



EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE

Members present:

Ms KE Richards MP—Chair
Mr MA Boothman MP
Mr N Dametto MP
Mr J-PH Langbroek MP
Ms JC Pugh MP
Mr JA Sullivan MP

Staff present:

Mr R Hansen—Committee Secretary (virtual)
Ms R Duncan—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE RACING INTEGRITY AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

MONDAY, 21 MARCH 2022

Brisbane

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The committee met at 11.30 am.

BOLTON, Mr Graeme, Deputy Director-General, Fisheries and Forestry, Department of Agriculture and Fisheries

CLARKE, Ms Marguerite, Director, Legislation and Regulation, Department of Agriculture and Fisheries

CHAIR: I now welcome officers from the Department of Agriculture and Fisheries. Before I turn to questions from the committee, would you like to respond to any of the points made by the witnesses at our hearing today?

Mr Bolton: Yes. Before I start, I would like to thank the chair and committee for allowing us to be here today. I also acknowledge the traditional owners of the land on which we gather and pay our respects to elders past, present and emerging. I would also like to acknowledge and thank those who provided evidence today, including the Australian Jockeys Association, the Queensland Law Society, the Coalition for the Protection of Greyhounds, the Queensland Jockeys' Association and Racing Queensland.

By way of opening statement, I would like to make a couple of clarifying comments or observations. The bill before you is not a criticism of the wonderful work that QCAT does. The intent of the bill is to establish a review process that is fit-for-purpose for the Queensland racing industry. Off the back of that, it is also important to note that we had had some insightful evidence from the Queensland Law Society about one case in particular. The data and analysis that we have done suggests that one case does not adversely affect the median time frames. Looking at the data, there are 52 cases that took longer than the median of 219 days to get resolved. It is not just one case that is contributing to this; there are quite a few.

There are a couple of other observations. With regard to hearing de novo and afresh, Victoria certainly does not do that. The Victorian Civil and Administrative Tribunal does not hear the matter afresh—it is bound by the findings of the first level review—whereas New South Wales does. We heard a little about stewards' reports and how long they should be up there. Six months is the proposal within the bill. It should be acknowledged that the stewards' reports contain a range of matters. It could be matters that were allegations and not proven as well as matters that were either penalised or subject to further prosecution.

We heard quite a bit around some of the other jurisdictions. We have looked right across Australia and looked at what is the best practice. Overwhelmingly, you would expect that Victoria and New South Wales have some of the better practices and that is where we have drawn heavily upon. In particular, we have looked at Victoria.

With regard to some of the conversation around stays, we need to be aware that there is a slight differentiation between the deferment of a penalty and the application of a stay. When a racing participant is charged with an offence they can request the steward defer the starting of that penalty, which is at nine days within the bill. I note that it is nine days across other jurisdictions, including New South Wales and Victoria. In Victoria for the Victoria Derby and Melbourne Cup week it is three days. You can only defer a penalty for three days after which you must commence your penalty.

You can also apply for a stay. In Queensland, under the bill as proposed stays will be permitted, but it is interesting to note that with the deferment of the nine-day period under the bill we are going to be setting hearings at least once a week. They can be held more often if required due to workload. By the time you have a deferment of nine days you generally will have all the matters. For the more serious matters that require 20 business days you will have had all those matters heard already. A longer deferment period probably will not add a great deal of value. I think that is it. Marg, is there anything we should add?

Ms Clarke: I think that is the main thing. The additional point about the deferment versus the stays is that the deferment is under the Rules of Racing; it is not in the bill. In terms of the Rules of Racing, as you know there are national rules and then there are local rules. Together they are made by Racing Queensland and they become the rules of racing for that code.

The deferment is a local rule. It is for thoroughbreds only and it is basically for offences under the Rules of Racing for jockeys. Having said that, over time it has been reflected nationally. The variation, Graeme mentioned, is Victoria. The only other one is the Northern Territory, which only allows a deferment of up to three days. In some jurisdictions it is explicit that you can only get that deferment if you are already booked to ride in a race. In Queensland and a couple of other places you can seek that deferment.

My point is that it is under the Rules of Racing so it is not something we even mention in the bill. We would have to look at whether there is even a mechanism for overriding that in the bill. It is a local rule made by Racing Queensland rather than something in the bill.

CHAIR: Thank you for that clarification.

Mr LANGBROEK: My question is around harness racing, which has not been mentioned at all today. I am wondering what feedback the department has received from the harness racing industry, because they had significant issues that came out of the previous disciplinary mechanisms?

Ms Clarke: We offered to meet with the harness racing industry in December, but we were not able to meet with them. We did provide them with information and invite their feedback and did not receive any. We provided details to the committee secretariat to invite them to make representations. We have not received any explicit feedback on the proposals.

Mr SULLIVAN: Do you have any feedback or responses to what were suggested as technical issues raised by Racing Queensland and in relation to whether employees of QRIC would be covered by eligibility issues, whether racing club boards would be included in the language around committees and those sorts of issues?

Mr Bolton: Yes, absolutely. Those observations by Racing Queensland were very insightful. The department would not have any concerns with broadening that to include those matters that Racing Queensland identified.

Mr SULLIVAN: To the points raised by Racing Queensland, do you think they would be already included or intended to be included in the current drafting or do you think it would require redrafting?

Ms Clarke: It would require a change. The only one that we do not support is around suggesting that people charged with an indictable offence would be excluded because that goes against some principles of criminal law. We have outlined those in our response.

Mr DAMETTO: Thank you for the opportunity to ask some broader questions on the bill. How will the department be working to implement this in a practical sense? What will be the staffing requirements and those sorts of things associated with putting this in place?

Mr Bolton: Subject to the consideration of passing the bill, the department would basically work with the Queensland Racing Integrity Commission to set up the panel. We would potentially manage most of the processes to get that established. The intent is that the current FTE for the internal review would look to be repurposed as a registrar for that. The department would provide all the other longer term or strategic management arrangements around financial and other reporting matters as the agency responsible for the act.

CHAIR: In regard to the eligibility of panel members, we received in submissions some divergent views on that. I was wondering whether the department had given any further consideration in terms of whether owners of racing horses or other animals would be considered in terms of appointment to the panel?

Mr Bolton: As I mentioned before, through the establishment of this bill we did compare other jurisdictions. In Victoria under section 50D of the Racing Act 1958 a person is not eligible for appointment as a member of the Victorian Racing Tribunal if the person has or obtains a financial or proprietary interest in a racing animal. It is very similar to what we are proposing here in Queensland. However, in New South Wales under section 45 of the Thoroughbred Racing Act 1996, Racing New South Wales determines the qualifications and disqualifications for membership of the panel and for that purpose has particular regard to minimising conflicts of interest. They are probably more aligned with what the Queensland Law Society identified within their proposals.

The Queensland Law Society identified through their submission and raised the question whether section 252BA and section 252AW makes these provisions unnecessary. We would like a little more time—we are currently considering that—before we can make some further recommendations to the committee.

CHAIR: With regard to the contempt of a panel at a hearing, I was wondering if you could explain how the proceedings under proposed new section 252AN, 'Contempt of a panel hearing', would work? Would those proceedings be prosecuted by the state or would the panel have a role in dealing with contempt of its proceedings?

Mr Bolton: That is a good question.

Ms Clarke: It is a simple offence. There is a general right of prosecution. I imagine that the department would support the panel in taking action. There are a range of possibilities for prosecuting such an offence, yes.

CHAIR: The panel could possibly have the power, depending on what that circumstance looks like, to deal with the contempt. There could be multiple mechanisms for dealing with contempt?

Ms Clarke: There is an offence—and I cannot give legal advice, I am afraid. At issue is who would bring the prosecution action. Because it is a simple offence, it would be possible for the panel to bring that. Whether they would have the resourcing to bring an offence would be another matter so I expect the department would support them in that.

Mr SULLIVAN: We have spoken a lot about the role of stewards as the original decision-maker, I think they are called. It is obviously an important role they play in the industry. Other than the review on a case-by-case basis of a steward's decision, what is the oversight of the role of stewards more broadly? Do they answer to Racing Queensland? Do they answer to the individual racing club at which they are adjudicating? What is the broader oversight in that regard?

Mr Bolton: Stewards are employees of the Queensland Racing Integrity Commission and they report through the commissioner. The commissioner has oversight of the stewards and their functions.

Mr LANGBROEK: I want to ask about the stewards' report. You mentioned the fact that sometimes there are allegations—that is one reason you decided on natural justice—and a steward's report could be up there for years. I am interested that you mentioned that we are looking at other jurisdictions. It was made clear by some of the presenters today that we are the only ones with the six-month span for it staying up there. I wondered about what comparison you had made with other jurisdictions to end up with that conclusion. The Racing Queensland submitters asked whether they were going to be implicated in this on their own site and whether they could keep them up longer?

Ms Clarke: I cannot speak to whether this is an issue interstate because of the fact that each state has its own privacy legislation. We have identified a potential inconsistency between the publication of these reports and the Information Privacy Act. We need to do something active to manage that to enable them to continue to be published. Mr Bolton mentioned that these reports can be quite wideranging in what they mention. They definitely would cross that threshold into discussing things that could affect someone's reputation.

The racing industry has argued—and we have heard today—that there is an important transparency function and that it is important to publish those. It is about finding the right balance between privacy, reputation and the importance of transparency and the use of those reports. Obviously we have suggested six months. We have heard others suggest today that that might not be long enough.

Mr LANGBROEK: Will the department then be providing advice to Racing Queensland given their question and given that if we are going to be affecting privacy laws so will Racing Queensland subsequently?

Mr Bolton: At the end of the day, subject to the committee's and the government's deliberation of the bill, six months might be appropriate. The committee might recommend a longer period. We will work with whatever gets passed in the bill. We would work with both the Queensland Racing Integrity Commission and Racing Queensland so that all control bodies comply with the requirements of the legislation.

CHAIR: Is that the case at the moment? We heard from Racing Queensland that the daily stewards reports are accessible on their website at the moment for a number of years back. Is that currently a potential issue in terms of privacy law?

Ms Clarke: There is a potential issue with publication of those stewards' reports by both the Racing Integrity Commission and Racing Queensland.

CHAIR: There being no further questions, thank you very much for appearing before us and for clarifying some of those points that we have received today from our submitters. I note there were no questions taken on notice. The time for the briefing has expired. Thank you very much for the information you have provided today. Thank you to our Hansard reporters and to the parliamentary broadcast staff and to our secretariat for their assistance today. A transcript of these proceedings will be available in due course from the committee's webpage. I declare this briefing on the Racing Integrity Amendment Bill 2022 closed.

The committee adjourned at 11.46 am.