

Australian Capital Territory

Racing Appeals Tribunal Appointment 2004 (No 1)

Disallowable instrument DI2004—183

EXPLANATORY STATEMENT

Section 38 of the *Racing Act 1999* (the Act) establishes the Racing Appeals Tribunal to hear and determine appeals from persons aggrieved by a decision of a controlling body, an approved racing organisation or another person conducting a race meeting in the ACT.

Section 40 of the Act provides that the Tribunal shall consist of a president, a deputy president and 4 other members.

Schedule 1, Clause 1(1) of the Act enables the Minister to appoint members to the Tribunal. Schedule 1, Clause 1(2) of the Act requires that the president and deputy president shall be lawyers of not less than 5 years standing.

The Minister has appointed-

Magistrate Grant Lalor as President of the Racing Appeals Tribunal from 30 August 2004 until 29 August 2007; and

Mr Robert Cook as Deputy President of the Racing Appeals Tribunal from 30 August 2004 until 29 August 2007; and

Ms Tracey Fitzpatrick, Ms Rachel Lewis, Ms Linda Webb and Mr Philip Drever as members of the Racing Appeals Tribunal from 30 August 2004 until 29 August 2007.

Section 42 of the Act provides that the Tribunal may have assessors. Assessors assist the tribunal by providing technical industry advice on any matter before it.

Schedule 2, Clause 1 of the Act provides that 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.

The Minister has reappointed Mr Paul Luckie and Mr Gary Buchanan as assessors assisting the Racing Appeals Tribunal from 30 August 2004 until 29 August 2007.

Magistrate Lalor is a Magistrate appointed under the *Magistrates Court Act 1930*. As such Magistrate Lalor is not a public servant as defined under the *Legislation Act 2001*. Accordingly this instrument makes an appointment to which the *Legislation Act 2001*, division 19.3.3 applies. Therefore, under the *Legislation Act 2001*, s.229 the instrument is a disallowable instrument.

Section 10E of the *Magistrates Court Act 1930* requires that a magistrate not accept appointment to another office under a law of the Territory without the written consent of the Attorney-General. The provision also requires that the Attorney-General consult with the Chief Magistrate before giving consent. The Attorney-General and the Chief Magistrate have been consulted and have consented to this appointment.

As Mr Cook, Ms Fitzpatrick, Ms Lewis, Ms Webb and Mr Drever, are not a public servant, this instrument makes an appointment to which the *Legislation Act 2001*, division 19.3.3 applies. Accordingly, under the *Legislation Act 2001*, s.229 the instrument is a disallowable instrument.

These appointments have been approved by the Minister and the Standing Committee on Public Accounts has been consulted in accordance with section 228 (consultation with appropriate Assembly committee) of the *Legislation Act 2001*.