

Australian Capital Territory

Racing (Jockeys Accident Insurance) Regulation 2006

Subordinate law SL2006–10

made under the

**Racing Act 1999, Section 61C (2) (a) and (b), enacted as Section 61C (2) (a) and (b) by
virtue of the Racing (Jockeys Accident Insurance) Amendment Act 2006.**

EXPLANATORY STATEMENT

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| Racing (Jockeys Accident Insurance) Regulation 2006 |
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Outline

Amendments to the *Racing Act 1999* (Act), the *Racing (Jockeys Accident Insurance) Amendment Bill 2006* (passed by the Assembly on 9 March 2006) provided an essential mechanism by which jockeys, apprentices and approved riders (jockeys) who engage in racing, track work or barrier trials (riding activities) in the ACT may be insured against the consequences of injury in the performance of their profession.

Racing NSW, a statutory body and the designated specialised accident insurer for all jockeys racing in NSW, will administer the insurance scheme facilitated by passage of the legislation. Due solely to the provisions of the Act and the Regulation, Racing NSW will be able to offer accident insurance to NSW licensed jockeys riding in the ACT on the same terms as they would expect and enjoy if they suffered a workplace injury in NSW.

The legislation provided clarification and greater certainty with respect to the application of the insurance scheme. Senior counsel has opined that the legislative amendments were critical to the efficacy of the agreements that will implement the insurance scheme.

Section 61BA (2) of the amended Act provides for a regulation making power in connection with the insurance scheme. As with the legislation itself, the Regulation, described below, and its contents were likewise derived directly from senior counsel's advice.

The amending legislation described the application and boundaries of the insurance scheme. It also specified the respective powers and obligations of jockeys and Racing NSW.

Complementary to the amending legislation, the Regulation provides the practical array of necessary provisions that in effect manage the application of the various provisions of NSW law that are invoked generally by the Act, so that Racing NSW can administer the insurance cover efficiently, without duplication of effort and without requiring what could only otherwise be described as an intolerably complicated agreement and a very difficult scheme.

Clause Notes

Clause 1 – Name of Regulation – This clause names the Regulation as the *Racing (Jockeys Accident Insurance) Regulation 2006*

Clause 2 – Commencement – this clause declares that the regulation will commence on the day after its notification day.

Clause 3 – Dictionary – this clause provides that the dictionary at the end of the Regulation is part of the Regulation.

Clause 4 – Notes – this clause provides that a note included in the Regulation is merely explanatory.

Clause 5 – Application of the NSW Acts in relation to jockeys accident insurance – Act, s 61B (4) – this clause sets out the provisions of the NSW *Workers Compensation Act 1987* and the NSW *Workplace Injury Management and Workers Compensation Act 1998* (the 1998 Act) that will not apply to this insurance scheme and in fact are essentially excluded if the insurance scheme is to work properly in the ACT. The exclusions were agreed by all parties to the insurance scheme. The Government agreed to give effect to the intentions of the parties.

Clause 6 – Application of Civil law (Wrongs) Act in relation to common law claims – Act, s 61B (4) and (5) – this clause ensures that chapter 5 of the *Civil Law (Wrongs) Act 2002* applies in case of personal injury (negligence) actions brought by jockeys in the ACT. While it may appear an unrelated clause in the context of the Regulation, it is desirable for Chapter 5 to apply because it reflects the position now in relation to common law claims against employers generally in the ACT. Coupled with Regulation 7, it can be seen that the clause is necessary for prescribing an effective jurisdictional pathway in the ACT for aggrieved parties seeking redress by way of litigation.

Clause 7 – Jurisdiction of courts – Act, s 61B (4) and (5) – this clause determines the relevant jurisdiction within which claims will be determined. This Regulation, coupled with regulation 5, overcomes conflicting decisions in the NSW Court of Appeals with respect to jurisdiction and protects the rights of all parties to have their issues heard by a properly constituted judicial body.

Dictionary – sets out the meaning of the defined terms, by reference to the Act.