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## Racing Administration Act 1998 No 114

**Historical** version for 1 July 2008 to 2 December 2008 (accessed 23 August 2013 at 10:36)

### Current version

Status Information

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New South Wales

## Status information

### Currency of version

Historical version for 1 July 2008 to 2 December 2008 (accessed 23 August 2013 at 10:36).  
Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical notes](#)

### Does not include amendments by:

[Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)

### See also:

[Racing Administration Amendment Bill 2008](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 29 October 2008.

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## Racing Administration Act 1998 No 114

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### Division 3 Publication of NSW race fields

#### 33 Publication of NSW race fields restricted

A person must not, whether in New South Wales or elsewhere, publish a NSW race field unless the person:

- (a) is authorised to do so by a race field publication approval and complies with the conditions (if any) to which the approval is subject, or
- (b) is authorised to do so by or under the regulations.

Maximum penalty:

- (a) in the case of a corporation—500 penalty units, and
- (b) in any other case:
  - (i) for a first offence—50 penalty units or imprisonment for 12 months (or both), and
  - (ii) for a second or subsequent offence—100 penalty units or imprisonment for 2 years (or both).

#### 33A Relevant racing control body may grant race field publication approvals

- (1) The relevant racing control body in relation to an intended race (or class of races) to be held at any race meeting on a licensed racecourse in New South Wales may grant approval to a person to publish a NSW race field (a *race field publication approval*) in respect of that race or class of races if the person has made an application for that approval under this Division.
- (2) A relevant racing control body may (but need not) impose any of the following kinds of conditions on a race field publication approval that it grants:
  - (a) a condition that the holder of the approval pay a fee or a series of fees of an amount or amounts and in the manner specified in the approval (being a fee or fees imposed in accordance with any requirements prescribed by the regulations),
  - (b) such other conditions as may be specified in the approval (being conditions of a kind that are prescribed as permissible conditions by the regulations).
- (3) Any fee that is payable under a race field publication approval is a debt due to the relevant racing control body that granted the approval and is recoverable as such in a court of competent jurisdiction.

- (4) A relevant racing control body that grants a race field publication approval may, by written notice to the holder of the approval, cancel or vary the terms of the approval on any grounds prescribed by the regulations.
- (5) If a relevant racing control body cancels or varies a race field publication approval, the body must provide the holder of the approval with written reasons indicating why the approval was cancelled or varied (as the case may be).

### **33B Applications for race field publication approvals**

- (1) A person who wishes to publish a NSW race field may apply to the relevant racing control body in relation to the intended race (or class of races) to which the field relates for a race field publication approval in respect of the race or class of races.
- (2) An application for a race field publication approval (an *approval application*) must be:
  - (a) made in the manner and in the time as may be prescribed by the regulations, and
  - (b) accompanied by such information as may be prescribed by the regulations.
- (3) In determining an approval application, the relevant racing control body to which the application is made must:
  - (a) consult with each racing club that intends to conduct the race or class of races in respect of which the approval is sought, and
  - (b) take into account such criteria in relation to the determination of the application (if any) as may be prescribed by the regulations.
- (4) Without limiting subsection (3) (b), any criteria that are prescribed by the regulations for the purposes of that paragraph may specify:
  - (a) the kinds of matters that may or must be taken into account in determining an approval application, and
  - (b) the kinds of matters that must not be taken into account in determining an approval application.
- (5) If a relevant racing control body to which an approval application is made determines that a race field publication approval should not be granted to the applicant (or should be granted subject to any condition imposed under section 33A (2)), the body must provide the applicant with written reasons indicating why the application was rejected or the conditions were imposed (as the case may be).

### **33C Authorisations for section 51 of the Trade Practices Act 1974 of the Commonwealth**

- (1) The following are specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*:
  - (a) any agreement entered into between:
    - (i) 2 or more relevant racing control bodies in relation to the appointment of an agent to collect, or the collection by such an agent or any of the relevant racing control bodies of, fees that are payable to those bodies under race field publication approvals granted by them, or
    - (ii) one or more relevant racing control bodies and any corresponding body of another State or Territory in relation to the appointment of an agent to collect, or

the collection by such an agent or any of the relevant racing control bodies of, fees that are payable to those bodies in relation to publication of race fields,

- (b) the conduct of those bodies and any agent in negotiating and entering into any such agreement,
  - (c) the conduct of those bodies and any agent in performing any such agreement.
- (2) Anything authorised to be done by this section is authorised only to the extent to which it would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.
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- (3) In this section:  
*agreement* includes a contract, arrangement or understanding.

### 33D Appeals to Minister

- (1) A person may appeal to the Minister against any of the following decisions of a relevant racing control body:
  - (a) a decision of the body to reject an application by the person for a race field publication approval,
  - (b) a decision of the body to impose a condition under section 33A (2) (other than a condition relating to the payment of a fee or series of fees) on a race field publication approval,
  - (c) a decision of the body to cancel a race field publication approval held by the person,
  - (d) a decision of the body to vary any term of a race field publication approval held by the person (other than a term relating to the payment of a fee or series of fees).
- (2) An appellant must give notice to the following person and body of the grounds of the appellant's appeal in the form and manner approved by the Minister from time to time:
  - (a) the Minister,
  - (b) the relevant racing control body that made the decision appealed against.
- (3) The relevant racing control body that made the decision appealed against is to be the respondent in the appeal.
- (4) A notice under subsection (2) must be given within 20 working days (or within such longer period as the Minister may allow) after the date on which the appellant was notified of the decision of the relevant racing control body that is being appealed.
- (5) In determining an appeal, the Minister may appoint a person that the Minister considers has suitable qualifications to act as an arbitrator (the *arbitrator*) to furnish a report to the Minister with respect to the appeal containing:
  - (a) a recommendation as to whether the appeal should, in the opinion of the arbitrator, be dismissed or allowed either unconditionally or subject to such conditions as may be specified in the report, and
  - (b) the reasons for the recommendation.
- (6) The unsuccessful party to an appeal is to pay the costs of any arbitrator appointed by the Minister under subsection (5).

- (7) The Minister, after considering any report that is furnished to the Minister under subsection (5), may:
- (a) dismiss the appeal, or
  - (b) allow the appeal either unconditionally or subject to such conditions as the Minister thinks proper to impose, or
  - (c) if the appeal is against the imposition of conditions, refuse to approve the application for a race field publication approval from the determination of which the appeal has been made, or
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- (d) return the report to the arbitrator concerned and request further consideration of the report.

**Note.** As the decision of the Minister in an appeal under this section is a decision that is reviewable by the Administrative Decisions Tribunal under section 33E, section 48 of the *Administrative Decisions Tribunal Act 1997* requires the Minister to give the appellant and respondent in the appeal written notice of the decision on the appeal. Division 2 of Part 2 of Chapter 5 of that Act enables the appellant and respondent to request written reasons for the Minister's decision.

- (8) The decision of the Minister under subsection (7) (other than a decision under subsection (7) (d)) has effect as if it were a decision of the relevant racing control body from whose decision the appeal is made.

### **33E Review by Administrative Decisions Tribunal of Minister's decision on appeal**

- (1) The appellant or respondent in an appeal under section 33D may apply to the Administrative Decisions Tribunal for a review of the decision of the Minister in the appeal.
- (2) Section 53 (Internal reviews) of the *Administrative Decisions Tribunal Act 1997* does not apply to a decision of the Minister in an appeal under section 33D.

### **33F Effect of race field publication approval limited**

For the avoidance of doubt, the granting of a race field publication approval does not operate to authorise the holder of the approval to do (or omit to do) anything in relation to a race to be held at any race meeting on a licensed racecourse in New South Wales other than to publish the NSW race field to which the approval relates in accordance with the terms of the approval.

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