust"; and
- (b) the appointment of the reserve trust as trustee of the Wagga Wagga Racecourse is confirmed; and
- (c) each of the persons holding office as members of the trust board of the former trustee immediately before the commencement of this Act continues in office as a member of the trust board of the reserve trust.

**Incorporation of the former Club**

6. (1) Nothing in the Murrumbidgee Turf Club Act 1876 prevents the former Club from being incorporated under any law enabling persons to form a body corporate.

(2) On being satisfied that the former Club has become incorporated as a body corporate, the Minister must, by notice in writing published in the Gazette, declare the body corporate to be the incorporated Murrumbidgee Turf Club for the purposes of this Act.

**Assets, rights and liabilities of the former Club to vest in the incorporated Club**

7. (1) On the date of publication of the notice referred to in section 6, the following provisions have effect:

- (a) the assets of the former Club vest in the incorporated Club by force of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the former Club become by force of this section the rights and liabilities of the incorporated Club;
- (c) all legal proceedings by or on behalf of, or against, the former Club begun before, and pending immediately before, that date are taken to be legal proceedings pending by or on behalf of, or against, the incorporated Club;
- (d) any thing done or omitted to be done in relation to the former Club before that date by, to or in respect of that Club is, to the extent that it continues to have effect, taken to have been done, or omitted to be done, by, to or in respect of the incorporated Club;
- (e) a reference in any Act, or any document (including an instrument made under an Act), to the former Club is, subject to any regulations in force under section 9, to be read as, or as including, a reference to the incorporated Club.

(2) In this section, the assets of the former Club include any lease of the Wagga Wagga Racecourse to the chairman of the former Club that was in existence immediately before the date referred to in subsection (1).



*Wagga Wagga Racecourse Act 1993 No. 109*

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(3) The operation of this section is not to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights and liabilities; or
- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.

(4) The operation of this section is not to be regarded as an event of default under any contract or other instrument.

(5) No attornment to the incorporated Club by a lessee or sublessee from the former Club is required.

**Repeal of the Murrumbidgee Turf Club Act 1876**

8. (1) The Murrumbidgee Turf Club Act 1876 is repealed on a date to be appointed by proclamation published in the Gazette.

(2) The date is not to be a date that is earlier than the date of publication of the notice referred to in section 6.

**Regulations**

9. (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) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(3) A provision referred to in subsection (2) may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.

(4) To the extent to which a provision referred to in subsection (2) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

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*Wagga Wagga Racecourse Act 1993 No. 109*

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- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication.
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**SCHEDULE 1—WAGGA WAGGA  
RACECOURSE—DESCRIPTION OF LAND**

(Sec. 3)

The land comprising the Wagga Wagga Racecourse is as follows:

All that parcel of land at Wagga Wagga in the City of Wagga Wagga, Parish of South Wagga Wagga, County of Wynyard, of about 60.26 hectares comprising the remainder of portion 209 of the Parish and contained in Certificate of Title Volume 15139 Folio 250 at the Land Titles Office, Sydney.

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*[Member's second reading speech made in—  
Legislative Assembly on 18 November 1993]*

*Minister's second reading speech made in—  
Legislative Council on 19 November 1993]*