

LEGISLATIVE COUNCIL

Thoroughbred Racing Amendment Bill 2023

Second print

Proposed amendments

No. 1 Chairperson and Deputy Chairperson of racing NSW

Page 3, Schedule 1. Insert after line 18—

[2A] Section 16 Chairperson and Deputy Chairperson of Racing NSW

Insert after section 16(7)—

- (8) The Minister must not appoint a person who has at any time been the Chief Executive as—
- (a) Chairperson, or
 - (b) Deputy Chairperson.

No. 2 Racing NSW annual report

Page 3, Schedule 1. Insert after line 18—

[2B] Section 29 Annual report

Insert after section 29(2)—

- (2A) The report must also include the following—
- (a) the number of horses bred for horse racing,
 - (b) the number of horses killed or injured in the following circumstances—
 - (i) while engaged in horse racing,
 - (ii) during an official trial,
 - (iii) during trackwork,
 - (c) the following for each horse killed in circumstances referred to in paragraph (b)—
 - (i) the name of the horse,
 - (ii) the cause of death,
 - (d) the following for each horse injured in circumstances referred to in paragraph (b)—
 - (i) the name of the horse,
 - (ii) the cause and nature of the injury,

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- (e) the total number of horses, and the name of each horse, retired from racing, including the total number of horses, and the name of each horse, retired from racing with assistance from Racing NSW whether operating under—
- (i) the name Racing NSW, or
 - (ii) the name Team Thoroughbred, or
 - (iii) another name,
- (g) the total number of horses, and the name and fate of each horse, that enter a retraining and rehoming facility operated by Racing NSW whether under—
- (i) the name Racing NSW, or
 - (ii) the name Team Thoroughbred, or
 - (iii) another name,
- (h) the total amount of funding received from the State, and how that funding has been spent.

No. 3 **Payment for Racing NSW annual report**

Page 3, Schedule 1. Insert after line 18—

[2C] Section 29(4)

Omit “at a reasonable price”. Insert instead “at no cost”.

No. 4 **Racing NSW annual report**

Page 3, Schedule 1. Insert after line 18—

[2D] Section 29(5)

Insert after section 29(4)—

(5) In this section—

trackwork means a training activity, excluding an official trial or jump-out or race, undertaken by a horse in the care of a trainer including on—

- (a) a racecourse, or
- (b) a recognised training track, or
- (c) a private training establishment.

No. 5 **Thoroughbred Welfare and Integrity Commission**

Page 3, Schedule 1. Insert after line 18—

[2E] Part 4A

Insert after section 49A—

Part 4A Thoroughbred Welfare and Integrity Commission

49B Constitution

(1) There is constituted by this Act a body corporate with the corporate name of the Thoroughbred Welfare and Integrity Commission.

(2) The Commission is, for the purposes of any Act, a NSW Government agency.

Note— See the *Interpretation Act 1987*, section 13A.

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- (3) The Commission is not subject to the control and direction of the Minister except to the extent expressly provided for under this or any other Act.

49C The Commissioners

- (1) The Commission consists of the following members appointed by the Governor on the recommendation of the Minister—
- (a) a Chief Commissioner,
 - (b) 2 other Commissioners.
- (2) At least one of the Commissioners must be a person who has been an Australian lawyer for at least 7 years.
- (3) A person is not eligible to be appointed as a Commissioner if the person is or has at any time been—
- (a) a racing industry participant, or
 - (b) a racing official, or
 - (c) a member of RICG, or
 - (d) a member of any other body, or class of body, prescribed by the regulations.
- (4) The appointment of Commissioners is subject to Schedule 1A.
- (5) In this section—
- racing industry participant* means the following—
- (a) a member of the Country Racing Council Limited,
 - (b) a member of Provincial Racing NSW,
 - (c) a person who owns, in whole or part, 1 or more thoroughbred racehorses,
 - (d) a person who is a breeder of thoroughbred racehorses,
 - (e) a person who is a licensed trainer of thoroughbred racehorses,
 - (f) a person who is a jockey or apprentice jockey,
 - (g) a person prescribed by the regulations.

49D Objective

The principal objective of the Commission is to promote and protect the welfare of horses engaged in horse racing.

49E Functions

- (1) The Commission has the following functions—
- (a) to control, supervise and regulate, subject to this Act, horse racing in the State,
 - (b) to initiate, develop and implement policies relating to the welfare of horses involved in horse racing,
 - (c) to undertake research and investigation into any aspect of horse racing and the breeding of horses involved in horse racing,
 - (d) to consult with animal welfare bodies in developing changes to legislation relating to the welfare of horses involved in horse racing,
 - (e) to inform the Minister about any event or matter that may adversely affect horse welfare,

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- (f) to provide the Minister with information, advice or reports at the Minister's request,
 - (g) other functions conferred or imposed on the Commission by or under this or another Act.
- (2) Except as otherwise provided by this section, the functions of the Commission are exercisable by a Commissioner and any act, matter or thing done in the name of, or on behalf of, the Commission by a Commissioner is taken to have been done by the Commission.

49F Strategic plan

- (1) The Commission must, as soon as practicable after the commencement of this part, prepare a draft strategic plan outlining how the Commission will achieve the objective in section 49D.
- (2) The Commission must submit the draft strategic plan to the Minister for comment.
- (3) The Commission must, every 3 years after the initial strategic plan is made, prepare a further draft strategic plan and submit it to the Minister for comment.
- (4) In making a strategic plan under this section, the Commission must have regard to any comments received from the Minister on the draft plan and to refer to those comments in the strategic plan.
- (5) The Commission must make the strategic plan publicly available at no cost.
- (6) The Commission's annual report under the *Government Sector Finance Act 2018* must include a progress report on the implementation of the strategic plan during the annual reporting period to which the annual report relates.

49G Management of affairs of Commission

The chief executive officer of the Commission is responsible for the day to day management of the affairs of the Commission and for the implementation of the decisions of the Commissioners.

49H Ministerial directions

- (1) The Minister may give the Commission a written direction with respect to the functions of the Commission if the Minister is satisfied that it is necessary to do so in the public interest.
- (2) The Commission must ensure that the direction is complied with.
- (3) A direction under this section cannot be made in relation to the content of any advice, report or recommendation by the Commission.
- (4) The Minister must within 1 month after giving a direction publish a notice in the Gazette setting out—
 - (a) the reasons the direction was given, and
 - (b) why the direction is in the public interest.

49I Staff

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commission to exercise its functions.

49J Delegation

- (1) The Commission may delegate the exercise of any function of the Commission under this Act, other than this power of delegation, to the following—
 - (a) a Commissioner,
 - (b) the chief executive officer of the Commission or a member of staff of the Commission,
 - (c) a person or body prescribed by the regulations.
- (2) A decision of the Commission to delegate a function must be authorised by the Chief Commissioner and at least one other Commissioner.

No. 6 **Thoroughbred Welfare and Integrity Commission**

Page 3, Schedule 1. Insert after line 18—

[2F] Schedule 1A

Insert before Schedule 1—

Schedule 1A Provisions relating to Commissioners

section 49C

1 Terms of office of members

- (1) Subject to this schedule, a Commissioner holds office for the term, not exceeding 3 years, as may be specified in the Commissioner's instrument of appointment.
- (2) A Commissioner is, if otherwise qualified, eligible for re-appointment.

2 Basis of office

- (1) The office of the Chief Commissioner is a full-time office.
- (2) The office of the a Commissioner, other than the Chief Commissioner, may be a full-time office or a part-time office.
- (3) The holder of a full-time office under this clause is required to hold it on that basis, except to the extent permitted by the Governor.

3 Employment and remuneration

- (1) The employment of a Commissioner is, unless otherwise provided for in this schedule, governed by a contract of employment between the Commissioner and the Minister.
- (2) The following provisions of, or made under, the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to a Commissioner as if a reference to the employer of an executive is read as a reference to the Minister—
 - (a) provisions relating to the band in which an executive is to be employed,
 - (b) provisions relating to the contract of employment of an executive,

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- (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

4 Vacancy in office of member

- (1) The office of a Commissioner becomes vacant if the Commissioner—
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) becomes personally insolvent, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office for incompetence, incapacity or misbehaviour.
- (3) A Commissioner cannot be removed from office under the *Government Sector Employment Act 2013*, part 6.

5 Commissioner not Public Service employee

The office of a Commissioner is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office, except as provided by clause 3.

6 Acting Commissioner

- (1) The Minister may, from time to time, appoint a person to act in the office of a Commissioner during the illness or absence of the Commissioner, or during a vacancy in the office of a Commissioner, and the person appointed while acting in the office, has all the functions of the Commissioner and is taken to be the Commissioner.
- (2) The Minister may, at any time, remove a person from office as acting Commissioner.
- (3) An acting Commissioner is entitled to be paid the remuneration, including travelling and subsistence allowances, as the Minister determines from time to time.

No. 7 Long title

Omit “Racing NSW;”.

Insert instead “Racing NSW; to make provision for improvements to the welfare of horses involved in racing, including by establishing a Thoroughbred Welfare and Integrity Commission;”.