

New South Wales

Hawkesbury Racecourse Bill 1996

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to provide for the continuation of the Hawkesbury Racecourse as a public reserve for horseracing and other public purposes, and
- (b) to clarify its status as a reserve under the *Crown Lands Act 1989*, and the status of the existing racecourse trust as a reserve trust under Part 5 of the *Crown Lands Act 1989*, and
- (c) to remove any impediment to the incorporation of the Hawkesbury Race Club, and
- (d) to make provision for the transfer of the assets, rights and liabilities of the unincorporated club to the incorporated club once it is formed, and
- (e) to repeal the *Hawkesbury Racecourse Act of 1890*.

Hawkesbury Racecourse is located on land that was granted in 1883 to trustees to hold for racing and other public recreational purposes. An unincorporated association called the Hawkesbury Race Club has conducted the races since those times.

The *Hawkesbury Racecourse Act of 1890* made it possible for the trustees to grant leases of up to 21 years (for example to the club) for the purposes of the grant, and gave the club various powers including that of making by-laws. The Act did not directly affect the club's status as an unincorporated association, but made its chairman a corporation sole. It conferred on the chairman various functions, notably those of holding the club's assets in trust for the club and being the one to sue and be sued on behalf of the club. The assets of the club included infrastructure installed at the racecourse and, more importantly, the lease of the land on which the racecourse stands.

The trustees of the land on the one hand, and the club (and its chairman) on the other, were clearly two different entities. The land is now treated as a reserve under the *Crown Lands Act 1989*, but this change was not reflected (and did not have to be reflected) by amending the 1890 Act. The nature of the club (and its chairman) and their respective roles have not changed over the past century.

This Bill aims to make it clear that the land is to be treated as a reserve under the *Crown Lands Act 1989* and that the trustees are to be a reserve trust within the meaning of Part 5 of that Act and consequently have the powers, duties and functions of a trust under that Part. The powers include a power to make by-laws and the duties include various duties of accountability. The Bill also aims to remove any obstacle implicit in the 1890 Act to the incorporation of the club under the normal laws of incorporation and to allow the club itself to hold property and to sue and be sued in its own name.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on a day to be proclaimed.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 widens the purposes for which the land of the Hawkesbury Racecourse may be used, to include use:

- (a) as a racecourse, and
- (b) as a training ground, and
- (c) as a sports ground, and
- (d) for any form of public amusement or public purpose declared by the Governor-in-Council.

Clause 4 also revokes the 1883 deed-poll that granted the same land to various trustees and confirms and continues the application of Part 5 of the *Crown Lands Act 1989* to the racecourse land.

Clause 5 confirms and continues the present reserve trust and its membership for the racecourse land under the *Crown Lands Act 1989*.

Clause 6 removes any impediment to the incorporation of the Hawkesbury Race Club contained in the 1890 Act and enables the Minister to declare that club, once incorporated, to be the club for the purposes of the new Act.

Clause 7 automatically vests the assets, rights and liabilities of the former club (actually held on its behalf by its chairman) in the newly incorporated club. This is to take effect immediately on the publication of the Minister's declaration under proposed section 6. Clause 7 also sets out the conditions under which the vesting takes place, including a number of conditions that are typical of corporatisation legislation.

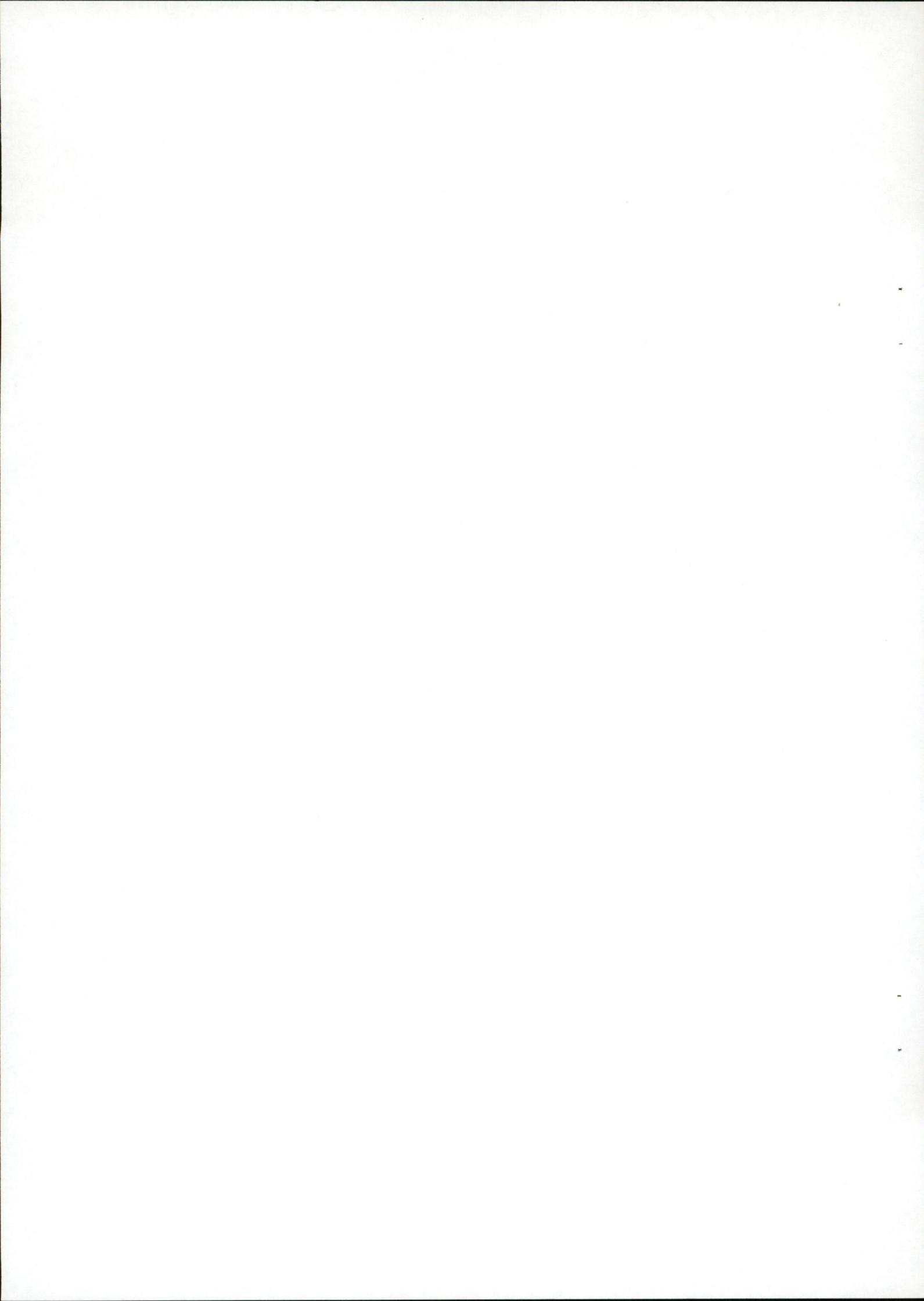
Clause 8 declares that no stamp duty is to be charged on any transfer related to that vesting.

Clause 9 provides for the repeal of the 1890 Act (and any by-laws under it), but only on a proclaimed date that is no earlier than the date of the publication of the declaration under proposed section 6.

Clause 10 enables saving, transitional and other regulations to be made.

Clause 11 is the standard provision requiring the Minister to review the appropriateness of the Act 5 years after the date of assent to the Act.

Schedule 1 describes the land of the Hawkesbury Racecourse.



First print

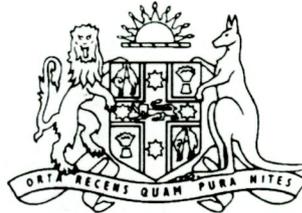


New South Wales

Hawkesbury Racecourse Bill 1996

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Status of racecourse	2
5 Continuation of reserve trust	3
6 Incorporation of former club	4
7 Vesting of assets, rights and liabilities of former club	4
8 Stamp duty	5
9 Repeals	5
10 Regulations	6
11 Review of Act	6
 Schedule 1 Hawkesbury Racecourse: description of land	 7



New South Wales

Hawkesbury Racecourse Bill 1996

No. , 1996

A Bill for

An Act to provide for the Hawkesbury Racecourse to be continued as a public reserve for horseracing and other purposes; to provide for the assets, rights and liabilities of the Hawkesbury Race Club to vest in a body corporate to be formed by the members of the club; and to repeal the *Hawkesbury Racecourse Act of 1890*.

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

This Act is the *Hawkesbury Racecourse Act 1996*.

2 Commencement

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

3 Definitions

In this Act:

assets means any legal or equitable estates or interests (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. 10

Hawkesbury Racecourse means the land described in Schedule 1.

liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent). 15

rights means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent).

the former club means the members of the unincorporated body known as the Hawkesbury Race Club.

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

the incorporated club means the body corporate declared by the Minister under this Act to be the incorporated Hawkesbury Race Club. 25

the reserve trust means the reserve trust referred to in section 5.

4 Status of racecourse

- (1) The deed-poll or grant from the Crown, dated 27 July 1883, granting Hawkesbury Racecourse to Benjamin Richards, Andrew Town, Henry M'Quade, William Gosper, William Dargin, John Henry Crowley and Thomas Richards junior, is, to the extent that it applies to the Hawkesbury Racecourse, cancelled and revoked. 30

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- (2) The Hawkesbury Racecourse is declared to be land vested in the Crown that is dedicated under section 80 of the *Crown Lands Act 1989* for the following public purposes:
- (a) for use as a racecourse,
 - (b) for use as a training ground, 5
 - (c) for use as a sports ground,
 - (d) for any other form of public amusement or public purpose (whether or not related to sports) that the Governor has, by order published in the Gazette, declared to be a form of public amusement or public purpose for which the Racecourse or a specified part of the Racecourse is permitted to be used. 10
- (3) Part 5 of the *Crown Lands Act 1989* (Dedication and reservation of land), and such of the other provisions of that Act as are relevant to the operation of that Part, apply to the Hawkesbury Racecourse. 15
- (4) Nothing in this section affects the operation of any lease of the Hawkesbury Racecourse that was in force immediately before the commencement of this Act.
- (5) No attornment to the reserve trust by a lessee or sublessee from the former trustee is required. 20

5 Continuation of reserve trust

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

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

6 Incorporation of former club

- (1) Nothing in the *Hawkesbury Racecourse Act of 1890* prevents the former club from being incorporated under any law enabling persons to form a body corporate.
- (2) On being satisfied that the former club has become incorporated as a body corporate, the Minister must, by notice in writing published in the *Gazette*, declare the body corporate to be the incorporated Hawkesbury Race Club for the purposes of this Act. 5

7 Vesting of assets, rights and liabilities of former club

- (1) On the date of publication of the notice referred to in section 6, the following provisions have effect: 10
 - (a) the assets of the former club vest in the incorporated club by virtue of this section and without the need for any conveyance, transfer, assignment or assurance,
 - (b) the rights and liabilities of the former club become by virtue of this section the rights and liabilities of the incorporated club, 15
 - (c) all proceedings by or on behalf of, or against, the former club pending immediately before that date are taken to be proceedings pending by or on behalf of, or against, the incorporated club, 20
 - (d) any act, matter or thing done or omitted to be done in relation to the former club before that date by, to or in respect of that club is (to the extent that the act, matter or thing continues to have effect) taken to have been done or omitted to be done by, to or in respect of the incorporated club, 25
 - (e) a reference in any other Act, in any instrument made under another Act, or in any document of any kind, to the former club is, subject to any regulations in force under section 10, to be read as, or as including, a reference to the incorporated club. 30
- (2) The operation of this section is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or 35

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- (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 an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or 5
- (d) as an event of default under any contract or other instrument.
- (3) No attornment to the incorporated club by a lessee or sublessee from the former club is required. 10
- (4) No compensation is payable to any person in connection with a transfer under this section.
- (5) In this section, a reference to the assets of the former club includes a reference to any lease of the Hawkesbury Racecourse that was in existence immediately before the date referred to in subsection (1). 15
- (6) In this section, a reference to the assets, rights or liabilities of the former club includes a reference to the assets, rights or liabilities (respectively) of the chairman of the former club that the chairman held in trust for that club (in the case of assets or rights), or was subject to on behalf of that club (in the case of liabilities). 20

8 Stamp duty

Stamp duty is not chargeable in respect of: 25

- (a) the transfer of assets, rights or liabilities under section 7, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or registration of an interest in land).

9 Repeals

- (1) The *Hawkesbury Racecourse Act of 1890* (together with any by-laws in force under that Act) is repealed on a date to be appointed by proclamation published in the Gazette. 30

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

10 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. 5
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (3) Such a provision may, if the regulations so provide, take effect as from the date of assent to this Act or a later date. 10
- (4) To the extent to which such a provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 15
- (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. 20

11 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. 25
- (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.

**Schedule 1 Hawkesbury Racecourse: description
 of land**

(Section 3)

The land that constitutes the Hawkesbury Racecourse is as follows:

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All that parcel of land at Clarendon in the City of Hawkesbury, Parishes of St Matthew and Ham Common, County of Cumberland, of about 80.94 hectares contained in Certificate of Title Folio 1/72436 at the Land Titles Office, Sydney.

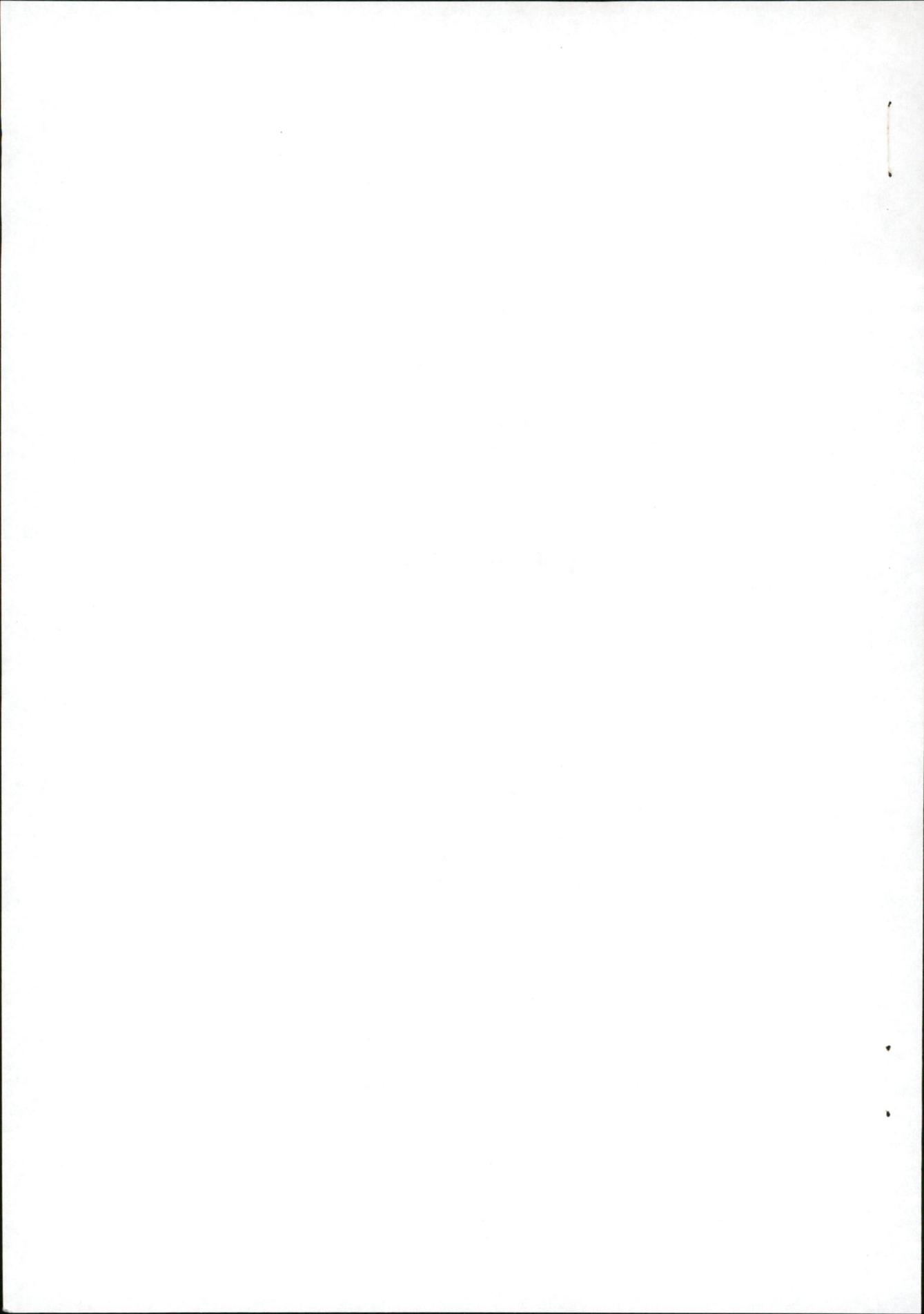


New South Wales

Hawkesbury Racecourse Act 1996 No 74

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Status of racecourse	2
5 Continuation of reserve trust	3
6 Incorporation of former club	4
7 Vesting of assets, rights and liabilities of former club	4
8 Stamp duty	5
9 Repeals	5
10 Regulations	6
11 Review of Act	6
 Schedule 1 Hawkesbury Racecourse: description of land	 7





New South Wales

Hawkesbury Racecourse Act 1996 No 74

Act No 74, 1996

An Act to provide for the Hawkesbury Racecourse to be continued as a public reserve for horseracing and other purposes; to provide for the assets, rights and liabilities of the Hawkesbury Race Club to vest in a body corporate to be formed by the members of the club; and to repeal the *Hawkesbury Racecourse Act of 1890*. [Assented to 22 October 1996]

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

This Act is the *Hawkesbury Racecourse Act 1996*.

2 Commencement

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

3 Definitions

In this Act:

assets means any legal or equitable estates or interests (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.

Hawkesbury Racecourse means the land described in Schedule 1.

liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent).

rights means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent).

the former club means the members of the unincorporated body known as the Hawkesbury Race Club.

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

the incorporated club means the body corporate declared by the Minister under this Act to be the incorporated Hawkesbury Race Club.

the reserve trust means the reserve trust referred to in section 5.

4 Status of racecourse

- (1) The deed-poll or grant from the Crown, dated 27 July 1883, granting Hawkesbury Racecourse to Benjamin Richards, Andrew Town, Henry M'Quade, William Gosper, William Dargin, John Henry Crowley and Thomas Richards junior, is, to the extent that it applies to the Hawkesbury Racecourse, cancelled and revoked.

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- (2) The Hawkesbury Racecourse is declared to be land vested in the Crown that is dedicated under section 80 of the *Crown Lands Act 1989* for the following public purposes:
- (a) for use as a racecourse,
 - (b) for use as a training ground,
 - (c) for use as a sports ground,
 - (d) for any other form of public amusement or public purpose (whether or not related to sports) that the Governor has, by order published in the Gazette, declared to be a form of public amusement or public purpose for which the Racecourse or a specified part of the Racecourse is permitted to be used.
- (3) Part 5 of the *Crown Lands Act 1989* (Dedication and reservation of land), and such of the other provisions of that Act as are relevant to the operation of that Part, apply to the Hawkesbury Racecourse.
- (4) Nothing in this section affects the operation of any lease of the Hawkesbury Racecourse that was in force immediately before the commencement of this Act.
- (5) No attornment to the reserve trust by a lessee or sublessee from the former trustee is required.

5 Continuation of reserve trust

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

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

6 Incorporation of former club

- (1) Nothing in the *Hawkesbury Racecourse Act of 1890* prevents the former club from being incorporated under any law enabling persons to form a body corporate.
- (2) On being satisfied that the former club has become incorporated as a body corporate, the Minister must, by notice in writing published in the Gazette, declare the body corporate to be the incorporated Hawkesbury Race Club for the purposes of this Act.

7 Vesting of assets, rights and liabilities of former club

- (1) On the date of publication of the notice referred to in section 6, the following provisions have effect:
 - (a) the assets of the former club vest in the incorporated club by virtue of this section and without the need for any conveyance, transfer, assignment or assurance,
 - (b) the rights and liabilities of the former club become by virtue of this section the rights and liabilities of the incorporated club,
 - (c) all proceedings by or on behalf of, or against, the former club pending immediately before that date are taken to be proceedings pending by or on behalf of, or against, the incorporated club,
 - (d) any act, matter or thing done or omitted to be done in relation to the former club before that date by, to or in respect of that club is (to the extent that the act, matter or thing continues to have effect) taken to have been done or omitted to be done by, to or in respect of the incorporated club,
 - (e) a reference in any other Act, in any instrument made under another Act, or in any document of any kind, to the former club is, subject to any regulations in force under section 10, to be read as, or as including, a reference to the incorporated club.
- (2) The operation of this section is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or

-
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
 - (d) as an event of default under any contract or other instrument.
- (3) No attornment to the incorporated club by a lessee or sublessee from the former club is required.
 - (4) No compensation is payable to any person in connection with a transfer under this section.
 - (5) In this section, a reference to the assets of the former club includes a reference to any lease of the Hawkesbury Racecourse that was in existence immediately before the date referred to in subsection (1).
 - (6) In this section, a reference to the assets, rights or liabilities of the former club includes a reference to the assets, rights or liabilities (respectively) of the chairman of the former club that the chairman held in trust for that club (in the case of assets or rights), or was subject to on behalf of that club (in the case of liabilities).

8 Stamp duty

Stamp duty is not chargeable in respect of:

- (a) the transfer of assets, rights or liabilities under section 7, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or registration of an interest in land).

9 Repeals

- (1) The *Hawkesbury Racecourse Act of 1890* (together with any by-laws in force under that Act) is repealed on a date to be appointed by proclamation published in the Gazette.

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

10 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (3) Such a provision may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.
- (4) To the extent to which such a provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (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.

11 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.

**Schedule 1 Hawkesbury Racecourse: description
of land**

(Section 3)

The land that constitutes the Hawkesbury Racecourse is as follows:

All that parcel of land at Clarendon in the City of Hawkesbury, Parishes of St Matthew and Ham Common, County of Cumberland, of about 80.94 hectares contained in Certificate of Title Folio 1/72436 at the Land Titles Office, Sydney.

[Minister's second reading speech made in—
Legislative Assembly on 18 September 1996
Legislative Council on 15 October 1996]

BY AUTHORITY

