



New South Wales

Racing Legislation Amendment Bill 2019

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 permit Racing NSW and Harness Racing New South Wales to use compulsion powers to require persons to provide information for the purposes of a special inquiry, but only where the use of the powers has been authorised by the Supreme Court,
- (b) to provide an explicit power for Racing NSW to make rules in relation to horse racing,
- (c) to permit the Commissioner of Police to make an order excluding a person from racecourses during race meetings if it is in the public interest to do so,
- (d) to expand the circumstances in which a qualified person may be appointed to act as the Racing Appeals Tribunal (the *Tribunal*) and to allow the Tribunal to appoint expert assessors to assist the Tribunal in particular proceedings,
- (e) to increase the maximum penalty for failing to comply with a notice requiring attendance before the Tribunal from \$550 to \$11,000 or imprisonment for 6 months (or both),
- (f) to allow the Tribunal to make use of the services of the staff of any racing controlling body (being Racing NSW, Harness Racing New South Wales, the Greyhound Welfare and Integrity Commission and Greyhound Racing New South Wales),
- (g) to permit the electronic service of documents under the *Racing Appeals Tribunal Act 1983*,
- (h) to wind up the Tax Reduction Trust Fund and to pay any money standing to the credit of the Fund to Greyhound Racing New South Wales,
- (i) to make other minor statute law amendments.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Harness Racing Act 2009 No 20

Schedule 1[1] clarifies that Harness Racing New South Wales (*HRNSW*) may amend or repeal rules that it makes in relation to harness racing.

Schedule 1[2] inserts proposed Division 4 into Part 3 of the *Harness Racing Act 2009* which provides for special inquiries. The proposed Division comprises proposed sections 27A–27F.

Proposed section 27A contains definitions used in the proposed Division including *threat* to harness racing which means a threat to the integrity of harness racing or to public confidence in the conduct of harness racing.

Proposed section 27B provides that HRNSW may, when conducting an inquiry, determine to treat the inquiry as a special inquiry if HRNSW is reasonably satisfied that the inquiry raises a threat to harness racing. The procedures of a special inquiry are to be determined by the rules made by HRNSW. However, if a person is attending the special inquiry because of a compulsion order, the person is permitted to have legal representation and the person presiding at the special inquiry must be assisted by an Australian legal practitioner.

Proposed section 27C permits HRNSW to apply to the Supreme Court for a compulsion order against a person. A compulsion order is an order that authorises HRNSW to use one or more compulsion powers on the person. Those powers are—

- (a) the power to order the person to attend a hearing of the special inquiry, and
- (b) the power to order the person to provide information at a hearing, and
- (c) the power to order the person to otherwise provide information.

Proposed section 27D authorises HRNSW to exercise compulsion powers on a person in accordance with a compulsion order. Before doing so, HRNSW must notify the person. It is an offence for a person to fail to comply with a requirement imposed on the person by the exercise of a compulsion power (maximum penalty 6 months imprisonment or a fine of \$11,000, or both).

Proposed section 27E provides that a person is not excused from a requirement to provide information on the ground that the information might incriminate the person. However, any information provided by an individual is not admissible in evidence against the individual in disciplinary, civil or criminal proceedings.

Proposed section 27F requires the Minister to review the penalty under proposed section 27D after 3 years.

Schedule 1[3] omits a spent provision.

Schedule 2 Amendment of Thoroughbred Racing Act 1996 No 37

Schedule 2[1] inserts proposed Divisions 5 and 6 into Part 2A of the *Thoroughbred Racing Act 1996*.

Proposed Division 5 authorises Racing NSW to make rules with respect to the control and regulation of horse racing or the exercise of the functions of Racing NSW.

Proposed Division 6 provides for special inquiries and comprises proposed sections 29Q–29V.

Proposed section 29Q contains definitions used in the proposed Division including *threat* to horse racing which means a threat to the integrity of horse racing or to public confidence in the conduct of horse racing.

Proposed section 29R provides that Racing NSW may, when conducting an inquiry, determine to treat the inquiry as a special inquiry if Racing NSW is reasonably satisfied that the inquiry raises a threat to horse racing. The procedures of a special inquiry are to be determined by the rules made by Racing NSW. However, if a person is attending the special inquiry because of a compulsion order, the person is permitted to have legal representation and the person presiding at the special inquiry must be assisted by an Australian legal practitioner.

Proposed section 29S permits Racing NSW to apply to the Supreme Court for a compulsion order against a person. A compulsion order is an order that authorises Racing NSW to use one or more compulsion powers on the person. Those powers are—

- (a) the power to order the person to attend a hearing of the special inquiry, and
- (b) the power to order the person to provide information at a hearing, and
- (c) the power to order the person to otherwise provide information.

Proposed section 29T authorises Racing NSW to exercise compulsion powers on a person in accordance with a compulsion order. Before doing so, Racing NSW must notify the person. It is an offence for a person to fail to comply with a requirement imposed on the person by the exercise of a compulsion power (maximum penalty 6 months imprisonment or a fine of \$11,000, or both).

Proposed section 29U provides that a person is not excused from a requirement to provide information on the ground that the information might incriminate the person. However, any information provided by an individual is not admissible in evidence against the individual in disciplinary, civil or criminal proceedings.

Proposed section 29V requires the Minister to review the penalty under proposed section 29T after 3 years.

Schedule 2[2] provides that proceedings for an offence under the *Thoroughbred Racing Act 1996* may be dealt with before the Local Court.

Schedule 2[3] omits a spent provision.

Schedule 3 Amendment of Betting and Racing Act 1998 No 114

Schedule 3 inserts proposed Division 3 into Part 2 of the *Betting and Racing Act 1998* that provides for the exclusion by the Commissioner of Police of persons from racecourses. The proposed Division comprises proposed sections 15A–15D.

Proposed section 15A contains definitions used in the proposed Division.

Proposed section 15B authorises the Commissioner of Police to make an exclusion order against a person that excludes the person from racecourses during race meetings. The Commissioner can make an exclusion order only if the Commissioner is of the opinion that it is necessary to do so in the public interest. The Commissioner is to give notice of the making of the order to the following—

- (a) Racing NSW, Harness Racing New South Wales, Greyhound Racing New South Wales and the Greyhound Welfare and Integrity Commission,
- (b) other Australian police forces,
- (c) the person who is the subject of the order (if that person can be found).

Proposed section 15C creates an offence with a maximum penalty of 12 months imprisonment or a fine of \$5,500, or both if a person who is the subject of an order enters, or remains on, a racecourse at any time during which there is a race meeting being held at the racecourse.

Proposed section 15D provides that a person against whom an exclusion order is made may appeal to the Civil and Administrative Tribunal against the decision to make the order.

Schedule 4 Amendment of Racing Appeals Tribunal Act 1983 No 199

Schedule 4[1] enables a qualified person to be appointed to act as the Racing Appeals Tribunal (the *Tribunal*) on the occasions or in respect of the appeals as the person appointed as the Tribunal directs.

Schedule 4[2] allows the Tribunal to appoint expert assessors to assist the Tribunal in particular proceedings.

Schedule 4[3] increases the maximum penalty for failing to comply with a notice requiring attendance before the Tribunal from \$550 to \$11,000 or imprisonment for 6 months (or both).

Schedule 4[4]–[8] enable the Tribunal to make use of the services of the staff of any racing controlling body (being Racing New South Wales, Harness Racing New South Wales, the Greyhound Welfare and Integrity Commission and Greyhound Racing New South Wales).

Schedule 4[9] permits the electronic service of documents under the *Racing Appeals Tribunal Act 1983*.

Schedule 5 Amendment of Totalizator Act 1997 No 45

Schedule 5 omits provisions relating to the Tax Reduction Trust Fund, winds up that Fund and provides that any money standing to the credit of the Fund be paid to Greyhound Racing New South Wales.

Schedule 6 Amendment of Totalizator Regulation 2012

Schedule 6 makes an amendment consequential on the winding up of the Tax Reduction Trust Fund by Schedule 5.