



Greyhound Racing Bill 2009 Harness Racing Bill 2009 Racing Legislation Amendment Bill 2009

Extract from NSW Legislative Assembly Hansard and Papers Thursday 2 April 2009.

Agreement in Principle

Mr KEVIN GREENE (Oatley—Minister for Gaming and Racing, and Minister for Sport and Recreation) [10.05 a.m.]: I move:

That these bills be now agreed to in principle.

The main purpose of the three bills before the House is to reform and update the statutory arrangements that underpin the governance arrangements for the greyhound and harness racing industries; repeal the Greyhound and Harness Racing Administration Act 2004, and dissolve the Greyhound and Harness Racing Regulatory Authority; repeal the Greyhound Racing Act 2002 and Harness Racing Act 2002, and by way of the proposed legislation transfer the functions and responsibilities of the dissolved authority to a single controlling body for each of the greyhound and harness racing codes; provide for an independent board structure for Greyhound Racing New South Wales and Harness Racing New South Wales based on the recently introduced Racing New South Wales model; provide for an independent integrity auditor function across all three codes to receive and consider complaints about the conduct of racing officials; and provide for necessary savings and transitional arrangements.

Before going into the detail of the proposed amendments, it would be appropriate to mention a number of important matters. Firstly, I acknowledge the contribution of the board and the staff of the Greyhound and Harness Racing Regulatory Authority over the past four years. I acknowledge once again in this place the contribution made by Peter Baldwin to the greyhound and harness racing industries, and offer my sincere condolences to family, friends and work colleagues upon his sudden and tragic death. There is a need to acknowledge the strategic thinking and leadership of the boards and, in particular, the Chairs of Greyhound Racing New South Wales and Harness Racing New South Wales. They have accepted the challenge of driving change for the overall benefit of their industries, and ultimately for the many people in New South Wales who enjoy the spectacle of racing. Throughout the racing industry and Government there is an acceptance that change based on a foundation of appropriate and modern governance arrangements is necessary if future viability is to be ensured.

I now turn to the detail of the respective bills. The lead bill is the Greyhound Racing Bill 2009. The Harness Racing Bill 2009 and the Racing Legislation Amendment Bill 2009 are cognate bills. The Greyhound Racing Bill 2009 formally dissolves the Greyhound and Harness Racing Regulatory Authority. The Greyhound Racing Bill 2009 and the Harness Racing Bill 2009 provide for the following matters in respect of their individual codes of racing: to re-enact the Greyhound Racing Act 2002 and Harness Racing Act 2002 to provide for the new arrangements; to reconstitute Greyhound Racing New South Wales and Harness Racing New South Wales, including with a board structure which provides for members to be appointed on merit, and in accordance with skills-based criteria; the transfer of the functions and responsibilities of the former authority to Greyhound Racing New South Wales or Harness Racing New South Wales, as appropriate; to create the Office of Integrity Auditor to receive and investigate complaints in relation to the conduct of racing officials; to establish a greyhound racing industry consultation group and a harness racing industry consultation group, and other related formal requirements, aimed at facilitating robust and productive consultation between the controlling body and industry stakeholders.

All three codes of the racing industry throughout Australia accept that change is necessary to meet the challenges of the present economic climate, evolving laws and the new ways of transacting cross-border business including novel technologies. The Government has responded to that call and has already made several changes, and undertaken comprehensive reviews from which informed policy has been developed. The Government supports, and is committed to, a healthy and sustainable racing industry. Its approach includes enacting the race field laws, and also seeking independent input from the Alan Cameron Wagering Review. The proposals are based on amendments made last year to the Thoroughbred Racing Act 1996, which provides for the arrangements under which Racing New South Wales operates. The proposals are also based on the recommendations made in the Malcolm Scott Review and the statutory five-year review of the greyhound and harness racing legislation. All of these have involved substantial consultation and consideration of what is the best way forward.

The Government acknowledges that all three codes of racing consider self-management of their respective industries, free of Government intervention, as a fundamental aspect of their governance arrangements. The

racing industry is traditionally self-funding and provides a significant contribution to the economy of this State. A billion dollars annually and up to 50,000 full-time and part-time jobs represents a place in the top three industries. The governance arrangements to be implemented are based on the Racing New South Wales model introduced last year. This features a single board for each of the three codes that are responsible for all aspects of the control and regulation of the relevant sector; that is, both regulatory and commercial responsibilities. The model for the controlling bodies is that they are a body corporate created by statute, which does not represent the Crown and which is not subject to Government direction.

In principle, the five-member board of each controlling body is to be independent and appointments are on merit in accordance with skills-based criteria. The bills prescribe the following skills criteria: experience in a senior administrative role, or experience at a senior level in one or more of the fields of business, finance, law, marketing, technology, commerce, regulatory administration or regulatory enforcement. The chairperson of the five-member board will be elected by a simple majority of the members of the board and will serve as chairperson subject to holding that majority. It is essential in the twenty-first century to recognise the need to recruit persons with high-level business and management skills. The independent board model is recognised as best practice for these purposes. The bills also carry forward the existing duty of members of Greyhound Racing New South Wales and Harness Racing New South Wales to act in the public interest and in the interests of the industry as a whole.

A maximum eight-year term for future members of the board is also important to ensure that there is a regular reinvigoration of talent. As with the Racing New South Wales board, there is provision for a review of the appointment process to apply to the racing controlling bodies and I will deal with that later in this speech. The disbandment of the authority and the transfer of its regulatory functions to Greyhound Racing New South Wales and to Harness Racing New South Wales have been in the public domain since the tabling in Parliament on 26 June 2008 of the Malcolm Scott Review and the five-year review of the greyhound and harness legislation. A return to a single industry board for each of the greyhound and harness racing codes reflects the Racing New South Wales model, and is the norm nationally.

The functions of each single board will be as follows: to control, supervise and regulate greyhound or harness racing, as appropriate, in the State; the licensing and registration functions in relation to racing clubs, trial tracks, racing animals and prescribed participants, such as trainers, drivers, bookmakers; to initiate, develop and implement policies considered conducive to the promotion, strategic development and welfare of the greyhound or harness racing code in the State; to distribute money received as a result of the of commercial arrangements required by the Totalizator Act 1997; to allocate dates on which races may be conducted; and to develop and review policy in relation to the breeding and grading of greyhounds, and in relation to the breeding and handicapping of harness horses.

The single board model for each code has overwhelming industry support and it makes sense from the perspective of meeting industry needs. I am aware of uninformed comments that a single industry board will result in the diminution of integrity as a core industry value; I do not share that view. It is not evident in the manner in which Racing New South Wales conducts itself, nor is it the experience of any other racing body in Australia. I am satisfied that each code of racing understands that public confidence in the integrity of the conduct of racing is an absolute essential requirement, and that the consequences of ignoring that requirement would have adverse commercial consequences.

The transfer process is complex and it is being oversighted by a transition working party chaired by Michael Foggo, the Commissioner of the Office of Liquor, Gaming and Racing, and consisting of the chairpersons and chief executives of Greyhound Racing New South Wales and Harness Racing New South Wales—Professor Percy Allan, AM, Graeme Campbell, Brent Hogan and Max Pool. Stephen Price, chairperson of the authority, is also a member of the working party and assisting him as acting director of the authority is Darrell Loewenthal, a former director of Racing, and Deputy Director General of the Department of Gaming and Racing. The task is, as I said earlier, complex but the team is well credentialed and capable.

The Integrity Auditor is a new and important role. The Integrity Auditor will be a person with legal qualifications and be responsible for receiving and investigating complaints about the conduct of racing officials in relation to responsibilities and obligations under statute, and also the code of conduct of the relevant controlling body. The Integrity Auditor may decide that a complaint is frivolous, vexatious, trivial or not in good faith. Also, that it does not relate to the exercise of functions by the racing official in a corrupt, improper or unethical manner. The purpose of these limits is to ensure that the right to make a complaint is not abused.

The bills provide for the Integrity Auditor to exercise his or her function independently of the controlling body. Each controlling body may request advice from the Integrity Auditor on specific matters, for example, settling the code of conduct. A racing official may be a member of the board, or a staff member. Under the proposed legislation Greyhound Racing New South Wales and Harness Racing New South Wales may appoint, with the Minister's approval, one person to the Integrity Auditor for both codes, or a different person for each code. The Thoroughbred Racing Act 1996 makes provision for the Integrity Assurance Committee. That committee has existed since 1996 and with some minor changes to bring it into line with the Integrity Auditor concept it will serve the same purpose for the thoroughbred racing code.

The bills also provide for an industry consultation group in each of the greyhound and harness codes and other requirements aimed at facilitating formal and robust consultation between Racing New South Wales and stakeholders. The five members of the industry consultation group will consist of the following: one person nominated by either the New South Wales Harness Racing Club, or the New South Wales Greyhound Breeders, Owners and Trainers Association, as appropriate; one person nominated by TAB clubs; one person nominated by country clubs, or non-TAB clubs in the case of the harness racing industry; and no more than three persons, each to be nominated by an eligible industry body.

The Minister, in consultation with Greyhound Racing New South Wales and Harness Racing New South Wales, will determine an eligible industry body, which is basically an organised stakeholder group. Joint meetings between the industry consultation group and the relevant controlling body are provided for on at least six occasions each year, unless otherwise agreed. The controlling body must respond formally to any recommendation made by the industry consultation group, including the provision of formal reasons when it does not agree to a recommendation put by the industry consultation group. The bills also require Greyhound Racing New South Wales and Harness Racing New South Wales, in consultation with the relevant industry consultation group and industry stakeholders, to prepare an industry strategic plan within twelve months of the commencement of the amending legislation, and regularly undertake formal consultation in relation to the initiation, development and implementation of policies for the promotion, strategic development and welfare of the industry.

The bills also mirror the provisions in the Thoroughbred Racing Act 1996 which provide for the controlling body to set minimum standards in respect of the conduct of races and race meetings. These provisions place beyond doubt that a controlling body can set standards in relation to such matters as the design and construction of racecourses, and also the level of prize money to be paid in connection with races. Greyhound Racing New South Wales and Harness Racing New South Wales will also be able to give directions to a race club to ensure compliance with the standards. The usual provisions have been included in the bills to provide for continuity of decisions and operational arrangements. There are also some special provisions in relation to transferring greyhound or harness assets, rights and liabilities and the like from the authority to the new industry boards. In addition to these matters, there are also some unique savings provisions applicable to the present circumstances.

The current boards of Greyhound Racing New South Wales and Harness Racing New South Wales were appointed in the normal way in February 2009 for three-year terms. The appointments were made in accordance with existing provisions and arrangements on a nominee basis. The reason for this is twofold. With the disbanding of the authority and the transfer of its functions to the new boards, it would be unwise to diminish the capacity of the receiving board to manage the transfer by depriving it of continuity of operation and the associated corporate knowledge. Also—and this is the case for all three codes—it is necessary to undertake a review of the appointment process that should apply in relation to an independent racing controlling body board.

A special review provision has been included in the bills that the review must report before February 2012. This corresponds roughly with the Racing New South Wales requirement in the 2008 amendments that such a review must be completed within three years of the commencement of that legislation. Of particular interest to me are the transitional arrangements for authority staff. One of my key priorities is to ensure that the authority staff are given every assistance throughout this process. The proposal is in the nature of a transfer of regulatory function. In principle, therefore, the staff transfer arrangements are based on compensation for loss of public service conditions. I am advised that the great majority of staff have a position with the receiving body.

I am also advised that the transfer arrangements are essentially the equivalent of the 2002 restructure arrangements. Greyhound Racing New South Wales and Harness Racing New South Wales have undertaken detailed consideration of their future needs. I am advised by the working party that there are a significant number of comparable positions in either Greyhound Racing New South Wales or Harness Racing New South Wales. A comparable position in a receiving body is one that has substantially the same duties as a former position in the authority. Staff in that situation have the right to apply to transfer to the new body. If they elect to do so they enjoy the following arrangements: their application will receive preference, they will have a guarantee of 12 months employment, they will receive a compensation payment for relinquishing public sector conditions on a scale which includes up to a maximum of 20 weeks pay for those over 45 years of age with six or more years of service, they will receive a starting salary with the new body that matches their existing base salary, and there will be payment or transfer of their accrued recreation and long service leave entitlements.

Staff who do not fall into that category, and staff in that category who do not elect to transfer, will be subject to the public sector arrangements for excess staff—that is, a voluntary redundancy or redeployment. The exact detail of these costs depends on the options that staff choose to make and the individual service details of those staff. Greyhound Racing New South Wales and Harness Racing New South Wales have made provision for the transfer costs and will recoup such costs over time from future operational savings. Stewards are appointed by the relevant controlling body to exercise certain functions in accordance with the relevant rules of racing. Those appointments and the number of stewards currently available are to be maintained under the new arrangements. The employment of the stewards will be subject to the same transitional arrangements as those that apply to

other authority staff.

They may elect to transfer across to either Greyhound Racing New South Wales or Harness Racing New South Wales into a position that is substantially the same as their current position; otherwise, they will be subject to the public sector arrangements for excess staff—that is, a voluntary redundancy or redeployment. One important issue in relation to stewards, which must be clarified, is that they will be transferred across as a greyhound panel to Greyhound Racing New South Wales and as a harness panel to Harness Racing New South Wales. The bills provide for the three codes to enter into a stewards' tri-code arrangement if they wish to do so, subject to the agreement of the Minister. There are many good reasons to consider such an approach. They include shared training opportunities, succession planning and providing a career path. Malcolm Scott identified these in his review. There has been some speculation that a multi-skilling approach would result in a steward officiating in a code with no relevant experience. I cannot see that the codes of racing would permit that to occur under any future arrangement.

The reality is that a panel of stewards might consist of lead stewards who specialise in that code and a steward from another code, or a trainee steward, being trained across codes. The advantages of such an approach are obvious in terms of training, multi-skilling, succession planning and also ensuring that one code's panel of stewards does not become insular. In any event, if the controlling bodies cannot agree on an approach it is unlikely that a proposal will be put to the Minister for approval. The third bill in the reform package essentially deals with four matters. This bill provides for the repeal of the Greyhound Racing Act 2002, the Harness Racing Act 2002 and the Greyhound and Harness Racing Administration Act 2004, which is the statute that establishes the Greyhound and Harness Racing Regulatory Authority. Earlier I dealt with the consequences of the repeal of the 2004 Act and the transfer of the functions of the authority.

The third bill also provides for the Greyhound and Harness Racing Appeals Tribunal to be dissolved and its functions to be amalgamated and accommodated under a single statute under the Racing Appeals Tribunal. In the future the amalgamated appeal body will be known as the Racing Appeals Tribunal and will operate under the Racing Appeals Tribunal Act 1983. Nevertheless, the subject of the appeal will continue unchanged in that it will be essentially a right to appeal against a disciplinary decision made in accordance with the separate Rules of Racing that are applicable in the three codes of racing. The procedure applicable in relation to appeals will in the main be carried forward, except that, in the case of the greyhound and harness arrangements, appeals from a decision of stewards will fall directly to the Racing Appeals Tribunal. There will be no avenue of appeal to Greyhound Racing New South Wales and Harness Racing New South Wales.

The judicial officers who are now appointed as the Racing Appeals Tribunal and the Greyhound and Harness Racing Appeals Tribunal will continue their terms under the amalgamated body with exactly the same responsibilities. I acknowledge the contribution of the serving members the Hon. Justice Wayne Haylen, QC, and Judge John McGuire. I especially acknowledge the contribution of His Honour Mr Barrie Thorley, AM, who retired from the tribunal last year after 14 years of distinguished service. For sometime there has been concern about the dangers of persons jumping the fence and disrupting a race meeting. The danger is not only to themselves but also to the jockey, driver, clerk of the course and the handlers of the racing animal. There is the danger that might result to the racing animal itself. There is also the possibility of disruption of the race and the adverse impact that might have if the race is abandoned, and prize money and bets are not paid.

For several years there has been legislation to address inappropriate behaviour at sporting venues. The bill proposes an amendment to the Sporting Venues (Pitch Invasions) Act 2003 to include invasions at racecourses. The proposed offence is that a person must not enter or remain on a restricted area of a racecourse during a race meeting or trial meeting unless that person has appropriate authorisation. A police officer is an authorised person for these purposes. A jockey or driver, or another person authorised by the relevant controlling body or engaged in the control and management of the race meeting, is in the same category. The ambit of the restricted area would include any racecourse, parade ring, stable, kennel or swabbing area and includes pathways connecting those places.

Penalties range from expulsion, a penalty notice of \$500, a 12-month ban, a life ban and a maximum penalty of \$5,500. For convenience, I mentioned earlier the arrangements to bring into line with the Integrity Auditor the Integrity Assurance Committee constituted under the Thoroughbred Racing Act 1996. Those provisions are formally in the third bill. The third bill also deals with savings and transitional matters as appropriate to the circumstances. I commend the bills to the House.