

TASMANIA

RACING REGULATION AMENDMENT (RACE FIELDS) BILL 2008

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RACING REGULATION AMENDMENT (RACE FIELDS) BILL 2008

*(Brought in by the Minister Police and Emergency
Management, the Honourable James Glennister Cox)*

A BILL FOR

An Act to amend the *Racing Regulation Act 2004*

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Racing Regulation
Amendment (Race Fields) Act 2008*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

In this Act, the *Racing Regulation Act 2004** is
referred to as the Principal Act.

*No. 62 of 2004

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4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “appeal”:

“approval application” means an application for a race field publication approval made under section 54C(2);

- (b) by inserting the following definition after the definition of “approved sports event”:

“arbitrator” means a person appointed to act as an arbitrator under section 54D(5);

- (c) by inserting the following definition after the definition of “racecourse”:

“race field publication approval” means an approval granted under section 54B;

- (d) by inserting the following definition after the definition of “registered”:

“regulations” means the regulations made and in force under this Act;

- (e) by inserting the following definition after the definition of “regulatory panel”:

“relevant racing control body” means the following:

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- (a) in relation to horse racing other than harness racing, the Tasmanian Thoroughbred Racing Council;
- (b) in relation to harness racing, Harness Racing Tasmania;
- (c) in relation to greyhound racing, Greyhound Racing Tasmania;
- (f) by inserting the following definition after the definition of “steward”:

“Tasmanian race field” means information that identifies, or is capable of identifying, the names or numbers of the horses or greyhounds –

- (a) that have been nominated for, or that will otherwise take part in, a race intended to be held at any race meeting in Tasmania; or
- (b) that have been scratched or withdrawn from a race intended to be held at any race meeting in Tasmania;

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- (g) by omitting “section 86.” from the definition of “unauthorised betting” and substituting “section 86;”;
- (h) by inserting the following definition after the definition of “unauthorised betting”:

“wagering operator” includes a bookmaker, a person who operates a totalizator and a person who operates a betting exchange.

5. Part 6A inserted

After section 54 of the Principal Act, the following Part is inserted:

**PART 6A – REGULATION OF PUBLICATION AND
USE OF RACE FIELDS**

**54A. Publication of Tasmanian race fields
restricted**

- (1) A person must not, whether in Tasmania or elsewhere, publish a Tasmanian race field unless the person –
 - (a) is authorised to do so by a race field publication approval and complies with the conditions (if any) to which the approval is subject; or
 - (b) is authorised to do so by or under the regulations.

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- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to –
 - (a) in the case of a body corporate, a fine not exceeding 500 penalty units; or
 - (b) in any other case –
 - (i) for a first offence, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both; and
 - (ii) for a subsequent offence, a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

54B. Director may grant race field publication approvals

- (1) The Director, in relation to a race (or class of races) intended to be held at any race meeting in Tasmania may grant approval to a person to publish a Tasmanian race field in respect of that race or class of races if the person has made an application for that approval under this Part.

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- (2) The Director may (but need not) impose any of the following kinds of conditions on a race field publication approval that the Director grants:
 - (a) a condition that the holder of the approval pay a fee or a series of fees of an amount or amounts, and in the manner, specified in the approval (being a fee or fees imposed in accordance with any requirements prescribed by the regulations);
 - (b) such other conditions as may be specified in the approval (being conditions of a kind that are prescribed as permissible conditions by the regulations).
- (3) In determining a fee referred to in subsection (2)(a), the Director must consult with the relevant racing control body.
- (4) Any fee that is payable under a race field publication approval is a debt due to the Crown and is recoverable as such in a court of competent jurisdiction and payable to the Director.
- (5) The Director, at any time, may, by written notice to the holder of the race field publication approval, cancel or vary the terms of the approval on any grounds prescribed by the regulations.

- (6) If the Director cancels or varies a race field publication approval, the Director must provide the holder of the approval with written reasons indicating why the approval was cancelled or varied (as the case may be).

54C. Applications for race field publication approvals

- (1) A person who wishes to publish a Tasmanian race field may apply to the Director for a race field publication approval in respect of a race (or class of races) intended to be held.
- (2) An application for a race field publication approval must be –
 - (a) made in the manner and in the time as may be prescribed by the regulations; and
 - (b) accompanied by such information as may be prescribed by the regulations.
- (3) In determining an approval application, the Director must take into account such criteria in relation to the determination of the application (if any) as may be prescribed by the regulations.
- (4) Without limiting subsection (3), any criteria that are prescribed by the

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regulations for the purposes of that subsection may specify –

- (a) the kinds of matters that may or must be taken into account in determining an approval application; and
 - (b) the kinds of matters that must not be taken into account in determining an approval application.
- (5) If the Director determines that a race field publication approval should not be granted to the applicant (or should be granted subject to any condition imposed under section 54B(2)), the Director must provide the applicant with written reasons indicating why the application was rejected or the conditions were imposed (as the case may be).

54D. Appeals to Secretary of Department

- (1) A person may appeal to the Secretary of the Department against any of the following decisions of the Director:
- (a) a decision to reject an application by the person for a race field publication approval;
 - (b) a decision to impose a condition under section 54B(2) (other than

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- a condition relating to the payment of a fee or series of fees) on a race field publication approval;
 - (c) a decision to cancel a race field publication approval held by the person;
 - (d) a decision to vary any term of a race field publication approval held by the person (other than a term relating to the payment of a fee or series of fees).
- (2) An appellant must give notice to the Secretary of the Department and the Director of the grounds of the appellant's appeal in the form and manner approved by the Secretary of the Department from time to time.
 - (3) The Director is to be the respondent in the appeal.
 - (4) A notice under subsection (2) must be given within 20 days (or within such longer period as the Secretary of the Department may allow) after the date on which the appellant was notified of the decision of the Director that is being appealed.
 - (5) In determining an appeal, the Secretary of the Department may appoint a person that the Secretary of the Department considers has suitable qualifications to

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act as an arbitrator to furnish a report to the Secretary of the Department in respect of the appeal containing –

- (a) a recommendation as to whether the appeal should, in the opinion of the arbitrator, be dismissed or allowed either unconditionally or subject to such conditions as may be specified in the report; and
 - (b) the reasons for the recommendation.
- (6) The Secretary of the Department, after considering any report that is furnished to the Secretary of the Department under subsection (5), may –
- (a) dismiss the appeal; or
 - (b) allow the appeal either unconditionally or subject to such conditions as the Secretary of the Department thinks proper to impose; or
 - (c) if the appeal is against the imposition of conditions, refuse to approve the application for a race field publication approval in respect of which the conditions were imposed; or
 - (d) return the report to the arbitrator concerned and request further consideration of the report.

- (7) The decision of the Secretary of the Department under subsection (6) (other than a decision under subsection (6)(d)) has effect as if it were a decision of the Director.
- (8) If the appeal is dismissed, the appellant is to pay the costs of any arbitrator appointed by the Secretary of the Department under subsection (5).

54E. Delegation by Secretary of Department

The Secretary of the Department may delegate any of the Secretary's powers or functions under this Part other than this power of delegation.

54F. Effect of race field publication approval limited

For the avoidance of doubt, the granting of a race field publication approval does not operate to authorise the holder of the approval to do (or omit to do) anything in relation to a race to be held at any race meeting in Tasmania other than to publish the Tasmanian race field to which the approval relates in accordance with the terms of the approval.

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6. Section 109 amended (Regulations)

Section 109(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (h) “powers.” and substituting “powers;”;
- (b) by inserting the following paragraph after paragraph (h):
 - (i) the control and regulation of the use of Tasmanian race field information by wagering operators, including, but not limited to –
 - (i) the manner of applying for race field publication approvals; and
 - (ii) the criteria for determining race field publication approvals; and
 - (iii) the conditions applying to race field publication approvals; and
 - (iv) the cancellation or variation of race field publication approvals; and
 - (v) the fees payable in respect of race field publication approvals; and

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- (vi) the distribution of the fees
referred to in
subparagraph (v).

7. Transitional provisions

A person does not commit an offence against section 54A of the Act, as inserted by the *Racing Regulation Amendment (Race Fields) Act 2008*, during the period commencing on the commencement of that Act and ending 90 days after that commencement.