



New South Wales

## **AJC Principal Club Bill 1996**

### **Explanatory note**

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

#### **Overview of Bill**

The objects of this Bill are as follows:

- (a) to establish the AJC Principal Club ("the AJCPC") as a representative body to exercise the functions of Principal Club for thoroughbred horse racing in New South Wales (being the functions currently exercised by the Australian Jockey Club ("the AJC") as Principal Club for New South Wales),
- (b) to establish a Racing Industry Participants Advisory Committee to nominate one member of the AJCPC and to give advice to the AJCPC on industry policy and strategic direction,
- (c) to provide for the establishment by the AJCPC of an Appeal Panel to hear and determine appeals from decisions of race stewards and race club committees,
- (d) to enact transitional provisions for the transfer of the relevant functions, assets, rights, liabilities and employees from the AJC to the AJCPC (consistent with the functions of the AJC that are becoming functions of the AJCPC).

The Bill also makes consequential amendments to various Acts and instruments.

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## Outline of provisions

### **Part 1 Preliminary**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides that the proposed Act will commence on a day or days to be appointed by proclamation.

**Clause 3** contains definitions for the purposes of the proposed Act.

### **Part 2 The AJC Principal Club**

**Clause 4** establishes the AJC Principal Club as a body corporate and provides that it may be referred to as the AJCPC.

**Clause 5** provides that the AJCPC is independent of Government.

**Clause 6** provides for the nomination of 10 members of the AJCPC (with the Chief Executive being an ex officio member).

**Clause 7** sets out the grounds on which a person is not eligible to be nominated as a member of the AJCPC.

**Clause 8** permits a member to appoint a deputy to exercise the member's functions when the member is absent.

**Clause 9** provides that the term of office of the nominated members of the AJCPC is 4 years. A transitional provision for the first members provides for half the original members to hold office for 2 years.

**Clause 10** provides that membership of the AJCPC is honorary and no remuneration is payable to nominated members.

**Clause 11** provides that each member of the AJCPC is to act in the public interest and in the interests of the horse racing industry as a whole, rather than in the interests of the body that nominated the member.

**Clause 12** protects the members of the AJCPC and others from personal liability arising in connection with the exercise of the AJCPC's functions.

**Clause 13** lists the functions of the AJCPC. A key function is that of principal club for horse racing in the State.

**Clause 14** confers on the AJCPC power to do all things that may be necessary or convenient to be done for or in connection with the exercise of its functions and gives examples of its powers.

**Clause 15** provides for the circumstances in which a nominated member of the AJCPC vacates office.

**Clause 16** provides for the AJCPC to elect a Chairperson and Deputy Chairperson from among its nominated members.

**Clause 17** requires vacancies on the AJCPC to be filled.

**Clause 18** provides for the employment by the AJCPC of a Chief Executive and other staff.

**Clause 19** provides for the procedure at meetings of the AJCPC.

**Clause 20** provides a means by which the AJCPC can transact business outside meetings (by telephone or fax, for example).

**Clause 21** requires a member of the AJCPC or any of its committees to disclose any pecuniary interest that the member has that appears to raise a conflict with the proper performance of the member's duties.

**Clause 22** allows the AJCPC to establish committees to assist it in connection with the exercise of any of its functions.

**Clause 23** requires the AJCPC to establish an Integrity Assurance Committee to have primary oversight of those aspects of the AJCPC's functions that relate to race stewards, drug testing and control, licensing, handicapping and horse racing appeals.

**Clause 24** gives the AJCPC power to delegate functions.

**Clause 25** provides for the custody and affixing of the seal of the AJCPC.

**Clause 26** allows the Chairperson to authenticate documents.

**Clause 27** provides for the recovery of money owed to the AJCPC by action in a court of competent jurisdiction.

**Clause 28** requires the AJCPC to distribute all of its profits (if any) to the Racecourse Development Fund under the *Totalizator Act 1916*.

**Clause 29** requires the AJCPC to prepare and furnish to the Minister an annual report of its work and activities. The report is to include independently audited financial statements and is required to be tabled in Parliament and be made available to the public.

### **Part 3 Racing Industry Participants Advisory Committee**

**Clause 30** establishes RIPAC, the Racing Industry Participants Advisory Committee.

**Clause 31** provides for the nomination of the 7 members of RIPAC.

**Clause 32** sets out the grounds on which a person is not eligible to be a member of RIPAC.

**Clause 33** provides that the term of office of the members of RIPAC is 2 years.

**Clause 34** provides that membership of RIPAC is honorary and no remuneration is payable to members.

**Clause 35** sets out the functions of RIPAC. Its chief function is to provide advice to the AJCPC on industry policy and strategic direction. RIPAC also serves as a channel for communication between the industry stakeholders that it represents and the AJCPC, provides a forum for discussion of issues of concern and the making of recommendations to the AJCPC and nominates one member of the AJCPC.

**Clause 36** sets out the procedure for the nomination by RIPAC of a member of the AJCPC.

**Clause 37** provides for the circumstances in which a member of RIPAC vacates office.

**Clause 38** provides for the election of a Chairperson and Deputy Chairperson of RIPAC.

**Clause 39** requires vacancies in RIPAC's membership to be filled.

**Clause 40** provides for the procedure to apply at meetings of RIPAC.

**Clause 41** protects members of RIPAC and persons acting under the direction of RIPAC from personal liability.

### **Part 4 Appeal Panel**

**Clause 42** gives a person who is aggrieved by certain decisions of race stewards and committees a right of appeal to the proposed new Appeal Panel. The functions of the Appeal Panel can be delegated by the AJCPC to any racing association.

**Clause 43** provides for the procedure to be followed on an appeal.

**Clause 44** requires decisions on an appeal to be given effect to by the stewards or committee concerned.

**Clause 45** provides for the AJCPC to appoint suitably qualified persons to be members of the Appeal Panel.

**Clause 46** provides for the appointment of a legal practitioner of at least 7 years standing as Principal Member of the Appeal Panel. The Principal Member presides at hearings of the Appeal Panel.

**Clause 47** provides for how the Appeal Panel is constituted for a particular appeal. A minimum of 3 members constitute the Appeal Panel with a presiding Convenor who is the Principal Member or (if the Principal Member is unavailable) another member who is a legal practitioner of at least 7 years standing.

**Clause 48** provides for the members of the Appeal Panel to be paid fees and expenses.

**Clause 49** provides for decisions of the Appeal Panel to be by majority decision with the Convenor having a casting vote if there is no majority decision.

## **Part 5    General**

**Clause 50** gives effect to Schedule 1 which is the Schedule of savings and transitional provisions.

**Clause 51** gives effect to Schedule 2 which is the Schedule of consequential amendments to Acts and instruments.

**Clause 52** is a standard regulation making power.

**Clause 53** provides for the Act to be reviewed by the Minister in 5 years.

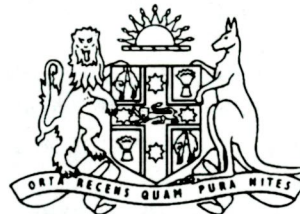
## **Schedules**

**Schedule 1** enacts savings and transitional provisions, including provisions for:

- (a) the transfer of assets, rights, liabilities and employees from the AJC to the AJCPC, and
- (b) the transfer of functions from the AJC to the AJCPC in stages.

**Schedule 2** makes consequential amendments to Acts and instruments.





New South Wales

# AJC Principal Club Bill 1996

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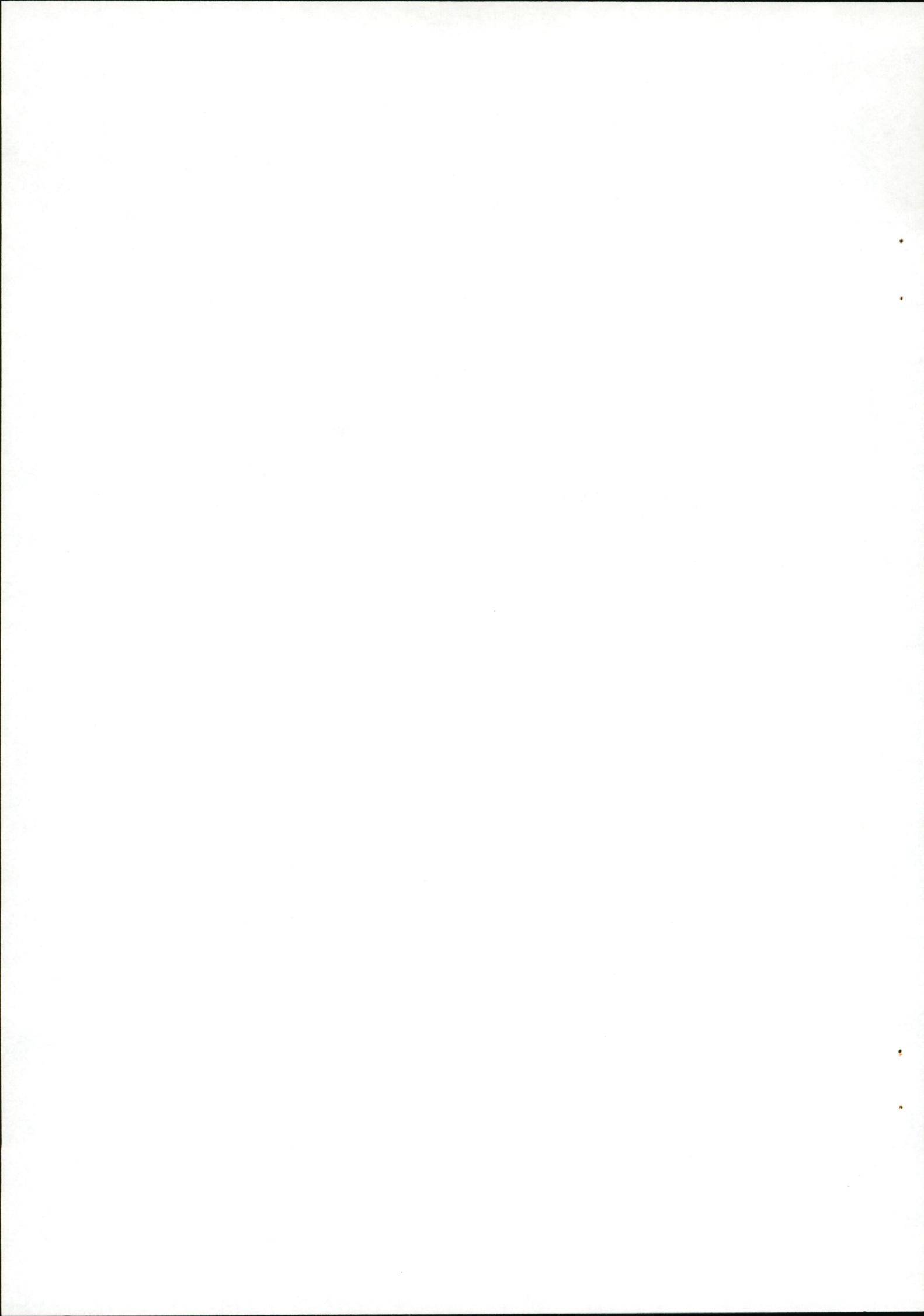
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New South Wales

## AJC Principal Club Bill 1996

No. , 1996

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### **A Bill for**

An Act to make provision for the establishment, management and functions of the AJC Principal Club as the representative body to control thoroughbred horse racing in the State; and for other purposes.

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Clause 1           AJC Principal Club Bill 1996

Part 1             Preliminary

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

## **Part 1     Preliminary**

### **1   Name of Act**

This Act is the *AJC Principal Club Act 1996*.

### **2   Commencement**

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

### **3   Definitions**

(1) In this Act:

*AJC* means the club known as the Australian Jockey Club as referred to in the *Australian Jockey Club Act 1873*. 10

*AJCPC* means the AJC Principal Club established by this Act.

*Appeal Panel* means the Appeal Panel provided for by Part 4.

*Australian Rules of Racing* means the Australian Rules of Racing as adopted by the Australian Conference of Principal Racing Clubs. 15

*Chief Executive* means the Chief Executive of the AJCPC from time to time.

*exercise* a function includes perform a duty.

*function* includes power, authority or duty. 20

*horse racing* means the racing of galloping horses as referred to in the Australian Rules of Racing.

*race club* includes any body or other association of persons, whether incorporated or unincorporated, that promotes, conducts or controls, or that is formed for promoting, conducting or controlling, a horse racing meeting or meetings. 25

*racing association* means an association of race clubs.

**RIPAC** means the Racing Industry Participants Advisory Committee established by this Act.

**Rules of Racing** means the rules for the time being governing and relating to horse racing under the control of the AJCPC (being an amalgamation of the Australian Rules of Racing and the local rules of racing of the AJCPC, together with the regulations made under those rules).

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- (2) Notes included in this Act are explanatory notes and do not form part of this Act.



- (4) The nomination of a member for the purposes of this section is to be made in writing to the AJCPC and is to take effect on the day specified in the nomination.

**Note.** Nominations of the first members of the AJCPC are to be made to the Minister. See the transitional provisions in Schedule 1.

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- (5) The members of the AJCPC who are nominated to membership (that is, all the members except the Chief Executive) are referred to in this Act as *nominated members*.

## 7 Certain persons not eligible for membership

- (1) A person is not eligible to be a nominated member of the AJCPC if the person:
- (a) is an employee of a race club or racing association, or
  - (b) holds a licence issued by the AJCPC or by a racing association, or
  - (c) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or 15
  - (d) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or 20
  - (e) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or 25
  - (f) is a mentally incapacitated person.
- (2) A person is also not eligible to be the member nominated by RIPAC if the person is a member of a committee of any race club.
- (3) A person is not eligible to be a nominated member of the AJCPC for more than 2 consecutive terms of office but there is no limit on the number of non-consecutive terms for which a person can be a nominated member. A term of office is counted for the purposes of this subsection even if the member did not serve out the full period of that term of office. 30 35

**8 Deputies of members**

- (1) A nominated member of the AJCPC may from time to time appoint a person to be the deputy of the member, and may at any time revoke any such appointment.
- (2) In the absence of a member due to illness or other reasonable cause, the member's deputy may if available act in the place of the member and while so acting has all the functions of the member and is taken to be the member. The deputy of a member who is Chairperson or Deputy Chairperson does not have the member's functions as Chairperson or Deputy Chairperson. 5
- (3) The AJCPC may at any time revoke a person's appointment as deputy of a member. 10

**9 Term of office of members**

The nominated members of the AJCPC each hold office for a period of 4 years. 15

**Note.** Half of the first members of the AJCPC hold office for 2 years. See the transitional provisions in Schedule 1.

**10 Membership is honorary**

The nominated members of the AJCPC are honorary members and no remuneration is payable to them in respect of the duties they perform as members. This section does not prevent payment of allowances to reimburse members for expenses that they may incur (for travel or accommodation, for example). 20

**11 Duty of members to act in the interests of the public and the industry** 25

It is the duty of each nominated member of the AJCPC to act in the public interest and in the interests of the horse racing industry as a whole (rather than in the interests of the body that nominated the member).

**12 Personal liability** 30

A matter or thing done or omitted to be done by the AJCPC, the Chief Executive, or a nominated member of the AJCPC or any person acting under the direction of the AJCPC does not, if the matter or thing was done or omitted to be done in good faith for



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the purpose of executing this Act, subject the Chief Executive, the nominated member or a person so acting personally to any action, liability, claim or demand.

### 13 Functions of the AJCPC

- (1) The AJCPC has the following functions: 5
- (a) all the functions of principal club for New South Wales under the Australian Rules of Racing,
  - (b) to control, supervise and regulate horse racing in the State,
  - (c) to initiate, develop and implement policies considered conducive to the promotion, strategic development and welfare of the horse racing industry in the State and the protection of the public interest as it relates to the horse racing industry, 10
  - (d) functions with respect to the insuring of participants in the horse racing industry, being functions of the kind exercised by the AJC on the commencement of this section (in particular, acting as insurer for the purposes of workers compensation insurance and sporting injuries insurance), and such other functions with respect to insurance in the horse racing industry as may be prescribed by the regulations, 15 20
  - (e) such functions as may be conferred or imposed on the AJCPC by or under the Australian Rules of Racing or any other Act,
  - (f) such functions with respect to horse racing in New South Wales as may be prescribed by the regulations. 25
- (2) The functions of the AJCPC are not limited by the Australian Rules of Racing.
- (3) The AJC ceases to have the functions that are solely the functions of the principal club for New South Wales under the Australian Rules of Racing. 30
- Note.** The AJCPC is not authorised to exercise its functions immediately. See clause 2 of Schedule 1 for the procedure for the hand over of functions. Until functions of the AJC are handed over to the AJCPC they can continue to be exercised by the AJC. 35

**14 Powers of the AJCPC**

- (1) The AJCPC has power to do all things that may be necessary or convenient to be done for or in connection with the exercise of its functions.
  
- (2) Without limiting subsection (1), the AJCPC has power to do the following: 5
  - (a) investigate and report on proposals for the construction of new racecourses, and inspect new racecourses or alterations or renovations to existing racecourses,
  
  - (b) register or licence, or refuse to register or licence, or cancel or suspend the registration or licence of, a race club, or an owner, trainer, jockey, stablehand, bookmaker, bookmaker's clerk or another person associated with racing, or disqualify or suspend any of those persons permanently or for a specified period, 10 15
  
  - (c) supervise the activities of race clubs, persons licensed by the AJCPC and all other persons engaged in or associated with racing,
  
  - (d) inquire into and deal with any matter relating to racing and to refer any such matter to stewards or others for investigation and report and, without limiting the generality of this power, to inquire at any time into the running of any horse on any course or courses, whether or not a report concerning the matter has been made or decision arrived at by any stewards, 20 25
  
  - (e) allocate to registered race clubs the dates on which they may conduct race meetings,
  
  - (f) direct and supervise the dissolution of a race club that ceases to be registered by the AJCPC,
  
  - (g) appoint an administrator to conduct the affairs of a race club, 30
  
  - (h) register and identify galloping horses,
  
  - (i) disqualify a horse from participating in a race,
  
  - (j) exclude from participating in a race a horse not registered under the Rules of Racing, 35
  
  - (k) prohibit a person from attending at or taking part in a race meeting,

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- (l) impose a penalty on a person licensed by it or on an owner of a horse for a contravention of the Rules of Racing,
- (m) impose fees for registration of a person or horse,
- (n) require registered race clubs to pay to it such fees and charges (including fees for registration of a race club) as are required for the proper performance of its functions, calculated on the basis of criteria notified to race clubs by the AJCPC, 5
- (o) consult, join, affiliate and maintain liaison with other associations or bodies, whether in the State or elsewhere, concerned with the breeding or racing of galloping horses, 10
- (p) enter into contracts,
- (q) acquire, hold, take or lease and dispose of real and personal property whether in its own right or as trustee,
- (r) borrow money, 15
- (s) order an audit of the books and accounts of a race club by an auditor who is a registered company auditor,
- (t) scrutinise the constitutions of race clubs to ensure they conform to any applicable Act and the Rules of Racing and that they clearly and concisely express the needs and desires of the clubs concerned and of racing generally, 20
- (u) publish material, including periodical publications, to inform and keep informed the public concerning matters relating to racing, whether in the State or elsewhere,
- (v) undertake research and investigation into all aspects of the breeding of horses and of racing generally, 25
- (w) take such steps and do such acts and things as are incidental or conducive to the exercise of its powers and the performance of its functions.
- 15 Vacation of office** 30
- (1) The office of a nominated member of the AJCPC becomes vacant if the member:
- (a) dies, or
- (b) completes a term of office and is not re-nominated, or
- (c) resigns the office by instrument in writing addressed to the AJCPC, or 35
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- (d) is absent from 4 consecutive meetings of the AJCPC of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the AJCPC or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the AJCPC for having been absent from those meetings, or 5
- (e) becomes a person who is not eligible to be a member, or
- (f) is removed from office under subsection (2).
- (2) The Governor may, on the recommendation of the AJCPC, remove a nominated member of the AJCPC from office for incapacity, incompetence or misbehaviour. 10
- (3) A member of the AJCPC does not vacate office merely because of the withdrawal of his or her nomination by the body that nominated the member. 15

**16 Chairperson and Deputy Chairperson of the AJCPC**

- (1) The AJCPC is to elect a Chairperson from among its nominated members. The AJCPC may also elect a Deputy Chairperson from among its nominated members. The AJCPC may remove a person from office as Chairperson or Deputy Chairperson of the AJCPC at any time. 20
- (2) A member elected as Chairperson or Deputy Chairperson holds office as such for 2 years unless the member ceases to hold the office sooner. A member is eligible to be re-elected as Chairperson or Deputy Chairperson but is not eligible to serve more than 3 consecutive terms as either Chairperson or Deputy Chairperson. 25
- (3) A person ceases to hold office as Chairperson or Deputy Chairperson if he or she:
  - (a) resigns the office by instrument in writing addressed to the AJCPC, or 30
  - (b) is removed from that office by the AJCPC, or
  - (c) ceases to hold office as a member of the AJCPC.
- (4) To be elected or removed from office as Chairperson or Deputy Chairperson requires a simple majority of the members present and voting at a meeting of the AJCPC at which a quorum is present. 35

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- (5) The Chairperson or Deputy Chairperson does not cease to be a member of the AJCPC merely because he or she ceases to be Chairperson or Deputy Chairperson.

**17 Member vacancies to be filled**

- (1) When the office of a nominated member becomes vacant, a person is to be nominated to fill the vacancy in the same way as the person whose office has become vacant was nominated. 5
- (2) A person nominated to fill a casual vacancy as a member is to hold office for the balance of the term of office of the person's predecessor or until the person sooner vacates the office. Such a person is eligible for re-nomination if otherwise qualified. 10

**18 The Chief Executive and other staff**

- (1) The AJCPC is to employ a Chief Executive and may employ such other staff as it considers necessary for the exercise of its functions. A person is disqualified from being employed as Chief Executive if the person is or becomes an employee of a race club or racing association. 15
- (2) The AJCPC may fix the salary, wages and other conditions of employment of the Chief Executive and its other staff, in so far as they are not fixed by or under any other Act or law. 20
- (3) The *Public Sector Management Act 1988* does not apply to the Chief Executive and the other members of staff of the AJCPC.

**19 Procedure**

- (1) The AJCPC may regulate its proceedings as it considers appropriate, subject to this section. 25
- (2) The quorum for a meeting of the AJCPC is 6 nominated members, being members nominated from at least 3 of the 5 categories of nomination provided for by section 6.
- (3) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the AJCPC. If neither the Chairperson nor Deputy Chairperson is present at a meeting, the members present may elect one of their number to preside at the meeting. The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 30  
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- (4) A decision supported by a majority of the votes cast at a meeting of the AJCPC at which a quorum is present is the decision of the AJCPC.

**20 Transaction of business outside meetings or by telephone**

- (1) The AJCPC may, if it thinks fit, transact any of its business by the circulation of papers among all of its members, and a resolution in writing approved in writing by a majority of the nominated members is taken to be a decision of the AJCPC. 5
- (2) The AJCPC may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if a member who speaks on a matter at the meeting can be heard by the other members. 10
- (3) For the purposes of:
- (a) the approval of a resolution under subsection (1), or 15
- (b) a meeting held in accordance with subsection (2),
- the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subsection (1) is to be recorded in the minutes of the meetings of the AJCPC. 20
- (5) Papers may be circulated among members for the purposes of subsection (1) by facsimile or other transmission of the information in the papers concerned.

**21 Disclosure of pecuniary interests by members**

- (1) If: 25
- (a) a member of the AJCPC or of a committee of the AJCPC has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the AJCPC or the committee, and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, 30
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the AJCPC or the committee. 35

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- (2) A disclosure by a member at a meeting of the AJCPC or a committee of the AJCPC that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
  - (b) is a partner, or is in the employment, of a specified person, or 5
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subsection (1). 10
- (3) Particulars of any disclosure made under this section must be recorded by the AJCPC or the committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the reasonable fee determined by the AJCPC. 15
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the AJCPC otherwise determines: 20
- (a) be present during any deliberation of the AJCPC or the committee with respect to the matter, or
  - (b) take part in any decision of the AJCPC or the committee with respect to the matter.
- (5) For the purpose of the making of a determination by the AJCPC under subsection (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not: 25
- (a) be present during any deliberation of the AJCPC for the purpose of making the determination, or 30
  - (b) take part in the making by the AJCPC of the determination.
- (6) A contravention of this section does not invalidate any decision of the AJCPC or a committee.

**22 Committees**

- (1) The AJCPC may establish committees to assist it in connection with the exercise of any of its functions.
- (2) A person may be appointed to be a member of such a committee whether or not the person is a member of the AJCPC. 5
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the AJCPC or (subject to any determination of the AJCPC) by the committee.

**23 Integrity Assurance Committee** 10

- (1) The AJCPC must establish a committee to be known as the Integrity Assurance Committee (“the IA Committee”). The IA Committee is to have primary oversight of those aspects of the AJCPC’s functions that relate to race stewards, drug testing and control, licensing, handicapping and horse racing appeals. The IA Committee has such other functions as the AJCPC may confer on it. 15
- (2) The IA Committee is to advise the AJCPC on the matters for which it has primary oversight.
- (3) The AJCPC is to determine the qualifications and disqualifications for membership of the IA Committee and in doing so is to have particular regard to the need to minimise conflicts of interest, such as might arise from a person’s:
  - (a) ownership of horses currently in work, or
  - (b) professional involvement in race preparation, or 25
  - (c) professional or commercial dealings with any person who holds a licence issued by the AJCPC or by a racing association.

**24 Delegation of functions**

- (1) The AJCPC may delegate to an authorised person or body any of its functions, other than this power of delegation. 30
- (2) A delegate may sub-delegate to an authorised person or body any function delegated by the AJCPC if the delegate is authorised in writing to do so by the AJCPC.



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- (3) In this section, *authorised person or body* means:
- (a) the Chief Executive or any other member of the AJCPC, or
  - (b) a committee of the AJCPC or any member of such a committee, or
  - (c) a race club or racing association.

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**25 Custody and affixing of seal**

- (1) The seal of the AJCPC is to be kept in the custody of the Chairperson or such other person as may be authorised by the AJCPC.
- (2) The seal is to be affixed to documents only in pursuance of a resolution of the AJCPC and by the person having custody of the seal under this section.

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**26 Authentication of documents**

Any document requiring authentication by the AJCPC is sufficiently authenticated without the seal of the AJCPC if signed by the Chairperson.

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**27 Recovery of money**

Any charge, fee or other money due to the AJCPC may be recovered as a debt in a court of competent jurisdiction.

**28 Distribution of profit**

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The AJCPC must distribute all of its profits (if any) to the Racecourse Development Fund under the *Totalizator Act 1916*.

**29 Annual report**

- (1) The AJCPC must, as soon as practicable after 30 June and in any case before 1 November in each year prepare and forward to the Minister a report of its work and activities for the 12 months ending on that 30 June.
- (2) The report must include copies of the financial statements of the AJCPC for the 12 month period to which the report relates together with an auditor's report on those statements prepared by an independent auditor.

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Clause 29      AJC Principal Club Bill 1996

Part 2          The AJC Principal Club

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- (3)    The Minister is to table the report or cause it to be tabled in both Houses of Parliament as soon as practicable after the report is forwarded to the Minister.
  
- (4)    The AJCPC is to make copies of the report available to the public at a reasonable price.

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## Part 3      Racing Industry Participants Advisory Committee

### 30 Establishment of RIPAC

There is established by this Act a committee called the Racing Industry Participants Advisory Committee. The committee may also be called RIPAC. 5

### 31 Membership

- (1) RIPAC consists of 7 members as follows:
- (a) 5 members, each nominated to represent one of the following categories of participants in the horse racing industry: 10
- (i) owners,
  - (ii) breeders,
  - (iii) licensed trainers,
  - (iv) licensed jockeys and apprentice jockeys, 15
  - (v) licensed bookmakers and bookmakers' clerks,
- (b) 1 member nominated by the Labor Council of New South Wales to represent stablehands and race club employees,
- (c) 1 member nominated by the Public Interest Advocacy Centre to represent consumers of racing and betting services. 20
- (2) The members referred to in subsection (1) (a) are to be nominated by the industry bodies that are appropriate to represent the interests of the categories of participants in the horse racing industry that they represent, namely: 25
- (a) in the case of owners—the NSW Racehorse Owners Association Limited,
  - (b) in the case of breeders—the New South Wales Bloodhorse Breeders Association Limited and the Commercial Thoroughbred Breeders Association Limited (a joint nomination by both bodies), 30
  - (c) in the case of licensed trainers—the Australian Trainers Association (NSW Branch) and the Sydney Trainers Association (a joint nomination by both bodies),

- (d) in the case of licensed jockeys and apprentice jockeys—the NSW Jockeys Association,
  - (e) in the case of licensed bookmakers and bookmakers' clerks—the NSW Bookmakers Co-operative Society Limited. 5
- (3) The AJCPC may, with the approval of the Minister, determine that a particular body or bodies specified in the determination is to replace any body referred to in subsection (2) for the purposes of the making of a nomination under subsection (1) (a), and such a determination has effect accordingly. 10
- (4) The nomination of a member for the purposes of this section is to be made in writing to the AJCPC and is to take effect on the day specified in the nomination.
- Note.** Nominations of the first members of RIPAC are to be made to the Minister. See the transitional provisions in Schedule 1. 15

### 32 Certain persons not eligible for membership

- (1) A person is not eligible to be a member of RIPAC if the person:
- (a) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or 20
  - (b) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or 25
  - (c) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or
  - (d) is a mentally incapacitated person.
- (2) A person is not eligible to be a member of RIPAC for more than 4 consecutive terms of office but there is no limit on the number of non-consecutive terms for which a person can be a member. A term of office is counted for the purposes of this subsection even if the member did not serve out the full period of that term of office. 30  
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**33 Term of office of members**

The members of RIPAC each hold office for a period of 2 years.

**34 Membership is honorary**

The members of RIPAC are honorary members and no remuneration is payable to them in respect of the duties they perform as members. The members are however entitled to be reimbursed by the AJCPC for reasonable expenses (such as for travel or accommodation) that they may incur in attending meetings of RIPAC. 5

**35 Functions of RIPAC**

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RIPAC has the following functions:

- (a) to provide advice to the AJCPC on industry policy and strategic direction,
- (b) to serve as a channel for communication between the industry stakeholders that it represents and the AJCPC, 15
- (c) to provide a forum for discussion of issues of concern and the making of recommendations to the AJCPC,
- (d) to nominate a member of the AJCPC,
- (e) at the request of the AJCPC, to nominate members to serve on committees or working groups established by the AJCPC. 20

**36 Procedure for nomination of AJCPC member**

For the purposes of the nomination by RIPAC of a member of the AJCPC, the nomination of a person by any member of RIPAC with that nomination seconded by any other member of RIPAC is the nomination of RIPAC (unless 2 or more people are nominated in that way). If 2 or more people are nominated, the person nominated is to be chosen by election conducted by RIPAC using an optional preferential method of voting chosen by RIPAC with the members of RIPAC being the electors. 25  
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**37 Vacation of office**

- (1) The office of a member of RIPAC becomes vacant if the member:
- (a) dies, or
  - (b) completes a term of office and is not re-nominated, or 5
  - (c) resigns the office by instrument in writing addressed to the AJCPC and RIPAC, or
  - (d) is absent from 2 consecutive meetings of RIPAC of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by RIPAC or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by RIPAC for having been absent from those meetings, or 10
  - (e) becomes a person who is not eligible to be a member, or
  - (f) is removed from office under subsection (2). 15
- (2) The Governor may, on the recommendation of RIPAC, remove a member of RIPAC from office for incapacity, incompetence or misbehaviour.
- (3) A member of RIPAC does not vacate office merely because of the withdrawal of his or her nomination by the body that nominated the member. 20

**38 Chairperson and Deputy Chairperson of RIPAC**

- (1) RIPAC is to elect a Chairperson from among its members. RIPAC may also elect a Deputy Chairperson from among its members. RIPAC may remove a person from office as Chairperson or Deputy Chairperson of RIPAC at any time. 25
- (2) A member elected as Chairperson or Deputy Chairperson holds office as such for 1 year unless the member ceases to hold that office sooner. A member is eligible to be re-elected as Chairperson or Deputy Chairperson but is not eligible to serve more than 3 consecutive terms as either Chairperson or Deputy Chairperson. 30

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- (3) A person ceases to hold office as Chairperson or Deputy Chairperson if he or she:
- (a) resigns the office by instrument in writing addressed to the AJCPC and RIPAC, or
  - (b) is removed from that office by RIPAC, or 5
  - (c) ceases to hold office as a member of RIPAC.
- (4) To be elected or removed from office as Chairperson or Deputy Chairperson requires a simple majority of the members present and voting at a meeting of RIPAC at which a quorum is present.
- (5) The Chairperson or Deputy Chairperson does not cease to be a member of RIPAC merely because he or she ceases to be Chairperson or Deputy Chairperson. 10

### **39 Member vacancies to be filled**

- (1) When the office of a member of RIPAC becomes vacant, a person is to be nominated to fill the vacancy in the same way as the person whose office has become vacant was nominated. 15
- (2) A person nominated to fill a casual vacancy as a member is to hold office for the balance of the term of office of the person's predecessor or until the person sooner vacates the office. Such a person is eligible for re-nomination if otherwise qualified. 20

### **40 Procedure**

- (1) RIPAC may regulate its proceedings as it considers appropriate, subject to this section.
- (2) The quorum for a meeting of RIPAC is a majority in number of the members for the time being. 25
- (3) RIPAC is to meet not less than 4 times a year and of those meetings at least 2 are to be joint meetings with meetings of the AJCPC (with the appropriate quorum of both the AJCPC and RIPAC present).
- (4) Meetings of RIPAC are to be held at the premises of the AJCPC unless the AJCPC approves of a meeting being held elsewhere. 30

- (5)    The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of RIPAC. If neither the Chairperson nor Deputy Chairperson is present at a meeting, the members present may elect one of their number to preside at the meeting. The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 5
- (6)    A decision supported by a majority of the votes cast at a meeting of RIPAC at which a quorum is present is the decision of RIPAC.
- (7)    The AJCPC is to provide the administrative support needed for the meetings of RIPAC. 10

**41 Personal liability**

A matter or thing done or omitted to be done by RIPAC or a member of RIPAC or any person acting under the direction of RIPAC does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this Act, subject the member or a person so acting personally to any action, liability, claim or demand. 15



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## Part 4 Appeal Panel

### 42 Right of appeal against steward and committee decisions

- (1) A person aggrieved by any of the following decisions of the stewards of the AJCPC or the committee or stewards of any other club or race meeting registered by the AJCPC under the Rules of Racing has a right of appeal against the decision to the Appeal Panel: 5
- (a) a decision to disqualify or warn off any person,
  - (b) a decision to disqualify any horse,
  - (c) a decision to revoke the licence of any trainer, jockey or rider or suspend (for any period) any such licence, 10
  - (d) a decision to fine any person a sum of \$10 or more.
- (2) A person has no right of appeal under this section unless the person has first exercised any other right of appeal which may be conferred on the person by the Rules of Racing. 15
- (3) The AJCPC may delegate to a racing association the function of hearing and determining appeals against decisions of the committee or stewards of any club over which the association has jurisdiction. Any such delegation may be general or limited to a particular class or classes of appeals. 20
- (4) If an appeal against a decision can be heard by a racing association by virtue of such a delegation, an appellant against the decision has the choice of appealing to the Appeal Panel or to the racing association (but cannot appeal to both).

### 43 Procedure on an appeal 25

- (1) An appeal to the Appeal Panel is to be in the nature of a rehearing.
- (2) The Appeal Panel may subject to this Act determine its own procedure.
- (3) On an appeal the Appeal Panel: 30
- (a) is not bound to act in a formal manner, and
  - (b) is not bound by the rules of evidence and may inform itself on any matter in any way that it considers to be just, and
  - (c) is to make its decision on the real merits and justice of the case and is not bound to follow strict legal precedent. 35

- (4) 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 any person.
- (5) For the purpose of the exercise of the Appeal Panel's functions on an appeal, the person presiding at the hearing of the appeal has the powers, authorities, protections and immunities conferred by the *Royal Commissions Act 1923* on a Commissioner appointed under Division 1 of Part 2 of that Act. That Act (except section 13 and Division 2 of Part 2) applies, with any necessary modifications, to a witness summoned by, or appearing before, the Appeal Panel. 5 10
- (6) When an appeal is to a racing association pursuant to a delegation to the association by the AJCPC under this Part, the following provisions have effect: 15
- (a) the committee of the association has the function of hearing and determining the appeal, and
- (b) the members of the committee of the association and the person presiding at the hearing of the appeal have the same powers, authorities, protections and immunities as the members of the Appeal Panel and the person presiding at the hearing of an appeal by the Appeal Panel, and 20
- (c) references in this section to the Appeal Panel and to the person presiding at the hearing of an appeal include a reference to the committee and to the person presiding at the hearing of the appeal by the committee, and 25
- (d) the same right of appeal as exists under the *Racing Appeals Tribunal Act 1983* in respect of a decision of the Appeal Panel also exists in respect of a decision of the committee of the association (and for that purpose references in that Act to a decision of the Appeal Panel are to be read as including a reference to a decision of the committee of a racing association). 30

**44 Decision on appeal to be given effect to**

The decision of the Appeal Panel on an appeal is to be given effect to by the stewards of the AJCPC or the committee or stewards of any other club or race meeting to whose jurisdiction the appellant is subject. 35

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#### 45 Membership of Appeal Panel

- (1) The AJCPC is to appoint suitably qualified persons to be members of the Appeal Panel. A member of the AJCPC cannot be a member of the Appeal Panel.
- (2) The AJCPC is (subject to this section) to determine the qualifications and disqualifications for membership of the Appeal Panel and for that purpose is to have particular regard to the need to minimise conflicts of interest, such as might arise from a person's:
- (a) ownership of horses currently in work, or 10
  - (b) professional involvement in race preparation, or
  - (c) professional or commercial dealings with any person who holds a licence issued by the AJCPC or by a racing association.
- (3) At least one member of the Appeal Panel is to be a legal practitioner of at least 7 years standing. 15
- (4) A person is not eligible to be appointed as a member of the Appeal Panel if the person:
- (a) holds a licence issued by the AJCPC or by a racing association, or 20
  - (b) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or
  - (c) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or 25
  - (d) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or 30
  - (e) is a mentally incapacitated person.
- (5) A member of the Appeal Panel holds office for 4 years from appointment and is eligible (if otherwise qualified) to be reappointed. 35

- (6) The office of a member of the Appeal Panel becomes vacant if the member:
- (a) dies, or
  - (b) completes a term of office and is not reappointed, or
  - (c) resigns the office by instrument in writing addressed to the AJCPC, or 5
  - (d) is removed from office under subsection (7), or
  - (e) becomes a person who is not eligible to be a member of the Appeal Panel.
- (7) The Governor may, on the recommendation of the AJCPC, remove a member of the Appeal Panel from office for incapacity, incompetence or misbehaviour. 10

**46 Appointment of Principal Member**

- (1) The AJCPC is to appoint one of the members of the Appeal Panel as Principal Member. The person appointed must be a legal practitioner of at least 7 years standing. 15
- (2) The person appointed holds office as Principal Member for a period of 2 years and is eligible (if otherwise qualified) for reappointment.
- (3) A person ceases to hold office as Principal Member if the person ceases to hold office as a member of the Appeal Panel. 20

**47 How Appeal Panel is constituted for particular appeal**

- (1) When the Appeal Panel is required to hear an appeal, the Chief Executive is to establish the Appeal Panel in accordance with this section. More than one Appeal Panel may be established to exercise the functions of the Appeal Panel at any one time. 25
- (2) The Appeal Panel is to be constituted for the purposes of an appeal by not less than 3 members, one of whom must be the Principal Member (who is to be Convenor of the Appeal Panel for the purposes of the appeal). 30

- (3) If the Principal Member is unavailable to act (including as a result of being a member of the Appeal Panel for another appeal), one of the members is to be appointed Convenor by the Chief Executive when the Appeal Panel is established. The member appointed Convenor must be a legal practitioner of at least 7 years standing. 5
- (4) The Convenor is to preside at the hearing of an appeal.

**48 Remuneration of members**

The members of the Appeal Panel are entitled to be paid such fees and expenses in connection with the hearing and determination of an appeal as the AJCPC determines from time to time. 10

**49 How Appeal Panel makes decisions**

A decision supported by a majority of the members of the Appeal Panel hearing an appeal is the decision of the Panel. 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. 15

Clause 50      AJC Principal Club Bill 1996

Part 5          General

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## **Part 5      General**

### **50   Savings and transitional provisions**

Schedule 1 has effect.

### **51   Amendment of Acts and instruments**

Each Act and instrument specified in Schedule 2 is amended as set out in that Schedule.      5

### **52   Regulations**

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.      10

### **53   Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.      15
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.      20

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## Schedule 1 Savings and transitional provisions

(Section 50)

### Part 1 General

#### 1 Definitions

In this Schedule: 5

*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.

*instrument* means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court. 10

*liabilities* means any 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).

*transfer day* means:

- (a) in relation to any asset, right or liability transferred by or under this Schedule, the day on which the transfer occurs, or 20
- (b) in relation to an employee of the AJC who becomes an employee of the AJCPC by operation of this Schedule, the day on which that occurs.

#### 2 Orders to authorise AJCPC to assume functions 25

- (1) The AJCPC is not authorised to exercise any of its functions under this Act until the Minister has by order published in the Gazette authorised it to assume those functions. Such an order takes effect on the day it is published in the Gazette or on such later day as may be specified in the order. 30

- (2) More than one order may be made under this clause at different times so as to authorise the AJCPC to assume different functions at different times.
- (3) The operation of the whole of Part 4 (Appeal Panel) of this Act is deferred until the AJCPC is authorised (as provided by this clause) to exercise its functions under that Part. The repeal by this Act of section 32 (Appeals) of the *Australian Jockey Club Act 1873* does not have effect until the AJCPC is authorised (as provided by this clause) to exercise its functions under Part 4 of this Act. 5  
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- (4) Until any particular function is authorised to be exercised by the AJCPC, the function (to the extent that it is a function of the AJC immediately before the commencement of this clause) remains a function of the AJC and may continue to be exercised by the AJC until the AJCPC is authorised to assume it by order under this clause. 15
- (5) An amendment made by Schedule 2 that operates to confer a function on the AJCPC or remove a function from the AJC does not have effect until that function is authorised (as provided by this clause) to be exercised by the AJCPC. 20
- (6) The AJC does not cease to have a function under section 13 (3) while the function may, under this clause, continue to be exercised by the AJC.

### 3 Savings and transitional regulations

- (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of this Act. 25
- (2) In particular, the regulations may include provision to delay or defer the operation of any specified provisions of this Act in relation to specified matters or matters of a specified kind.
- (3) A provision of a regulation authorised by this clause may, if the regulations so provide, take effect from the commencement of this clause or from a later date. 30



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- (4) To the extent to which a provision of a regulation authorised by this clause takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:
- (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 5
- (b) to impose liabilities on any person (other than the State or an authority of the State), in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 First members of the AJCPC and RIPAC** 10

### **4 Minister to call for nominations**

- (1) As soon as practicable after the commencement of this clause, the Minister is to call for nominations for the first membership of the AJCPC and RIPAC.
- (2) Nominations are to be in writing addressed to the Minister. 15
- (3) The Minister may give directions generally for facilitating the constitution of the first membership of the AJCPC and RIPAC.
- (4) The AJCPC and RIPAC are formally constituted for the purposes of this Act on a day (*the constitution day*) appointed by the Minister by notice published in the Gazette. The Minister can appoint a day as the constitution day even if all the members of the AJCPC or RIPAC have not been nominated by that day. 20
- (5) The terms of office of the first members of the AJCPC and RIPAC begin on the constitution day but the terms of office of those first members are extended by the period between the constitution day and the day appointed by the Minister under subclause (6). 25
- (6) The Minister may by notice published in the Gazette appoint a day as the day on which the AJCPC is fully operational for the purposes of this Act (even if the AJCPC has not assumed all of its functions by that date). 30

**5 Two year term of office for half of the first members of AJCPC**

- (1) Half of the first members of the AJCPC are to be nominated to have a term of office of 2 years (instead of the 4 year term provided for by section 9).
- (2) In nominating the first members of the AJCPC, the AJC, the Sydney Turf Club and the Board of Directors of the Country Racing Council Limited are required to nominate half of the members that they each nominate as members who are to have a 2 year term of office. 5
- (3) The Provincial Association of New South Wales and RIPAC are to draw lots to determine which of the members that they nominate to the first membership of the AJCPC is to be nominated to have a 2 year term of office. 10

**Part 3 Transfer of assets, rights, liabilities and employees** 15

**6 Meaning of "principal club functions"**

In this Part:

*principal club functions* means functions that because of this Act will become functions of the AJCPC and cease to be functions of the AJC. 20

**7 Object of Part**

The object of this Part is to facilitate the transfer to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions, while ensuring that: 25

- (a) the proprietary interests of the AJC (except interests that are held on behalf of the horse racing industry in New South Wales or a group or body within that industry) are preserved or justly compensated, and
- (b) employees of the AJC whose employment is concerned with the exercise of principal club functions are treated fairly. 30

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**8 Duty to facilitate transition**

It is the duty of the AJC to do everything necessary to facilitate the operation of this Part. That duty includes the duty to give the AJCPC information and access to records, documents and any other source of information however compiled, recorded or stored. 5

**9 Agreements and regulations for transfer of assets, rights, liabilities and employees**

- (1) The AJCPC may enter into an agreement or agreements with the AJC providing for the transfer from the AJC to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions. Such an agreement is referred to in this Part as a transfer agreement and operates to transfer the assets, rights, liabilities and employees concerned in accordance with the terms of the transfer agreement. 10  
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- (2) The regulations can direct the transfer from the AJC to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions. Such a regulation operates to transfer the assets, rights, liabilities or employees concerned in accordance with the terms of the regulation. 20
- (3) A transfer effected by a transfer agreement or by regulation under this clause is without consideration or compensation except such consideration or compensation as may be provided for by the transfer agreement or regulation. 25
- (4) The AJC must not transfer or otherwise deal with any asset that is concerned with the exercise of principal club functions, except with the consent of the AJCPC. Consent may be given under this subclause on a case by case basis or for a class of cases, as the AJCPC thinks fit. 30
- (5) A regulation under this clause takes effect on the day following the last day on which it is capable of being disallowed under section 41 of the *Interpretation Act 1987* (as modified by subclause (6)) or on such later day as may be specified in the regulation. 35

- (6) Despite section 41 of the *Interpretation Act 1987*, a resolution by a House of Parliament to disallow a regulation under this clause does not have effect unless the resolution is passed within 15 sitting days of the House after written notice of the making of the regulation is laid before that House under section 40 of that Act. 5

**10 Effect of transfer of assets, rights and liabilities**

- (1) The following provisions have effect with respect to any asset, right or liability transferred by operation of this Part:
- (a) the asset vests in the AJCPC by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance, 10
  - (b) the right or liability becomes by virtue of this clause the right or liability of the AJCPC,
  - (c) all proceedings relating to the asset, right or liability commenced before the transfer day by or against the AJC and pending immediately before the transfer day are taken to be proceedings pending by or against the AJCPC, 15
  - (d) any act, matter or thing done or omitted to be done in relation to the asset, right or liability before the transfer day by, to or in respect of the AJC is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the AJCPC, 20
  - (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the AJC is (to the extent that it relates to the asset, right or liability but subject to any regulations under this Schedule) to be read as, or as including, a reference to the AJCPC. 25
- (2) The operation of this Part is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or 30
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

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- (c) as giving rise to any remedy by a party to a contract or instrument, or as causing or permitting the termination of any contract or instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or 5
- (d) as an event of default under any contract or instrument.
- (3) No attornment to the AJCPC by a lessee from the AJC is required.

**11 Effect of transfer of staff**

- (1) An employee of the AJC who is transferred by operation of this Part is to be regarded for all purposes as having become an employee of the AJCPC, in accordance with the terms of transfer, on the transfer day. 10
- (2) Subject to any of the terms of transfer, the terms and conditions (including as to remuneration or duration of employment) on which a person becomes an employee of the AJCPC by operation of this Part are the same as those on which he or she was an employee of the AJC immediately before the transfer day. 15
- (3) Such part of the employee's remuneration as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 2 of Chapter 2 of the *Industrial Relations Act 1991* until the salary is, or the wages are, lawfully varied. 20
- (4) The employee retains any rights to annual leave, leave in the nature of long service leave and sick leave accrued or accruing to the person as an AJC employee. The employee's entitlement to any such leave is to be calculated: 25
- (a) for such part of any period during which that leave accrued or was accruing as occurred before the transfer day, at the rate for the time being applicable to the person (as an AJC employee) before that day, and 30
- (b) for such part of that period as occurred after the transfer day, at the rate for the time being applicable to the person (as an employee of the AJCPC) after that day. 35

- (5) Service with the AJC is taken to be service with the AJCPC for the purposes of the accrual of leave as an employee of the AJCPC.
- (6) An AJC employee who becomes an employee of the AJCPC by operation of this Part: 5
  - (a) is not entitled to receive any payment or other benefit merely because the person ceases to be an AJC employee, and
  - (b) is not entitled to claim dual benefits of the same kind for the same period of service. 10

## 12 Preservation of enterprise agreements

The provisions of any enterprise agreement applicable to an AJC employee immediately before the employee is transferred by operation of this Part to employment of the AJCPC continue to apply to the employee as an employee of the AJCPC during the term of the agreement. The AJCPC is, for the purposes of this clause, taken to be a party to the enterprise agreement. 15

## 13 Stamp duty and fees

A transfer agreement or an instrument executed only for a purpose ancillary to or consequential on the operation of this Part or the purpose of giving effect to this Part: 20

- (a) is not chargeable with stamp duty, and
- (b) is exempt from payment of any other fee or charge that would otherwise be payable under any other Act in respect of the registration of any such instrument. 25

## Part 4 Miscellaneous

### 14 Rules of Racing

The continuity of the Rules of Racing is not affected by this Act. The local rules of racing made by the AJC (as in force immediately before the AJC ceases to exercise the function of 30

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making and amending local rules of racing) are taken to have been made by the AJCPC (once the AJCPC has assumed the function of making and amending those rules).

**15 Pending appeals**

Any appeal pending under section 32 of the *Australian Jockey Club Act 1873* immediately before the AJCPC assumes its functions under Part 4 (Appeal Panel) is to continue and be heard and determined and the decision on the appeal given effect to as if this Act had not been enacted. 5

**16 Actions of the AJC**

Anything done or commenced by or in relation to the AJC in respect of a function that the AJC ceases to exercise because of this Act has effect after the function is assumed by the AJCPC under this Act as if it had been done or commenced by or in relation to the AJCPC. 10  
15

**Note.** An existing delegation to a racing association by the AJC and licences issued by the AJC are examples of matters that this clause applies to.

## Schedule 2 Amendment of Acts and instruments

(Section 51)

### 2.1 Australian Jockey Club Act 1873

#### Section 32 Appeals

Omit the section. 5

### 2.2 Bookmakers (Taxation) Act 1917 No 15

#### [1] Section 2 Definitions

Omit "Australian Jockey Club" from the definition of *Registration authority*.  
Insert instead "AJC Principal Club". 10

#### [2] Section 35 Constitution of Committee

Omit "The Secretary, Australian Jockey Club;" from section 35 (1).  
Insert instead "The Chief Executive, AJC Principal Club;".

#### [3] Section 37 Minister may furnish information

Omit "Australian Jockey Club". 15  
Insert instead "AJC Principal Club".

### 2.3 Defamation Act 1974 No 18

#### Schedule 2 Proceedings of public concern and official and public documents and records

Omit "to the Committee of the Australian Jockey Club under section 32 of the *Australian Jockey Club Act 1873*" from clause 2 (8). 20  
Insert instead "to the Appeal Panel under the *AJC Principal Club Act 1996*".



---

**2.4 Lotteries and Art Unions Act 1901 No 34****Section 4D Sweepstakes in relation to the Melbourne Cup and other events**

Omit "Australian Jockey Club" from paragraph (e) of the definition of *prescribed organisation* in subsection (1).  
Insert instead "AJC Principal Club".

5

**2.5 Racing Appeals Tribunal Act 1983 No 199****[1] Long title**

Omit "Committee of the Australian Jockey Club".  
Insert instead "Appeal Panel under the *AJC Principal Club Act 1996*".

10

**[2] Section 4 Definitions**

Insert the following definition in alphabetical order in subsection (1):

*Appeal Panel* means the Appeal Panel under the *AJC Principal Club Act 1996*.

15

**[3] Section 4 (1)**

Omit "Australian Jockey Club" from the definition of *Club*.  
Insert instead "AJC Principal Club".

**[4] Section 15 Appeals to Tribunal**

Omit section 15 (a). Insert instead:

20

- (a) a decision of the Appeal Panel:
  - (i) on an appeal under the *AJC Principal Club Act 1996*, or
  - (ii) under the Rules of Racing of the Club, or

- [5] Section 15 (b)**  
Omit "Committee of the Club under section 32 of that Act".  
Insert instead "Appeal Panel under that Act".
- [6] Section 17**  
Omit the section. Insert instead: 5
- 17 Decision of Tribunal final**  
The decision of the Tribunal in respect of an appeal under this Act is final and conclusive and is taken to be the decision of the Appeal Panel.
- [7] Section 19 Staff to assist Tribunal** 10  
Omit "the Committee of the Club" wherever occurring in section 19 (1) and (2).  
Insert instead "the Club".
- [8] Section 19 (2)** 15  
Omit "that Committee".  
Insert instead "the Club".
- [9] Section 19 (3)**  
Omit "A member of the Committee of the Club".  
Insert instead "The Club".
- 2.6 Racing Appeals Tribunal Regulation 1994** 20
- [1] Clause 4 Definitions**  
Omit the definition of *Committee*. Insert instead:  
*Appeal Panel* means the Appeal Panel under the *AJC Principal Club Act 1996*.

---

**[2] Clause 4, definition of "Secretary"**

Omit "Secretary of the Australian Jockey Club".  
Insert instead "Chief Executive of the AJC Principal Club".

**[3] Clause 4, definition of "Secretary"**

Omit "that Club".  
Insert instead "the AJC Principal Club".

5

**[4] Clause 4, definition of "the Rules"**

Omit "Australian Jockey Club".  
Insert instead "AJC Principal Club".

**[5] Clauses 6 (1) (b), 13 (1), 15 (c)**

Omit "Committee" wherever occurring.  
Insert instead "Appeal Panel".

10

**2.7 Sporting Injuries Insurance Rules 1981**

**Rule 7 Specification of authorised activities**

Omit "Australian Jockey Club" from rule 7 (b).  
Insert instead "AJC Principal Club".

15

**2.8 Sydney Turf Club Act 1943 No 22**

**[1] Section 7 Objects etc of Club**

Omit "Australian Jockey Club".  
Insert instead "AJC Principal Club".

20

**[2] Section 25 Exclusion of undesirable persons**

Omit "Committee of the Australian Jockey Club pursuant to the rules of racing of that Club" from section 25 (1).  
Insert instead "AJC Principal Club pursuant to its rules of racing".

**[3] Section 25 (1)**

5

Omit "Committee of the Australian Jockey Club."  
Insert instead "AJC Principal Club."

**[4] First Schedule Regulations for the Sydney Turf Club**

Omit the definition of *Rules of Racing* from Regulation 1 (a).  
Insert instead:

10

*Rules of Racing* means the Rules of Racing of the AJC Principal Club.

**[5] First Schedule, clause 16**

Omit "Stewards or Committee of the Australian Jockey Club".  
Insert instead "AJC Principal Club or its stewards".

15

**2.9 Totalizator Act 1916 No 75**

**[1] Section 19A Racecourse Development Fund**

Insert after section 19A (3) (a):

(a1) such amounts as are required to be distributed to the Fund under the *AJC Principal Club Act 1996* as profits of the AJC Principal Club,

20

**[2] Section 19A (5) (e)**

Insert "the AJC Principal Club," before "the Greyhound".

**2.10 Totalizator Rule 1993**

**Clause 3 Definitions**

Omit "Australian Jockey Club" wherever occurring in the definitions of *Rules of Racing* and *Stewards* in clause 3 (1).  
Insert instead "AJC Principal Club".

5

**2.11 Totalizator (Off-course Betting) Act 1964 No 1**

**Section 14B Financial scheme for distribution of surplus commission**

Insert "the AJC Principal Club," before "the Greyhound" in section 14B.

10

**2.12 Workers Compensation Act 1987 No 70**

**Section 3 Definitions**

Omit "Australian Jockey Club" from the definition of *specialised insurer* in section 3 (1).  
Insert instead "AJC Principal Club".

15





New South Wales

# AJC Principal Club Act 1996 No 37

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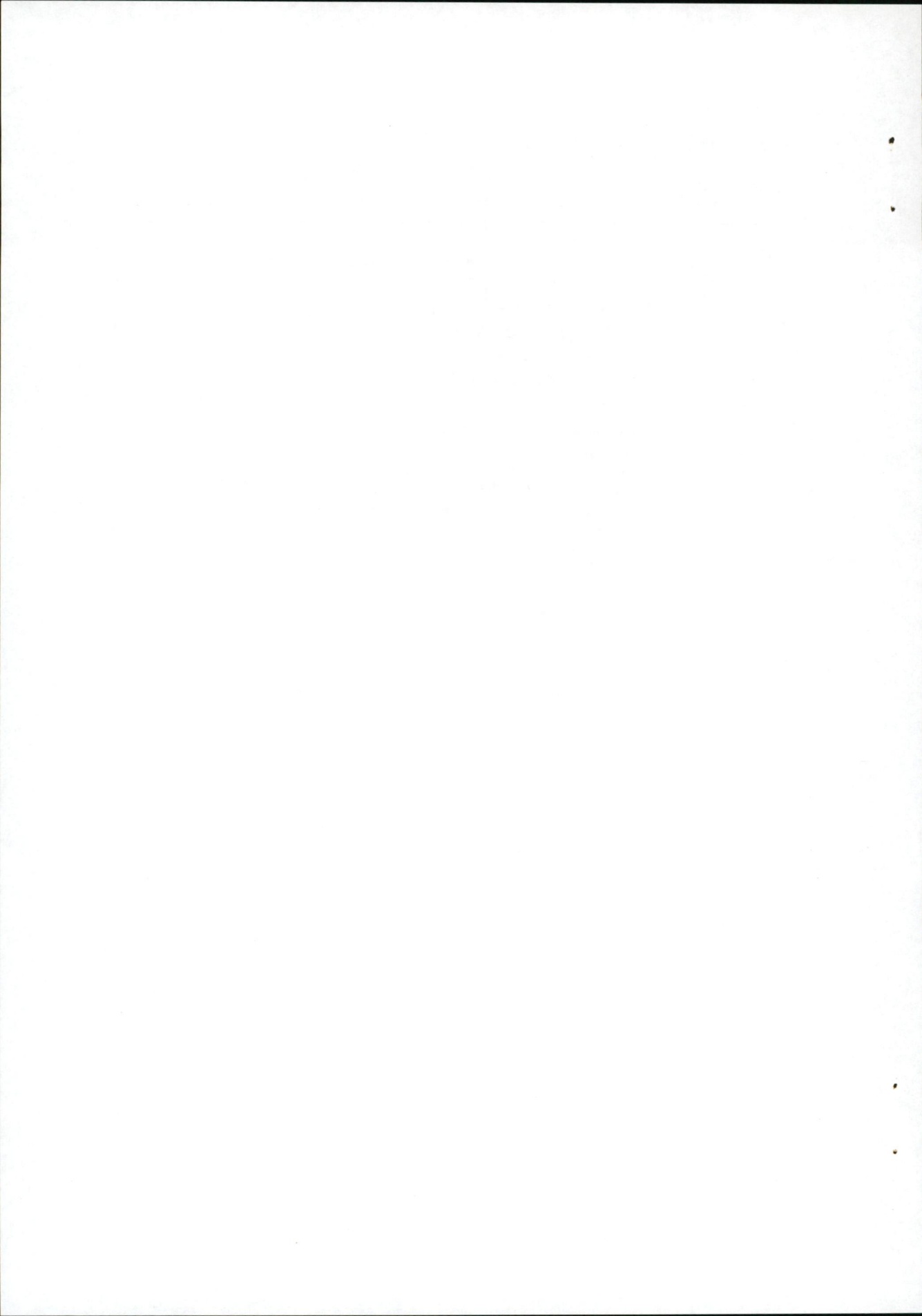
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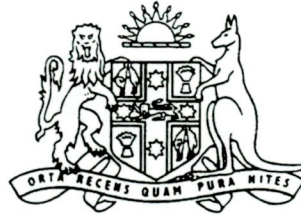
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New South Wales

## **AJC Principal Club Act 1996 No 37**

Act No 37, 1996

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An Act to make provision for the establishment, management and functions of the AJC Principal Club as the representative body to control thoroughbred horse racing in the State; and for other purposes. [Assented to 25 June 1996]

---

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

## **Part 1      Preliminary**

### **1    Name of Act**

This Act is the *AJC Principal Club Act 1996*.

### **2    Commencement**

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

### **3    Definitions**

(1) In this Act:

*AJC* means the club known as the Australian Jockey Club as referred to in the *Australian Jockey Club Act 1873*.

*AJCPC* means the AJC Principal Club established by this Act.

*Appeal Panel* means the Appeal Panel provided for by Part 4.

*Australian Rules of Racing* means the Australian Rules of Racing as adopted by the Australian Conference of Principal Racing Clubs.

*Chief Executive* means the Chief Executive of the AJCPC from time to time.

*exercise* a function includes perform a duty.

*function* includes power, authority or duty.

*horse racing* means the racing of galloping horses as referred to in the Australian Rules of Racing.

*race club* includes any body or other association of persons, whether incorporated or unincorporated, that promotes, conducts or controls, or that is formed for promoting, conducting or controlling, a horse racing meeting or meetings.

*racing association* means an association of race clubs.

**RIPAC** means the Racing Industry Participants Advisory Committee established by this Act.

**Rules of Racing** means the rules for the time being governing and relating to horse racing under the control of the AJCPC (being an amalgamation of the Australian Rules of Racing and the local rules of racing of the AJCPC, together with the regulations made under those rules).

- (2) Notes included in this Act are explanatory notes and do not form part of this Act.

## **Part 2        The AJC Principal Club**

### **4   Establishment of the AJCPC**

There is established by this Act a body corporate with the corporate name of the AJC Principal Club. The body may also be called the AJCPC and the use of that name has the same effect for all purposes as the use of its corporate name.

### **5   AJCPC independent of Government**

The AJCPC does not represent the Crown and is not subject to direction or control by or on behalf of the Government.

### **6   Membership**

- (1) The AJCPC consists of 11 members as follows:
  - (a) 4 members nominated by the AJC,
  - (b) 2 members nominated by the Sydney Turf Club,
  - (c) 1 member nominated by the Provincial Association of New South Wales,
  - (d) 2 members nominated by the Board of Directors of the Country Racing Council Limited,
  - (e) 1 member nominated by RIPAC,
  - (f) the Chief Executive.
- (2) The Chief Executive does not have a vote at meetings of the AJCPC.
- (3) Of the 2 members nominated by the Board of Directors of the Country Racing Council Limited:
  - (a) one is to be a person who at the time of nomination resides within the area of operations of the Mid North Coast, Northern Rivers, Hunter and North West and Western Racing Associations, and
  - (b) one is to be a person who at the time of nomination resides within the area of operations of the Central Districts, South East, and Southern Districts Racing Associations and the Broken Hill and Far West Registration Board.

- (4) The nomination of a member for the purposes of this section is to be made in writing to the AJCPC and is to take effect on the day specified in the nomination.

**Note.** Nominations of the first members of the AJCPC are to be made to the Minister. See the transitional provisions in Schedule 1.

- (5) The members of the AJCPC who are nominated to membership (that is, all the members except the Chief Executive) are referred to in this Act as *nominated members*.

## **7 Certain persons not eligible for membership**

- (1) A person is not eligible to be a nominated member of the AJCPC if the person:
- (a) is an employee of a race club or racing association, or
  - (b) holds a licence issued by the AJCPC or by a racing association, or
  - (c) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or
  - (d) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or
  - (e) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or
  - (f) is a mentally incapacitated person.
- (2) A person is also not eligible to be the member nominated by RIPAC if the person is a member of a committee of any race club.
- (3) A person is not eligible to be a nominated member of the AJCPC for more than 2 consecutive terms of office but there is no limit on the number of non-consecutive terms for which a person can be a nominated member. A term of office is counted for the purposes of this subsection even if the member did not serve out the full period of that term of office.
-

## **8 Deputies of members**

- (1) A nominated member of the AJCPC may from time to time appoint a person to be the deputy of the member, and may at any time revoke any such appointment.
- (2) In the absence of a member due to illness or other reasonable cause, the member's deputy may if available act in the place of the member and while so acting has all the functions of the member and is taken to be the member. The deputy of a member who is Chairperson or Deputy Chairperson does not have the member's functions as Chairperson or Deputy Chairperson.
- (3) The AJCPC may at any time revoke a person's appointment as deputy of a member.

## **9 Term of office of members**

The nominated members of the AJCPC each hold office for a period of 4 years.

**Note.** Half of the first members of the AJCPC hold office for 2 years. See the transitional provisions in Schedule 1.

## **10 Membership is honorary**

The nominated members of the AJCPC are honorary members and no remuneration is payable to them in respect of the duties they perform as members. This section does not prevent payment of allowances to reimburse members for expenses that they may incur (for travel or accommodation, for example).

## **11 Duty of members to act in the interests of the public and the industry**

It is the duty of each nominated member of the AJCPC to act in the public interest and in the interests of the horse racing industry as a whole (rather than in the interests of the body that nominated the member).

## **12 Personal liability**

A matter or thing done or omitted to be done by the AJCPC, the Chief Executive, or a nominated member of the AJCPC or any person acting under the direction of the AJCPC does not, if the matter or thing was done or omitted to be done in good faith for



the purpose of executing this Act, subject the Chief Executive, the nominated member or a person so acting personally to any action, liability, claim or demand.

### 13 Functions of the AJCPC

- (1) The AJCPC has the following functions:
  - (a) all the functions of principal club for New South Wales under the Australian Rules of Racing,
  - (b) to control, supervise and regulate horse racing in the State,
  - (c) to initiate, develop and implement policies considered conducive to the promotion, strategic development and welfare of the horse racing industry in the State and the protection of the public interest as it relates to the horse racing industry,
  - (d) functions with respect to the insuring of participants in the horse racing industry, being functions of the kind exercised by the AJC on the commencement of this section, and such other functions with respect to insurance in the horse racing industry as may be prescribed by the regulations,
  - (e) such functions as may be conferred or imposed on the AJCPC by or under the Australian Rules of Racing or any other Act,
  - (f) such functions with respect to horse racing in New South Wales as may be prescribed by the regulations.
- (2) The functions of the AJCPC are not limited by the Australian Rules of Racing.
- (3) The AJC ceases to have the functions that are solely the functions of the principal club for New South Wales under the Australian Rules of Racing.

**Note.** The AJCPC is not authorised to exercise its functions immediately. See clause 2 of Schedule 1 for the procedure for the hand over of functions. Until functions of the AJC are handed over to the AJCPC they can continue to be exercised by the AJC.

#### **14 Powers of the AJCPC**

- (1) The AJCPC has power to do all things that may be necessary or convenient to be done for or in connection with the exercise of its functions.
- (2) Without limiting subsection (1), the AJCPC has power to do the following:
  - (a) investigate and report on proposals for the construction of new racecourses, and inspect new racecourses or alterations or renovations to existing racecourses,
  - (b) register or licence, or refuse to register or licence, or cancel or suspend the registration or licence of, a race club, or an owner, trainer, jockey, stablehand, bookmaker, bookmaker's clerk or another person associated with racing, or disqualify or suspend any of those persons permanently or for a specified period,
  - (c) supervise the activities of race clubs, persons licensed by the AJCPC and all other persons engaged in or associated with racing,
  - (d) inquire into and deal with any matter relating to racing and to refer any such matter to stewards or others for investigation and report and, without limiting the generality of this power, to inquire at any time into the running of any horse on any course or courses, whether or not a report concerning the matter has been made or decision arrived at by any stewards,
  - (e) allocate to registered race clubs the dates on which they may conduct race meetings,
  - (f) direct and supervise the dissolution of a race club that ceases to be registered by the AJCPC,
  - (g) appoint an administrator to conduct the affairs of a race club,
  - (h) register and identify galloping horses,
  - (i) disqualify a horse from participating in a race,
  - (j) exclude from participating in a race a horse not registered under the Rules of Racing,
  - (k) prohibit a person from attending at or taking part in a race meeting,

- (l) impose a penalty on a person licensed by it or on an owner of a horse for a contravention of the Rules of Racing,
- (m) impose fees for registration of a person or horse,
- (n) require registered race clubs to pay to it such fees and charges (including fees for registration of a race club) as are required for the proper performance of its functions, calculated on the basis of criteria notified to race clubs by the AJCPC,
- (o) consult, join, affiliate and maintain liaison with other associations or bodies, whether in the State or elsewhere, concerned with the breeding or racing of galloping horses,
- (p) enter into contracts,
- (q) acquire, hold, take or lease and dispose of real and personal property whether in its own right or as trustee,
- (r) borrow money,
- (s) order an audit of the books and accounts of a race club by an auditor who is a registered company auditor,
- (t) scrutinise the constitutions of race clubs to ensure they conform to any applicable Act and the Rules of Racing and that they clearly and concisely express the needs and desires of the clubs concerned and of racing generally,
- (u) publish material, including periodical publications, to inform and keep informed the public concerning matters relating to racing, whether in the State or elsewhere,
- (v) undertake research and investigation into all aspects of the breeding of horses and of racing generally,
- (w) take such steps and do such acts and things as are incidental or conducive to the exercise of its powers and the performance of its functions.

## **15 Vacation of office**

- (1) The office of a nominated member of the AJCPC becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-nominated, or
  - (c) resigns the office by instrument in writing addressed to the AJCPC, or

- (d) is absent from 4 consecutive meetings of the AJCPC of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the AJCPC or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the AJCPC for having been absent from those meetings, or
  - (e) becomes a person who is not eligible to be a member, or
  - (f) is removed from office under subsection (2).
- (2) The Governor may, on the recommendation of the AJCPC, remove a nominated member of the AJCPC from office for incapacity, incompetence or misbehaviour.
- (3) A member of the AJCPC does not vacate office merely because of the withdrawal of his or her nomination by the body that nominated the member.

#### **16 Chairperson and Deputy Chairperson of the AJCPC**

- (1) The AJCPC is to elect a Chairperson from among its nominated members. The AJCPC may also elect a Deputy Chairperson from among its nominated members. The AJCPC may remove a person from office as Chairperson or Deputy Chairperson of the AJCPC at any time.
- (2) A member elected as Chairperson or Deputy Chairperson holds office as such for 2 years unless the member ceases to hold the office sooner. A member is eligible to be re-elected as Chairperson or Deputy Chairperson but is not eligible to serve more than 3 consecutive terms as either Chairperson or Deputy Chairperson.
- (3) A person ceases to hold office as Chairperson or Deputy Chairperson if he or she:
- (a) resigns the office by instrument in writing addressed to the AJCPC, or
  - (b) is removed from that office by the AJCPC, or
  - (c) ceases to hold office as a member of the AJCPC.
- (4) To be elected or removed from office as Chairperson or Deputy Chairperson requires a simple majority of the members present and voting at a meeting of the AJCPC at which a quorum is present.

- (5) The Chairperson or Deputy Chairperson does not cease to be a member of the AJCPC merely because he or she ceases to be Chairperson or Deputy Chairperson.

#### **17 Member vacancies to be filled**

- (1) When the office of a nominated member becomes vacant, a person is to be nominated to fill the vacancy in the same way as the person whose office has become vacant was nominated.
- (2) A person nominated to fill a casual vacancy as a member is to hold office for the balance of the term of office of the person's predecessor or until the person sooner vacates the office. Such a person is eligible for re-nomination if otherwise qualified.

#### **18 The Chief Executive and other staff**

- (1) The AJCPC is to employ a Chief Executive and may employ such other staff as it considers necessary for the exercise of its functions. A person is disqualified from being employed as Chief Executive if the person is or becomes an employee of a race club or racing association.
- (2) The AJCPC may fix the salary, wages and other conditions of employment of the Chief Executive and its other staff, in so far as they are not fixed by or under any other Act or law.
- (3) The *Public Sector Management Act 1988* does not apply to the Chief Executive and the other members of staff of the AJCPC.

#### **19 Procedure**

- (1) The AJCPC may regulate its proceedings as it considers appropriate, subject to this section.
- (2) The quorum for a meeting of the AJCPC is 6 nominated members, being members nominated from at least 3 of the 5 categories of nomination provided for by section 6.
- (3) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the AJCPC. If neither the Chairperson nor Deputy Chairperson is present at a meeting, the members present may elect one of their number to preside at the meeting. The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

- (4) A decision supported by a majority of the votes cast at a meeting of the AJCPC at which a quorum is present is the decision of the AJCPC.

**20 Transaction of business outside meetings or by telephone**

- (1) The AJCPC may, if it thinks fit, transact any of its business by the circulation of papers among all of its members, and a resolution in writing approved in writing by a majority of the nominated members is taken to be a decision of the AJCPC.
- (2) The AJCPC may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if a member who speaks on a matter at the meeting can be heard by the other members.
- (3) For the purposes of:
- (a) the approval of a resolution under subsection (1), or
  - (b) a meeting held in accordance with subsection (2),
- the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subsection (1) is to be recorded in the minutes of the meetings of the AJCPC.
- (5) Papers may be circulated among members for the purposes of subsection (1) by facsimile or other transmission of the information in the papers concerned.

**21 Disclosure of pecuniary interests by members**

- (1) If:
- (a) a member of the AJCPC or of a committee of the AJCPC has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the AJCPC or the committee, and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the AJCPC or the committee.

- 
- (2) A disclosure by a member at a meeting of the AJCPC or a committee of the AJCPC that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
  - (b) is a partner, or is in the employment, of a specified person, or
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subsection (1).
- (3) Particulars of any disclosure made under this section must be recorded by the AJCPC or the committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the reasonable fee determined by the AJCPC.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the AJCPC otherwise determines:
- (a) be present during any deliberation of the AJCPC or the committee with respect to the matter, or
  - (b) take part in any decision of the AJCPC or the committee with respect to the matter.
- (5) For the purpose of the making of a determination by the AJCPC under subsection (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the AJCPC for the purpose of making the determination, or
  - (b) take part in the making by the AJCPC of the determination.
- (6) A contravention of this section does not invalidate any decision of the AJCPC or a committee.
-

## **22 Committees**

- (1) The AJCPC may establish committees to assist it in connection with the exercise of any of its functions.
- (2) A person may be appointed to be a member of such a committee whether or not the person is a member of the AJCPC.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the AJCPC or (subject to any determination of the AJCPC) by the committee.

## **23 Integrity Assurance Committee**

- (1) The AJCPC must establish a committee to be known as the Integrity Assurance Committee ("the IA Committee"). The IA Committee is to have primary oversight of those aspects of the AJCPC's functions that relate to race stewards, drug testing and control, licensing, handicapping and horse racing appeals. The IA Committee has such other functions as the AJCPC may confer on it.
- (2) The IA Committee is to advise the AJCPC on the matters for which it has primary oversight.
- (3) The AJCPC is to determine the qualifications and disqualifications for membership of the IA Committee and in doing so is to have particular regard to the need to minimise conflicts of interest, such as might arise from a person's:
  - (a) ownership of horses currently in work, or
  - (b) professional involvement in race preparation, or
  - (c) professional or commercial dealings with any person who holds a licence issued by the AJCPC or by a racing association.

## **24 Delegation of functions**

- (1) The AJCPC may delegate to an authorised person or body any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person or body any function delegated by the AJCPC if the delegate is authorised in writing to do so by the AJCPC.



- (3) In this section, *authorised person or body* means:
- (a) the Chief Executive or any other member of the AJCPC, or
  - (b) a committee of the AJCPC or any member of such a committee, or
  - (c) a race club or racing association.

## **25 Custody and affixing of seal**

- (1) The seal of the AJCPC is to be kept in the custody of the Chairperson or such other person as may be authorised by the AJCPC.
- (2) The seal is to be affixed to documents only in pursuance of a resolution of the AJCPC and by the person having custody of the seal under this section.

## **26 Authentication of documents**

Any document requiring authentication by the AJCPC is sufficiently authenticated without the seal of the AJCPC if signed by the Chairperson.

## **27 Recovery of money**

Any charge, fee or other money due to the AJCPC may be recovered as a debt in a court of competent jurisdiction.

## **28 Distribution of profit**

The AJCPC must distribute all of its profits (if any) to the Racecourse Development Fund under the *Totalizator Act 1916*.

## **29 Annual report**

- (1) The AJCPC must, as soon as practicable after 30 June and in any case before 1 November in each year prepare and forward to the Minister a report of its work and activities for the 12 months ending on that 30 June.
- (2) The report must include copies of the financial statements of the AJCPC for the 12 month period to which the report relates together with an auditor's report on those statements prepared by an independent auditor.

- (3)    The Minister is to table the report or cause it to be tabled in both Houses of Parliament as soon as practicable after the report is forwarded to the Minister.
  
- (4)    The AJCPC is to make copies of the report available to the public at a reasonable price.

## **Part 3      Racing Industry Participants Advisory Committee**

### **30    Establishment of RIPAC**

There is established by this Act a committee called the Racing Industry Participants Advisory Committee. The committee may also be called RIPAC.

### **31    Membership**

- (1) RIPAC consists of 7 members as follows:
  - (a) 5 members, each nominated to represent one of the following categories of participants in the horse racing industry:
    - (i) owners,
    - (ii) breeders,
    - (iii) licensed trainers,
    - (iv) licensed jockeys and apprentice jockeys,
    - (v) licensed bookmakers and bookmakers' clerks,
  - (b) 1 member nominated by the Labor Council of New South Wales to represent stablehands and race club employees,
  - (c) 1 member nominated by the Public Interest Advocacy Centre to represent consumers of racing and betting services.
- (2) The members referred to in subsection (1) (a) are to be nominated by the industry bodies that are appropriate to represent the interests of the categories of participants in the horse racing industry that they represent, namely:
  - (a) in the case of owners—the NSW Racehorse Owners Association Limited,
  - (b) in the case of breeders—the New South Wales Bloodhorse Breeders Association Limited and the Commercial Thoroughbred Breeders Association Limited (a joint nomination by both bodies),
  - (c) in the case of licensed trainers—the Australian Trainers Association (NSW Branch) and the Sydney Trainers Association (a joint nomination by both bodies),

- (d) in the case of licensed jockeys and apprentice jockeys—the NSW Jockeys Association,
  - (e) in the case of licensed bookmakers and bookmakers' clerks—the NSW Bookmakers Co-operative Society Limited.
- (3) The AJCPC may, with the approval of the Minister, determine that a particular body or bodies specified in the determination is to replace any body referred to in subsection (2) for the purposes of the making of a nomination under subsection (1) (a), and such a determination has effect accordingly.
- (4) The nomination of a member for the purposes of this section is to be made in writing to the AJCPC and is to take effect on the day specified in the nomination.

**Note.** Nominations of the first members of RIPAC are to be made to the Minister. See the transitional provisions in Schedule 1.

### **32 Certain persons not eligible for membership**

- (1) A person is not eligible to be a member of RIPAC if the person:
- (a) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or
  - (b) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or
  - (c) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or
  - (d) is a mentally incapacitated person.
- (2) A person is not eligible to be a member of RIPAC for more than 4 consecutive terms of office but there is no limit on the number of non-consecutive terms for which a person can be a member. A term of office is counted for the purposes of this subsection even if the member did not serve out the full period of that term of office.

**33 Term of office of members**

The members of RIPAC each hold office for a period of 2 years.

**34 Membership is honorary**

The members of RIPAC are honorary members and no remuneration is payable to them in respect of the duties they perform as members. The members are however entitled to be reimbursed by the AJCPC for reasonable expenses (such as for travel or accommodation) that they may incur in attending meetings of RIPAC.

**35 Functions of RIPAC**

RIPAC has the following functions:

- (a) to provide advice to the AJCPC on industry policy and strategic direction,
- (b) to serve as a channel for communication between the industry stakeholders that it represents and the AJCPC,
- (c) to provide a forum for discussion of issues of concern and the making of recommendations to the AJCPC,
- (d) to nominate a member of the AJCPC,
- (e) at the request of the AJCPC, to nominate members to serve on committees or working groups established by the AJCPC.

**36 Procedure for nomination of AJCPC member**

For the purposes of the nomination by RIPAC of a member of the AJCPC, the nomination of a person by any member of RIPAC with that nomination seconded by any other member of RIPAC is the nomination of RIPAC (unless 2 or more people are nominated in that way). If 2 or more people are nominated, the person nominated is to be chosen by election conducted by RIPAC using an optional preferential method of voting chosen by RIPAC with the members of RIPAC being the electors.

### **37 Vacation of office**

- (1) The office of a member of RIPAC becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-nominated, or
  - (c) resigns the office by instrument in writing addressed to the AJCPC and RIPAC, or
  - (d) is absent from 2 consecutive meetings of RIPAC of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by RIPAC or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by RIPAC for having been absent from those meetings, or
  - (e) becomes a person who is not eligible to be a member, or
  - (f) is removed from office under subsection (2).
- (2) The Governor may, on the recommendation of RIPAC, remove a member of RIPAC from office for incapacity, incompetence or misbehaviour.
- (3) A member of RIPAC does not vacate office merely because of the withdrawal of his or her nomination by the body that nominated the member.

### **38 Chairperson and Deputy Chairperson of RIPAC**

- (1) RIPAC is to elect a Chairperson from among its members. RIPAC may also elect a Deputy Chairperson from among its members. RIPAC may remove a person from office as Chairperson or Deputy Chairperson of RIPAC at any time.
- (2) A member elected as Chairperson or Deputy Chairperson holds office as such for 1 year unless the member ceases to hold that office sooner. A member is eligible to be re-elected as Chairperson or Deputy Chairperson but is not eligible to serve more than 3 consecutive terms as either Chairperson or Deputy Chairperson.

- (3) A person ceases to hold office as Chairperson or Deputy Chairperson if he or she:
  - (a) resigns the office by instrument in writing addressed to the AJCPC and RIPAC, or
  - (b) is removed from that office by RIPAC, or
  - (c) ceases to hold office as a member of RIPAC.
- (4) To be elected or removed from office as Chairperson or Deputy Chairperson requires a simple majority of the members present and voting at a meeting of RIPAC at which a quorum is present.
- (5) The Chairperson or Deputy Chairperson does not cease to be a member of RIPAC merely because he or she ceases to be Chairperson or Deputy Chairperson.

### **39 Member vacancies to be filled**

- (1) When the office of a member of RIPAC becomes vacant, a person is to be nominated to fill the vacancy in the same way as the person whose office has become vacant was nominated.
- (2) A person nominated to fill a casual vacancy as a member is to hold office for the balance of the term of office of the person's predecessor or until the person sooner vacates the office. Such a person is eligible for re-nomination if otherwise qualified.

### **40 Procedure**

- (1) RIPAC may regulate its proceedings as it considers appropriate, subject to this section.
- (2) The quorum for a meeting of RIPAC is a majority in number of the members for the time being.
- (3) RIPAC is to meet not less than 4 times a year and of those meetings at least 2 are to be joint meetings with meetings of the AJCPC (with the appropriate quorum of both the AJCPC and RIPAC present). Either RIPAC or the AJCPC can request the other to hold further joint meetings and such a request must be complied with, up to a further 2 joint meetings in a year (without precluding the holding of further joint meetings by agreement).
- (4) Meetings of RIPAC are to be held at the premises of the AJCPC unless the AJCPC approves of a meeting being held elsewhere.

- (5) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of RIPAC. If neither the Chairperson nor Deputy Chairperson is present at a meeting, the members present may elect one of their number to preside at the meeting. The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.
- (6) A decision supported by a majority of the votes cast at a meeting of RIPAC at which a quorum is present is the decision of RIPAC.
- (7) The AJCPC is to provide the administrative support needed for the meetings of RIPAC.

#### **41 Personal liability**

A matter or thing done or omitted to be done by RIPAC or a member of RIPAC or any person acting under the direction of RIPAC does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this Act, subject the member or a person so acting personally to any action, liability, claim or demand.



## **Part 4 Appeal Panel**

### **42 Right of appeal against steward and committee decisions**

- (1) A person aggrieved by any of the following decisions of the stewards of the AJCPC or the committee or stewards of any other club or race meeting registered by the AJCPC under the Rules of Racing has a right of appeal against the decision to the Appeal Panel:
  - (a) a decision to disqualify or warn off any person,
  - (b) a decision to disqualify any horse,
  - (c) a decision to revoke the licence of any trainer, jockey or rider or suspend (for any period) any such licence,
  - (d) a decision to fine any person a sum of \$10 or more.
- (2) A person has no right of appeal under this section unless the person has first exercised any other right of appeal which may be conferred on the person by the Rules of Racing.
- (3) The AJCPC may delegate to a racing association the function of hearing and determining appeals against decisions of the committee or stewards of any club over which the association has jurisdiction. Any such delegation may be general or limited to a particular class or classes of appeals.
- (4) If an appeal against a decision can be heard by a racing association by virtue of such a delegation, an appellant against the decision has the choice of appealing to the Appeal Panel or to the racing association (but cannot appeal to both).

### **43 Procedure on an appeal**

- (1) An appeal to the Appeal Panel is to be in the nature of a rehearing.
- (2) The Appeal Panel may subject to this Act determine its own procedure.
- (3) On an appeal the Appeal Panel:
  - (a) is not bound to act in a formal manner, and
  - (b) is not bound by the rules of evidence and may inform itself on any matter in any way that it considers to be just, and
  - (c) is to make its decision on the real merits and justice of the case and is not bound to follow strict legal precedent.

- (4) 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 any person.
- (5) For the purpose of the exercise of the Appeal Panel's functions on an appeal, the person presiding at the hearing of the appeal has the powers, authorities, protections and immunities conferred by the *Royal Commissions Act 1923* on a Commissioner appointed under Division 1 of Part 2 of that Act. That Act (except section 13 and Division 2 of Part 2) applies, with any necessary modifications, to a witness summoned by, or appearing before, the Appeal Panel.
- (6) When an appeal is to a racing association pursuant to a delegation to the association by the AJCPC under this Part, the following provisions have effect:
  - (a) the committee of the association has the function of hearing and determining the appeal, and
  - (b) the members of the committee of the association and the person presiding at the hearing of the appeal have the same powers, authorities, protections and immunities as the members of the Appeal Panel and the person presiding at the hearing of an appeal by the Appeal Panel, and
  - (c) references in this section to the Appeal Panel and to the person presiding at the hearing of an appeal include a reference to the committee and to the person presiding at the hearing of the appeal by the committee, and
  - (d) the same right of appeal as exists under the *Racing Appeals Tribunal Act 1983* in respect of a decision of the Appeal Panel also exists in respect of a decision of the committee of the association (and for that purpose references in that Act to a decision of the Appeal Panel are to be read as including a reference to a decision of the committee of a racing association).

#### **44 Decision on appeal to be given effect to**

The decision of the Appeal Panel on an appeal is to be given effect to by the stewards of the AJCPC or the committee or stewards of any other club or race meeting to whose jurisdiction the appellant is subject.

**45 Membership of Appeal Panel**

- (1) The AJCPC is to appoint suitably qualified persons to be members of the Appeal Panel. A member of the AJCPC cannot be a member of the Appeal Panel.
- (2) The AJCPC is (subject to this section) to determine the qualifications and disqualifications for membership of the Appeal Panel and for that purpose is to have particular regard to the need to minimise conflicts of interest, such as might arise from a person's:
  - (a) ownership of horses currently in work, or
  - (b) professional involvement in race preparation, or
  - (c) professional or commercial dealings with any person who holds a licence issued by the AJCPC or by a racing association.
- (3) At least one member of the Appeal Panel is to be a legal practitioner of at least 7 years standing.
- (4) A person is not eligible to be appointed as a member of the Appeal Panel if the person:
  - (a) holds a licence issued by the AJCPC or by a racing association, or
  - (b) is currently warned off or disqualified, or is a person whose name is currently on the Forfeits List, under the Australian Rules of Racing, or
  - (c) during the previous 10 years has been convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or
  - (d) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or
  - (e) is a mentally incapacitated person.
- (5) A member of the Appeal Panel holds office for 4 years from appointment and is eligible (if otherwise qualified) to be reappointed.

- (6) The office of a member of the Appeal Panel becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not reappointed, or
  - (c) resigns the office by instrument in writing addressed to the AJCPC, or
  - (d) is removed from office under subsection (7), or
  - (e) becomes a person who is not eligible to be a member of the Appeal Panel.
- (7) The Governor may, on the recommendation of the AJCPC, remove a member of the Appeal Panel from office for incapacity, incompetence or misbehaviour.

#### **46 Appointment of Principal Member**

- (1) The AJCPC is to appoint one of the members of the Appeal Panel as Principal Member. The person appointed must be a legal practitioner of at least 7 years standing.
- (2) The person appointed holds office as Principal Member for a period of 2 years and is eligible (if otherwise qualified) for reappointment.
- (3) A person ceases to hold office as Principal Member if the person ceases to hold office as a member of the Appeal Panel.

#### **47 How Appeal Panel is constituted for particular appeal**

- (1) When the Appeal Panel is required to hear an appeal, the Chief Executive is to establish the Appeal Panel in accordance with this section. More than one Appeal Panel may be established to exercise the functions of the Appeal Panel at any one time.
- (2) The Appeal Panel is to be constituted for the purposes of an appeal by not less than 3 members, one of whom must be the Principal Member (who is to be Convenor of the Appeal Panel for the purposes of the appeal).

- (3) If the Principal Member is unavailable to act (including as a result of being a member of the Appeal Panel for another appeal), one of the members is to be appointed Convenor by the Chief Executive when the Appeal Panel is established. The member appointed Convenor must be a legal practitioner of at least 7 years standing.
- (4) The Convenor is to preside at the hearing of an appeal.

#### **48 Remuneration of members**

The members of the Appeal Panel are entitled to be paid such fees and expenses in connection with the hearing and determination of an appeal as the AJCPC determines from time to time.

#### **49 How Appeal Panel makes decisions**

A decision supported by a majority of the members of the Appeal Panel hearing an appeal is the decision of the Panel. 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.

## **Part 5      General**

### **50   Savings and transitional provisions**

Schedule 1 has effect.

### **51   Amendment of Acts and instruments**

Each Act and instrument specified in Schedule 2 is amended as set out in that Schedule.

### **52   Regulations**

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.

### **53   Review of Act**

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

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## Schedule 1 Savings and transitional provisions

(Section 50)

### Part 1 General

#### 1 Definitions

In this Schedule:

*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.

*instrument* means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

*liabilities* means any 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).

*transfer day* means:

- (a) in relation to any asset, right or liability transferred by or under this Schedule, the day on which the transfer occurs, or
- (b) in relation to an employee of the AJC who becomes an employee of the AJCPC by operation of this Schedule, the day on which that occurs.

#### 2 Orders to authorise AJCPC to assume functions

- (1) The AJCPC is not authorised to exercise any of its functions under this Act until the Minister has by order published in the Gazette authorised it to assume those functions. Such an order takes effect on the day it is published in the Gazette or on such later day as may be specified in the order.

- (2) More than one order may be made under this clause at different times so as to authorise the AJCPC to assume different functions at different times.
- (3) The operation of the whole of Part 4 (Appeal Panel) of this Act is deferred until the AJCPC is authorised (as provided by this clause) to exercise its functions under that Part. The repeal by this Act of section 32 (Appeals) of the *Australian Jockey Club Act 1873* does not have effect until the AJCPC is authorised (as provided by this clause) to exercise its functions under Part 4 of this Act.
- (4) Until any particular function is authorised to be exercised by the AJCPC, the function (to the extent that it is a function of the AJC immediately before the commencement of this clause) remains a function of the AJC and may continue to be exercised by the AJC until the AJCPC is authorised to assume it by order under this clause.
- (5) An amendment made by Schedule 2 that operates to confer a function on the AJCPC or remove a function from the AJC does not have effect until that function is authorised (as provided by this clause) to be exercised by the AJCPC.
- (6) The AJC does not cease to have a function under section 13 (3) while the function may, under this clause, continue to be exercised by the AJC.

### **3 Savings and transitional regulations**

- (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) In particular, the regulations may include provision to delay or defer the operation of any specified provisions of this Act in relation to specified matters or matters of a specified kind.
- (3) A provision of a regulation authorised by this clause may, if the regulations so provide, take effect from the commencement of this clause or from a later date.



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- (4) To the extent to which a provision of a regulation authorised by this clause takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:
- (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
  - (b) to impose liabilities on any person (other than the State or an authority of the State), in respect of anything done or omitted to be done before the date of its publication.

## Part 2 First members of the AJCPC and RIPAC

### 4 Minister to call for nominations

- (1) As soon as practicable after the commencement of this clause, the Minister is to call for nominations for the first membership of the AJCPC and RIPAC.
- (2) Nominations are to be in writing addressed to the Minister.
- (3) The Minister may give directions generally for facilitating the constitution of the first membership of the AJCPC and RIPAC.
- (4) The AJCPC and RIPAC are formally constituted for the purposes of this Act on a day (*the constitution day*) appointed by the Minister by notice published in the Gazette. The Minister can appoint a day as the constitution day even if all the members of the AJCPC or RIPAC have not been nominated by that day.
- (5) The terms of office of the first members of the AJCPC and RIPAC begin on the constitution day but the terms of office of those first members are extended by the period between the constitution day and the day appointed by the Minister under subclause (6).
- (6) The Minister may by notice published in the Gazette appoint a day as the day on which the AJCPC is fully operational for the purposes of this Act (even if the AJCPC has not assumed all of its functions by that date).

## **5 Two year term of office for half of the first members of AJCPC**

- (1) Half of the first members of the AJCPC are to be nominated to have a term of office of 2 years (instead of the 4 year term provided for by section 9).
- (2) In nominating the first members of the AJCPC, the AJC, the Sydney Turf Club and the Board of Directors of the Country Racing Council Limited are required to nominate half of the members that they each nominate as members who are to have a 2 year term of office.
- (3) The Provincial Association of New South Wales and RIPAC are to draw lots to determine which of the members that they nominate to the first membership of the AJCPC is to be nominated to have a 2 year term of office.

## **Part 3 Transfer of assets, rights, liabilities and employees**

### **6 Meaning of "principal club functions"**

In this Part:

*principal club functions* means functions of the kind referred to in section 13 (1).

### **7 Object of Part**

The object of this Part is to facilitate the transfer to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions, while ensuring that:

- (a) the proprietary interests of the AJC are preserved or justly compensated (to the extent that those interests are beneficially owned by the AJC), and
- (b) employees of the AJC whose employment is concerned with the exercise of principal club functions are treated fairly.

**8 Duty to facilitate transition**

It is the duty of the AJC to do everything necessary to facilitate the operation of this Part. That duty includes the duty to give the AJCPC information and access to records, documents and any other source of information however compiled, recorded or stored.

**9 Agreements and regulations for transfer of assets, rights, liabilities and employees**

- (1) The AJCPC may enter into an agreement or agreements with the AJC providing for the transfer from the AJC to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions. Such an agreement is referred to in this Part as a transfer agreement and operates to transfer the assets, rights, liabilities and employees concerned in accordance with the terms of the transfer agreement.
- (2) The regulations can direct the transfer from the AJC to the AJCPC of assets, rights, liabilities and employees of the AJC that are concerned with the exercise of principal club functions. Such a regulation operates to transfer the assets, rights, liabilities or employees concerned in accordance with the terms of the regulation.
- (3) A transfer effected by a transfer agreement or by regulation under this clause is without consideration or compensation except such consideration or compensation as may be provided for by the transfer agreement or regulation.
- (4) The AJC must not transfer or otherwise deal with any asset that is concerned with the exercise of principal club functions, except with the consent of the AJCPC. Consent may be given under this subclause on a case by case basis or for a class of cases, as the AJCPC thinks fit.
- (5) A regulation under this clause takes effect on the day following the last day on which it is capable of being disallowed under section 41 of the *Interpretation Act 1987* (as modified by subclause (6)) or on such later day as may be specified in the regulation.

- (6) Despite section 41 of the *Interpretation Act 1987*, a resolution by a House of Parliament to disallow a regulation under this clause does not have effect unless the resolution is passed within 15 sitting days of the House after written notice of the making of the regulation is laid before that House under section 40 of that Act.

## 10 Effect of transfer of assets, rights and liabilities

- (1) The following provisions have effect with respect to any asset, right or liability transferred by operation of this Part:
- (a) the asset vests in the AJCPC by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance,
  - (b) the right or liability becomes by virtue of this clause the right or liability of the AJCPC,
  - (c) all proceedings relating to the asset, right or liability commenced before the transfer day by or against the AJC and pending immediately before the transfer day are taken to be proceedings pending by or against the AJCPC,
  - (d) any act, matter or thing done or omitted to be done in relation to the asset, right or liability before the transfer day by, to or in respect of the AJC is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the AJCPC,
  - (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the AJC is (to the extent that it relates to the asset, right or liability but subject to any regulations under this Schedule) to be read as, or as including, a reference to the AJCPC.
- (2) The operation of this Part 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 or liabilities, or

- (c) as giving rise to any remedy by a party to a contract or instrument, or as causing or permitting the termination of any contract or instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
  - (d) as an event of default under any contract or instrument.
- (3) No attornment to the AJCPC by a lessee from the AJC is required.

## **11 Effect of transfer of staff**

- (1) An employee of the AJC who is transferred by operation of this Part is to be regarded for all purposes as having become an employee of the AJCPC, in accordance with the terms of transfer, on the transfer day.
- (2) Subject to any of the terms of transfer, the terms and conditions (including as to remuneration or duration of employment) on which a person becomes an employee of the AJCPC by operation of this Part are the same as those on which he or she was an employee of the AJC immediately before the transfer day.
- (3) Such part of the employee's remuneration as is salary or wages is subject to any adjustment necessary to give effect to any fluctuation in the applicable basic wage in force under Part 2 of Chapter 2 of the *Industrial Relations Act 1991* until the salary is, or the wages are, lawfully varied.
- (4) The employee retains any rights to annual leave, leave in the nature of long service leave and sick leave accrued or accruing to the person as an AJC employee. The employee's entitlement to any such leave is to be calculated:
  - (a) for such part of any period during which that leave accrued or was accruing as occurred before the transfer day, at the rate for the time being applicable to the person (as an AJC employee) before that day, and
  - (b) for such part of that period as occurred after the transfer day, at the rate for the time being applicable to the person (as an employee of the AJCPC) after that day.

- (5) Service with the AJC is taken to be service with the AJCPC for the purposes of the accrual of leave as an employee of the AJCPC.
- (6) An AJC employee who becomes an employee of the AJCPC by operation of this Part:
  - (a) is not entitled to receive any payment or other benefit merely because the person ceases to be an AJC employee, and
  - (b) is not entitled to claim dual benefits of the same kind for the same period of service.

## **12 Preservation of enterprise agreements**

The provisions of any enterprise agreement applicable to an AJC employee immediately before the employee is transferred by operation of this Part to employment of the AJCPC continue to apply to the employee as an employee of the AJCPC during the term of the agreement. The AJCPC is, for the purposes of this clause, taken to be a party to the enterprise agreement.

## **13 Stamp duty and fees**

A transfer agreement or an instrument executed only for a purpose ancillary to or consequential on the operation of this Part or the purpose of giving effect to this Part:

- (a) is not chargeable with stamp duty, and
- (b) is exempt from payment of any other fee or charge that would otherwise be payable under any other Act in respect of the registration of any such instrument.

## **Part 4 Miscellaneous**

### **14 Rules of Racing**

The continuity of the Rules of Racing is not affected by this Act. The local rules of racing made by the AJC (as in force immediately before the AJC ceases to exercise the function of

making and amending local rules of racing) are taken to have been made by the AJCPC (once the AJCPC has assumed the function of making and amending those rules).

## 15 Pending appeals

Any appeal pending under section 32 of the *Australian Jockey Club Act 1873* immediately before the AJCPC assumes its functions under Part 4 (Appeal Panel) is to continue and be heard and determined and the decision on the appeal given effect to as if this Act had not been enacted.

## 16 Actions of the AJC

Anything done or commenced by or in relation to the AJC in respect of a function that the AJC ceases to exercise because of this Act has effect after the function is assumed by the AJCPC under this Act as if it had been done or commenced by or in relation to the AJCPC.

**Note.** An existing delegation to a racing association by the AJC and licences issued by the AJC are examples of matters that this clause applies to.

## **Schedule 2 Amendment of Acts and instruments**

(Section 51)

### **2.1 Australian Jockey Club Act 1873**

#### **Section 32 Appeals**

Omit the section.

### **2.2 Bookmakers (Taxation) Act 1917 No 15**

#### **[1] Section 2 Definitions**

Omit "Australian Jockey Club" from the definition of *Registration authority*.

Insert instead "AJC Principal Club".

#### **[2] Section 35 Constitution of Committee**

Omit "The Secretary, Australian Jockey Club;" from section 35 (1).  
Insert instead "The Chief Executive, AJC Principal Club;".

#### **[3] Section 37 Minister may furnish information**

Omit "Australian Jockey Club".

Insert instead "AJC Principal Club".

### **2.3 Defamation Act 1974 No 18**

#### **Schedule 2 Proceedings of public concern and official and public documents and records**

Omit "to the Committee of the Australian Jockey Club under section 32 of the *Australian Jockey Club Act 1873*" from clause 2 (8).

Insert instead "to the Appeal Panel under the *AJC Principal Club Act 1996*".



## **2.4 Lotteries and Art Unions Act 1901 No 34**

### **Section 4D Sweepstakes in relation to the Melbourne Cup and other events**

Omit "Australian Jockey Club" from paragraph (e) of the definition of *prescribed organisation* in subsection (1).

Insert instead "AJC Principal Club".

## **2.5 Racing Appeals Tribunal Act 1983 No 199**

### **[1] Long title**

Omit "Committee of the Australian Jockey Club".

Insert instead "Appeal Panel under the *AJC Principal Club Act 1996*".

### **[2] Section 4 Definitions**

Insert the following definition in alphabetical order in subsection (1):

*Appeal Panel* means the Appeal Panel under the *AJC Principal Club Act 1996*.

### **[3] Section 4 (1)**

Omit "Australian Jockey Club" from the definition of *Club*.

Insert instead "AJC Principal Club".

### **[4] Section 15 Appeals to Tribunal**

Omit section 15 (a). Insert instead:

(a) a decision of the Appeal Panel:

(i) on an appeal under the *AJC Principal Club Act 1996*, or

(ii) under the Rules of Racing of the Club, or

**[5] Section 15 (b)**

Omit "Committee of the Club under section 32 of that Act".  
Insert instead "Appeal Panel under that Act".

**[6] Section 17**

Omit the section. Insert instead:

**17 Decision of Tribunal final**

The decision of the Tribunal in respect of an appeal under this Act is final and conclusive and is taken to be the decision of the Appeal Panel.

**[7] Section 19 Staff to assist Tribunal**

Omit "the Committee of the Club" wherever occurring in section 19 (1) and (2).  
Insert instead "the Club".

**[8] Section 19 (2)**

Omit "that Committee".  
Insert instead "the Club".

**[9] Section 19 (3)**

Omit "A member of the Committee of the Club".  
Insert instead "The Club".

**2.6 Racing Appeals Tribunal Regulation 1994**

**[1] Clause 4 Definitions**

Omit the definition of *Committee*. Insert instead:

*Appeal Panel* means the Appeal Panel under the *AJC Principal Club Act 1996*.

**[2] Clause 4, definition of "Secretary"**

Omit "Secretary of the Australian Jockey Club".

Insert instead "Chief Executive of the AJC Principal Club".

**[3] Clause 4, definition of "Secretary"**

Omit "that Club".

Insert instead "the AJC Principal Club".

**[4] Clause 4, definition of "the Rules"**

Omit "Australian Jockey Club".

Insert instead "AJC Principal Club".

**[5] Clauses 6 (1) (b), 13 (1), 15 (c)**

Omit "Committee" wherever occurring.

Insert instead "Appeal Panel".

**2.7 Sporting Injuries Insurance Rules 1981**

**Rule 7 Specification of authorised activities**

Omit "Australian Jockey Club" from rule 7 (b).

Insert instead "AJC Principal Club".

**2.8 Sydney Turf Club Act 1943 No 22**

**[1] Section 7 Objects etc of Club**

Omit "Australian Jockey Club".

Insert instead "AJC Principal Club".

**[2] Section 25 Exclusion of undesirable persons**

Omit "Committee of the Australian Jockey Club pursuant to the rules of racing of that Club" from section 25 (1).

Insert instead "AJC Principal Club pursuant to its rules of racing".

**[3] Section 25 (1)**

Omit "Committee of the Australian Jockey Club."

Insert instead "AJC Principal Club."

**[4] First Schedule Regulations for the Sydney Turf Club**

Omit the definition of *Rules of Racing* from Regulation 1 (a).

Insert instead:

*Rules of Racing* means the Rules of Racing of the AJC Principal Club.

**[5] First Schedule, clause 16**

Omit "Stewards or Committee of the Australian Jockey Club".

Insert instead "AJC Principal Club or its stewards".

**2.9 Totalizator Act 1916 No 75**

**[1] Section 19A Racecourse Development Fund**

Insert after section 19A (3) (a):

- (a1) such amounts as are required to be distributed to the Fund under the *AJC Principal Club Act 1996* as profits of the AJC Principal Club,

**[2] Section 19A (5) (e)**

Insert "the AJC Principal Club," before "the Greyhound".

## **2.10 Totalizator Rule 1993**

### **Clause 3 Definitions**

Omit "Australian Jockey Club" wherever occurring in the definitions of *Rules of Racing* and *Stewards* in clause 3 (1).  
Insert instead "AJC Principal Club".

## **2.11 Totalizator (Off-course Betting) Act 1964 No 1**

### **[1] Section 14 Application of Totalizator Act 1916 payments by and to the Board**

Insert "the AJC Principal Club," before "the Greyhound" in section 14 (3) (c).

### **[2] Section 14B Financial scheme for distribution of surplus commission**

Insert "the AJC Principal Club," before "the Greyhound" in section 14B.

### **[3] Section 16 Board to hold residue in trust**

Insert "the AJC Principal Club," before "the Greyhound".

### **[4] Section 16**

Omit "that Board". Insert instead "that Club, Board".

## 2.12 Workers Compensation Act 1987 No 70

### Section 3 Definitions

Omit "Australian Jockey Club" from the definition of *specialised insurer* in section 3 (1).

Insert instead "AJC Principal Club".

[Minister's second reading speech made in—  
Legislative Assembly on 5 June 1996  
Legislative Council on 19 June 1996]