

FACT SHEET

Racing Regulation Amendment (TRAB) Bill 2009

- The *Racing Regulation Amendment (TRAB) Bill 2009* amends the racing appeal provisions of the *Racing Regulation Act 2004* to give effect to the reform of the existing structure and processes of the Tasmanian Racing Appeal Board (TRAB).
- The proposed legislation principally arises in response to concerns expressed by industry during the 2008 Review of the Tasmanian Racing Industry's Governance Structure regarding the existing racing appeals system in this State. At that time, Government foreshadowed its intention to give more substantive consideration to further areas for improvement in the racing appeals processes in 2009.
- The Minister for Racing subsequently tasked the Director of Racing to undertake a formal review and provide a recommendation to the Government on how to provide a more effective, efficient and contemporary appeals system in Tasmania.
- The Director invited submissions from key industry stakeholders which provided the opportunity for interested parties to comment on the operations of the TRAB.
- The *Racing Regulation Amendment (TRAB) Bill 2009* incorporates the Director's recommendations and will deliver fundamental improvements to the operation of the racing appeals system in Tasmania, thus building on the State's existing 'best practice' integrity model.
- One of the main issues raised in submissions to the review process was the length of time it takes the TRAB to conduct appeals.

- The proposed legislation will place particular timeframes on the Board in relation to the hearing and determination of appeals, but will allow some flexibility when required.
- In addition, the composition of the Board will be changed from eight members to six, inclusive of a Chairperson and two Deputy Chairpersons. The extra Deputy Chairperson will provide additional expertise to the Board and, therefore, result in more flexibility for the conduct of minor appeals, which comprise approximately 70 percent of total appeals heard. This will also enhance current timeframes for resolution of appeals.
- Currently, the TRAB conducts its hearings '*de novo*', which in the legal context means 'starting afresh'. In a rehearing *de novo*, the Board hears the matter afresh, that is, all evidence is taken again. Under the proposed reform, all appeals will be dealt with by way of a 'full rehearing'. This involves the appeal being heard and determined upon the evidence at the original hearing when the decision or finding appealed against was made, with the Chairperson of the TRAB able to admit expert or other evidence if considered proper to do so. Advantages of this model include the timeliness of appeals, the fact that evidence taken at the original hearing is generally regarded as the most pertinent, and expert witnesses would not be required to provide their lengthy, often complex evidence twice.
- In addition, the race patrol film and transcript of the original hearing will be made available to all parties as soon as is practicable after an appeal is lodged. This will not only ensure that all parties to the appeal have timely access to the relevant material, it is also essential given the proposal that all appeals are to be heard upon the evidence of the original hearing.
- In future, the TRAB, at the conclusion of a hearing, will make an order requiring the appellant to pay a percentage of the costs incurred in the preparation of a transcript (of the original hearing) in circumstances where an appeal is withdrawn, abandoned or dismissed, or where the penalty is

varied. These changes are aimed at further reducing the number of ambit appeals and meeting the rising costs of administering the appeals process.

- The proposed legislation imposes a restriction on the Chairperson of the TRAB granting a suspension of a penalty pending the hearing and determination of an appeal under specified circumstances. This addresses the industry's concern that the existing system is being 'used' by some industry participants to enable participation in feature events
- The rules of racing provide that the commencement of penalties can be deferred for a particular number of days, although the rules differ across the three codes of racing. To avoid inconsistency in the application of these particular rules by the TRAB, the proposed legislation provides for a decision of the Board to be effective immediately, unless welfare matters necessitate a transitional period to care for racing animals.
- Although the existing legislation enables the TRAB to appoint other legal practitioners or persons to help it conduct an appeal, in order for the Board to be fully informed in its decision making, the proposed legislation mandates a consultation process by the Chairperson and Deputy Chairpersons of the TRAB with the Chairpersons of industry associations and race clubs, the Director of Racing and the three Chairmen of Stewards at least biannually.