

**2017**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**RACING (GREYHOUNDS) AMENDMENT BILL 2017**

**EXPLANATORY STATEMENT**

**Presented by  
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## RACING (GREYHOUNDS) AMENDMENT BILL 2017

### INTRODUCTION

This explanatory statement relates to the Racing (Greyhounds) Amendment Bill 2017 (the Amendment Bill) as presented to the ACT Legislative Assembly. It has been prepared in order to assist the reader of the Amendment Bill and to help inform debate on it. It does not form part of the Amendment Bill and has not been endorsed by the Assembly. The Statement must be read in conjunction with the Amendment Bill. It is not, and is not meant to be, a comprehensive description of the Amendment Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

The Amendment Bill will give effect to the ACT Government's decision to transition to end greyhound racing in the ACT by 30 June 2018, and must be read in conjunction with the Domestic Animals (Racing Greyhounds) Amendment Bill 2017.

Together, the two Amendment Bills provide for:

- greyhound racing and trialling in the ACT to cease with effect from 30 April 2018;
- removal of provisions relating to a controlling body for greyhound racing in the ACT;
- amendments to the definition of 'race' so that it no longer includes greyhound racing in the ACT; and
- the ownership, breeding and training of greyhounds in the ACT for racing outside the ACT to continue on the basis that it:
  - is at no cost to the ACT community
  - complies with strict animal welfare standards.

The *Racing Act 1999* and the *Racing (Race Field Information) Regulation 2010* currently regulate thoroughbred racing, harness racing and greyhound racing conducted for the purposes of betting, as well as the use of ACT race field information by licensed wagering operators.

The *Race and Sports Bookmaking Act 2001* and *Race and Sports Bookmaking Regulation 2001* regulate betting on races and sports events, including providing for the licensing of race and sports bookmakers and agents.

The *Totalisator Act 2014* regulates the conduct of totalisators and totalisator betting in the ACT.

These Acts and Regulations are part of the suite of racing and gaming legislation in the ACT, and, therefore, the Amendment Bill must be read in that context. The *Unlawful Gambling Act 2009* prohibits unlawful gambling, including unlawful betting. The *Gambling and Racing Control Act 1999* (the Control Act) provides the overarching legislative framework for racing

and gaming in the Territory. The Control Act establishes the ACT Gambling and Racing Commission (the Commission).

## **BACKGROUND**

Animal welfare issues in relation to the greyhound racing industry were highlighted in an episode of *Four Corners* on the ABC on 16 February 2015, which exposed the practice of live baiting by some involved in the industry. Following the *Four Corners* program, an extensive inquiry into greyhound racing was established by the New South Wales Government under the *Special Commissions of Inquiry Act 1983*. The inquiry was headed by the Honourable Michael McHugh AC QC. The Special Commission's report was an extensive and thorough analysis of the greyhound racing industry in NSW. It was conducted over a period of 16 months, with a dedicated team of staff, legal expertise, and wide powers to interview witnesses under oath and to compel the production of documents.

The report *Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales* (the McHugh Report) was published on 16 June 2016. It identified an extensive range of serious animal welfare issues including its observation that:

“... the greyhound industry has been exposed as an industry that:

- a) has implicitly condoned as well as caused, the unnecessary deaths of tens of thousands of healthy greyhounds;
- b) has failed to demonstrate that in future it will be able to reduce the deaths of healthy greyhounds to levels the community could tolerate;
- c) has engaged in the barbaric practice of live baiting; and
- d) has caused and will continue to cause injuries to greyhounds that range from minor to catastrophic...”

The McHugh Report identified a litany of concerns for such practices as:

- live baiting (using live animals for training greyhounds, for example by tying them to a mechanical lure while greyhounds are released to pursue and catch them);
- live blooding (feeding live animals to greyhounds to prime them prior to racing and coursing meetings);
- wastage (mass slaughter of young and older greyhounds bred for the purpose of greyhound racing, which are subsequently destroyed either prior to being named or raced, or on retirement from racing);
- injury, death and euthanasia, and
- rehoming (McHugh noted a poor record in NSW of finding alternative homes for greyhounds at the end of their racing careers or when they are otherwise unable to race).

The decision to end greyhound racing in the ACT is based on the significant welfare concerns associated with the greyhound industry, as disclosed in the McHugh Inquiry.

As part of the Parliamentary Agreement, the ACT Government committed to end Government funding for greyhound racing and to take active steps to transition to end the operation of the industry in the ACT.

On 7 February 2017, the 2016-17 Budget Review was published, stating that:

“The Government will cease grant funding for the greyhound industry in the ACT, effective from the expiry of the current Memorandum of Understanding on 30 June 2017. The grant funding of \$1.033 million in 2017-18 will be redirected to a transition program to assist workers to re-skill, as well as rehome and care for the greyhounds”.

To assist with the transition to end the greyhound racing industry in the ACT, an independent consultant, Ms Mary Durkin, was engaged to provide an analysis of options to support the transition. Ms Durkin consulted with the greyhound racing industry, as well as the animal welfare sector, and provided the Attorney-General with her report *Greyhound Racing Industry Transition Options Analysis* (the Durkin Report) on 15 May 2017.

The Durkin Report found that the ACT greyhound racing industry is small. The analysis identified that there are 70 Canberra residents who are active participants (i.e. owners, breeders and trainers) in greyhound racing in the ACT, with approximately 52 racing greyhounds owned by ACT residents and based in the ACT. NSW owners and trainers represent a significant majority of participants in greyhound racing in the ACT. In 2016 approximately 71 dogs that raced were based in the ACT, while 1107 were from NSW.

The Durkin Report also found that the industry in the ACT is part of a broader regional network of greyhound racing activities and that it is impossible to divorce the ACT greyhound racing industry from the NSW industry, as they are inextricably linked. There can be no certainty that dogs being brought to the ACT from other jurisdictions to race have not come from breeders and trainers engaging in practices highlighted by the McHugh Inquiry.

The Greyhound Industry Transition Taskforce has been established in the Chief Minister, Treasury and Economic Development Directorate to assist the people and animals involved in the industry to transition out of it. Not all people involved in the industry in the ACT will transition out of it – some may continue to breed and train racing greyhounds in the ACT. However, this will be on the basis of strict animal welfare controls and at no cost to the community.

The Amendment Bill, in conjunction with the Domestic Animals (Racing Greyhounds) Amendment Bill 2017, gives effect to the Government’s decision to end greyhound racing in the ACT.

## **OVERVIEW OF THE AMENDMENT BILL**

The Amendment Bill removes from the Racing Act the legal framework for the administration and control of greyhound racing in the ACT.

The Canberra Greyhound Racing Club Inc is currently the controlling body for greyhound racing in the ACT under section 27 of the Racing Act. Under the Amendment Bill, there will no longer be a controlling body for greyhound racing in the ACT, nor will it be possible for an entity to become an approved racing organisation for race meetings involving greyhound races.

The definition of 'race' in the Racing Act will be amended so that it no longer includes greyhound racing.

The Amendment Bill includes consequential amendments to a number of Acts and Regulations as a result of ending greyhound racing in the ACT. A number of these amendments are necessary to continue to allow betting on greyhound races that are held outside the ACT (noting the protection of free interstate trade and commerce in the *Australian Capital Territory (Self-Government) Act 1988* (Cth)).

In addition to the Racing Act, the following laws will be amended by the Amendment Bill:

- *Race and Sports Bookmaking Act 2001*
- *Race and Sports Bookmaking Regulation 2001*
- *Racing (Race Field Information) Regulation 2010*
- *Totalisator Act 2014*.

The Amendment Bill includes two minor amendments to the Racing Act (clauses 5 and 16) to correct the name of the Canberra Racing Club Incorporated, but does not otherwise amend provisions relating to the controlling bodies for thoroughbred racing or harness racing.

### **Human rights implications**

During the Amendment Bill's development due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (HRA). The measures introduced in the Amendment Bill implement the Government's decision to end greyhound racing in the ACT, in light of the animal welfare impacts of the industry.

As a law of the Territory, the Amendment Bill may be seen as engaging the following rights in the HRA:

- recognition and equality before the law, section 8; and
- privacy and reputation, section 12.

An assessment of the Bill against section 28 of the HRA is provided below.

A Compatibility Statement under the HRA has been issued by the Attorney-General.

### Section 28 Human Rights Act Assessment

Section 28 of the HRA provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society. Section 28(2) of the HRA provides that, in deciding whether a limit on a human right is reasonable, all relevant factors must be considered, including:

- a) the nature of the right affected;
- b) the importance of the purpose of the limitation;
- c) the nature and extent of the limitation;
- d) the relationship between the limitation and its purpose; and
- e) any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

### **Interference with employment or livelihood**

The two Amendment Bills together establish a framework that: removes the legal framework for the administration and control of greyhound racing in the ACT; proscribes greyhound racing and trialling in the Territory; and introduces measures to monitor and protect the welfare of greyhounds that continue to race elsewhere.

As identified in the Durkin Report, these changes will affect the livelihood and/or employment of a small number of people in the ACT.

The Amendment Bills do not interfere with the ability of ACT residents to engage in, or bet on, greyhound racing interstate. They also preserve the ability for ACT residents to own, train or breed greyhounds for racing elsewhere.

### The nature of the rights affected

There is no express right to employment or livelihood in the HRA, but two rights may be engaged by these provisions.

Section 12 of the HRA sets out the right to privacy, which relevantly provides that everyone has the right 'not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily'. The concept of 'privacy' is elastic and may conceivably extend to a right to be left alone to pursue a livelihood of choice. Any arbitrary interference with a chosen livelihood may conceivably then fall within the scope of the right to privacy.

In order to engage the right to privacy, there must first be a reasonable expectation of privacy. The nature of greyhound racing means that it is less likely to attract this kind of protection. The conduct of greyhound racing, and the livelihoods that are connected to

racing, involve public acts in public spaces. Greyhound racing is also already heavily regulated by legislation, which limits the expectation of privacy that may be relied on by participants.

Section 8 of the HRA also protects the right to recognition and equality before the law, and relevantly provides that everyone has the right to “enjoy his or her human rights without distinction or discrimination of any kind”. The example in section 8 refers to protection against discrimination on a range of grounds, including ‘other status’.

Among other things, the *Discrimination Act 1991* includes protection from discrimination on the ground of ‘profession, trade, occupation or calling’. The measures necessary to end greyhound racing and trialling in the ACT and to implement a robust monitoring regime may engage the right to equality for those who make a livelihood from greyhound racing.

#### The importance of the purpose of the limitation

As outlined above, the Amendment Bills address the significant welfare concerns associated with the greyhound racing industry in other jurisdictions, together with the finding in the Durkin Report that the links between racing in the Territory and in other jurisdictions are inextricable.

The cessation of greyhound racing in the Territory will ensure that greyhounds from other jurisdictions, whose animal welfare arrangements are outside the control of the ACT, will not be brought here to race. For those greyhounds that are based in the ACT and will continue to race elsewhere, these amendments provide for specialist regulation and control that will enable an appropriate level of protection for those dogs.

#### The nature and extent of the limitation

As outlined above, the limitation on those seeking to make a livelihood from greyhound racing in the ACT is threefold. Together, the Amendment Bills will remove the legal and administrative basis for greyhound racing; proscribe greyhound racing and trialling; and place controls on those who will continue to own, breed or train racing greyhounds in the Territory.

#### The relationship between the limitation and its purpose

The decision to cease greyhound racing and trialling in the Territory was made based on the evidence of animal welfare concerns in other jurisdictions, in a context where the local industry is inextricably linked to interstate racing (for the most part, NSW) and where the ACT has no control over the way in which greyhounds are regulated in other jurisdictions.

The Amendment Bills remove the legal and administrative basis for greyhound racing in the Territory, which is necessary to prohibit further racing activities.

As the legislation continues to provide for ACT residents to continue to own, breed and train racing greyhounds, it is necessary to implement a robust monitoring regime that will meet the

purpose of ensuring high animal welfare standards for the industry. The efficacy of this regime will be considered by the government after a period of two years, to determine whether any further reforms are warranted.

As a result of the need to track and monitor the welfare of those greyhounds involved (or intended to be involved) in racing there will be additional costs for those who decide to continue participating in greyhound racing in other jurisdictions. Greyhound racing is a commercial activity, and it is the animal welfare concerns associated with this activity that have driven these reforms. It is not appropriate for the broader ACT community to bear the costs associated with regulating and monitoring the care of racing greyhounds. Accordingly, there will be new costs associated with registering a racing greyhound, and maintaining a licence to keep or train a racing greyhound.

#### Less restrictive means reasonably available to achieve the purpose

These Amendment Bills represent the least restrictive manner in which to achieve the purpose of protecting the welfare of racing greyhounds in the ACT. As noted above, the inability to appropriately control the welfare management of greyhounds in other jurisdictions requires an end to racing that necessarily involves a vast majority of greyhounds from interstate. Given evidence about the numbers of local greyhounds involved in Canberra race meetings, it is not viable to entertain a greyhound racing industry that is limited to ACT based dogs.

While terminating the opportunity of any entity to race or train greyhounds in the ACT will impact on individual owners and trainers, many of them currently do, and will continue to be able to, work in the industry in various locations in NSW.

#### **Use of race field information**

##### The nature of the right affected

Section 12 (Privacy and reputation) of the HRA provides that everyone has the right not to have his or her privacy, family, or home or correspondence interfered with unlawfully or arbitrarily, and not to have his or her reputation unlawfully attacked.

The Amendment Bill includes a number of provisions that preserve existing protections around the use of race field information (see part 1.3 of schedule 1).

Under part 5B of the Racing Act, a controlling body may approve the use of information on ACT races (race field information) by a licensed wagering operator. In deciding whether to issue an approval, a controlling body must consider whether the operator is a suitable person to hold an approval under section 61L and the Racing (Race Field Information) Regulation provides further matters that a controlling body must take into account. An approval is also subject to a number of conditions, including that a licensed wagering operator must not open or maintain a betting account for a person if the operator knows the account is for someone



who has been disqualified or suspended from participation in racing or is subject to a warning-off notice.

These considerations engage the right to privacy and reputation.

#### The importance of the purpose of the limitation

Provisions of this nature are not uncommon in licensing legislation where, for the purposes of protecting the public, the integrity of applicants and approval-holders must be rigorously assessed. Racing authorities and controlling bodies across Australia have in place similar considerations for the use of their race field information.

Controlling bodies must disregard the location of an individual or corporation and the jurisdiction under which the applicant is licensed or authorised to undertake a wagering business. Accordingly, it would be inappropriate for the ACT not to maintain the coverage of the existing framework.

Allowing persons who have been warned-off racecourses or are subject to disciplinary action because of breaches of racing legislation or rules to participate in wagering would create racing integrity and consumer protection risks.

The provisions in the Amendment Bill ensure that the integrity of existing suitability assessments is maintained.

#### The nature and extent of the limitation

The collection and consideration of personal information by a controlling body engages and potentially limits the right to privacy and reputation.

To enable the controlling body to make an assessment about an application for an approval (or renewal of an approval) to use race field information, an applicant is required to provide information to establish that they are suitable to hold an approval, including information on the wagering, criminal and disciplinary history of the applicant, key employees and close associates.

Under the Regulation, a controlling body must specifically consider whether issuing the approval would undermine the integrity of races conducted in the ACT. A licensed wagering operator must cooperate and provide information to any inquiry or investigation conducted by a relevant controlling body, and must notify the controlling body about matters to do with the controlling interests, financial circumstances and any disciplinary action against the operator.

In addition, under section 7 of the Racing (Race Field Information) Regulation, licensed wagering operators must establish the identity of a person when opening betting accounts

and must not open accounts for persons who have been disqualified, suspended or warned-off. These provisions are an important racing integrity measure, and maintaining this framework after the cessation of greyhound racing in the ACT is important.

The information requested is not provided to Government – it is provided to the controlling bodies that sell their race field information to licensed wagering operators. Operators generally make significant returns on their wagering products, which would not be possible without the race field information obtained. Similarly, the personal information to be provided to licensed wagering operators in relation to a betting account is provided by individuals seeking to access wagering products offered by the operator.

Section 61W provides that a controlling body is bound by the National Privacy Principles in the *Privacy Act 1988* (Cth), even if it would not otherwise be required to comply with the Principles. This provision ensures that privacy and confidentiality is appropriately maintained under the amended race field information model, where approvals are no longer issued by Government.

The existing framework affords natural justice in relation to applications for approval (or renewal of an approval, or approval on condition) to use race field information, as these decisions are reviewable.

#### The relationship between the limitation and its purpose

The requirement to provide personal information is an important part of maintaining the existing framework to safeguard racing integrity and consumer protection.

This information is essential so that the controlling bodies can identify those persons who should not be provided with ACT race field information for the purposes of wagering activities.

The collection and consideration of such information, including criminal history, assists in maintaining the integrity of the gambling industry in the Territory. Part 5B of the Racing Act, has previously been assessed to be compatible with human rights. The provisions in the Amendment Bill preserve the operation of those provisions after the ending of greyhound racing in the ACT.

#### Less restrictive means reasonably available to achieve the purpose

In developing the legislation an assessment was made as to whether any less restrictive means were available to achieve the purpose of the Amendment Bill. There is no less restrictive means reasonably available as the provision of personal information, including information about disciplinary action associated with racing activities, is critical to the integrity of the racing industry and wagering activities.

It was considered whether these provisions were required and whether preservation of the existing framework for assessment of suitable persons was necessary. Without these amendments, there is a risk that the ACT could become a 'loophole' jurisdiction where persons who have been warned-off racecourses or are otherwise subject to disciplinary action could become involved in wagering activities. The existing framework is based on similar requirements in NSW and Victoria.

The gambling industry is highly regulated and unforeseen issues can arise that can affect the public interest, consumer protection and infiltration of the industry by criminal aspects of society. Due to the diverse nature of the gaming industry and its globalisation, decision makers must have the ability to assess matters that may affect whether a person should be involved in licensed wagering.

Accessing ACT race field information is a voluntary activity, which can result in significant financial gain for the licensed wagering operator. A person may choose not to disclose information required to obtain an approval, and the necessary consequence of that decision is that they will not have access to ACT race field information.

Similarly, participating in wagering activities is a voluntary activity. A person may choose not to disclose their personal information and history to a licensed wagering operator; however, they may then be unable to participate in certain wagering activities.

Establishing the identity and behaviour of a person seeking to be involved in the use of race field information or to open a betting account is fundamental to protecting the public and minimising criminal activities. There is no less restrictive means available that will achieve the intended outcome.

As outlined above, the Amendment Bill preserves the existing requirement to provide suitability information, and to the extent that this engages a person's right to privacy and reputation, it is considered reasonable and demonstrably justified in a free and democratic society. The requirement to provide the information is proportionate and necessary to minimise the risk to racing integrity and consumer protection.

#### Revenue/Cost Implications

During 2017-18, \$1.033 million has been provided in the Budget for industry transition support.

## CLAUSE NOTES

### PART 1      PRELIMINARY

#### **Clause 1**      **Name of Act**

This clause is a formal provision setting out the name of the Act as the *Racing (Greyhounds) Amendment Act 2017* (the Amendment Act).

#### **Clause 2**      **Commencement**

This clause provides that the Amendment Act will commence on 30 April 2018.

#### **Clause 3**      **Legislation amended**

This clause identifies that the *Racing Act 1999* (the Racing Act) will be amended.

In addition, schedule 1 of the Amendment Act includes amendments to the *Race and Sports Bookmaking Act 2001*, the *Race and Sports Bookmaking Regulation 2001*, the *Racing (Race Field Information) Regulation 2010*, and the *Totalisator Act 2014*.

### PART 2      RACING ACT 1999

#### **Clause 4**      **Long title**

Clause 4 removes greyhound racing from the long title of the Racing Act. The Racing Act will now regulate thoroughbred and harness racing conducted for the purpose of betting, and for related purposes.

#### **Clause 5**      **Racing club is the controlling body for thoroughbred racing** **Section 15 (1)**

Clause 5 updates the name of the controlling body for thoroughbred racing from 'The Australian Capital Territory Racing Club Inc' to its current name which is the 'Canberra Racing Club Incorporated'. There is no change to the effect of the provision. Clause 16 is related to this amendment.

#### **Clause 6**      **Controlling body for greyhound racing** **Division 3.3**

Clause 6 omits all of Division 3.3 from the Racing Act. Division 3.3 includes sections 27 to 32 of the Racing Act, relating to the:

- Canberra Greyhound Racing Club Inc (the 'greyhound club') being the controlling body for greyhound racing;
- functions of the greyhound club;
- delegation of functions by the greyhound club;
- provision of reports and accounts to the Commission;
- making of rules of greyhound racing; and
- appointment of an administrator for the greyhound club.

In addition to removing the controlling body provisions, the Amendment Bill amends the definition of ‘race’ (and all other forms of the word) so that it no longer includes greyhound racing (see clause 15 below). As a result, it is not possible for the Commission to approve any entity to be an Approved Racing Organisation (ARO) under Part 4 of the Racing Act for greyhound race meetings.

Section 33(3) of the Racing Act specifically provides that an ARO must not be approved to conduct race meetings that include thoroughbred races. As a result, the provisions in Part 4 will be limited to harness racing. There is currently no ARO for this racing code, as the Canberra Harness Racing Club Inc. is the controlling body for harness racing under section 21 of the Racing Act.

**Clause 7      Definitions-pt 5B**

**Section 61E, definition of *race field information***

Clause 7 amends the definition of ‘race field information’ in section 61E of the Racing Act to remove references to ‘or greyhound’, which are in paragraphs (b), (c) and (e). Race field information means information in relation to an authorised race meeting in the ACT. There will no longer be authorised greyhound races in the ACT and as such there will be no race field information for, and no race field information charge associated with, greyhound races in the ACT.

Part 5B of the Racing Act will continue to operate as it currently does for race field information relating to authorised thoroughbred or harness races in the ACT. Part 1.3 of schedule 1 of the Amendment Bill includes amendments that provide for the continued consideration of the conduct of persons wishing to access race field information or open/maintain a betting account, including conduct in relation to greyhound racing, where it relates to the use of ACT race field information for thoroughbred or harness racing. The preservation of the existing framework for use of race field information and for betting accounts is a racing integrity and consumer protection measure. See also the Human Rights Implications discussed above.

**Clause 8      Section 61E, definition of *relevant controlling body*, paragraph (c)**

Clause 8 amends the definition of ‘relevant controlling body’ in section 61E of the Racing Act to remove paragraph (c), which currently provides that the greyhound club is the relevant controlling body for a greyhound race. As outlined at clause 7 above, there will no longer be any race field information for greyhound races in the ACT.

**Clause 9      New part 11**

Clause 9 inserts a new part 11 – Transitional—Racing (Greyhounds) Amendment Act 2017 to the Racing Act. Part 11 adds two new sections – sections 110 and 111.

### *New section 110 Transitional regulations*

New section 110 provides that transitional regulations may be made by the Executive to ensure that any other matters arising from the enactment of the Amendment Bill may be addressed. The section includes two different regulation making powers.

Any regulation made under section 110(1) cannot exceed the operation or purpose of the amended Act.

Section 110(2) enables the making of a regulation that modifies the Racing Act. A regulation under this section may only modify Part 11 of the Racing Act (including in relation to another Territory law), and only if the Executive is of the opinion that the part does not adequately or appropriately deal with a transitional issue. A provision of this kind is an important mechanism for achieving the proper objectives, managing the effective operation and eliminating transitional flaws in the application of the Racing Act in unforeseen circumstances by allowing for flexible and responsive (but limited) modification by regulation. This power appropriately enables the Executive to deal quickly with any unforeseen transitional issues that arise as a consequence of provisions within the Amendment Bill.

Section 110(3) gives a regulation under section 110(2) full effect according to its terms. A provision of Part 11 of the Racing Act modified by regulation will operate in the same way (in relation to another provision of the Act or any other Territory law) as if it were amended by an Act, and in accordance with established principles of statutory interpretation. The proposed section does not express or intend to limit future enactments of the Legislative Assembly; nor does it restrain the power of the Assembly to make laws. It is understood that this provision could itself in future be amended or repealed by the Assembly at any time like other pieces of legislation and that the Assembly could make another law that overrides this law if necessary.

The capacity to modify an Act through subordinate legislation is referred to as a 'Henry VIII' clause. It is acknowledged that these clauses are generally not preferable. In developing the Amendment Bill, every attempt has been made to foresee issues arising in the transition to end the greyhound racing industry in the ACT. However, this provision is necessary in the Amendment Bill as there is no practical alternative available to ensure that any unforeseen matters which might arise during the transition can be addressed expediently.

As a further limitation on this power to make transitional regulations, new section 110 (along with all of Part 11), expires two years after commencement (note new section 111 below).

### *New section 111 Expiry – pt 11*

New section 111 provides that Part 11 expires two years after it commences. This will allow sufficient time for any transitional matters associated with the ending of greyhound racing in the ACT to be addressed.

As noted above, the ACT greyhound racing industry is inextricably linked with the industry in NSW. NSW is currently undertaking a major reform program within its greyhound racing industry, with the pending implementation of the NSW Greyhound Welfare and Integrity Commission. Given the Amendment Bill does not prohibit breeding or training of dogs that may be raced (many of them in NSW), it is appropriate that the Government has the power to respond quickly to unforeseen issues. A two-year expiry for this provision is also in line with the Government's decision that breeding and training practices will be carefully monitored over the next two years.

**Clause 10      Tribunal members—appointment**  
**Schedule 1, section 1.1 (3) (b) and (c)**

Under section 1.1(3) of schedule 1 of the Racing Act, a person is not currently eligible to be a member of the Racing Appeals Tribunal if they are an officer or employee of a controlling body, or registered with or licensed by a controlling body or a corresponding body (in another jurisdiction) unless that registration or licensing is limited to being the owner of a horse or dog. This restriction is a racing integrity measure that is intended to preclude persons actively connected with the racing industry from being appointed to hear matters relating to the control and administration of the industry. However, the Racing Act does not extend this restriction on membership to those that simply own a horse or dog that races. Given the nature of syndicate ownership of racing animals, precluding owners from Tribunal membership could have a significant (and unintended) impact. The provision currently operates across all three codes of racing.

Clause 10 removes references to 'or dog' from section 1.1 of schedule 1. This clause has been amended to remove references to 'dog' in line with changes to definitions in the dictionary to remove references to greyhound racing from the terms 'race', 'controlling body', 'corresponding body' and 'approved rules'.

However, the operation of the provision in relation to greyhounds has been preserved so that persons directly involved in the administration and control of greyhound racing in other jurisdictions (otherwise than as the owner of a dog) remain ineligible for appointment to the Tribunal. Clause 11 and item 1.9 of schedule 1 address this issue (see below).

**Clause 11      Schedule 1, new section 1.1 (4)**

Clause 11 provides that a regulation may prescribe other eligibility requirements for members of the Racing Appeals Tribunal for section 1.1(3), which sets out the grounds on which a person is not eligible to be a member of the Tribunal. (See clause 10 above.)

**Clause 12      Dictionary, definition of *approved rules*, paragraph (c)**

Clause 12 amends the definition of 'approved rules' in the dictionary to omit paragraph (c), which currently provides that the rules of greyhound racing are approved rules for the Act. As

greyhound racing will no longer occur in the ACT and there will be no controlling body or approved racing organisation for greyhound racing, there will be no approved rules for greyhound racing in the ACT.

**Clause 13 Dictionary, definition of *controlling body*, paragraph (c)**

Clause 13 amends the definition of 'controlling body' in the dictionary to omit paragraph (c), which currently provides that the greyhound club is a controlling body for the Act. This amendment reflects the omission of division 3.3 from the Act under clause 6 above, which removes the legal framework for a controlling body for greyhound racing in the ACT.

**Clause 14 Dictionary, definition of *greyhound club***

Clause 14 omits the defined term 'greyhound club' from the dictionary, as it will no longer be used in the Act. This amendment reflects the omission of division 3.3 from the Act under clause 6 above, which removes the legal framework for a controlling body for greyhound racing in the ACT.

**Clause 15 Dictionary, definition of *race*, paragraph (c)**

Clause 15 amends the definition of 'race' in the dictionary to omit paragraph (c), which currently provides that the term race (and other forms of the word, in accordance with section 157 of the *Legislation Act 2001*) means a greyhound race, as well as other types of races. As greyhound racing will no longer occur in the ACT, this clause removes a greyhound race from the definition of race.

**Clause 16 Dictionary, definition of *racing club***

Clause 16 amends the definition of 'racing club' to reflect the update to the club's name provided in clause 5. The controlling body for thoroughbred racing was formerly known as 'The Australian Capital Territory Racing Club Inc' but is now the 'Canberra Racing Club Incorporated'.

**Clause 17 Dictionary, definition of *rules of greyhound racing***

Clause 17 omits the definition of 'rules of greyhound racing' from the dictionary, as it will no longer be used in the Act. This amendment reflects the omission of division 3.3 from the Act under clause 6 above, which removes the legal framework for a controlling body for greyhound racing in the ACT. There will be no rules of greyhound racing in the ACT as there will be no controlling body or approved racing organisation to make rules.

Part 1.3 of schedule 1 preserves the operation of the existing framework for race field information and wagering, including where there has been disciplinary action or a prosecution under external greyhound racing legislation or rules (which is legislation or rules of racing or betting relating to greyhound racing in another jurisdiction (see item 1.13, schedule 1).



## **SCHEDULE 1 CONSEQUENTIAL AMENDMENTS**

### **Part 1.1 Race and Sports Bookmaking Act 2001**

#### **Item 1.1 Dictionary, definition of *controlling body***

Item 1.1 of schedule 1 omits the definition of ‘controlling body’ from the dictionary of the Race and Sports Bookmaking Act, as this term has never been used in the Act.

#### **Item 1.2 Dictionary, definition of *race***

Item 1.2 of schedule 1 amends the definition of ‘race’ in the dictionary of the Race and Sports Bookmaking Act. As the Race and Sports Bookmaking Act regulates bookmaking in the ACT, which currently includes betting on greyhound races in the ACT, the definition of race is amended to provide that betting on greyhound racing within the ACT is not permitted by the Act. The amended definition clarifies that betting is permitted on thoroughbred races within and outside the ACT, harness races within and outside the ACT, and greyhound racing outside the ACT.

### **Part 1.2 Race and Sports Bookmaking Regulation 2001**

#### **Item 1.3 Section 5 (b)**

Item 1.3 of schedule 1 omits paragraph (b) from section 5 of the Race and Sports Bookmaking Regulation. Section 5 provides that the Commission must inform a range of entities when the Commission issues, suspends or cancels a bookmaking licence, or when a suspension ends. The entities to be informed currently includes the greyhound club, and the amendment will remove this requirement.

The requirement to notify Greyhound Racing NSW is retained, since ACT-licensed bookmakers are required to hold a security guarantee with the NSW Bookmakers’ Co-operative Ltd.

### **Part 1.3 Racing (Race Field Information) Regulation 2010**

#### **Item 1.4 Section 1**

Item 1.4 of schedule 1 amends section 1 of the Racing (Race Field Information) Regulation to change the name of the Regulation to the *Racing Regulation 2010*. This change is consequential to item 1.9 that adds new section 8 to the Regulation, about tribunal membership.

#### **Item 1.5 Section 5 (1) (g)**

Item 1.5 of schedule 1 preserves the operation of existing section 5(1)(g) of the Racing (Race Field Information) Regulation through adding disciplinary action under ‘external greyhound racing legislation or rules’ (see item 1.13 below) to the list of matters that must be disclosed to a controlling body by an applicant seeking an approval or renewal of an approval to use ACT race field information.

This provision is consequential to the removal of greyhound racing from the definition of 'race' in the Racing Act.

This provision ensures that the existing safeguards and protections associated with the use of ACT race field information are maintained. The provision supports racing integrity and consumer protection. In particular, section 6 of the Regulation requires that a relevant controlling body must consider whether issuing, or renewing, the approval will undermine the integrity of the conduct of races in the ACT for which the relevant controlling body has responsibility.

**Item 1.6      New section 6A**

Item 1.6 of schedule 1 inserts a new section 6A into the Racing (Race Field Information) Regulation to preserve the operation of existing requirements that a controlling body must take into account in deciding whether a person is a suitable person to hold an approval for the use of ACT race field information. The controlling body must have regard to whether a prosecution or disciplinary action is proceeding under 'external greyhound racing legislation or rules' (see item 1.13 below) for the applicant, an employee or an entity with which the applicant has a business association.

This provision is consequential to the removal of greyhound racing from the definition of 'race' in the Racing Act.

This provision ensures that the existing safeguards and protections associated with the use of ACT race field information are maintained, and supports racing integrity and consumer protection.

**Item 1.7      Section 7 (1) (e) (i)**

Item 1.7 of schedule 1 preserves the operation of existing section 7(1)(e)(i) of the Racing (Race Field Information) Regulation through adding 'external greyhound racing legislation or rules' (see item 1.13 below) to an existing condition of an approval or renewal of approval to use ACT race field information. A licensed wagering operator must not open or maintain a betting account for a person if the operator knows the account is for someone who has been disqualified or suspended from participation in racing or is subject to a warning-off notice, including in relation to greyhound racing outside the ACT.

This provision is consequential to the removal of greyhound racing from the definition of 'race' in the Racing Act.

This provision ensures that the existing safeguards and protections associated with the use of ACT race field information are maintained, and supports racing integrity and consumer protection.

**Item 1.8      Section 7 (1) (h) (iii)**

Item 1.8 of schedule 1 preserves the operation of existing section 7(1)(h)(iii) of the Racing (Race Field Information) Regulation through adding the starting of a prosecution or disciplinary action under ‘external greyhound racing legislation or rules’ (see item 1.13 below) to the list of matters a licensed wagering operator must notify the relevant controlling body about within 14 days, as a condition of an approval or renewal of approval to use race field information. This requirement applies where the prosecution or disciplinary action is started against the licensed wagering operator, an entity with a controlling interest in the operator or an employee of the operator.

This provision is consequential to the removal of greyhound racing from the definition of ‘race’ in the Racing Act.

This provision ensures that the existing safeguards and protections associated with the use of ACT race field information are maintained, and supports racing integrity and consumer protection.

**Item 1.9      New section 8**

Item 1.9 of schedule 1 inserts a new section 8 into the Racing (Race Field Information) Regulation.

New section 8 provides that a person is not eligible to be a member of the Racing Appeals Tribunal where they are registered with, or licensed by, an external racing greyhound body, other than as the owner of a dog.

Under section 8(2) an ‘external racing greyhound body’ is defined as a body in another jurisdiction, within or outside Australia, that performs functions relating to the administration and control of greyhound racing.

This amendment preserves the operation of the existing restriction on Tribunal membership for those persons directly involved in the greyhound racing industry outside the ACT. A separate provision is required given the amendments to the Racing Act that remove greyhound racing from the definition of ‘race’.

This amendment is a racing integrity measure and necessary to preserve the operation of existing restrictions on Tribunal membership, as outlined in clause 10 above.

**Item 1.10      Dictionary, note 3**

Item 1.10 of schedule 1 adds the term ‘controlling body’ to note 3 in the dictionary of the Racing (Race Field Information) Regulation. The term has the same meaning that it has in the Racing Act.

**Item 1.11 Dictionary, note 3**

Item 1.11 omits the terms ‘greyhound club’ and ‘rules of greyhound racing’ from the list of terms that have the same meaning as in the Racing Act, as set out in note 3. Under the Amendment Bill, these terms are removed from the Racing Act (see clauses 14 and 17).

**Item 1.12 Dictionary, definition of *defined entity*, paragraph (d)**

Item 1.12 of schedule 1 amends the definition of ‘defined entity’ in the Racing (Race Field Information) Regulation to omit paragraph (d), which lists ‘the greyhound club’ in the list of defined entities. Under clause 14, ‘greyhound club’ is removed from the dictionary of the Racing Act, in line with other amendments in the Amendment Bill.

The definition of ‘defined entity’ includes ‘Greyhounds Australasia Ltd’ at paragraph (a) and this is not omitted, since a licensed wagering operator must not open or maintain a betting account for a person who has been the subject of a warning-off notice issued by a defined entity in relation to racing, including greyhound racing, in another jurisdiction. This maintains the existing framework for the use of race field information and is a racing integrity and consumer protection measure.

**Item 1.13 Dictionary, new definition of *external greyhound racing legislation or rules***

Item 1.13 of schedule 1 inserts a new definition of ‘external greyhound racing legislation or rules’ to the dictionary of the Racing (Race Field Information) Regulation. External greyhound racing legislation or rules means: legislation relating to greyhound racing in another jurisdiction, within or outside Australia; or rules of racing or betting relating to greyhound racing in another jurisdiction, within or outside Australia.

This provision is consequential to the removal of greyhound racing from the definition of ‘race’ in the Racing Act.

This amendment is part of provisions that preserve the ability for the controlling bodies for thoroughbred and harness racing in the ACT to take into account disciplinary action or prosecutions under racing legislation or rules when a licensed wagering operator is applying to use ACT race field information, including conduct in relation to greyhound racing.

Where a person has been warned-off or subject to a prosecution or disciplinary action against the rules of any of the three racing codes, it may be inappropriate for that person to access race field information on ACT thoroughbred or harness races. For example, a person may have interfered with racing activity or may have not properly conducted betting activities. This amendment provides that the controlling bodies can take into account such matters when considering if a licensed wagering operator is a suitable person to be approved to use ACT race field information.

In addition, it is a condition of an approval (or renewal of an approval) that a licensed wagering operator must not open or maintain a betting account for a person who the operator knows is disqualified or suspended from participation in racing or is subject to a warning-off notice. It would be inappropriate for such a person to be involved in wagering activity.

This amendment supports racing integrity and consumer protection in the ACT.

**Item 1.14 Dictionary, definition of *rule of racing or betting***

Item 1.14 of schedule 1 amends the definition of ‘rule of racing or betting’ to remove the reference to ‘the rules of greyhound racing’ from the dictionary of the Racing (Race Field Information) Regulation. However, item 1.13 above provides a new definition of ‘external greyhound racing legislation or rules’ to preserve the existing framework, which requires controlling bodies to consider the suitability of licensed wagering operators and those persons seeking to open or maintain a betting account. This measure supports racing integrity and consumer protection in the ACT.

**Part 1.4 Totalisator Act 2014**

**Item 1.15 Dictionary, definition of *race***

Item 1.15 of schedule 1 amends the definition of ‘race’ in the dictionary of the Totalisator Act. As the Totalisator Act regulates betting in the ACT, which currently includes betting on greyhound races in the ACT, the definition of race is amended to provide that betting on greyhound racing within the ACT is not permitted by the Act. The amended definition clarifies that totalisator betting is permitted on thoroughbred races within and outside the ACT, harness races within and outside the ACT, and greyhound racing outside the ACT.