

Australian Capital Territory

Racing Appeals Tribunal Appointment 2004 (No 2)

Disallowable instrument DI2004—199

EXPLANATORY STATEMENT

This instrument revokes Disallowable Instrument DI2004-183 [Racing Appeals Tribunal Appointment 2004 (No. 1)], as notified on 23 August 2004.

Magistrate Grant Lalor was proposed as President of the Racing Appeals Tribunal. Section 10E of the *Magistrates Court Act 1930* requires that before a magistrate accepts appointment to another office under a law of the Territory, the written consent of the Attorney-General must be obtained.

That provision also requires that the Attorney General consult with the Chief Magistrate before giving that consent. The earlier appointment has been revoked because of concern about a lack of documentation of the process of consultation between the Attorney General and the Chief Magistrate about the appointment to President of the Tribunal of Magistrate Grant Lalor.

The process of consultation required under section 10E of the *Magistrates Court Act 1930* has been completed and the Attorney General has given his consent as required by that provision. As a result, any doubt about the ability of Magistrate Lalor to accept appointment as President of the Tribunal has been removed.

This instrument makes appointments as follows:

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 until 29 August 2007; and
- Mr Robert Cook as Deputy President of the Racing Appeals Tribunal 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 until 29 August 2007.

Section 42 of the Act provides that the Tribunal may have Assessors who 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.

Mr Paul Luckie and Mr Gary Buchanan were appointed as assessors to the previous Tribunal, from 30 August 2001 to 29 August 2004. The Minister has reappointed both Mr Luckie and Mr Buchanan as assessors assisting the Racing Appeals Tribunal 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.

As Mr Cook, Ms Fitzpatrick, Ms Lewis, Ms Webb and Mr Drever, are not public servants, 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.

The Standing Committee on Public Accounts has been consulted about these appointments in accordance with section 228 (consultation with appropriate Assembly committee) of the *Legislation Act 2001*.

The appointments will commence on the day after this instrument is notified and finish on 29 August 2007.