

Our ref: CTS 03641/22

17 March 2022

Ms Kim Richards MP
Chair
Education, Employment and Training Committee
eetc@parliament.qld.gov.au

Dear Ms Richards

At the Education, Employment and Training Committee's Inquiry into the Racing Integrity Amendment Bill 2022 held on 7 March 2022, the Department of Agriculture and Fisheries (DAF) took several Questions on Notice.

Attached is the written response from DAF to the questions taken on notice.

Since the Hearing, DAF has also become aware of an error in the information provided in the written briefing and repeated at the hearing. Attached is a correction to that evidence.

If the Committee requires any further information, please contact Ms Marguerite Clarke, Director, Legislation and Regulation on [REDACTED] or by email at [REDACTED].

Yours sincerely



Robert Gee
Director-General
Department of Agriculture and Fisheries

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Education, Employment and Training Committee
Public Briefing – Inquiry into the Racing Integrity Amendment Bill 2022
Questions on Notice to the Department of Agriculture and Fisheries
Asked on 7 March 2022

QUESTION 1:

Is the department aware of any findings of the involvement of organised crime in the racing industry, and is that something that the Racing Integrity Commission would investigate?

ANSWER 1:

The main purposes of the *Racing Integrity Act 2016* (the Act) are: to maintain public confidence in the racing of animals in Queensland for which betting is lawful; to ensure the integrity of all persons involved with racing or betting; and to safeguard the welfare of all animals involved in racing. The potential involvement of organised crime in racing is highly relevant to the integrity of racing industry participants and public confidence in racing in Queensland.

The purposes of the Act are primarily achieved by establishing the Queensland Racing Integrity Commission (QRIC) and regulating bookmakers.

Although the functions of QRIC in Section 10 of the Act do not mention organised crime directly, many of its functions are highly relevant to minimising the involvement of organised crime in the industry, including: deciding if licence holders are or continue to be suitable to be licensed; investigating complaints about matters relevant to a code of racing or about a licence holder; conducting investigations into breaches of the Act or the *Racing Act 2002*; overseeing the integrity of race meetings; preventing non-compliance and lapses in integrity; promoting compliance and integrity; and assessing the compliance and integrity of participants and practices in the racing industry.

Investigating organised crime is a complex task. In addition to its everyday activities directed at compliance and integrity, QRIC has an agreement with the Queensland Police Service (QPS) to resource the Racing Crime Squad. This squad works closely with other QPS teams to share intelligence and conduct investigations into alleged illegal activity in the racing industry, including organised crime. QRIC has also entered into an Information Exchange Agreement with the QPS Commissioner to exchange relevant information including confidential information and criminal intelligence. The Agreement is designed to permit QRIC to access relevant information maintained by the QPS for the purpose of discharging its functions under the Act and to enable the QPS to obtain relevant information maintained by QRIC for the purpose of discharging its functions.

Investigation of organised crime is highly confidential due to the nature of this activity and the department is not a party to the details of information shared between the QPS and QRIC.

The involvement of organised crime in the Australian racing industry has been identified in the past, especially the potential for use of bookmakers to launder money from criminal activities. Until recently, large numbers of on course bookmakers typically held large volumes of cash which represented a significant opportunity for money laundering and other corrupt or criminal activities. However, contemporary betting on races is dominated by online wagering operators that are off-course, many of which operate outside the State. The number of on-course bookmakers is trending down and they typically hold much less cash, reducing the opportunity for money laundering and the scale of money laundering which could occur undetected.

QUESTION 2:

Is the incidence of elevated occurrence of TCO₂ increasing?

ANSWER 2:

Under the rules of racing, certain prohibited substances are exempt when below a stated threshold. The threshold for alkalinising agents is evidenced by total carbon dioxide (TCO₂) at a concentration of 36.0 millimoles per litre in plasma.

There has been no significant recent change in the average TCO₂ readings.

Table 1 – TCO₂ detections 2019 – 2022

Year	Average	95th Percentile	Above 36.00
2019-20	30.69	33.70	14
2020-21	31.06	33.90	17
2021-22 (Year to 10 March 2022)	30.93	33.80	3

In July 2020, QRIC began publishing information on horses that provided samples (including samples back to 1 January 2020) that were classified as outliers - a TCO₂ concentration above 35.1 millimoles per litre.

QRIC's Racing Science Centre has established a measurement uncertainty of 1 millimoles per litre and consequently only reports a reading of ≥ 37.1 millimoles per litre as a "prohibited substance" under the rules of racing.

In 2021-22 to date there has been a significant decline in the number of samples above 36.0 millimoles per litre. The last 'positive' sample for this prohibited substance (≥ 37.1 millimoles per litre) was more than 12 months ago.

QUESTION 3:

Why has a figure of 152 internal reviews been provided in the hearing for 2020-21 while 148 applications is stated in the written briefing?

ANSWER 3:

In the hearing on 7 March 2022, DAF advised there were 152 internal reviews in 2020-21 which is consistent with the number of reviews finalised in that year as reported in QRIC's annual report. In its written briefing, DAF advised that there were 148 applications for internal review in 2020-21. The variance between the number of applications for review and reviews finalised in a year reflects that some applications made in a year may be finalised in the following year.

QUESTION 4:

Could you give us some examples of minor breaches?

ANSWER 4:

The Bill provides that when reviewing certain matters, the Panel may be constituted in the way decided by the chairperson, including by the chairperson alone. The matters are a decision of a steward to impose a monetary penalty for an amount no greater than \$200 or take disciplinary action relating to a person's approval or licence that has effect for no longer than 8 days or take exclusion action against a person that has effect for no longer than 8 days.

These examples of such matters are drawn from those that came before the internal QRIC reviewer in 2020-21:

- 11 cases of 7-day suspensions under rule 131(a) of thoroughbred racing. Rule 131(a) relates to careless, reckless, improper, incompetent or foul riding. Without considering other mitigating factors that may have been relevant to determining a relatively low penalty, such as time in the industry, disciplinary history, plea of guilty at the first available opportunity and so on, these cases most likely refer to the careless component of the rule and this penalty would be consistent with similar breaches. If someone was charged with the reckless component under this rule, the penalty would be a minimum of 4 weeks suspension. Foul riding would attract a disqualification.
- A 7-day suspension under rule 131(d) of thoroughbred racing. This rule relates to slow riding to cause interference with another horse.
- Two 7-day suspensions under rule 132(5) of thoroughbred racing. This rule relates to excessive use of a whip.
- A reprimand under rule 132(7)(a)(ii) of thoroughbred racing. This rule limits the use of a whip to no more than 5 occasions in a race.
- A \$100 fine under rule 86(O) of greyhound racing. This is a general rule concerning anything that, in the opinion of the Steward, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct. Negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct as defined

in 88(0) would attract varying penalties dependent on the particular of the charge. Obviously, a minor misconduct matter would attract a lesser penalty than a charge which particularises corrupt or fraudulent behaviour.

- A \$100 fine under rule 48 of greyhound racing. Rule 48 relates to a catcher being available to catch a greyhound at the end of a race.
- A \$50 fine under rule 33 of greyhound racing. Rule 33 requires a Certificate of registration or greyhound identification card to be produced.

It should be noted that the wide variance in possible charges under the rules of racing, such as mentioned above for rule 131(a) of thoroughbred racing and rule 86(O) of greyhound racing, is why the Bill does not describe which matters are amenable to review by the Chairperson alone by reference to specific rules. Similarly, the Bill does not describe what matters are amendable to appeal to QCATA or not amendable to a stay pending that appeal by reference to specific rules.

QUESTION 5:

How many matters are heard by QCAT annually?

ANSWER 5:

The total number of QCAT matters in the last five years to 2020-21 (the period since the establishment of QRIC) has been relatively stable but the number of racing matters has increased significantly, although it still makes up only a very small proportion of QCAT caseload.

Table 2 – QCAT cases 2016 - 2021

Year	Number of applications for QCAT review of racing matters ¹	Total cases finalised by QCAT ²
2016-17	23	29,736
2017-18	46	31,326
2018-19	42	30,395
2019-20	63	30,610
2020-21	86	28,727
Unspecified	5	-
TOTAL	265	150,794

1. Data prepared by the department based on information about cases provided by QRIC.

2. Data from QCAT Annual Report 2020-2021.

QUESTION 6:

What is the relationship between QRIC and the Australian Sports Anti-Doping Authority (ASADA) in investigation of doping in jockeys?

ANSWER 6:

Sports Integrity Australia is an executive agency of the Federal Government that combines the former operations of the Australian Sports Anti-Doping Authority (ASADA), the National Integrity of Sport Unit of the Department of Health, and the integrity programs of Sport Australia. Sport Integrity Australia's role and functions are set out in the *Sport Integrity Australia Act 2020*, the *Sport Integrity Australia Regulations 2020* and the *National Anti-Doping (NAD) scheme*.

The World Anti-Doping Code, administered by the World Anti-Doping Authority (WADA) details the anti-doping rules that apply to all sports internationally, and the consequences that apply to those who are sanctioned. The *Australian National Anti-Doping Policy* merges the requirements of the Code and Australian legislation. The purpose of a single national policy is to ensure all sports in Australia comply with consistent anti-doping rules. The Policy applies to each *Sporting Administration Body* that has approved the policy as the anti-doping policy for their sport in accordance with the rules of their sport.

Sport Integrity Australia confirmed to the department that it does not have oversight of the Australian racing industry and that it is the responsibility of the various state-based agencies, in this case QRIC.

QRIC uses the services of Racing Analytical Services Ltd (RASL), in Victoria, for the confirmation testing of human samples.

Section 53A (Exchange of information) of the *Racing Integrity Act 2016* permits QRIC to enter into an information-sharing arrangement with a relevant agency to assist the QRIC or agency perform its functions. Section 3A of the *Racing Integrity Regulation 2016* states that each person stated in schedule 1AA is a relevant agency. The CEO under the *Australian Sports Anti-Doping Authority Act 2006 (Cwlth)* is prescribed as a relevant person. QRIC has confirmed to the department that it not been involved in development of any agreements with ASADA or Sport Integrity Australia.

QUESTION 7:

How will removing the requirement for fingerprints impact the current arrangements for licensing bookmakers and what will the proposed process look like and what else will safeguard the integrity of the industry?

ANSWER 7:

Fingerprint requirements for bookmakers were initially introduced in 2000 via amendments of the *Racing and Betting Act 1980* and then expanded in the *Racing Act 2002* which required that before applying to Racing Queensland for a racing bookmaker's licence, a person must first obtain an eligibility certificate from the gaming

executive (the Office Liquor and Gaming Regulation) who first conducted investigations to assist in deciding whether to grant the eligibility certificate, including obtaining fingerprints and the criminal history of the applicant, business associates, executive associates and, for a corporation, its executive officers. Under the *Racing Integrity Act 2016*, QRIC became responsible both for the investigation of suitability of an applicant and for granting a bookmaker's licence.

Since QRIC was established, there have been only six applications for a bookmaker's licence. QRIC requires applicants to provide photographic identification, a National Police Certificate (criminal history check) issued within 90 days of the application, and consent, as required under section 79 of the Act, to having their fingerprints taken, and QRIC obtaining information and investigating the background of the individual or associates of the corporation.

In assessing an application, QRIC also routinely undertakes bankruptcy checks, checks previous history with interstate and overseas racing authorities and for forfeits to Racing Queensland or debts owed to the Commission, and checks local and national racing system databases for any disciplinary history in racing or any other information relevant to the matters to which the commission may have regard under the Act.

Section 84 of the Act currently requires QRIC to cause fingerprints to be taken so QRIC requires applicants to register their fingerprints with the QPS. QRIC does not directly participate in or benefit from the taking of fingerprints, as it does not have the systems or infrastructure to collect, compare, store or destroy them.

Since fingerprint requirements for applicants for a bookmaker's licence were introduced in 2000, criminal history checks have become more rigorous, supported by far more sophisticated information systems nationwide. Collecting fingerprints from applicants for a bookmaker's licence could ensure an alias is not used to hide criminal history. However, more rigorous identity verification processes now undertaken for a national criminal history check have reduced this potential risk.

Relevantly, many of the large-scale online operators who now dominate wagering on racing are based outside the state and sometimes the country and are not fingerprinted.

The scale of risk of criminal association with bookmaking has also reduced. When fingerprint requirements were initially introduced, there was no online betting on the races; and on course bookmakers, with large cash holdings, represented a significant opportunity for money laundering. The far smaller scale of on course bookmaking today provides a reduced opportunity for criminals to launder money through bookmakers.

Requiring fingerprints to be taken has been identified as limiting human rights protected under the *Human Rights Act 2019*. The *Human Rights Act 2019* provides that limits on any human right must be reasonable and demonstrably justified.

QUESTION 8:

Which comparable offences were considered when the maximum penalty for the new offence 'Contempt of panel at hearing' was proposed in clause 24, and the penalty of up to \$14,000 for the offence associated with requiring a witness to attend a hearing to give evidence under section 252AK was proposed?

ANSWER 8:

New section 252AL (Offences for witness) provides that it is an offence, without a reasonable excuse, not to comply with a notice, to appear before the Panel or produce a document or things for a Panel hearing, given under section 252AK(1). New section 252AL also provides that it is an offence for a person appearing as a witness at a Panel hearing fail to take an oath or affirmation when required by the panel, or fail, without a reasonable excuse, to answer a question the person is required to answer by the Panel. A maximum penalty of 100 penalty units applies. The Queensland penalty unit is currently set at \$137.85 (as of 1 July 2021), therefore a maximum penalty of \$13,785 is currently applicable.

Section 214 (Offences by witnesses) of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act) provides two offences that correspond closely to those in the Bill. The maximum penalty is 100 penalty units for each offence. In addition, if a person fails to attend a hearing, section 215 (Warrant may be issued if witness does not attend) of the QCAT Act also allows a warrant to be issued directing police to bring the person to give evidence.

Section 922 (Contempt by witness) of the *Industrial Relations Act 2016* provides an offence that includes disobeying an attendance notice requiring attendance as a witness, refusing to be sworn or make and affirmation as a witness, refusing to answer a question or produce record required by the Queensland Industrial Relations Commission, an Industrial Magistrates Court or the registrar. The maximum penalty is 40 penalty units for the offence.

Section 216 (Offences by witnesses) of the *Coal Mining Safety and Health Act 1999* provides two offences relevant to a Board of Inquiry that correspond closely to those in the Bill. The maximum penalty is 30 penalty units for each offence.

Although the matters considered by the Queensland Industrial Relations Commission or a Board of Inquiry may have significant consequences, the failure of witnesses to appear in hearings before these bodies would not directly impact an individual's right to a fair hearing which is protected under the *Human Rights Act 2019*. Consequently, a higher penalty was considered appropriate for offences involving witnesses at Panel hearings.

Proposed section 252AN (Contempt of panel) of the *Racing Integrity Act 2016* provides that it will be an offence for a person to insult a member of the Racing Appeals Panel who is participating in a hearing of a review application or entering or leaving a place where the Panel is holding a hearing. It also creates an offence for unreasonably or deliberately interrupting a hearing or creating or continuing, or joining in creating or

continuing, a disturbance in or near a place where the Panel is holding a hearing. A maximum penalty of 30 penalty units, currently valued at \$4,135.50, will apply.

Section 218 of the QCAT Act prescribes in detail the circumstances in which a person may be in contempt of QCAT, of which many are similar to those contained in new section 252AN, such as insulting an official, interrupting proceedings or creating a disturbance in tribunal proceedings. Section 219 of the QCAT Act provides that QCAT has all the protection, powers, jurisdiction and authority the Supreme Court of Queensland has in relation to contempt and that it must comply with the *Uniform Civil Procedure Rules 1999* relating to contempt. These provisions permit a judicial member of QCAT to hear and determine contempt proceedings. They may even issue a warrant for the arrest of a person that is guilty of contempt. If a person is found to be in contempt, QCAT has the same powers as the Supreme Court of Queensland to make orders, against that person, which may include issuing fines, excluding the person from the hearing and imprisonment.

Section 921 (Improper conduct towards member, magistrate or registrar) of the *Industrial Relations Act 2016* provides an offence which includes interrupting proceedings, creating or taking part in a disturbance and insulting an official of the Queensland Industrial Relations Commission, an Industrial Magistrates Court or the registrar. The maximum penalty for the offence is 100 penalty units or 1 year's imprisonment. Also, a party to proceedings may be compelled to give evidence in the proceedings as a witness to the same extent as a witness in civil proceedings in the Supreme Court. It should be noted that the President of the Queensland Industrial Relations Commission is a member of the Supreme Court.

It was not considered that the magnitude of the options for dealing with contempt available to a judicial member of QCAT, and the penalty for improper conduct towards the Industrial Commission presided over by a judicial member, was appropriate to be applied to the Racing Appeals Panel. Instead, the maximum penalty for contempt in proposed section 252AN of the *Racing Integrity Act 2016* is consistent with the comparable offence imposed under section 217 of the *Coal Mining Safety and Health Act 1999* for contempt of a Board of Inquiry. Boards of Inquiry under this Act are set up to inquire into the circumstances and probable causes of an accident or high potential incident. There are no legislated qualifications for persons the Minister may appoint to a Board of Inquiry.

QUESTION 9:

How many cases will the new arrangements divert from QCAT's workload?

ANSWER 9:

It is not possible to accurately estimate how many applications would be made to QCAT's appeals jurisdiction under the new arrangements. However, the total number of stewards' decisions including what the Bill defines as 'disqualification action' – including a penalty of three months or more - was only 24 in 2020-21. There were 12 applications for internal review with respect to these decisions and 8 were finalised.

Four applications for review were lodged with QCAT with respect to these decisions. Further, appeal of Panel decisions to QCATA under the new model will be limited to questions of law relating to the extent of disqualification action.

Table 3 – QCAT cases 2016 - 2021

Year	Total original stewards' decision issued by QRIC ¹	Number of applications for QCAT review of racing matters ²	Number of applications for QCAT review of racing matters involving a penalty of 3 months or more ³
2016-17	1,646	23	15
2017-18	1,603	46	15
2018-19	1,525	42	11
2019-20	1,725	63	21
2020-21	1,947	86	9
Unspecified	-	5	-
TOTAL	150,794	265	71

1. Data provided by QRIC.

2. Data prepared by the department based on information about cases provided by QRIC.

3. Data provided by QRIC.

This compares with a total of 86 applications for review lodged with QCAT. In other words, assuming the same number of applications and decisions by the Panel as by QRIC's internal review in 2020-21, at least 82 of the 86 decisions the Panel that resulted in applications to CQCATA would not have been amenable to appeal to QCATA if the new model had been in place.

Table 4 – Range of penalties under review

PENALTY UNDER REVIEW	Requests for QRIC Internal Reviews		Requests for QRIC Internal Reviews	
	No.	%	No.	%
Fine \$200 or less	22	3	1	...
Fine over \$200	95	15	25	9
Suspension/disqualification 8 days or less	76	12	17	6
Suspension/disqualification over 8 days but less than 3 months	301	48	122	46
Suspension/ disqualification of 3 months or more	118	18	71	27
Other/not stated	27	4	28	11

Data prepared by the department based on information about cases provided by QRIC.

Table 4 shows the penalties reviewed over the entire five-year period to 2020-21. Over this longer timeframe, the data suggests that, under the proposed model in the Bill:

- approximately 15% of initial reviews will be able to be conducted by the Chairperson of the Racing Appeals Panel alone or with up to two other members
- approximately three quarters (73%) of requests for review by QCAT will no longer be eligible for review at that level because the penalty concerned is below the proposed threshold of a disqualification action of three months or more.

QUESTION 10:

Has there been increased activity from Racing Queensland or those involved in taking some of the jockeys and trainers to task that has resulted in an increased number of cases coming before QCAT?

ANSWER 10:

Table 4 shows the number of stewards' decisions and the number of applications for internal reviews and the number of applications for QCAT review since QRIC was established. Little trend is apparent in the number of stewards' decisions and the number of applications for internal reviews. Over the period the number of applications for review by QCAT has been rising both in total (more than 100 per cent increase compared to 2016-17) and as a proportion of the number of decisions confirmed at internal review.

Table 5 – Applications to QCAT versus race meetings and stewards' decisions

Year	Number of QRIC-attended Race Meetings ¹	Stewards' decisions ²		Number of applications for internal review ²		Number of applications for QCAT review of racing matters ¹	
		No.	Av / race meeting	No.	% ⁴	No.	% ³
2016-17	1,521	1,646	1.08	122	7	23	1.4
2017-18	1,519	1,603	1.06	123	8	46	2.9
2018-19	1,571	1,525	0.97	105	7	42	2.8
2019-20	1,508	1,725	1.14	139	8	63	3.7
2020-21	1,611	1,947	1.21	148	8	86	4.4
Unspecified	-	-	-	-	-	5	-
TOTAL	7,730	8,446	1.09	637	8	265	3.1

1. Data sourced from QRIC annual reports. Note that QRIC does not attend all race meetings held under the auspices of Racing Queensland, so the two organisations report slightly different numbers of race meetings.

2. Data prepared by the department based on information about cases provided by QRIC.

3. Percentage of stewards' decisions.

4. Percentage of stewards' decisions.

QUESTION 11:

Can the committee please get a copy of some of the data mentioned in the hearing?

ANSWER 11:

In addition to the data provided above, Table 6 shows internal and external review applications by code of racing over the five years to 2020-21, since QRIC was established.

On average 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.

Table 6 – Review over 5 years to 2020-21 by code of racing

CODE	Requests for QRIC Internal Reviews		Requests for QCAT Reviews	
	No.	%	No.	%
Greyhounds	68	11	22	8
Harness	115	18	41	16
Thoroughbreds	456	71	201	76
TOTAL	639	-	264	-

Data prepared by the department based on information about cases provided by QRIC.

Table 7 shows the nature of breaches reviewed (respectively) over the five years to 2020-21, since QRIC was established. Riding offences by jockeys are the decisions for which an application for review is most commonly made.

Table 7 – Review over 5 years to 2020-21 broadly categorised by the nature of the (alleged) breach of the rules of racing

Nature of the (alleged) breach of the rules of racing	Applications for QRIC Internal Reviews		Application for QCAT Reviews	
	No.	%	No.	%
Substances	213	33	77	29
Riding/driving	260	41	129	49
Other/not stated	166	26	58	22

Data prepared by the department based on information about cases provided by QRIC.

Table 8 shows that one third of applications for QCAT review were withdrawn by the applicants over the five-year period to 2020-21 since QRIC was established, and the proportion appears to be increasing, exceeding 40% in the last two years. Of those applications that remained to be decided, QCAT overturned only about 15 per cent of the decisions of the QRIC Adjudicator and adjusted the penalty in a further 56 per cent of cases.

Table 8 – Review by QCAT over 5 years to 2020-21

Year Lodged	Number of Applications	Withdrawn by Applicant		Withdrawn by QRIC	Yet to be finalised at July 2021 ¹	Decided by QCAT
		No.	%			
2016-17	23	2	9	2	0	19
2017-18	46	10	17	4	8	24
2018-19	42	17	36	1	7	17
2019-20	63	24	40	0	6	33
2020-21	86	36	42	0	42	8
Not specified	5			1	1	3
TOTAL	265	89	34	8	64	104

Data prepared by the department based on information about 265 applications for review by QCAT since 2016.

1. Note that 16 of the unfinalised cases from 2017-18, 2018-19 and 2019-20 were in abeyance pending the outcome of a decision by the Court of Appeal at July 2021.

Education, Employment and Training Committee

Inquiry into the Racing Integrity Amendment Bill 2022

**Correction to evidence previously provided by the Department of Agriculture
and Fisheries**

11 March 2022

On page 2 of the written briefing provided to the committee on 2 March 2022, the department advised that, “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.”.

This was repeated in evidence given before the committee by departmental officers at the public briefing on 7 March 2022.

In 2020-21, there were 148 applications for internal review and 152 internal review decisions (with some decisions being made on applications from the previous year).

However, the information provided about the number of internal review decisions for penalties of \$200 or less or a suspension of 8 days or less was inaccurate. There were 98 decisions in the five years ending in 2020-21. Only 35 of these decisions were in 2020-21.