



Australian Capital Territory

Racing Act 1999 No 1

Republication No 1

Republication date: 12 September 2001

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Racing Act 1999* as in force on 12 September 2001. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

When preparing the authorised version of this republication amendments were made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

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Australian Capital Territory

Racing Act 1999

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Amendments incorporated to
12 September 2001



Australian Capital Territory

Racing Act 1999

An Act to regulate thoroughbred racing, harness racing and greyhound racing conducted for the purpose of betting, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Racing Act 1999*.

3 Interpretation

In this Act:

approved rules means—

- (a) in relation to the racing club—the rules of thoroughbred racing; and
- (b) in relation to the harness club—the rules of harness racing; and
- (c) in relation to the greyhound club—the rules of greyhound racing; and
- (d) in relation to an ARO—the rules approved under section 34 (4) in relation to the ARO, or as later varied under section 35 (2).

ARO means an approved racing organisation approved under section 33.

authorised race meeting means a race meeting—

- (a) conducted by a controlling body or an ARO in accordance with this Act; or
- (b) approved by the commission under section 6; and listed in a schedule published in accordance with section 7.

chief executive means the chief executive of the commission.

commission means the Gambling and Racing Commission established by the *Gambling and Racing Control Act 1999*.

controlling body means—

- (a) the racing club; or
- (b) the harness racing club; or
- (c) the greyhound racing club.

corresponding body means a body in another jurisdiction, within or outside Australia, that performs functions similar to those of a controlling body.

deputy president means the deputy president of the tribunal referred to in section 40.

director, in relation to a controlling body, means a person occupying or acting in the position of a director of the body, by whatever name called.

greyhound club means the Canberra Greyhound Racing Club Inc. referred to in section 27.

harness club means the Canberra Harness Racing Club Inc. referred to in section 21.

inquiry, in relation to the commission, means an inquiry conducted by the commission in accordance with the *Gambling and Racing Control Act 1999*.

licensed racecourse—see section 5.

president means the president of the tribunal referred to in section 40.

race means—

- (a) a thoroughbred race; or
- (b) a harness race; or
- (c) a greyhound race; or
- (d) a race of a kind prescribed in the regulations.

race meeting means an event at which races are conducted.

***rac*ing club** means the Australian Capital Territory racing club Inc. referred to in section 15.

***registr*ar** means the registrar of the tribunal appointed under section 46.

rules of greyhound racing means the rules made under section 31.

rules of harness racing means the rules made under section 25.

rules of the tribunal means the rules of procedure made under section 45.

rules of thoroughbred racing means the rules made or adopted under section 19.

special rules means rules of racing or betting approved under section 12.

tribunal means the Racing Appeals Tribunal established under part 5.

Part 2 **Control of races for the purpose of betting**

Division 2.1 **Race meetings**

4 **Restriction on races for the purpose of betting**

- (1) A person shall not conduct a race for the purpose of betting, except at an authorised race meeting.

Maximum penalty: 100 penalty units.

- (2) A person shall not participate in a race conducted for the purpose of betting, except at an authorised race meeting, as—

- (a) rider or driver of an animal; or
- (b) trainer; or
- (c) owner; or
- (d) in a capacity prescribed in the regulations.

Maximum penalty: 100 penalty units.

- (3) It is a defence to a charge for an offence against subsection (2) that the person did not know, and had no reason to suppose, that the race was being conducted for the purpose of betting.

5 **Licensed racecourses**

- (1) A racecourse is a *licensed racecourse* in relation to a controlling body or an ARO if approved as such by the commission on an application by the body or ARO.

- (2) A racecourse is deemed to have been approved as a licensed racecourse in relation to a controlling body if—

- (a) it was a licensed racecourse for the purposes of the *Racecourses Act 1935* immediately before the repeal of that Act; and

- (b) the licence was held by the controlling body.
- (3) A racecourse that was nominated by the ARO under section 34 (1) (c) (ii) is approved as a licensed racecourse in relation to the ARO.
- (4) The commission may revoke approval of a licensed racecourse in relation to a controlling body or an ARO—
 - (a) at the request of the controlling body or ARO concerned; or
 - (b) after determining by an inquiry that the approval should be revoked.

6 Approval of betting at certain race meetings

- (1) The commission may approve race meetings for the purposes of betting, in accordance with this section.
- (2) A controlling body may propose for approval by the commission a race meeting for the purpose of betting that is to be held at a licensed racecourse of the body by another person.
- (3) In proposing such a race meeting, the controlling body may attach such conditions as it thinks appropriate.

7 Schedules of race meetings

- (1) A controlling body or an ARO shall publish from time to time a schedule of race meetings to be held by the body or ARO.
- (2) The commission may require schedules to be published at times and in a form approved by the commission.
- (3) A schedule shall specify for each authorised race meeting—
 - (a) the day on which it is to be held; and
 - (b) the racecourse at which it is to be held; and
 - (c) the person or body who will conduct the meeting; and

- (d) where any race at the race meeting will be subject to special rules as to racing or betting—
 - (i) the rules under which the race will be held; and
 - (ii) the rules under which any betting on the race will be conducted; and
 - (iii) an address where members of the public may obtain copies of the rules before the day of the race meeting.

8 Race meetings to be conducted in compliance with conditions

A person conducting a race meeting shall comply with this Act and with any conditions set under section 6 (3) or 34 (3).

Maximum penalty: 50 penalty units.

9 Phantom meetings

A person shall not conduct a race meeting for the purpose of betting without running races at the meeting, other than with the approval in writing of the commission, unless—

- (a) the meeting is an authorised race meeting; and
- (b) races were scheduled to be run at the meeting and nominations called for; and
- (c) sufficient nominations were received for races to be run at the meeting; and
- (d) the races were cancelled only because of unforeseen circumstances; and
- (e) those circumstances did not permit the cancellation to be made more than 2 business days before the meeting.

Division 2.2 Approved rules

10 Application of approved rules of a controlling body

The approved rules of a controlling body apply in relation to—

- (a) a person (an *affected person*) registered with or licensed by—
 - (i) the controlling body; or
 - (ii) where the registration or licence is of a kind recognised by the controlling body for the purposes of the rules—a corresponding body that deals with racing of the same kind; and
- (b) an animal registered with or licensed by a body referred to in paragraph (a) (i) or (ii); and
- (c) a person who was formerly an affected person—
 - (i) whose registration or licence is under suspension; or
 - (ii) so far as the rules relate to the dealings of the person with an affected person—whose registration or licence is cancelled; and
- (d) subject to any approval by the commission of special rules—a race meeting conducted by the controlling body; and
- (e) any premises owned or occupied by the controlling body.

11 Application of approved rules of an ARO

The approved rules of an ARO apply in relation to—

- (a) a person registered with or licensed by the ARO (an *affected person*); and
- (b) an animal registered with or licensed by the ARO; and
- (c) a person who was formerly an affected person—

- (i) whose registration or licence is under suspension; or
- (ii) so far as the rules relate to the dealings of the person with an affected person—whose registration or licence is cancelled; and
- (d) subject to any approval by the commission of special rules—any authorised race meeting conducted by the ARO; and
- (e) any premises owned or occupied by the ARO.

12 Approval of special rules for race meetings

The commission may approve, on the application of a controlling body or an ARO, rules other than the approved rules for a race meeting, or for some races at a race meeting.

13 Special rules to be made available before a race meeting

A person conducting a race meeting at which special rules will apply shall ensure that any member of the public is able to obtain a copy of the rules—

- (a) from the time of publication of the relevant schedule under section 7—at the address specified in the schedule; and
- (b) on the day of the meeting—at the racecourse.

Maximum penalty: 50 penalty units.

14 Application of special rules

- (1) Special rules apply in relation to—
 - (a) the races or race meeting in relation to which they were approved; and
 - (b) a person or animal participating in a race in relation to which they were approved.

Part 2 Control of races for the purpose of betting
Division 2.2 Approved rules

Section 14

- (2) For the purposes of this section, where special rules are approved in relation to a race meeting, they are approved in relation to each race at that meeting.

Part 3 **Controlling bodies**

Division 3.1 **Controlling body for thoroughbred racing**

15 **Racing club is the controlling body for thoroughbred racing**

- (1) The Australian Capital Territory Racing Club Inc. (the ***racing club***), a body incorporated under the *Associations Incorporation Act 1991*, is the controlling body in relation to thoroughbred racing for the purposes of this Act.
- (2) The racing club shall not amend its constitution without giving the commission 14 days notice in writing.
- (3) The constitution of the racing club shall be consistent with this Act and shall give it the necessary capacity to fulfil its functions under this Act.

16 **Functions of the racing club**

- (1) The functions of the racing club are—
 - (a) to conduct thoroughbred race meetings and thoroughbred races within the Territory; and
 - (b) to participate in the national body coordinating thoroughbred racing in Australia; and
 - (c) to make or adopt rules to govern the conduct of thoroughbred racing and betting conducted at race meetings; and
 - (d) to prepare and implement plans and strategies for the management of the financial affairs of the thoroughbred racing code and for the development, promotion and marketing of the code; and

- (e) to approve race meetings to be conducted by other persons, for the purpose of proposals under section 6, on such conditions as it thinks appropriate; and
 - (f) to advise and inform the Minister as he or she requires.
- (2) The racing club may, for the purpose of performing its functions and discharging its duties under this Act, enter into reciprocal arrangements with another controlling body or any corresponding body with respect to—
- (a) the registration of animals; or
 - (b) the endorsement and recognition of disqualifications, licences, permits and defaulters; or
 - (c) any other matter relating to the administration and control of racing.
- (3) The racing club has the powers necessary to perform the functions given to it by or under this or any other Act.

17 Delegation

- (1) The racing club may delegate to any member, officer or employee of the racing club any of its powers or functions under this Act, except this power of delegation.
- (2) A delegation under this section may be revoked at any time and does not derogate from the power of the racing club to act itself in any matter.

18 Reports and accounts

The racing club shall give the commission a copy of each report and statement of accounts that it gives to its members.

19 Rules of thoroughbred racing

- (1) The racing club may adopt the Australian Rules of Racing (as adopted by the Australian Racing Board and in force from time to time).

- (2) Subject to this Act, the racing club may make local rules in accordance with the Australian Rules of Racing.
- (3) Rules made or adopted by the racing club under this section are not subordinate laws under the *Legislation Act 2001*.

20 Minister may appoint administrator where necessary

- (1) The Minister may, if advised to do so by the commission following an inquiry, suspend the appointments of the directors of the racing club and appoint an administrator to deal with its affairs until such time as new directors can conveniently be appointed in accordance with its constitution.
- (2) Where the Minister acts under this section, he or she shall ensure that—
 - (a) the Legislative Assembly is informed of the action; and
 - (b) a copy of the advice of the commission is laid before the Assembly;within 7 sitting days after the action.

Division 3.2 Controlling body for harness racing

21 Harness club is the controlling body for harness racing

- (1) The Canberra Harness Racing Club Inc. (the *harness club*), a body incorporated under the *Associations Incorporation Act 1991*, is the controlling body in relation to harness racing for the purposes of this Act.
- (2) The harness club shall not amend its constitution without giving the commission 14 days notice in writing.
- (3) The constitution of the harness club shall be consistent with this Act and shall give it the necessary capacity to fulfil its functions under this Act.

22 Functions of the harness club

- (1) The functions of the harness club are—
 - (a) to conduct harness race meetings and harness races within the Territory; and
 - (b) to participate in the national body coordinating harness racing in Australia; and
 - (c) to make or adopt rules to govern the conduct of harness racing and betting conducted at race meetings; and
 - (d) to prepare and implement plans and strategies for the management of the financial affairs of the harness racing code and for the development, promotion and marketing of the code; and
 - (e) to approve race meetings to be conducted by other persons, for the purpose of proposals under section 6, on such conditions as it thinks appropriate; and
 - (f) to advise and inform the Minister as he or she requires.
- (2) The harness club may, for the purpose of performing its functions and discharging its duties under this Act, enter into reciprocal arrangements with another controlling body or any corresponding body with respect to—
 - (a) the registration of animals; or
 - (b) the endorsement and recognition of disqualifications, licences, permits and defaulters; or
 - (c) any other matter relating to the administration and control of racing.
- (3) The harness club has the powers necessary to perform the functions given to it by or under this or any other Act.

23 Delegation

- (1) The harness club may delegate to any member, officer or employee of the harness club any of its powers or functions under this Act, except this power of delegation.
- (2) A delegation under this section may be revoked at any time and does not derogate from the power of the harness club to act itself in any matter.

24 Reports and accounts

The harness club shall give the commission a copy of each report and statement of accounts that it gives to its members.

25 Rules of harness racing

- (1) Subject to this Act, the harness club may make rules for—
 - (a) the regulation, control and promotion of the sport of harness racing; and
 - (b) the conduct of harness race meetings and harness races within the Territory; and
 - (c) betting conducted at harness race meetings.
- (2) The harness club may make rules consistent with those made by corresponding bodies in Australia with respect to harness racing.
- (3) Rules made by the harness club under this section are not subordinate laws under the *Legislation Act 2001*.

26 Minister may appoint administrator where necessary

- (1) The Minister may, if advised to do so by the commission following an inquiry, suspend the appointments of the directors of the harness club and appoint an administrator to deal with its affairs until such time as new directors can conveniently be appointed in accordance with its constitution.

- (2) Where the Minister acts under this section, he or she shall ensure that—
- (a) the Legislative Assembly is informed of the action; and
 - (b) a copy of the advice of the commission is laid before the Assembly;
- within 7 sitting days after the action.

Division 3.3 Controlling body for greyhound racing

27 Greyhound club is the controlling body for greyhound racing

- (1) The Canberra Greyhound Racing Club Inc. (the *greyhound club*), a body incorporated under the *Associations Incorporation Act 1991*, is the controlling body in relation to greyhound racing for the purposes of this Act.
- (2) The greyhound club shall not amend its constitution without giving the commission 14 days notice in writing.
- (3) The constitution of the greyhound club shall be consistent with this Act and shall give it the necessary capacity to fulfil its functions under this Act.

28 Functions of the greyhound club

- (1) The functions of the greyhound club are—
- (a) to conduct greyhound race meetings and greyhound races within the Territory; and
 - (b) to participate in the national body coordinating greyhound racing in Australia; and
 - (c) to make or adopt rules to govern the conduct of greyhound racing and betting conducted at race meetings; and

- (d) to prepare and implement plans and strategies for the management of the financial affairs of the greyhound racing code and for the development, promotion and marketing of the code; and
 - (e) to approve race meetings to be conducted by other persons, for the purpose of proposals under section 6, on such conditions as it thinks appropriate; and
 - (f) to advise and inform the Minister as he or she requires.
- (2) The greyhound club may, for the purpose of performing its functions and discharging its duties under this Act, enter into reciprocal arrangements with another controlling body or any corresponding body with respect to—
- (a) the registration of animals; or
 - (b) the endorsement and recognition of disqualifications, licences, permits and defaulters; or
 - (c) any other matter relating to the administration and control of racing.
- (3) The greyhound club has the powers necessary to perform the functions given to it by or under this or any other Act.

29 Delegation

- (1) The greyhound club may delegate to any member, officer or employee of the greyhound club any of its powers or functions under this Act, except this power of delegation.
- (2) A delegation under this section may be revoked at any time and does not derogate from the power of the greyhound club to act itself in any matter.

30 Reports and accounts

The greyhound club shall give the commission a copy of each report and statement of accounts that it gives to its members.

31 Rules of greyhound racing

- (1) Subject to this Act, the greyhound club may make rules for—
 - (a) the regulation, control and promotion of the sport of greyhound racing; and
 - (b) the conduct of greyhound race meetings and greyhound races within the Territory; and
 - (c) betting conducted at greyhound race meetings.
- (2) The greyhound club may make rules consistent with those made by corresponding bodies in Australia with respect to greyhound racing.
- (3) Rules made by the greyhound club under this section are not subordinate laws under the *Legislation Act 2001*.

32 Minister may appoint administrator where necessary

- (1) The Minister may, if advised to do so by the commission following an inquiry, suspend the appointments of the directors of the greyhound club and appoint an administrator to deal with its affairs until such time as new directors can conveniently be appointed in accordance with its constitution.
- (2) Where the Minister acts under this section, he or she shall ensure that—
 - (a) the Legislative Assembly is informed of the action; and
 - (b) a copy of the advice of the commission is laid before the Assembly;within 7 sitting days after the action.

Part 4 **Approved racing organisations**

33 Approved racing organisations

- (1) The commission may approve, in accordance with this part, a racing organisation to be an approved racing organisation (an *ARO*).
- (2) An ARO may conduct race meetings consisting of races of the kinds specified in its instrument of approval for the purposes of betting.
- (3) The commission shall not approve an ARO to conduct race meetings that include thoroughbred races.

34 Applications

- (1) An applicant for approval to be an ARO shall—
 - (a) be a body corporate; and
 - (b) have the capacity—
 - (i) to conduct and control race meetings for the purpose of betting; and
 - (ii) ensure that races conducted by it will be conducted honestly and free from criminal influence; and
 - (c) provide to the commission—
 - (i) a copy of the rules under which it proposes to conduct race meetings (including a specification of the kinds of races); and
 - (ii) the particulars of the racecourse or racecourses on which it proposes to conduct race meetings; and
 - (iii) such other information as the commission requires for the purpose of evaluating the application.

- (2) Where the commission is satisfied that—
- (a) the applicant satisfies subsection (1) (a) and (b); and
 - (b) the rules referred to in subsection (1) (c) (i) are satisfactory;
- the commission shall approve an application unless it has determined by an inquiry that it would be against the public interest to do so.
- (3) An approval may be subject to such conditions as the commission thinks appropriate.
- (4) An approval under this section includes an approval of the rules referred to in subsection (1) (c) (i).
- (5) Where the commission refuses an application, it shall give the reasons for the decision in writing.
- (6) An applicant who is refused approval under subsection (3) on the ground that the commission is satisfied that it would be against the public interest may apply to the Minister for a review of the decision.
- (7) The Minister, on reviewing the decision, may direct the commission to grant approval to the applicant.
- (8) A direction by the Minister under subsection (7)—
- (a) is a disallowable instrument; and
 - (b) takes effect, unless disallowed, at the end of the period during which it is disallowable.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

35 Variation of conditions or approved rules

- (1) The commission may, on its own initiative or on the application of an ARO, add to or vary any conditions of approval under section 34 (3).

- (2) The commission may, on the application of an ARO, approve a change to the rules approved under section 34 (4).
- (3) In considering whether to act under this section, the commission shall satisfy itself as to the matters referred to in section 34 (2), and may require the ARO to provide such information as it requires for that purpose.

36 Revocation of approval of AROs

- (1) Where the commission is satisfied, following an inquiry, that an ARO no longer satisfies section 34 (1) (a) or (b), or has contravened a provision of this Act, it may revoke the organisation's approval.
- (2) Where the commission is satisfied that it is no longer in the public interest that an ARO be approved, it may direct the commission to revoke the organisation's approval.
- (3) A direction by the commission under subsection (2)—
 - (a) is a disallowable instrument; and
 - (b) takes effect, unless disallowed, at the end of the period during which it is disallowable.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

37 AROs must provide reports

An ARO shall provide the commission with a copy of each report or statement of accounts of the organisation provided to members or shareholders of the organisation.

Part 5 **The Racing Appeals Tribunal**

Division 5.1 **The tribunal**

38 **Establishment**

The Racing Appeals Tribunal is established.

39 **Functions**

The functions of the tribunal are—

- (a) to hear and determine appeals; and
- (b) to perform such other functions as are conferred on the tribunal by or under this or another Act.

40 **Membership**

- (1) The tribunal shall consist of—
 - (a) a president; and
 - (b) a deputy president; and
 - (c) 4 other members.
- (2) The appointment and conditions of office of members of the tribunal shall be in accordance with schedule 1.

41 **Constitution for appeals**

- (1) For the purpose of hearing an appeal, the tribunal shall be constituted, subject to subsection (2), by 3 members, of which 1 shall be the president or deputy president.
- (2) Where the president is satisfied that an appeal for hearing is of a sufficiently minor nature, the tribunal shall be constituted as determined by the president.

- (3) The tribunal, separately constituted under this section, may sit simultaneously to determine separate matters.

42 Assessors

- (1) The tribunal may have assessors.
- (2) The president may direct that the tribunal, in hearing an appeal, shall be assisted by 1 or more assessors.
- (3) An assessor assisting the tribunal may assist and advise the tribunal on any matter before it, but shall not adjudicate on any matter.
- (4) The appointment and conditions of office of assessors shall be in accordance with schedule 2.

43 Powers

- (1) The tribunal may—
- (a) by summons signed by the president, the deputy president or the registrar—
- (i) require any person to attend before the tribunal; or
- (ii) require any document or other thing to be produced before the tribunal; and
- (b) inspect or make copies of any document or other thing produced before the tribunal, and retain it for such reasonable period as it thinks appropriate.
- (2) The tribunal may take evidence on oath or affirmation and, for that purpose, a member of the tribunal may—
- (a) require a person attending before the tribunal to take an oath or make an affirmation; and
- (b) administer an oath or affirmation to such a person.

- (3) The tribunal has power to do all other things necessary or convenient to be done in connection with the performance of its functions.

44 Offences

A person shall not, without reasonable excuse—

- (a) fail to attend before the tribunal when summoned; or
- (b) fail to produce a document or thing before the tribunal when required to do so; or
- (c) fail to make an oath or affirmation when required to do so by the tribunal; or
- (d) fail to answer a relevant question when directed to do so by the tribunal; or
- (e) misbehave before the tribunal or interrupt its proceedings.

Maximum penalty: 20 penalty units.

45 Rules of the tribunal

- (1) The tribunal may make rules (the *rules of the tribunal*) for the procedure of the tribunal.
- (2) A rule made under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

46 Registrar

- (1) There shall be a registrar of the tribunal.
- (2) The chief executive shall create and maintain an office in the public service the duties of which include performing the functions of the registrar of the tribunal.
- (3) The registrar shall be the public servant for the time being performing the duties of the public service office referred to in subsection (2).

Division 5.2 Hearing of appeals

47 Jurisdiction

- (1) The tribunal has jurisdiction to hear and determine an appeal from a person aggrieved by a decision of a controlling body, an ARO or another person conducting a race meeting where—
 - (a) the decision was made, or purported to be made, under the relevant approved rules or special rules; and
 - (b) the decision—
 - (i) disqualified or suspended a person or animal from participating in events governed by those rules in any particular capacity; or
 - (ii) imposed a fine.
- (2) The tribunal has jurisdiction to hear and determine an appeal from a person aggrieved by a decision of a controlling body or an ARO that requires a person not to enter a racecourse or training track.

48 Lodging of appeals

Unless the tribunal allows an extension of time, an appeal under this part shall be lodged with the registrar within 7 days after the appellant is informed of the decision.

49 Suspension of decision pending hearing of the appeal

The president or the deputy president of the tribunal may, if satisfied that it is appropriate to do so, order that the operation of the decision appealed against be suspended until the tribunal determines otherwise.

50 Parties

The parties to an appeal are—

- (a) the appellant; and

- (b) the controlling body, ARO or other person whose decision is being appealed against; and
- (c) any other person who satisfies the tribunal that the person is directly affected by or interested in the subject matter of the appeal.

51 Notice of hearing

- (1) The tribunal shall give a party to an appeal reasonable notice of the time and place at which it intends to hear the appeal.
- (2) If a party fails to appear at a hearing, in person or by a representative, the tribunal may hear the appeal in that party's absence.

52 Representation

A party to an appeal may be represented—

- (a) by a legal practitioner; or
- (b) with the leave of the tribunal, by some other representative.

53 Bond

- (1) An appeal shall not be heard by the tribunal unless the appellant has first lodged with the registrar any bond required under the rules of the tribunal .
- (2) A bond paid by an appellant shall not be refunded unless—
 - (a) the tribunal allows the appeal in whole or in part; or
 - (b) the appellant satisfies the tribunal that the appeal was genuinely instituted on reasonable grounds and not for the purpose of delaying the operation of the decision or order under appeal.

54 Hearings to be in public

An appeal to the tribunal shall be heard in public unless the tribunal, for good reason, determines otherwise.

55 Adjournments

The tribunal may at any time adjourn the hearing of an appeal as it thinks appropriate.

56 Record of proceedings

The tribunal shall keep a record of its proceedings.

57 Evidence

- (1) Except as otherwise determined by the tribunal, an appeal shall be conducted by way of rehearing upon the evidence at the original hearing, but the tribunal may receive fresh evidence given orally or, if the tribunal so determines, by statutory declaration.
- (2) The tribunal may inform itself in any way it thinks appropriate.
- (3) The tribunal shall give each party to an appeal a reasonable opportunity to make submissions to the tribunal, to give evidence and to call, examine or cross-examine witnesses.

58 Procedure for decision by the tribunal

- (1) A decision by the tribunal shall be made by a majority of the members present, with the senior member having a casting vote where there is no majority.
- (2) For the purposes of this section, the president shall determine the order of seniority of members of the tribunal.

59 Principles upon which decisions made

- (1) The tribunal must act according to equity and good conscience and the substantial merits of the case without regard to technicalities and legal forms.

- (2) The tribunal is not bound by the rules of evidence and may inform itself on any matter as it thinks appropriate.

60 Orders etc. that may be made by the tribunal

- (1) The tribunal may, on the hearing of an appeal—
- (a) affirm, vary or quash the decision or order appealed against, or substitute, or make in addition, any decision or order that could have been made by the original decision-maker;
 - (b) remit the subject matter of the appeal to the person or body that made the decision for further hearing or consideration; or
 - (c) subject to subsection (2), make any other order that the case requires.
- (2) The tribunal may make an order as to costs if it considers that it would be unjust for each party to bear its own costs.

61 Decisions of the tribunal final and binding

A decision of the tribunal on an appeal is final and binding on the persons and bodies affected.

Part 6 Miscellaneous

62 **Immunity from liability**

No liability attaches to a member of the tribunal for an act or omission done in good faith in the exercise or performance, or purported exercise or performance, of powers or functions under this Act.

63 **Appeal to the administrative appeals tribunal**

Application may be made to the administrative appeals tribunal for a review of a decision of the Minister—

- (a) under section 6, refusing approval of a race meeting for the purpose of betting; or
- (b) under section 7, setting requirements for the publication of schedules; or
- (c) under section 9, refusing approval for a phantom race; or
- (d) under section 12, refusing approval of special rules.

64 **Annual report**

The tribunal is a public authority for the purposes of the *Annual Reports (Government Agencies) Act 1995*.

66 **Regulation-making power**

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may—
- (a) specify the manner in which a controlling body is to fulfil its functions under this Act;

- (b) provide in relation to the operations and functions of the tribunal; and
- (c) limit the jurisdiction of the tribunal in relation to any of the approved or special rules by excluding appeals in relation to—
 - (i) fines of less than an amount specified; or
 - (ii) suspensions shorter than a length of time specified.

67 Delegation

The Minister may delegate to another person any power under this Act apart from those given under sections 5 (4), 20, 26, 32 and 35.

Schedule 1 Members of the tribunal

(see s 40)

1 **Appointment of members**

- (1) Members of the tribunal shall be appointed by the Minister.
- (2) The president and deputy president shall be legal practitioners of not less than 5 years standing.
- (3) A person is not eligible to be a member of the tribunal if the person is—
 - (a) an officer or employee of a controlling body;
 - (b) registered with or licensed by a controlling body under the approved rules (otherwise than as the owner of a horse or dog that is so registered or licensed); or
 - (c) registered with or licensed by a corresponding body (otherwise than as the owner of a horse or dog that is so registered or licensed), where the registration or licence is of a kind recognised by a controlling body for the purposes of the approved rules.
- (4) A member whose term has expired is eligible for re-appointment.

2 **Acting appointments**

- (1) The deputy president of the tribunal shall act as president if the president is for any reason unable or unavailable to act.
- (2) Subject to this clause, the Minister may appoint a qualified person to act in the place of a member when the member is for any reason unable or unavailable to act in that member's capacity.
- (3) An appointment under subclause (2) shall not authorise a person to act for a continuous period of more than 6 months.

- (4) Anything done by or in relation to a person purporting to act under this clause is not invalid merely because—
- (a) the occasion to act had not arisen or had ceased; or
 - (b) there was a defect or irregularity in an appointment; or
 - (c) the appointment had ceased to have effect.

3 Term of office

A member of the tribunal is appointed for the term of office, not exceeding 3 years, specified in the instrument of appointment.

4 Removal of members

- (1) The Minister shall terminate the appointment of a member of the tribunal if the member—
- (a) resigns by giving written notice to the Minister; or
 - (b) ceases to be eligible for membership in the relevant capacity; or
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of remuneration for their benefit; or
 - (d) fails to disclose an interest as required by clause 7.
- (2) The Minister may terminate the appointment of a member of the tribunal for misbehaviour or physical or mental incapacity.

5 Remuneration and allowances

- (1) A member of the tribunal shall be paid such remuneration and allowances as are prescribed in the regulations.
- (2) Subclause (1) does not apply—
- (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to a member; or

(b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to a member.

(3) In this clause:

determination means a determination under the *Remuneration Tribunal Act 1995*.

6 Leave of absence

The Minister may grant a member of the tribunal leave of absence on such terms and conditions as to remuneration and otherwise as the Minister determines.

7 Disclosure of interests

- (1) This clause applies where a member has or acquires an interest that could conflict with the member's proper performance of his or her functions as a member of the tribunal as constituted for a hearing.
- (2) A member shall inform the president when it becomes apparent that this clause applies in relation to the member.
- (3) As far as is reasonably possible, the tribunal shall be constituted or reconstituted for the hearing so that the member concerned is not involved.
- (4) Where circumstances require the member to be, or remain, on the tribunal as constituted for the hearing—
 - (a) the member shall disclose the interest to the parties; and
 - (b) the member shall not take part in the hearing, or exercise any powers in relation to it, except with the consent of all the parties.

Schedule 2 Assessors of the tribunal

(see s 42)

1 Appointment of assessors

Assessors shall be appointed by the Minister from among persons who the Minister is satisfied have special knowledge of or experience in the racing industry.

2 Term of office

An assessor is appointed for the term of office, not exceeding 3 years, specified in the instrument of appointment, and is eligible for re-appointment.

3 Removal of assessors

- (1) The Minister shall terminate the appointment of an assessor if the assessor—
 - (a) resigns by giving written notice to the Minister; or
 - (b) fails to disclose an interest as required by clause 5.
- (2) The Minister may terminate the appointment of an assessor for misbehaviour or physical or mental incapacity.

4 Remuneration and allowances

- (1) An assessor shall be paid such remuneration and allowances as are prescribed in the regulations.
- (2) Subclause (1) does not apply—
 - (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to an assessor; or
 - (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to an assessor.

(3) In this clause:

determination means a determination under the *Remuneration Tribunal Act 1995*.

5 Disclosure of interests

An assessor—

- (a) shall inform the president when it becomes apparent that the assessor has or has acquired an interest that could conflict with the assessor's proper performance of his or her functions as assessor of the tribunal in a hearing; and
- (b) shall not take part in the hearing.

Endnotes

1 About the endnotes

Endnotes

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Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
o = order	sub = substituted
om = omitted/repealed	SL = Subordinate Law
	<u>underlining</u> = whole or part not commenced

3 Legislation history

Racing Act 1999 No 1

notified 26 February 1999 (Gaz 1999 No S7)
 s 1, s 2 commenced 26 February 1999 (s 2 (1))
 remainder commenced 2 July 2001 (s 2 (2), Gaz 2001 No S42
 and IA s 10C)

as amended by

Gambling and Racing Control (Consequential Provisions) Act 1999 No 47 sch

notified 17 September 1999 (Gaz 1999 No S54)
 s 1, s 2 commenced 17 September 1999 (s 2 (1))
 sch commenced 1 December 1999 (s 2 (2) and Gaz 1999 No
 S63)

Legislation (Consequential Amendments) Act 2001 No 44 pt 319

notified 26 July 2001 (Gaz 2001 No 30)
 s 1, s 2 commenced 26 July 2001 (IA s 10B)
 pt 319 commenced 12 September 2001 (s 2 and Gaz 2001
 No S65)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.3513

Interpretation

s 3 def *authorised race meeting* am 1999 No 47 sch
 def *chief executive* ins 1999 No 47 sch
 def *commission* ins 1999 No 47 sch
 def *inquiry* ins 1999 No 47 sch
 def *penalty unit* om 2001 No 44 amdt 1.3514

Licensed racecourses

s 5 am 1999 No 47 sch

Approval of betting at certain race meetings

s 6 am 1999 No 47 sch

Schedules of race meetings

s 7 am 1999 No 47 sch

Phantom meetings

s 9 am 1999 No 47 sch

Endnotes

4 Amendment history

Application of approved rules of a controlling body

s 10 am 1999 No 47 sch

Application of approved rules of an ARO

s 11 am 1999 No 47 sch

Approval of special rules for race meetings

s 12 am 1999 No 47 sch

Racing club is the controlling body for thoroughbred racing

s 15 am 1999 No 47 sch

Reports and accounts

s 18 am 1999 No 47 sch

Rules of thoroughbred racing

s 19 am 2001 No 44 amdt 1.3515

Minister may appoint administrator where necessary

s 20 am 1999 No 47 sch

Harness club is the controlling body for harness racing

s 21 am 1999 No 47 sch

Reports and accounts

s 24 am 1999 No 47 sch

Rules of harness racing

s 25 am 2001 No 44 amdt 1.3516

Minister may appoint administrator where necessary

s 26 am 1999 No 47 sch

Greyhound club is the controlling body for greyhound racing

s 27 am 1999 No 47 sch

Reports and accounts

s 30 am 1999 No 47 sch

Rules of greyhound racing

s 31 am 2001 No 44 amdt 1.3517

Minister may appoint administrator where necessary

s 32 am 1999 No 47 sch

Approved racing organisations

s 33 am 1999 No 47 sch

Applications

s 34 am 1999 No 47 sch
am 2001 No 44 amdt 1.3518, amdt 1.3519

Variation of conditions or approved rules

s 35 am 1999 No 47 sch

Revocation of approval of AROs

s 36 am 1999 No 47 sch

am 2001 No 44 amdt 1.3520, amdt 1.3521

AROs must provide reports

s 37 am 1999 No 47 sch

Rules of the Tribunal

s 45 am 2001 No 44 amdt 1.3512

Fees

s 65 om 2001 No 44 amdt 1.3523

Regulation-making power

s 66 hdg sub 2001 No 44 amdt 1.3524

s 66 am 2001 No 44 amdt 1.3525

Repeal

s 68 om R1 (IA s 43 (3))

Consequential amendments of other Acts

s 69 om R1 (IA s 43 (3))

Consequential amendments of other Acts

sch 3 om R1 (IA s 43 (3))

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