

# Racing Amendment Bill 2008

## Explanatory Notes

### Short Title

*Racing Amendment Act 2008*

### 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 Harness Racing Board and the Greyhound Racing Authority to the new control bodies for harness and greyhound racing respectively, from 1 July 2008;
- (b) ensure transparency in ownership of licensed animals by executive officers of a control body; 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 Harness Racing Board (Harness Racing Board) and the Greyhound Racing Authority (Greyhound 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 2008. The responsibilities 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.

The enactment of this Bill is the final step in a reform process that began with the privatisation of the Queensland TAB in 1999. A key goal of the reform process has been to remove Government from the day to day

operations of the racing industry. The role of Government is to focus on issues of strategic probity and integrity within the regulated codes of racing by ensuring that control bodies properly discharge the regulatory functions provided to them under the Act and relevant rules of racing.

Chapter 2 of the Act provides that from 1 July 2008, a corporation approved by the Minister is to act as the control body for each code of racing in Queensland. The Treasurer, as the Minister responsible for racing, granted approval for Queensland Harness Racing Limited (QHRL), a company limited by guarantee, to be the control body for the harness code of racing in Queensland, with effect from 1 July 2008, and for Greyhounds Queensland Limited (GQL), a company limited by guarantee, to be the control body for the greyhound code of racing in Queensland, with effect from 1 July 2008.

Under the constitutions to be adopted by QHRL and GQL under the conditions of their approval as control bodies, the income and property of the relevant company must be applied solely towards the promotion of the objects of the company under its 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 Harness Racing Board and the Greyhound Authority cease to exist on 30 June 2008, and their 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, the assets and liabilities, and other responsibilities of the Harness Racing Board and the Greyhound Authority to QHRL and GQL respectively as the new control bodies for the harness and greyhound codes of racing.

To provide transparency in the ownership of licensed animals by executive officers of a control body, it is proposed that executive officers of a control body who own or partly own a licensed animal, whether or not they derive a financial benefit from such ownership interest, must disclose that interest to a meeting of the directors of the control body. If a person requests a copy of this information, and the person who disclosed the information is still an executive officer of the control body, the control body must make the information available.

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

The Bill has no administrative cost implications for Government.

## **Consistency with Fundamental Legislative Principles**

The proposed amendments are consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*. It is proposed to transfer employees from the Harness Racing Board and the Greyhound Authority to the approved control bodies, QHRL and GQL, on terms that are no less favourable than terms currently applicable to the employees.

## **Consultation**

Consultation has taken place with the following relevant industry stakeholders:

- Queensland Racing Limited;
- The Greyhound Authority; and
- The Harness Racing Board.

## **Notes on Provisions**

### **Short title**

Clause 1 states that the short title is the *Racing Amendment Act 2008*.

### **Commencement**

Clause 2 provides that the *Racing Amendment Act 2008* (the Amendment Act) commences on 1 July 2008.

### **Act amended**

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

### **Amendment of s 28 (Approval has effect for 6 years unless it is cancelled or suspended)**

Clause 4 omits section 28(3) which is now obsolete as it refers to a continuing control body. The only continuing control bodies are the

Harness Racing Board and the Greyhound Authority, and they will cease to exist on the commencement of the Amendment Act.

**Amendment of s 42 (Notice about change of executive officers)**

Clause 5 omits section 42(5) which is now obsolete as it refers to a continuing control body.

**Amendment of s 43 (Notice of event resulting in a control body not being an eligible corporation)**

Clause 6 omits section 43(4) which is now obsolete as it refers to a continuing control body.

**Amendment of s 44 (Notice of event resulting in executive officer no longer being an eligible individual)**

Clause 7 omits section 44(3) which is now obsolete as it refers to a continuing control body.

**Amendment of s 48 (Investigations into suitability of associate of control body)**

Clause 8 omits the reference to a continuing control body in section 48(2)(c).

**Amendment of s 52 (Grounds for disciplinary action relating to the approval of a control body for its code of racing)**

Clause 9 omits section 52(4) which is obsolete as it refers to a continuing control body.

**Amendment of s 55 (Immediate suspension of an approval)**

Clause 10(1) omits section 55(1) which is obsolete as it refers to a continuing control body.

Clause 10(2) makes a consequential amendment to section 55(2).

Clause 10(3) renumbers section 55(2) and 55(3) as 55(1) and 55(2).

### **Amendment of s 60 (Audit by auditor-general)**

Clause 11 omits section 60(5) and (6) which are obsolete as they refer to continuing control bodies.

### **Insertion of new s 60A**

Clause 12 inserts a new section 60A which provides that an executive officer of a control body who is an owner of a licensed animal, whether or not the executive officer derives a financial benefit from the ownership interest, must disclose specified information to a meeting of the directors of the control body.

An executive officer who is found guilty of failing to disclose an ownership interest is liable to a maximum penalty of 40 penalty units.

The control body must make the disclosed information available to any person on request. If the person who disclosed the information is no longer an executive officer of the control body, the control body is not required to make the information available. The control body may charge a fee that is no more than the reasonable cost of providing the information.

### **Amendment of s 62 (Composition of each country racing association)**

Clause 13 omits section 62(5)(e) and replaces it with a new section 62(5)(e) that provides that an executive of or employee of a control body other than the thoroughbred control body is ineligible to be a member of a country racing association.

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

Clause 14 omits section 68(5)(e) and replaces it with a new section 68(5)(e) that provides that an executive of or employee of a control body other than the thoroughbred control body is ineligible to be a member of the Queensland Country Racing Committee.

### **Amendment of s 249 (When a racing bookmaker may make a bet with a person who is not present at a licensed venue)**

Clause 15 omits section 249(1)(c) and replaces it with a new section 249(1)(c) that provides practical examples of the details of the bet to be

confirmed with the bettor before the betting transaction ends, including the name of the bettor, the amount, and type of bet.

### **Amendment of s 310 (Definitions for div 1)**

Clause 16 amends the definition of ‘control body officer’ to reflect that there are no longer continuing control bodies.

### **Amendment of s 354 (Delegations)**

Clause 17 amends section 354 by omitting all references to schedule 1 as schedule 1 is omitted by clause 25.

### **Amendment of 358 (Effect of relocation)**

Clause 18 inserts a note to section 358 that explains that ‘relocated provisions’ were, before the commencement of the *Racing Amendment Act 2008*, defined under schedule 3 to mean a provision in schedule 1 that was relocated to the schedule.

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

Clause 19 inserts new section 359(6) which states that on 1 July 2008, the Harness Racing Board and the Greyhound Authority stopped being continuing control bodies and inserts a reference note.

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

Clause 20(1) inserts a note to section 364(3)(b) that the Harness Racing Board stopped being a continuing control body on 1 July 2008.

Clause 20(2) inserts a note to section 364(3)(c) that the Greyhound Authority stopped being a continuing control body on 1 July 2008.

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

Clause 21 omits section 370 that 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 22(1) inserts a note to section 377(2), that the Harness Racing Board stopped being a continuing control body on 1 July 2008.

Clause 22(2) inserts a note to section 377(3), that the Greyhound Authority stopped being a continuing control body on 1 July 2008.

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

Clause 23 omits the note in section 379(3) and inserts a new note, that the Thoroughbred Racing Board stopped being a continuing control body on 1 July 2006 and the Harness Racing Board and the Greyhound Authority stopped being continuing control bodies on 1 July 2008.

### **Insertion of new ch 10, pt 5**

Clause 24 inserts a new part 5 in chapter 10, which contains transitional provisions relating to the transfer of assets, liabilities, employees, and responsibilities from the Harness Racing Board to the new harness control body and from the Greyhound Authority to the new greyhound control body.

## **Part 5                      Transitional provisions for Racing Amendment Act 2008**

New section 412 inserts definitions for part 5 of chapter 10 of the Act.

New section 413 provides that on commencement of the Amendment Act, each former board (the Harness Racing Board and the Greyhound Authority) is dissolved.

New section 414(1) provides that the new greyhound control body, Greyhounds Queensland Limited ACN 128 067 247, is the legal successor of the former board.

New section 414(2) provides that the new harness control body, Queensland Harness Racing Limited ACN 128 036 000, is the legal successor of the former board.

New section 415 provides that on commencement of the Amendment Act:

- All assets and liabilities of the former boards immediately before the commencement become assets and liabilities of the new corresponding control body;
- Any agreement or arrangement in force between a former board and another entity immediately before the commencement becomes an agreement or arrangement between the new corresponding control body and the entity;
- Any property held by a former board on trust or subject to conditions, immediately before the commencement continues to be held by the new corresponding 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 harness control body or greyhound control body, record the vesting of property under section 415.

New section 416 provides that on commencement of the Amendment Act, employees of a former board immediately before the commencement, become employees of the corresponding new control body, and must be employed on terms and conditions of employment at least equivalent to those applying immediately before the commencement. These employees have all rights of employment, accrued or existing, immediately before the commencement.

New section 417 provides that on commencement of the Amendment Act:

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

New section 418 provides that anything done by a former board under the Act (including current policies, rules of racing, licences or a racing calendar made or issued by a former board):

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

New section 419 provides that a right or obligation of a former board immediately before commencement of the Amendment Act becomes a right or obligation of the corresponding new control body.

New section 420 provides that from the commencement of the Amendment Act, a program approved by the Minister under section 46(3) for 2008, to assess the suitability of a former board to manage its code of racing, applies to the corresponding new control body to the extent it is stated to apply to the former board.

New section 421(1) provides that, for an appeal committee established by a former board and in existence on commencement of the Amendment Act:

- The appeal committee continues as if it had been established by the corresponding new 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 corresponding new control body's rules of racing.

New section 421(2) and (3) provide that where an appeal against a reviewable decision made before the commencement of the Amendment Act is started after the commencement, the appeal may be dealt with by an appeal committee continued under subsection 421(1), or if no such committee is in existence, by an appeal committee established by the corresponding new 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 corresponding new control body.

New section 422 provides that, if before commencement of the Amendment Act, a 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 the commencement, chapter 3, part 4 applies in relation to the show cause notice as if the notice had been given by the corresponding new control body.

New section 423 provides that a person who was a member or employee of a former board is taken to be a control body officer under section 310.

New section 424 provides that section 132 of repealed schedule 1, which requires each former board to furnish an annual report to the Minister, and

to each club licensed by a former board, continues to apply for the year ending 30 June 2008.

New section 425 provides that nothing done under chapter 10, part 5 (Transitional provisions for *Racing Amendment Act 2008*) of the Act in relation to a former board:

- Places the corresponding new control body in breach of a contract, trust or confidence or makes it guilty of a civil wrong; or
- Makes the corresponding new control body in breach of any instrument; or
- 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 426 provides that in an Act or document, a reference to a former board may, if the context permits, be taken as a reference to the corresponding new control body.

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

Clause 25 omits schedule 1 which contained relocated provisions relating to the former boards.

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

Clause 26 provides for the amendment of schedule 3 (Dictionary) of the Act, consequential to the dissolution of the former boards and the commencement of the new harness and greyhound control bodies.