

LOCAL RULES OF HARNESS RACING NSW EFFECTIVE 1 SEPTEMBER 2012
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Definitions

“**Act**” means the Harness Racing Act 2009.

“**Appeal Panel**” means the appeal panel created under the Act.

“**AHRR**” means Australian Harness Racing Rule; and “**NSWLR**” means Local Rule of Harness Racing New South Wales including the Rules of Betting.

“**Controlling Body**” means an organisation which, by convention, recognition or law is or deemed to be, in control of harness racing in New South Wales.

“**HRNSW**” means Harness Racing New South Wales constituted by the Act.

“**Local Rules**” means these Local Rules of Harness Racing New South Wales.

“**Racing Authority**” means the following:

- (a) the Controlling Body,
- (b) the chief executive officer of HRNSW,
- (c) a steward appointed by HRNSW,
- (d) a member of HRNSW,
- (e) a member of the HRICG.

Application

NSWLR 1 The Australian Harness Racing Rules and the Local Rules of Harness Racing New South Wales (including the Rules of Betting) shall be read, interpreted and construed together and as so combined shall be and be known as “The Rules of Harness Racing New South Wales” and such rules apply to the administration, supervision and control of Harness racing throughout New South Wales. Insofar as there is any inconsistency between the Australian Harness Racing Rules and these Local Rules, these Local Rules shall prevail.

NSWLR 1A Any person who takes part in any matter coming within the Rules of Harness Racing New South Wales shall be held thereby to consent to be bound by them.

STEWARDS

Power to enter premises

NSWLR 15 (1) Without limiting AHRR 15, the Stewards have the power at any time to enter upon the premises occupied by or under the control of a licensed person and used in any manner in relation to any license (hereinafter referred to as the premises) to:

- (a) Inspect and search premises.

- (b) Examine anything on the premises and also search any licensed person thereon.
- (c) Take extracts from or make copies of, or download or print out, any documents found in the course of the inspection.
- (d) Photograph or film anything on the premises.
- (e) Secure against interference anything that cannot be conveniently removed from the premises.
- (f) Require any person who is on the premises to:
 - (i) State his or her full name and address.
 - (ii) Answer (orally or in writing) questions put to them that are relevant to the investigation.
 - (iii) Give any information in the person's possession or control that is relevant to the inspection.
 - (iv) Operate equipment or facilities on the premises for inspection purposes.
 - (v) Give any translation, code, password or other information necessary to gain access to or interpret and understand any document or information located or obtained by the Stewards in the course of the inspection relevant to the investigation.
 - (vi) Give other assistance that the Stewards reasonably require to carry out the inspection.
- (2) A Steward who enters and remains upon land or premises under this rule, shall not thereby commit a trespass thereon and no action shall be brought or maintained against the Steward or Controlling Body for any damages or relief in respect of such entry or remainder on the premises.
- (3) For the purposes of this rule premises include land, buildings or any fixed or movable structure including any vehicle.
- (4) A person who fails to comply with any part of this rule is guilty of an offence.

MEETINGS AND RACES

Stable returns

NSWLR25 (1) The trainer of a horse must within 48 hours of its entering or leaving his stable lodge a stable return containing such information as is required by the Controlling Body; provided that if such horse has been or is to be nominated for a race such stable return must be lodged immediately.

- (2) The Stewards may penalise any person who fails to lodge such stable return and/or amendments thereto including gear changes, movement of horses and other information as require and entry of such horse for any race may be rejected or cancelled.
- (3) All stable returns so lodged are subject to the approval of the Controlling Body who may at any time require the trainer to satisfy them that all of the information so contained is true and correct.

Security of Horses

NSWLR 26 (1) The Controlling Body or Stewards may at any time direct a Trainer to present his horse or horses to the HRNSW Retention Facility, or any other nominated location, to be trained under the supervision of HRNSW Stewards for a period of time as directed by the Controlling Body or HRNSW Stewards.

- (2) Without limiting any other powers that may be available to the Controlling Body or Stewards, when a direction is made in accordance with sub rule (1), the Controlling Body or Stewards (or persons appointed by the Controlling Body or Stewards) may conduct surveillance of a horse or horses and/or the training activities of the Trainer. Surveillance may include, but is not limited to, video surveillance, security personnel, and the testing of horses or property belonging to the Trainer.
- (3) A person shall not frustrate or hinder, or endeavour to frustrate or hinder, or cause any person to frustrate or hinder, persons appointed under sub rule (2) from carrying out their duties.
- (4) Where security or surveillance arrangements apply the Trainer shall comply with any direction given by the Controlling Body or Stewards which, in its or their opinion, is necessary or conducive to the more effective implementation of those arrangements.
- (5) A person who fails to comply with any provision of this rule is guilty of an offence.

Medical matters

NSWLR46 (1) Further to AHRR 46, the Stewards may at any time require any licensed driver, or any person granted permission to drive in races or track work, to undergo a physical and/or medical assessment at centres specifically authorised by the controlling body for such purpose.

- (2) If in the opinion of the Stewards any such assessment is unsatisfactory, insofar as driving in a race or track work is concerned, they may suspend the licence or permit of such driver or person
- (3) Any driver or person who fails or refuses to submit to any such fitness or medical assessment procedure when required to do so may be penalised by the Stewards.

Judging

NSWLR49 Further to the provisions of AHRR 49, whether prior or subsequent to the declaration of all clear, if the Stewards are satisfied on the evidence of the available prints or images that the judge has made a mistake in the determination of the finishing order of a race, the Stewards may correct such mistake and alter the places accordingly. No alterations to the judges' places after correct weight will have any effect on previous orders given by the Stewards as to the payment of bets.

LICENCES

Trainers

NSWLR90 A (1) A trainer is at all times responsible for the administration and conduct of his stables.

- (2) A trainer is at all times responsible for the care, control and supervision of the horses in his stables.
- (3) If a trainer is to be absent from his or her stables, for a period longer than 48 hours, he or she must, with the Stewards permission and approval, deputise a licensed or registered person to be in charge of such stables during his or her absence.

- (4) Should a trainer be unable to attend a race meeting where any horse trained by him is engaged he shall nominate his licensed stable representative or another licensed trainer to be responsible for such horse at the meeting. No later than one (1) hour before the advertised starting time of any relevant race he shall advise the Stewards in writing of the person nominated who must consent in writing to be so nominated. Such nomination may not be further delegated.
- (5) Such deputation referred to in (2) and (3) does not relieve the trainer in any way from his or her responsibilities for the care, control and supervision of his or her horses and the conduct of his or her stables.
- (6) The person to whom responsibility is delegated does not have the authority to further delegate this responsibility.

HORSES

Registration Trainer to identify horse

NSWLR96 A Trainer shall, before commencing to race a horse;

- (1) take possession of its Registration Certificate;
- (2) inspect the horse and, by reference to its Registration Certificate, ensure that the horse is the same as the horse referred to in the Registration Certificate;
- (3) report to HRNSW any doubt as to the identity of the horse; and
- (4) in the case of an un-named horse a Trainer shall take whatever steps are necessary to satisfy himself of the identity of the horse.

Transfer from disqualified trainer

NSWLR120 A (1) Where a Trainer has been disqualified but continues to train on the basis of a stay of proceedings granted by an appeal body, the Trainer shall not:

- (2) Transfer any horses into the care of another trainer other than with the prior written approval of the controlling body; or
- (3) Transfer any ownership interest in a horse other than with the prior written approval of the controlling body

DRIVERS

Driver Mentoring Panel

NSWLR153 (1) The Controlling Body may appoint a Mentor or Mentoring Panel for the purpose of assisting in the mentoring and provision of remedial training for Drivers.

- (2) A Driver may at any time be referred by the Controlling Body or the Stewards to a Mentor or Mentoring Panel for such mentoring or remedial training as they see fit.
- (3) The Stewards may penalise any driver so referred who fails or refuses to attend when directed or fails or refuses to comply with or to fulfil any reasonable direction of the Mentor or Mentoring Panel.
- (4) The Stewards may suspend or limit in any way a driver's permissions to drive in races if they find any of his driving techniques, methods or practices may be a hazard to him or

other drivers, or may be contrary to the interests of horse welfare or may involve a breach of the Rules.

- NSWLR162.** (1) A driver shall not -
- (u) reduce or check the speed of a drivers horse in a way which could cause interference or jostling

INQUIRIES AND INVESTIGATIONS

Conduct and scope

NSWLR181 (1) For the purposes of this rule, a reference to HRNSW includes a reference to a person (or group of persons, such as the Stewards) authorised by HRNSW (whether under these Rules or otherwise) to conduct any interview, investigation, inquiry or hearing.

- (2) Any interview, inquiry or hearing conducted by HRNSW may be recorded by or on behalf of HRNSW using an audio and/or visual recording device and/or by the taking of a transcript or handwritten or typed notes.
- (3) Any recording, notes or transcript made by (or on behalf of) HRNSW shall be available for use as evidence in any subsequent hearing, review or in any related proceedings conducted by HRNSW or otherwise under the Harness Racing Act 2009 (NSW) and Racing Appeals Tribunal Act 1983 (NSW) as in force from time to time. (For the avoidance of doubt, the provisions of this rule (3) are subject to any rules (including the rules of evidence) and/or procedural requirements applicable in any subsequent hearing or review).

New South Wales Harness Racing Appeal Panel

NSWLR 181A Pursuant to section 34B of the Act, the Appeal Panel has been introduced to hear appeals from certain decisions of a racing authority. No appeal may be commenced under section 15B of the *Racing Appeals Tribunal Act 1983* if such appeal is able to first be commenced under section 34B of the Act.

Decisions which may be appealed to the New South Wales Harness Racing Appeal Panel

NSWLR 181B Pursuant to section 34B(1) of the Act, a person aggrieved by any of the following decisions of a racing authority may appeal such decision to the Appeal Panel:

- (a) a decision to disqualify or warn off a person;
- (b) a decision to disqualify a harness racing horse;
- (c) a decision to revoke or suspend the registration of a person;
- (d) a decision to fine a person a sum of \$200 or more;
- (e) a decision specified in the rules for the purposes of this section.

Lodging appeals and the procedure on appeals

NSWLR 181C (1) Any appeal against a period of suspension incurred by a driver of 4 weeks or less must be lodged by the appellant within 1 day of becoming aware of the decision appealed against and any appeal must be heard and determined within 9 days of the date that the suspension was imposed (unless the Appeal Panel is unable to do so solely due to unavailability of the Appeal Panel members, in which case the appeal is to be heard and determined as soon as the Appeal Panel is able to do so).

- (2) All other appeals, being appeals that are not captured by subrule (1) above, must be lodged by the appellant within 2 days of the appellant being notified of the decision appealed against.

- (3) The Appeal Panel may, in its discretion, extend the time required for the commencement of an appeal under the provision of either subrules (1) or (2) above where it is satisfied that special or exceptional circumstances have been established that justify the granting of such an extension.
- (4) For the purpose of this rule, reference to a 'day' shall exclude a Saturday, Sunday or declared Public Holiday.
- (5) All appeals must be made in writing by the appellant in the form prescribed by the Controlling Body and be lodged (either in person or by email) with the Appeals Co-ordinator for the Appeal Panel.
- (6) All appeals must be accompanied by a fee of \$250.00 and be lodged (either in person or electronically) with the Appeals Co-ordinator of the Appeal Panel.
- (7) A stay of proceedings may not be sought in respect of appeals of suspensions of 4 weeks or less. In the event that a stay of proceedings is sought by the appellant in respect of any other decision of a racing authority, an application for a stay of proceedings must be lodged at the time that the appeal is lodged, in the form prescribed by the Controlling Body, with the Appeals Co-ordinator of the New South Wales Harness Racing Appeal Panel.
- (8) No appeal commenced under section 34B of the Act may be withdrawn except with leave of the Appeal Panel. In granting leave to withdraw an appeal, the Appeal Panel may impose such terms and conditions as it thinks fit, including as to the payment of the costs of the appeal by one party to another.
- (9) The Appeal Panel shall hear and determine appeals that come within its jurisdiction as provided for under the Act.

Procedure on appeals

NSWLR 181D (1) Pursuant to section 34C(1) of the Act, an appeal to the New South Wales Harness Racing Appeal Panel is to be conducted as a new hearing and otherwise in accordance with section 34C of the Act.

- (2) All appeals are in the nature of re-hearings, the evidence to be considered being the evidence adduced at the hearing in respect of the decision appealed against, subject to the discretion of the Appeal Panel to admit or receive further evidence as provided for by section 34C(2) of the Act.
- (3) The general procedure at all appeals is governed by section 34C of the Act, which may be supplemented from time to time by these Local Rules.
- (4) Before the Appeal Panel, an appellant may, by leave of the Appeal Panel, be represented by a member of the legal profession.
- (5) The Appeal Panel may have such persons to assist it as, in its discretion, it may deem necessary.
- (6) Any fresh or new evidence intended to be relied upon by any party to an appeal should be served on the Appeals Co-ordinator at least 5 clear days prior to the date set down for the hearing of the appeal.
- (7) The Appeal Panel is to commence the hearing of an appeal as soon as practicable, and in any event, within 28 days of the lodging of any appeal. The Appeal Panel may extend the time to commence the hearing of an appeal if it determines that special or exceptional circumstances exist to justify that extension. The fact that the appellant's preferred legal counsel (if granted leave to appear) is not available on the date set

down for the hearing of the appeal will not ordinarily constitute special or exceptional circumstances.

Powers of the Appeal Panel on stay applications

NSWLR 181E (1) On the lodging of an appeal and an application for a stay of proceedings, the Appeal Panel has the power to grant a stay of proceedings in circumstances where it considers that a substantial injustice may be caused to the appellant if the stay is not granted. In respect of an appeal against the suspension of a HRNSW driver licence of 4 weeks or less, a stay of proceedings must not be granted, unless the Appeal Panel is unable to hear the appeal within 9 days of the date that the suspension was imposed, due to the unavailability of Appeal Panel members.

- (2) The power to grant a stay may be exercised, in respect of appeals to the Appeal Panel, by the Principal Member or the Convenor of the Appeal Panel.

Appeal panel hearings

NSWLR 181F Upon the determination of an appeal the Appeal Panel has the following powers under section 34D of the Act:

- (a) to dismiss the appeal or confirm the decision which is appealed against;
- (b) to vary the decision by making a decision that could have been made by the racing authority;
- (c) to refer a matter relating to the decision to the racing authority for rehearing in accordance with directions given by the Appeal Panel;
- (d) to make any other order in relation to the disposal of the appeal that the Appeal Panel thinks appropriate;
- (e) to make costs orders including, but not limited to:
 - (i) an order for the refund or forfeit of any fee paid by the appellant upon the commencement of an appeal;
 - (ii) an order that one party is to pay the costs of another party, including but not limited to legal costs;
 - (ii) the amount of costs, including but not limited to legal costs, payable by one party to another party;
 - (iii) any other such order as it thinks appropriate as to the payment of costs by one party to another.

Storage of Samples

NSWLR189 (1) The Stewards may direct that samples taken from a horse pursuant to AHRR 15(1) (k) and AHRR 189 be stored, in whole or in part and shall be disposed of only as they direct.

- (2) Notwithstanding any other provision of the rules, the Stewards may direct that a stored sample, in whole or in part, be submitted or resubmitted for any test to determine whether any prohibited substance was at the relevant time present in the system of the horse from which the sample was taken
- (3) For the avoidance of doubt, when a prohibited substance is detected in a stored sample submitted or resubmitted for testing in accordance with subrule (2), the provisions of AHRR 190, AHRR 190A and AHRR 196 shall apply.
- (4) When a prohibited substance is detected in a stored sample submitted or resubmitted for testing in accordance with subrule (2) and that sample was taken from the horse prior or following its running in any race, the provisions of AHRR 195 do not apply, provided that

the horse concerned shall be disqualified from any race in which it started on the day the sample was taken.

189A. (1) Any sample taken from a horse shall only be analysed by a laboratory approved by the Controlling Body.

Holding of Drugs

NSWLR194 (1) If in exercising power under AHRR 15, the Stewards identify and/or take possession of any quantity of a substance or preparation that could give rise to an offence under AHRR 190A if administered to a horse at any time, then any person in possession of such substance shall be guilty of an offence and liable to penalty pursuant to AHRR 256.

(2) For the purposes of this rule, if any substance or preparation is found at any premises used in relation to the training or racing of horses, then any owner, trainer or person who owns, trains, races, assists in the preparation of a horse or is in charge of horses at those premises is deemed to have the substance in their possession.

(3) It shall be a defence to a charge under sub-rule (3) for the person in possession of such substance or preparation to prove that the substance or preparation was prescribed to him, for use by him, by a qualified medical practitioner.

GENERAL OFFENCES

Possession

NSWLR 213 (1) A Trainer or Person shall be deemed to have in their possession for the purpose of the Rules any piece of equipment, horse, substance, document, apparatus, computer, mobile telephone, electronic device or thing which is located on their registered training establishment, vehicle, float, stud, stable or artificial breeding station.

(2) A Trainer or Person shall ensure that they do not have in their possession any piece of equipment, horse, substance, document, apparatus, computer, mobile telephone, electronic device or thing which gives rise to a breach of the Rules.

(3) A Trainer or Person who fails to comply with sub rules 1 & 2 is guilty of an offence.

(4) It will not be a defence or excuse to an offence under this Rule or any other Rule that the Trainer or Person did not know of the existence or presence of the relevant piece of equipment, horse, substance, document, apparatus, computer, mobile telephone, electronic device or thing.

(5) It will not be a defence or excuse to an offence under this Rule or any other Rule that the Trainer or Person had an honest and reasonable mistake of fact about the possession or existence of the relevant equipment, horse, substance, document, apparatus, computer, mobile telephone, electronic device or thing.

Shock Wave

NSWLR 213B (1) Any trainer or person who uses or commissions the use of shock wave therapy to any standardbred racehorse during a racing preparation must advise HRNSW in writing, within 24 hours of treatment, the details of that use including date, name of horse, name of person whom performed the treatment and the condition treated.

(2) In addition to clause (1), any treatment must also be recorded in the Treatment Log Book pursuant to AHRR 190B.

(3) Any horse, which starts in a race or trial and is treated with shock wave therapy contrary to AHRR 213B and NSWLR 213B shall be disqualified.

- (4) A trainer whom has a shock wave device on their premises must register such device with HRNSW.
- (5) A trainer or person who fails to comply with any provision of this rule is guilty of an offence.

Nomination

NSWLR216 Further to AHRR 216, a person shall not nominate or declare a horse an acceptor or cause a horse to be nominated or declared an acceptor for a race with the sole purpose of affecting the number of horses available for the race.

PENALTIES

Power to defer penalty

NSWLR256 Notwithstanding the provisions of AHRR 256 (4) the Stewards may have the power to postpone, for a period of no longer than nine (9) days the attachment of any suspension imposed by them upon a driver.

Order for costs after offence proven

NSWLR256 A (1) The Stewards, having determined after an inquiry or investigation to impose a penalty upon a person for a breach of, or offence under, these Rules, may make such order as they think fit as to the payment of costs by that person in part or full of any costs and expenses incurred by the Controlling Body in connection with that inquiry or investigation.

- (2) A costs order made under this Rule is additional to, and does not form part of, any penalty imposed upon the person. However the order as to costs does form part of the decision made by Stewards, and is not intended to be protected from any rights of Appeal the person may have.
- (3) A costs order is payable as a debt to the Controlling Body within 14 days of notification of the quantum of the order, whether orally or in writing, to the person. Failure to comply with the terms of payment, or to enter into a payment arrangement satisfactory to the Controlling Body, may lead to the person being placed on the Unpaid Forfeit List.

Removal of warned off or disqualified person from the racecourse or any place

NSWLR259 (1) The period of disqualification or warning off of any person, who is disqualified or warned off, who contravenes AHRR 259 (1) shall automatically be deemed to recommence as from the most recent date of such contravention and may also be subject to further penalty.

- (2) The provisions of sub-rule (1) shall apply to any person to which AHRR 259 (1) applies, regardless of when such penalty that gives rise to the application of the rule that was imposed.