

Information Briefing:

Racing Integrity Amendment Bill 2022

Prepared for: Education, Employment and Training Committee

Prepared by: Department of Agriculture and Fisheries

The Racing Integrity Amendment Bill 2022 (the Bill) amends the *Racing Integrity Act 2016* (the Act) to establish revised arrangements for reviews of stewards' decisions under the rules of racing and for other purposes.

Background

As part of reforms to protect the integrity of Queensland's \$1.2 billion racing industry, the Act created the Queensland Racing Integrity Commission (QRIC) to ensure the integrity of the three codes of thoroughbred horse racing, greyhound racing and harness horse racing. The Commission's employs stewards to oversee race meetings and apply the rules of racing for each code.

Under the Act, an aggrieved person can seek an internal review of a steward's decision, and then external review by the Queensland Civil and Administrative Tribunal (QCAT). This is the typical process for review of administrative decisions in Queensland legislation. However, the arrangements for review of decisions implementing the rules of other professional sports, and for racing decisions in other states, are quite different. Those arrangements generally use independent specialist tribunals with restricted rights of subsequent appeal.

In 2020-21, QRIC's stewards made 1 947 original decisions, and 148 applications were made for internal review. On average over the five years to 2020-21, more than 70 per cent of applications for both internal review and for external review by QCAT concerned thoroughbred racing, compared to up to 20 per cent for harness racing and about 10 per cent for greyhound racing.

In its response to the 2016 Parliamentary Agriculture and Environment Committee report on the Racing Integrity Bill, the Government indicated it would review the operation of the legislation in consultation with stakeholders. Accordingly, in June 2019, a discussion paper entitled "Racing Integrity Reforms – Review of the *Racing Integrity Act 2016*" was released for public comment and sought feedback on a range of matters including the review of decisions. In response, industry participants generally expressed satisfaction with the QRIC model. However, stakeholders did advise concerns about the system of review of stewards' decisions under the rules of racing.

The main issues highlighted by industry and clarified during further data analysis by the department include:

- perceptions of a lack of independence of the initial review process

- the timeliness of review. The average time taken for racing industry reviews to be exhausted in Queensland (more than two hundred days) compares unfavourably with the time to finalise reviews in other jurisdictions (generally no more than a few weeks except in limited circumstances where an appeal is allowed) and in other professional sports
- concerns about the extent of racing expertise at QCAT relevant to specialist oversight of the conduct of participants under the rules of the three codes of racing
- stakeholders assert that stays are being “abused” - offenders are able to continue to participate despite serious breaches due to stays pending drawn out review processes. There is some data to suggest that appeals may be being lodged for reasons other than to obtain reconsideration of the decision - over 40 per cent of appeals to QCAT are withdrawn by the appellant before being heard.

Stakeholders suggested that these issues were damaging the Queensland racing industry’s reputation for integrity.

In September 2020, the then Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs announced the Government would establish a Racing Appeals Panel (the Panel) to undertake internal review of stewards’ decisions under the rules of racing and would limit the scope of stays where there is a serious risk to animal welfare, human safety or the integrity of racing.

Further industry consultation in 2021, highlighted the need for the Panel to be independent of the Commission. A review of arrangements in other jurisdictions in Australia established that most jurisdictions provide for more rapid reviews of steward’s decisions by a specialist body and limit grounds for further review.

In December 2021, the Minister for Education, Minister for Industrial Relations and Minister for Racing announced a new model for reviews which this Bill will establish.

Provisions of the Bill

The Bill will establish an independent Racing Appeals Panel to replace internal and external review of stewards’ decisions under the rules of racing.

The Panel will be convened by a Chairperson with at least five years legal standing. At least 6 Panel members will be appointed by Governor-in-Council on the recommendation of the Minister responsible for racing. Membership must include at least two deputy chairpersons, with at least five years legal standing so they can act as the chairperson when required, and at least three other members with expertise in relevant areas such as racing, veterinary science, racing chemistry and law. The Panel will be assisted by a registrar and staff as needed. The Panel will be a statutory authority, independent of QRIC.

The Chairperson would be solely responsible for determining questions of law. For relatively minor matters – where the penalty is a fine of less than \$200 or a suspension of less than 8 days or less – the Chairperson can decide to sit alone or with up to two other members. In 2020-21, only 98 of 152 internal review decisions were for penalties of \$200 or less or a suspension of 8 days or less. For other matters, the Chairperson will sit with two other members chosen from the panel of appointed members.

The Panel can decide a review application as it considers appropriate, including by holding a hearing, using remote conferencing, or on the basis of documents without a hearing. If the Panel conducts a hearing it must be conducted in public unless the Panel decides, on its own initiative or on application by a party, that all or part of the hearing is to be held in private

because information proposed to be disclosed at the hearing should not be made publicly available based on non-disclosure grounds specified in the Bill. The frequency of Panel hearings will be a matter for the Chairperson, but it is anticipated that the Panel will meet at least weekly, and more often if required.

Applications for review must be lodged within three business days – compared to 14 days for application for internal review currently.

Most review applications must be decided within (a further) seven business days, down from 20 business days for internal review at present.

However, for more serious cases where the penalty includes a suspension or other disqualification of three months or more, the Panel will still have 20 business days in which to finalise its review. In 2020-21, only 24 of 1 947 original decisions made by QRIC imposed such a penalty. Of these, eight were internally reviewed and 4 were reviewed by QCAT.

In combination, these changes would significantly shorten the maximum time for most first stage reviews to be decided – from about 30 business days from the steward's decision at present to 10 business days for all but the more serious breaches. This is still a relatively long period by comparison with arrangements in other professional sports. However, it better aligns review timeframes with industry practice of booking jockeys/drivers 10-14 calendar days in advance of most races.

In Queensland, stewards can defer suspensions imposed on riders for up to 9 calendar days as in almost all other states. The shorter period for the Panel to finalise most matters would mean many riding offences, which constitute most stewards' decisions, would be decided by the Panel within the deferment period. Stays may be granted by the Panel pending their review of a decision, but for riding offences there would be no incentive to apply for a stay because the deferment would generally preserve the jockey's ability to ride in races for which they had been booked pending finalisation of the review by the Panel.

Most matters will be finalised by the Panel. Appeals to Queensland Civil and Administrative Tribunal Appeals (QCATA) jurisdiction will only be permitted on a question of law relating to the extent of disqualification action - a penalty such as suspension or cancellation of a licence that excludes a person from racing participation for three months or more. In other words, an appeal will be permitted only on the basis that the imposed penalty, lasting three months or more, is either manifestly inadequate or excessive.

Stays, pending a QCATA decision, will not be available where the Panel has determined the breach of the rules of racing involved a serious risk to animal welfare, human safety or the integrity of racing.

The outcome of the reforms will be a review system which will see most reviews finalised in a much-reduced time and is better suited to protecting the integrity and reputation of the industry. The new model in Queensland will be more consistent with other states, particularly Victoria and New South Wales.

Only stewards' decisions under the rules of racing would be carved out from the application of the current model of review under the Act. The exercise of certain powers under the Act, such as the seizure of animals or property and the issuing of animal welfare directions, would still be amenable to internal review and appeal to the courts as currently provided under the Act. Other administrative decisions, such as licensing decisions, would still be amenable to internal review and then merits review by QCAT.

The Bill also makes some minor and unrelated amendments to the Act. These include:

- authorisation of the publication of stewards' race day reports, steward's inquiry reports, and a list of horses that have recorded elevated levels of total carbon dioxide (TCO₂) or prohibited substances. This is current practice, provides transparency and so enhances confidence in the integrity of the industry
- removal of a redundant requirement for QRIC to collect fingerprints of applicants for a bookmaker's licence
- allowing QRIC to authorise a racing bookmaker's clerk to act as agent for not more than 12 weeks for all approved purposes, including reasons of illness or accident
- clarifying that an approved telecommunication system is required in any circumstance where a bookmaker is taking bets. This ensures that the telecommunications system is of a standard to protect the integrity of bets made and the money and privacy of persons placing bets. The Minister will no longer need to approve the independent entity used by QRIC to assess a bookmaker's telecommunications system
- Allowing an amendment to an offcourse bookmaker's approval, such as a change of residence, and clarifying that the Minister can delegate the Minister's powers relating to offcourse approvals to the Racing Integrity Commissioner
- offences to deter persons from influencing witnesses or experts who are participating in an audit or investigation
- amendment of sections of the Act which have been identified as being incompatible with the *Human Rights Act 2019*.

Fundamental legislative principles and compatibility with the *Human Rights Act 2019* have been considered in development of the Bill and are discussed in detail in the Explanatory Notes and Human Rights Statement, respectively.