

# **Racing Amendment Bill 2006**

## **Explanatory Notes**

### **Short Title**

*Racing Amendment Act 2006*

### **General Outline**

### **Objectives of the Bill**

The objectives of the Bill are to amend the *Racing Act 2002* (the Act) to:

- (a) facilitate the transfer of the employees, the assets and liabilities and ongoing responsibilities of the Queensland Thoroughbred Racing Board to the new control body for thoroughbred racing, from 1 July 2006; and
- (b) extend the operation of the Queensland Harness Racing Board and the Greyhound Racing Authority as statutory authorities until 30 June 2008; and
- (c) make other minor amendments to clarify the provisions of the Act.

### **Reasons for the objectives and how they will be achieved**

The Queensland Thoroughbred Racing Board (Thoroughbred Racing Board), the Queensland Harness Racing Board and the Greyhound Racing Authority are statutory bodies established under the *Racing Act 2002* (the Act) and are 'continuing control bodies' for their respective codes of racing until 30 June 2006. The activities of control bodies in managing their code of racing include the allocation of race dates, licensing of animals, clubs, participants and venues for racing, distributing money to licensed clubs for prize money, and allocating funds for venue development and other infrastructure relevant to the code of racing.

Chapter 2 of the Act provides that from 1 July 2006 onwards a corporation approved by the Minister is to act as the control body for each of the codes of racing in Queensland. In December 2005, the Minister for Public

Works, Housing and Racing granted approval for Queensland Racing Limited, a company limited by guarantee, to be the control body for the thoroughbred code of racing in Queensland, with effect from 1 July 2006.

Under the corporate model to be adopted by Queensland Racing Limited under the conditions of its approval as a control body, the income and property of the company must be applied solely towards the promotion of the objects of the company under the constitution and cannot be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit to the members.

As a consequence of the provisions in the Act under which the Thoroughbred Racing Board goes out of existence on 30 June 2006, and its control body functions must be undertaken by a company approved under Chapter 2 of the Act, it is proposed to amend the Act to enable the transfer of the employees and the assets and liabilities and other responsibilities of the Thoroughbred Racing Board to Queensland Racing Limited as the new thoroughbred control body.

While the thoroughbred code of racing has sufficient capability and resources to successfully transition from a statutory body to a corporate structure the Queensland Harness Racing Board and the Greyhound Racing Authority are much smaller bodies with less resources and fewer assets. In order to enable further consideration as to the structure and operations of these control bodies within a corporate environment it is proposed to extend the operation of these control bodies as statutory authorities until 30 June 2008.

### **Administrative cost to Government of implementation**

The Bill will not impose any administrative cost on Government.

### **Consistency with Fundamental Legislative Principles**

The proposed amendments are consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*. While it is proposed to transfer employees from the Thoroughbred Racing Board to the approved control body, Queensland Racing Limited, it is proposed to do so on terms that are at least equivalent to the terms currently applicable to employees. While the Bill provides that there is no compensation payable to a member of the Thoroughbred Racing Board because of its dissolution this merely confirms the contractual position that Board members are not entitled to any further remuneration once the Board is

dissolved. It is noted that the members of the former Board will be remunerated as the inaugural directors of Queensland Racing Limited.

### **Consultation**

Consultation has taken place with the following relevant industry stakeholders:

- Queensland Thoroughbred Racing Board;
- Greyhound Racing Authority; and
- Queensland Harness Racing Board.

## **Notes on Provisions**

### **Short title**

Clause 1 sets out the short title as the Racing Amendment Act 2006.

### **Commencement**

Clause 2 provides that the Racing Amendment Act 2006 (the Amendment Act), other than sections 3 and 9 which commence on assent, commences on 1 July 2006.

### **Act amended**

Clause 3 provides that the Bill amends the Racing Act 2002 (the Act).

### **Amendment of s 68 (Composition of committee)**

Clause 4 includes within the list of persons ineligible to be a member of the Queensland Country Racing Committee, a person who was, within 2 years of their nomination as a member of the Committee, employed by a former thoroughbred control body.

**Amendment of s 68M (Thoroughbred Racing Board must pay share of net UNiTAB product fee as prize money)**

Clause 5 updates references to the Thoroughbred Racing Board to be references to the thoroughbred control body.

**Amendment of s 359 (Codes of racing for which continuing control bodies responsible)**

Clause 6 provides that section 359 of the Act is amended by inserting subsection (5) which provides that on 1 July 2006 the Thoroughbred Racing Board stops being a continuing control body for thoroughbred racing.

**Amendment of s 364 (Powers of continuing control body)**

Clause 7 inserts a note to section 364(3)(a) of the Act, that the Thoroughbred Racing Board stopped being a continuing control body on 1 July 2006.

**Amendment of s 366 (Membership of continuing control body and chairpersons)**

Clause 8 inserts subsection (3A) in section 366 of the Act, which provides that subsection (3) of that section stops applying on 1 July 2006. Subsections 366(3A) and (4) are renumbered.

**Amendment of s 370 (Expiry of sch 1 (Relocated provisions))**

Clause 9 provides that the expiry of the relocated provisions in Schedule 1 occurs 5 years after commencement of the Act.

**Amendment of s 377 (Rules of continuing control bodies are rules of racing under this Act)**

Clause 10 inserts a note to section 377(1) of the Act, that the Thoroughbred Racing Board stopped being a continuing control body on 1 July 2006.

**Amendment of s 379 (Registered clubs taken to be licensed)**

Clause 11 inserts a note to section 379(3) of the Act, that the Thoroughbred Racing Board stopped being a continuing control body on 1 July 2006.

**Insertion of new ch 10, pt 4**

Clause 12 inserts a new part 4 in chapter 10 of the Act, which contains transitional provisions relating to the transfer of assets, liabilities, employees and responsibilities from the Thoroughbred Racing Board to the new thoroughbred control body.

**Part 4                      Transitional provisions for  
Racing Amendment Act 2006**

New section 397 inserts definitions for part 4 of chapter 10 of the Act.

New section 398 provides that on commencement of the Amendment Act the Thoroughbred Racing Board (former board) is dissolved and members of the former board go out of office. There is no compensation payable to a member as a result of the former board being dissolved.

New section 399 provides that the new thoroughbred control body, Queensland Racing Limited ACN 116735374, is the legal successor of the former board.

New section 400 provides that on commencement of the Amendment Act:

- All assets and liabilities of the former board immediately before its commencement become assets and liabilities of the new thoroughbred control body;
- Any agreement or arrangement in force between the former board and another entity immediately before its commencement becomes an agreement or arrangement between the new thoroughbred control body and the entity;
- Any property held by the former board on trust or subject to conditions, immediately before its commencement continues to be held by the new thoroughbred control body subject to the same trusts or conditions.

The registrar of titles or other person keeping a register of dealings in property must, on request by the new thoroughbred control body, record the vesting of property under section 400.

New section 401 provides that on commencement of the Amendment Act, employees of the former board immediately before its commencement, become employees of the new thoroughbred control body, and must be employed on terms and conditions of employment at least equivalent to

those applying immediately before its commencement. These employees have all rights of employment, accrued or existing, immediately before its commencement.

New section 402 provides that on commencement of the Amendment Act:

- Any proceeding that could have been started by or against the former board before its commencement may be started by or against the new thoroughbred control body;
- Any existing proceeding by or against the former board (or a member of the former board in their capacity as a member of the former board) may be continued and finished by or against the new thoroughbred control body.

New section 403 provides that anything done by the former board under the Act (including current policies, rules of racing, licences or a racing calendar made or issued by the former board):

- continues to have effect; and
- from commencement of the Amendment Act, is taken to have been done by the new thoroughbred control body.

New section 404 provides that a right or obligation of the former board immediately before commencement of the Amendment Act becomes a right or obligation of the new thoroughbred control body.

New section 405 provides that from commencement of the Amendment Act, an approved program for 2006, assessing the suitability of the former board to manage the thoroughbred code of racing, applies to the new thoroughbred control body to the extent it is stated to apply to the former board.

New section 406 provides that, for section 68C(g)(i) of the Act, a person does not vacate office as a member of the Queensland Country Racing Committee if, immediately before commencement of the Amendment Act, they were a member of the Committee and a member of the former board and, on its commencement, they are a member or director of the new thoroughbred control body.

New section 407 provides that, for section 68M of the Act, amounts of the former board's net UNiTAB product fee paid by the former board are taken to have been paid by the new thoroughbred control body.

New subsection 408(1) provides that, for an appeal committee established by the former board and in existence on commencement of the Amendment Act:

- The appeal committee continues as if it had been established by the new thoroughbred control body;
- The appeal committee may continue to deal with an appeal under consideration immediately before its commencement as if the appeal had been started under the new thoroughbred control body's rules of racing.

New subsections 408(2) and (3) provides that where an appeal against a reviewable decision made before commencement of the Amendment Act is started after its commencement, the appeal may be dealt with by an appeal committee continued under subsection 408(1), or if no such committee is in existence, by an appeal committee established by the new thoroughbred control body.

For subsections (1)(b) and (3), the steward's decision appealed against is taken to be a decision made by the steward for the new thoroughbred control body.

New section 409 provides that if, before commencement of the Amendment Act, the former board gave a licensed club a show cause notice under chapter 3, part 4 (Control bodies may take certain action against licensed clubs) but has not decided whether to take action under the part in relation to the club, from its commencement chapter 3, part 4 applies in relation to the show cause notice as if the notice had been given by the new control body.

New section 410 provides that nothing done under chapter 10, part 4 (Transitional provisions for Racing Amendment Act 2006) of the Act in relation to the former board:

- Places the new thoroughbred control body in breach of a contract, trust or confidence or makes it guilty of a civil wrong;
- Makes the new thoroughbred control body in breach of any instrument;
- Is taken to fulfil a condition or otherwise constitute an event:
  - allowing a person to terminate an instrument or be released in any way from an obligation or modify the operation or effect of an instrument or obligation; or

- requiring money to be paid, or anything else to be done, before its stated maturity; or
- Releases a surety or other obligee, in any way, from an obligation.

New section 411 provides that, in an Act or document, a reference to the former board may, if the context permits, be taken as a reference to the new thoroughbred control body.

### **Amendment of sch 1 (Relocated provisions)**

Clause 13 provides for the omission from Schedule 1 (Relocated Provisions) of the Act, of provisions relating to the former board.

### **Amendment of sch 3 (Dictionary)**

Clause 14 provides for the amendment of Schedule 3 (Dictionary) of the Act, consequential to the dissolution of the former board and the commencement of the new thoroughbred control body.

### **Schedule                      Minor amendments**

Clauses 1-5 and 8-15 of the schedule make minor grammatical and numbering amendments to make the Act consistent with current legislative drafting conventions.

Clauses 6 and 7 amend section 165 of the Act to provide that the chairperson of the Racing Appeals Tribunal may select the presiding case manager of the Commercial and Consumer Tribunal to deal with an application or matter prescribed by a regulation under the *Racing Act 2002*.