



Submission



Draft QLD Racing Integrity Amendment Bill

**Prepared by the Coalition for the Protection of Greyhounds
March 2022**

End greyhound suffering

About the Coalition for the Protection of Greyhounds

The Coalition for the Protection of Greyhounds (CPG) is a not-for-profit committed to ending greyhound suffering by exposing the cruelty and corruption of the greyhound racing industry and lobbying for law reform. We have members across Australia, including Queensland.

We advocate for law reform that:

Implements whole-of-life tracking. Greyhounds in the racing industry are vulnerable to unnecessary euthanasia particularly those puppies who do not race and dogs who are rehomed by industry participants. A system must be implemented to monitor the welfare of each greyhound for their entire life.

Funds rescues and sanctuaries. Greyhound breeding nationally is six times the racing industry's capacity to rehome. To avoid healthy and rehomingable greyhounds being put to death, state governments must fund private greyhound rehoming organisations and privately operated sanctuaries.

Increases penalties. Penalties are not proving a deterrent given the financial rewards offered by the industry. The industry must also strengthen associated regulation and enforcement.

Reduces breeding. According to the latest GRNSW Annual Report, around 25 per cent of greyhounds bred in FY20/21 were surplus to requirements. The greyhound racing industry must stop offering financial incentives for breeding and industry regulators must be empowered to set and enforce breeding numbers

Makes tracks safer. Approximately 850 greyhounds are injured each month and over 200 are killed each year on Australian tracks. To improve track safety, the greyhound racing industry must develop purpose-built straight tracks; reduce the number of starters from eight greyhounds to six, and install an extended lure at all tracks.

Introduction

CPG welcomes the opportunity to make a submission on the *Racing Integrity Amendment Bill 2022*. CPG has a long history of providing policy submissions on matters pertaining to the regulation of the greyhound racing industry in Australia.

The Bill seeks to create a more transparent, consistent, and timely process for appealing the decisions of stewards. It also addresses the loopholes that are undermining the public's faith in the integrity of the current regulatory system. CPG strongly supports amendments that will allow for greater public scrutiny of the decision-making process at all levels.

It is CPG's view that this Bill does not include a provision that requires that the decisions by the proposed independent panel be made publicly available. The Bill will not increase public confidence in the regulation of the industry because the reasoning process behind decisions remains unclear.

We make three recommendations for strengthening the Racing Integrity Amendment Bill 2022 to ensure that decisions made by stewards and the independent panel are consistent, reasoned and subject to public scrutiny.

Our submission is structured as follows:

1. Background

- 1.1 Legislation should be consistent with the principles of natural justice
- 1.2 Stewards' Reports should be available to the public

2. Recommendations

- Recommendation 1: Panel decisions should be publicly available
- Recommendation 2: Non-disclosure grounds should be narrowed
- Recommendation 3: Stewards' Reports should be available to the public

1. Background

1.1 Legislation should be consistent with the bias rule

It is clear from the introductory speech to the Bill that this amendment is designed to “improve integrity in the racing industry”.¹ The Explanatory Notes also provide that the legislation should be consistent with the principles of natural justice.² The Bill seeks to address issues of procedural fairness in hearings by the Queensland Racing Integrity Commission in particular:

- A perceived lack of independence
- Unreasonably long timeframes in which matters are heard
- The limited industry knowledge of decision makers

Natural justice denotes a right to be heard by an unbiased decision maker. The *hearing rule* requires that a person whose rights may be affected by a decision should be given sufficient notice of the impending decision and an adequate opportunity to be heard before the decision is made. The *bias rule* holds that the decision maker must be impartial and make a judgement that is free of prejudice.³

Hearing rule

CPG supports the creation of an appeals panel. The members of this panel will be experts in a field relevant to the appeal with experience in the racing industry. The specialisation of the panel means that decision makers can quickly identify the issues being contested and better understand the contextual factors that may call for a greater or lesser penalty. This will allow for a more timely appeals process.

The Bill improves the timeframes in which appeals must be lodged. Under section 252AB(2), an application must be made to the panel within three business days after the person has been given notice of the racing decision. This provides adequate time for the person to make an application in the approved form. CPG warns against arbitrarily increasing this timeframe, as appellants deserve quick and efficient justice. Matters should be heard at the earliest possible time, and there is risk that certain evidence may be

¹ Queensland, *Parliamentary Debates*, Legislative Assembly, 24 February 2022, 234 (Hon. Grace Grace)

<https://documents.parliament.qld.gov.au/events/han/2022/2022_02_24_WEEKLY.pdf#page=29>

² Explanatory Memorandum, *Racing Integrity Amendment Bill* 15.

³ Australian Law Reform Commission Traditional Rights And Freedoms-Encroachments By Commonwealth Laws, *Procedural fairness: the duty and its consent* (ALRC Report 129, 12 January 2016)

<<https://www.alrc.gov.au/publication/traditional-rights-and-freedoms-encroachments-by-commonwealth-laws-alrc-report-129/14-procedural-fairness-2/procedural-fairness-the-duty-and-its-content/>>.

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unavailable for the panel to review at a later date. CPG also notes that section 252AB(3) provides the Chairperson with discretion to extend this timeframe where appropriate and is an adequate safeguard.

The proposed amendment also sees the timeframe in which a panel must make a decision reduced. Under section 252AG, the panel must decide an application within 7 days unless it relates to a racing decision of a steward to take disqualification action, in which case it must be decided within 20 business days. Given the specialisation of the panel and the number of panel members available to hear an appeal, CPG is satisfied that the quality of the panel's decisions will not be impacted. Furthermore, the panel is vested with the powers necessary to ensure the full breadth of evidence is available.

CPG supports the creation of a specialist independent panel and is satisfied that the proposed amendments will reduce the timeframes in which appeals are heard.

Bias rule

CPG advocates for greater public oversight of the panel to ensure the independence and impartiality of decision makers is preserved. Section 252BA(a) provides that the panel "must act independently, impartially and fairly". Furthermore, section 252AO(b) requires that the panel observe the rules of natural justice. The Explanatory Notes rationalise the proposed amendments on the basis that they will "ensure public confidence in the proceedings and uphold the integrity of the Panel's decision-making."⁴

The mechanisms by which the Bill directly enforces the impartiality of decision makers is limited to:

- Disclosure of conflicting interest (s 252AE): A member must declare their conflicting interest and withdraw from the panel unless both parties to the proceeding agree to the member sitting on the panel.
- Eligibility for appointment (s 252BD): A person is not eligible for appointment to the panel if in two years before the proposed appointment they have been a member or employee of a control body or committee, has a proprietary interest in a licensed animal or registered or licensed by a control body.
- Removal from office (s 252BI): The Governor in Council may remove a person from office if the Minister is satisfied that the person has engaged in conduct that would warrant dismissal from the public service if the person were a public service officer.

At first glance, the Bill appears to indirectly support fair and impartial decision-making by allowing parties to appeal disqualification action to the appeal tribunal and requiring that hearings are heard in public unless there are grounds for non-disclosure.

⁴ Explanatory Memorandum, *Racing Integrity Amendment Bill* 10.

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However, these mechanisms are not sufficient to ensure decisions are impartial. A major challenge to fair decision-making is the inconsistency between different decision makers. A similar case heard by a different panel member should produce roughly the same outcomes unless there are mitigating or aggravating circumstances. The reasoning process by which a panel member evaluates the seriousness of the violation and determines the appropriate penalty (if any) should be visible to the public. Future appellants in similar proceedings can point to the panel's previous decisions and ensure any discrepancies in outcome are explained. The public can review the panel's reasoning and ensure it reflects the values of the broader community.

CPG contends that the Bill does not sufficiently address the lack of independence (perceived or otherwise) of the decision-making authority.

1.2 Stewards' Reports should be available to the public

The Explanatory Notes recognise that it has been a long-standing practice in all jurisdictions for stewards' reports to be published "as they provide the transparency required to promote and retain confidence in the integrity of the racing industry."⁵ In the introductory speech to the Bill, the Minister for Racing noted that the "publication of stewards' reports is important for transparency within the industry."⁶ The Bill authorises, but does not require, the publication of stewards' race day and investigation reports. Under section 256A, the commission *may* publish information on its website and this information is only available for a period of six months.

CPG notes that other jurisdictions, such as NSW, South Australia, Tasmania and Victoria publish such information without time limits.

It is CPG's firm belief that the provision for the publishing of stewards reports fails to ensure that the public have adequate time to access all race day and inquiry information.

⁵ Explanatory Memorandum, *Racing Integrity Amendment Bill* 3.

⁶ Queensland, *Parliamentary Debates*, Legislative Assembly, 24 February 2022, 236 (Hon. Grace Grace)

<https://documents.parliament.qld.gov.au/events/han/2022/2022_02_24_WEEKLY.pdf#page=29>

2. Recommendations

Recommendation 1: Panel decisions should be publicly available

The decisions of the independent panel should be publicly available and should include the reasons for the panel's decision. This can be achieved by inserting a provision that states that the independent panel is required to give written reasons for its decision and make them publicly available on a website of or used by the panel.

Recommendation 2: Non-disclosure grounds should be clarified

The definition of non-disclosure grounds in Schedule 1 should not allow information to be withheld from the public because it is likely to damage the commercial activities of a person to whom the information relates. This is an extremely broad ground that needs to be narrowed to specify particular commercial activities that should not be harmed. This will ensure that this provision is not used to prevent proceedings from being made public for inappropriate reasons.

Recommendation 3: Stewards reports should be available to the public

All stewards' reports should be made available to the public, regardless of whether they are the subject of an appeal before the panel. This can be achieved by inserting a provision that provides that stewards' reports are to be made publicly available on a website of or used by the Queensland Racing Integrity Commission.