

RACING AND BETTING AMENDMENT BILL 2001

EXPLANATORY NOTES

Short Title

Racing and Betting Amendment Bill 2001

Policy Objectives of the Legislation

The policy objectives of the Racing and Betting Amendment Bill 2001 are to:

- provide certainty and ensure that existing rights are maintained in relation to decisions and actions of the Harness Racing Board (HRB) by declaring that section 43(1)(f) of the *Racing and Betting Act 1980* (the Act) did not operate to vacate John Crowley's office as a member and Chairperson of the HRB; and
- replace outdated conflict of interest provisions.

Reasons for the Policy Objectives of the Legislation

It has recently become apparent that as a result of technical breaches of section 43(1)(f) of the Act, John Crowley's position as member and Chairperson of the HRB was automatically vacated.

The technical breaches occurred when the HRB purchased motor vehicles from Bryan Byrt Ford Pty Ltd, a company, with less than twenty (20) shareholders, in which John Crowley was a shareholder.

Whilst investigations have revealed there was no impropriety on the part of John Crowley or any employees of the HRB, the automatic vacation of John Crowley's positions on the HRB has resulted in some decisions made by the HRB being invalid.

The provisions of the Act which resulted in the automatic vacation of office are outdated provisions.

The way in which the policy objectives will be achieved by the Bill

The Bill achieves the policy objectives by:

- inserting new conflict of interest provisions for both the HRB and the Greyhound Authority; and
- declaring that John Crowley's office as member or chairperson of the HRB was not vacated as a result of the operation of section 43(1)(f) and other specified circumstances.

Estimated administrative cost to government

There will be no administrative cost to government resulting from implementation of the Bill.

Consistency with Fundamental Legislative Principles

The legislation has been prepared taking into consideration fundamental legislative principles. However, one aspect of the Bill which does infringe fundamental legislative principles is the retrospective effect of the Bill. In the circumstances, it is difficult to identify any adverse effect that the amendments would have on any person. The HRB has made decisions and acted in good faith. Reliance has been placed on these decisions and actions and it would not be in the public interest to allow such decisions to now be subject to legal challenge.

Consultation

Government agencies consulted include:

- Department of Premier and Cabinet;
- Crown Law; and
- Criminal Justice Commission.

Results of Consultation

There is support for the proposed Bill.

NOTES ON PROVISIONS

Short Title

Clause 1 states that the short title is the Racing and Betting Amendment Act 2001.

Act amended

Clause 2 states that the Act amended is the *Racing and Betting Act 1980*.

Amendment of s 43 (Vacation of office)

Clause 3 amends s 43(1) by omitting subsection (1)(d) and (f) and renumbering the subsections.

Subsection 43(2A) and (3) are omitted.

Insertion of new s 47A

Clause 4 inserts a new conflict of interest provision for the HRB that requires a member to disclose an interest to the HRB and outlines the procedure to be followed by the member and other members of the Board.

Amendment of s 84 (Vacation of office)

Clause 5 amends s 84 by omitting subsection (1)(d) and (f) and renumbering the subsections.

Section 84(2A) and (3) are omitted.

Insertion of new s 88A

Clause 6 inserts a new conflict of interest provision for the Greyhound Authority that requires a member to disclose an interest to the Greyhound Authority and outlines the procedure to be followed by the member and other members of the Board.

Insertion of new pt 9

Clause 7 inserts PART 9 – VALIDATION PROVISION

New section 280 is inserted which declares that section 43(1)(f) did not operate at any time between 6 July 1995 and 23 August 2000, as a result of the purchase of motor vehicles by the HRB from Bryan Byrt Ford Pty Ltd, to vacate John Crowley's office as a member and chairperson of the HRB.

Section 43(1)(f) was breached when the HRB purchased motor vehicles from Bryan Byrt Ford Pty Ltd, a company which has less than twenty (20) shareholders and in which John Crowley was a shareholder. Whilst investigations revealed no impropriety on the part of John Crowley or the HRB employees, the effect of the breach was to automatically vacate John Crowley's appointment to the HRB. By declaring that John Crowley's office as member and chairperson of the HRB was not vacated, the Board is placed in the same position that it would have been in if section 43(1)(f) had not operated to vacate his appointment and therefore, decisions made by the HRB during such periods would be valid.