



19 January 2016

Agriculture and Environment Committee
Parliament House
Brisbane Qld 4000

Dear Sir

Thank you for the opportunity to make submissions on the proposed Queensland Racing Integrity Bill 2015.

My prime interest is the sections relevant to Internal Reviews and Appeals.

STAYS

Generally I am of the view that the proposed operation of the Internal Reviews and Appeals are appropriate providing that a speedy, simplified method of applying for a stay, the application being considered, and the result communicated to the relevant parties is in place. That said, the process needs to include safeguards to diminish any endeavours to USE THE SYSTEM for the sole purpose of delaying the commencement of the serving of a penalty.

ACTION REGARDING AN ANIMAL

A matter of particular interest to me is section **262(2) (a) & (b)** of the proposed Act.

My views are based on the premise that the proposed Act stipulates (with some exceptions) that there shall be no means of securing an internal review to the Commission or an appeal to QCAT.

If that is the case, the question is: where does an aggrieved person go to in an endeavour to gain some relief?

An original decision is a decision to do any of the following.....

(2) However the following decisions are not original decisions-

- (a) a decision relating to the eligibility of an animal to race or the conditions under which an animal can race;*

Example-

The commission's decision requiring an animal to pass a stated examination or test before being allowed to race

- (b) a decision cancelling or suspending a licence for an animal, unless the cancellation or suspension relates to-*
 - (i) a decision to take disciplinary action relating to the licence of a licence holder; or*
 - (ii) a decision to take an exclusion action, under the control body's rules of racing, against a person;*

My concern is that an action taken to prevent an animal from racing, in fact, suspends the right of its owner to participate with that animal – that is tantamount to the person being suspended. I submit that is not analogous with the internal review/appeal rights available to a person. Compare the rights of a person for the review of the imposition of a token fine, or the suspension of a jockey for one race meeting, to that of an owner not being able to race a particular animal for a lengthy period (1, 2, 3, 12 months, or life), without an internal review/appeal option. That could not be said to be equitable, particularly if the action taken was on suspect grounds. I am aware of action taken on suspect grounds, and Appeal Bodies have upheld appeals concerning action taken against animals. I am also aware of an instance when the stewards imposed a token fine on a trainer for the sole purpose of enabling an appeal in respect of the suspension of an animal.

In considering the matter it would be helpful to be aware of the history of the prohibition of appeal rights in connection with an animal. Until the early 1980s all appeals were heard by the relevant Controlling Bodies, and with the exception of the Australian Rules of Racing (thoroughbreds), appeals processes in respect of harness racing horses and greyhounds were available under the rules of the harness and greyhound racing codes. Under the then Racing Act, when Appeal Tribunals were first instituted, a cut and paste of the Australian Rules of Racing (thoroughbreds) resulted in the animal appeal prohibition forming part of the appeal parameters.

There can be little doubt that a review/appeal system should not be bogged down considering trivial matters, however, the system should provide a review/appeal process when action taken against an animal results in significant restrictions of the rights of an owner to race an animal.

If that submission is not endorsed, there is a matter involving greyhound racing that may need to be addressed.

CURRENT LOCAL GREYHOUND RACING APPEALS RULE

Under the rules of greyhound racing significant **mandatory** penalties can be imposed when, in the opinion of the stewards, a greyhound is found to have failed to pursue, or of marring. The relevant rules are-

- R1** *“mar” or “marring” means the act of a greyhound which turns its head and makes head or muzzle contact with another greyhound.*
“failing to pursue” means when a greyhound turns its head or visibly eases during the running of an event.

R69 Marring

- (1) *Where in the opinion of the stewards, a Greyhound is found to have marring another greyhound during an Event, the Stewards shall impose a period of suspension in respect of the greyhound pursuant to sub-rule (2), and the specifics shall be recorded in the relevant Control Body Register, or where applicable, the Certificate of Registration or Weight Card of the greyhound.*

- (2) *The period of suspension imposed pursuant to sub-rule (1) shall be-*
 - (a) *in the case of a first offence, at the track where the offence occurred, 28 days and until the completion of a satisfactory trial; or*
 - (b) *subject to Rule 70, in the case of a second offence, at all tracks, 3 months and until the completion of a satisfactory trial; or*
 - (c) *In the case of a third or subsequent offence, at all tracks, 12 months and until the completion of a satisfactory trial.*

R69A Failing to pursue

The rules relevant to failing to pursue are almost a mirror image of the marring rules above.

Failing to pursue and marring can be hotly debated topics, with widely differing opinions, particularly as to whether the action of the greyhound was with or without some external happening.

Due to the significant periods of suspension, and the generally short racing life of a greyhound, the current Racing Queensland Local Rules of Racing (Greyhound Racing) provide for a means of appeal. The relevant rules are-

LR46 Aggrieved person may lodge appeal.

- (1) *A person aggrieved by a decision of the Stewards in respect of the suspension of a greyhound, which adversely affects the person, and for which an appeal is not available under the Act, may appeal to Racing Queensland in accordance with these Rules.*

LR 46(2), 47, 48, 49 & 50 cover the appointment of an Appeal Panel and the relevant processes.

On the introduction of the Racing Integrity Act, my understanding is that Racing Queensland Board would be divorced entirely from integrity matters and could not appoint an Appeal Panel. On that I could be corrected..

On the introduction of the Racing Integrity Act, if there is no provision under the Act for an internal review/appeal on behalf of an animal, or unless the Commission or the Racing Queensland Board is authorised to appoint an Appeal Panel, those rules would be in conflict with the Act, which may result in the need for those rules to be repealed.

In those circumstances the withdrawing of a current right of appeal would be highly controversial and inequitable.

Attached are details of my employment history, which I believe places me in a position to form balanced open-minded opinions on racing matters.

Yours sincerely



Daryl Kays

A handwritten flourish or signature mark.

EMPLOYMENT HISTORY

Since retiring from full-time employment in July 2006:

- September 2013** Appointed as member of Racing Disciplinary Board.
- March 2010** Appointed as a Chaperone with Australian Sports Anti-Doping Authority.
- March 2010.** Appointed as member of Queensland Greyhound Racing Authority Appeal Panel.
- May 2008** Recalled by Queensland Greyhound Racing Authority, for approximately 6 months, to overcome shortage of stewards, during which time I was the Acting Chairman of Stewards.
- January 2007** Appointed as a member of Queensland Racing First Level Appeal Committee.
- December 2006** Appointed as member of the Queensland Harness Racing Board Appeal Committee.
- Miscellaneous** Contracted by Racing Queensland to review and produce revised Local Rules of Racing (thoroughbreds).
- Assisted in review of National Rules conducted on behalf of Greyhounds Australasia.
- Assisted in review of Local Rules conducted on behalf of the Queensland Greyhound Racing Authority.
- Following written submissions, called to assist the 2004 Government instituted review of the integrity management structures of the three codes of racing in Queensland – Shanahan Inquiry.

**August 1997 –
July 2006**

Greyhound Racing Authority - Queensland:

- Chief Steward – Investigations.
- Chief/Panel Steward - race meetings.
- Defending stewards' actions before Appeal Tribunals.
- Coordinator GRA training program 1997 – 1998.
- In the absence of the Chairman of Stewards, representative at National Chief Stewards' Conference.
- Rules reviews.
- Policy formulation.
- Adviser to GRA personnel on the *Racing Act 2002* and Australian/New Zealand appeals for which reasons were published.

**October 1993 –
July 1997**

Queensland Principal Club:

- Casual panel steward.
- Judge/Finish Lynx operator.
- Rules review – I was contracted to review and draft new Queensland Local Rules of Racing. A short time prior to that thoroughbred racing in Queensland was controlled by five Principal Clubs. The then government legislated to abolish those control bodies in favour of one only control body – the Queensland Principal Club, now known as Racing Queensland, necessitating the introduction of local rules covering the state, in place of individual sets of rules covering the five different areas of control.
- Member of group formed to investigate and report to the Queensland Principal Club on the merits of centralised handicapping.

**October 1969 -
September 1993:**

Queensland Harness Racing Board:

- Initially Registrar/Steward before assuming total steward duties in 1972.
- Licensing.
- Handicapping.
- In 1980 I was appointed Chairman of Stewards, a position I held until I resigned in September 1993.
- Supervision of state wide stewards' panel.
- Training of stewards.
- Preparation of a D.I.Y. guidelines manual for training of stewards for the national body.
- Rules reviews.
- Legal, Court and Appeal Tribunal judgment studies.
- Defending stewards' actions before Appeal Tribunals.
- Representative at National Stewards' Conferences.
- Member of several national working parties.
- Conducting instruction lectures for new licensees.
- With the exception of financial management, in the absence of other officers, I have attended to all of the administrative functions of a control body.
- QHRB delegate at Australian Harness Racing Council and Inter-Dominion Harness Racing Council Conferences.

- On three occasions, a member of independent stewards' panels formed to conduct inquiries on behalf of interstate control bodies.

- Study tour of USA and Canadian harness racing integrity and control systems.

**October 1964 -
October 1969**

South Australian Trotting League:

- Registrar.
- Official inspector of horses.

**May 1995 -
October 1964**

Victorian Trotting Control Board:

- General office duties - racing and administration.
- Track preparation.
- Acceptances.
- Handicapping.
- Purchasing and stock control.
- Assistant Registrar.
- Race-night racecourse inspector.