

Briefing for Incoming Minister

RACING

November 2008

THE DEPARTMENT OF INTERNAL AFFAIRS



Te Tari Taiwhenua

The Racing portfolio

1. The Racing portfolio is concerned with policy advice on the thoroughbred (galloping), harness and greyhound racing industries. It also encompasses the administration of the Racing Act 2003, the appointments to the New Zealand Racing Board (the Board), and the administration of two funds, the Racing Safety Development Fund and the Racing Promotion and Sponsorship Scheme.

Minister for Racing Roles and Responsibilities

2. As Minister for Racing, you are responsible for the Racing Act 2003 (the Act). Under the Act, racing industry bodies are accountable to Parliament for the use of their statutory powers, but otherwise the industry is responsible for its own affairs.
3. Your responsibilities under the Act include appointing the members of the Board's governing body, and tabling the Board's annual report, statement of intent and Betting Rules, and the three racing code bodies' Racing Rules in Parliament. You are also responsible for approving (or determining) the terms of reference and the auditor for the five-yearly performance and efficiency audit of the Board, and have the authority to direct the Board to investigate any racing matter.
4. Portfolio responsibilities include overseeing the Racing Safety Development Fund, and the Racing Promotion and Sponsorship Scheme.
5. The Minister for Racing is often invited to attend and speak at various racing events, including the annual general meetings of the racing code bodies, race meetings and awards ceremonies. The Minister is also often invited to make the presentation to winners of significant races.
6. The Minister for Racing frequently receives submissions from organisations and individuals on a wide range of issues facing the industry. In many cases, the Minister is viewed as a final 'court of appeal' when stakeholders (e.g. racing clubs) disagree with the decisions of the various decision-making bodies (e.g. the allocation of race dates or funds). In reality, the Ministerial role is limited in these matters because most decision-making powers are assigned by statute to industry bodies.

7. The Minister meets regularly with Australian state and territory racing ministers to discuss issues affecting the industry in this part of the world. The Australasian Racing Ministers' Conference meets once or twice a year. Recent agenda items have included Internet gambling and equine disease management.
8. New Zealand hosted the Conference in Auckland in March 2005. The next Conference is scheduled to be held in Melbourne in December 2008.

Overview of Racing in New Zealand

9. The racing industry is underpinned by wagering. The Board provides racing and sports betting under the 'TAB' brand. Betting profits maintain racing clubs' tracks and amenities, and fund stake monies. Racehorse and greyhound owners enter their animals in races conducted by racing clubs to win a share of the stakes. Bettors place bets with the TAB on the outcome of those races. Breeders breed and sell horses and greyhounds, and trainers prepare animals to race. The value of a horse or greyhound is derived from its potential to win stakes and prestigious races (either itself or, in terms of breeding, through its progeny).

Economic impact of racing

10. Racing has a significant economic impact on New Zealand's GDP, employment and exports. A 2004 study by the Melbourne-based Institute of Economic Research (IER) study¹ commissioned by the Board estimated that:
 - the racing industry makes a direct contribution of \$424 million to New Zealand's GDP (0.37% of total GDP), and generates more than \$1,480 million (1.3% of GDP) if the indirect impact of expenditure in the racing industry is taken into account.
 - more than 40,000 people are involved in some capacity in the racing industry (74% in the production of racing animals (breeding, training etc) and 26% in racing club, raceday and TAB operations). The racing industry directly sustains 9,248 full-time equivalent (FTE) jobs, and when the

¹ Size & Scope of New Zealand Racing Industry, Institute of Economic Research, June 2004.

indirect impact of racing on other industries is taken into account, the total employment rises to 18,320 FTE jobs.

- the racing industry generates more than \$130 million each year in export sales of thoroughbred and standardbred horses. Australia is New Zealand's biggest export market, followed by Asia. Approximately 1,900 thoroughbreds are exported each year.
11. The Board has also commissioned IER to conduct economic impact studies on the major racing carnivals. These studies found that the carnivals generated the following economic (both direct and indirect) benefits, including:
- the 2007 Kelt Capital Spring Carnival generated \$5.7 million for the Hawkes Bay economy
 - in 2007, the New Zealand Cup Carnival contributed \$10 million to the Christchurch economy
 - the Wellington Cup Carnival generated \$8.6 million for the Wellington economy during January 2007
 - the Harness Jewels at Cambridge Raceway held in 31 May 2008 contributed \$3.2 million to the Waikato economy.

Social impact of racing

12. The IER study found that the New Zealand racing industry makes a significant contribution to community social benefit. More than 150 racedays have a community leisure theme, and many racing clubs share their facilities with community organisations on non-racedays for activities such as fairs, expos, car rallies, craft and agricultural shows, and pony club events. There are more than 27,000 members of racing clubs nationwide, and there is a high level of voluntary work within the racing industry. IER estimates that approximately 4000 volunteers participate in racing clubs.

Legislation

13. Racing in New Zealand depends on gambling for its continued viability. Betting profits are distributed through the code bodies to racing clubs. Gambling generally has many inherent risks (problem gambling, unfair games,

opportunities for crime, etc). Successive Parliaments have chosen to regulate to prevent and minimise these risks.

14. In 2003, a new statutory framework was created for racing. It encourages industry bodies to exercise their significant powers responsibly, foster the interests of a wide range of industry participants, and to be aware of the risks inherent in the gambling products on which the industry depends.

Racing Act 2003

15. On 1 August 2003, in response to industry requests for legislative reform, the Racing Act 2003 came into force, replacing the Racing Act 1971. The legislation modernised the laws governing racing and betting, and simplified the administration of racing. Industry bodies are accountable to Parliament for the use of their statutory powers, but the racing industry is otherwise responsible for its own affairs.
16. The Act disestablished the Racing Industry Board and the Totalisator Agency Board, and established the New Zealand Racing Board as the industry's principal policy body and as the sole provider of racing and sports betting services. The 'TAB' brand continues under the Board.
17. The Racing Act 2003 recognises the three racing code bodies, namely: New Zealand Thoroughbred Racing (NZTR), Harness Racing New Zealand (HRNZ) and the New Zealand Greyhound Racing Association (NZGRA). The Act gives the thoroughbred, harness and greyhound racing code bodies increased responsibilities, especially around expenditure. The Board is required to distribute betting profits to the code bodies for onward distribution to their constituent racing clubs.
18. The Act strengthens the accountability arrangements for industry bodies, including deeming the Board's Betting Rules and the racing code bodies' Racing Rules to be regulations. This means those rules are subject to scrutiny by Parliament's Regulations Review Committee and may be disallowed by the House of Representatives. The general parliamentary oversight of the Betting Rules is appropriate given that gambling has inherent risks. Independent oversight of the Racing Rules is also appropriate because of the linkages with gambling and because the code bodies effectively regulate people's livelihoods.

Gambling Act 2003

19. Following a formal review of gambling in New Zealand, the Gambling Act was enacted in 2003. It gives the racing industry various rights and responsibilities.

For example, it:

- preserves the industry's monopoly on racing and sports betting
- preserves the Board's ability to offer its products via the Internet/TV
- preserves racing clubs' ability to apply for funds from gaming machine trusts
- enables the Board to establish TAB betting outlets in casinos (with the casino's agreement)
- prohibits the advertising within New Zealand of overseas-based gambling opportunities.

20. The Gambling Act also allows the Board and racing clubs to apply to operate gaming machines in TAB venues and at racecourses. They are required to comply with all aspects of the licensing regime and the territorial authority policies.

21. From 1 October 2004, the Board (as well as other gambling providers) has been levied to fund a public health approach to problem gambling. The Ministry of Health manages this work.

Racing (Harm Prevention and Minimisation) Regulations 2004

22. The Racing (Harm Prevention and Minimisation) Regulations 2004 were made on 30 August 2004 and came fully into force on 1 October 2005. The regulations prohibit ATM machines in TAB venues, require the Board to display signage at TAB venues promoting responsible gambling and containing advice about how to seek assistance for problem gambling, and require the Board to provide its staff with problem gambling awareness training.

Racing taxation

23. A new tax regime was introduced for racing from 1 August 2006. The key changes were:

- a reduction in gaming duty from 20% of gambling profits to 4%

- a decrease in the write-down period for stallions from four years to two years
 - a decrease in the maximum write-down period for broodmares from 8 years to five years.
24. The industry receives around an additional \$35 million per annum as a result of the reduction in gaming duty. The new funding has been put towards three core industry strategies:
- increasing the returns to racehorse owners (via stake money) to encourage ownership
 - improving TAB dividends to enable the New Zealand Racing Board to compete with its offshore competitors
 - enhancing critical industry infrastructure to encourage greater on-course participation.
25. Accelerating bloodstock write-downs makes the purchase of bloodstock more attractive. Previously, there were concerns expressed about the decline in the quality of New Zealand-owned bloodstock. Studs were relying on shuttle stallions (leased from overseas owners and brought to New Zealand for limited times), instead of purchasing them outright.

Key policy and operational issues

Racing Promotion and Sponsorship Scheme

26. In 2008, an appropriation of \$9 million per annum over three years was approved to establish a scheme that would provide co-sponsorship for key New Zealand feature races in order to significantly lift the prize money in those races. This initiative would lift the international profile of New Zealand racing and encourage overseas racing interests to engage with the industry.
27. The Minister for Racing oversees the Scheme and it is administered by the Department of Internal Affairs. The three racing code bodies make annual submissions for the deployment of the funding via the New Zealand Racing Board. Proposals are reviewed by the Department and final approval rests with the Minister. The Scheme is to be evaluated at the end of its second year.

28. The Scheme came into effect in 2008/09. The racing codes will receive funding in support of following races during the current racing season:

Thoroughbred Racing		Harness Racing		Greyhound Racing	
Race	Stakes	Race	Stakes	Race	Stakes
NZ Derby	\$2,200,000	NZ Trotting Cup	\$1,200,000	Platinum Paws Cup	\$250,000
Auckland Cup	\$1,000,000	NZ Free For All	\$300,000	Platinum Paws Card	\$90,000
Telegraph H'cap	\$1,000,000	Akl Trotting Cup	\$600,000	Auckland Cup	\$120,000
2000 Guineas	\$1,000,000	NZ Derby	\$300,000	NZ Cup	\$120,000
		Northern Derby	\$600,000	Silver Collar	\$100,000
		Dominion H'cap	\$300,000		
		Rowe Cup	\$300,000		

Racing Safety Development Fund

29. In 2007, the Racing Safety Development Fund budget was established. This is a contestable fund of \$1.0m per annum, which matches contributions from racing clubs to support projects, which enhance racecourse safety.
30. An industry working group considers and approves applications to the Fund. As Minister, you are responsible for appointing members of the working group, including an independent chairperson. The Department administers the Fund and supports the working group.
31. The Fund operates two funding rounds per year. In its first year, 27 projects received almost \$800,000 to support safety projects. These projects ranged from the installation of modern running rails to grandstand repairs.
32. Applications for round one for the 2008/09 funding year closed on 30 September 2008. The working group is scheduled to meet on 25 November 2008 and will consider 34 applications for approximately \$760,000. You will be expected to announce decisions on successful applications during December. Round two for the current funding year will open on 1 February 2009.
33. The Department has committed to reviewing the operation of the Fund following completion of all the 2007/08 projects. It is likely that the review will be undertaken in early 2009.

Australasian Racing Ministers' Conference

34. Racing Ministers from New Zealand and the Australian states and territories meet once or twice a year to discuss issues of mutual concern. An opportunity is afforded to industry representatives to bring any issues to Ministers' attention.
35. The next conference is scheduled to be hosted by the State of Victoria in Melbourne on 5 December 2008. Likely agenda items will include the after effects of the Equine Influenza outbreak, and the advent of 'race fields' legislation across the states and territories, in which a jurisdiction requires out-of-state betting operators to pay a fee for the use of that jurisdiction's racing product.

Performance and efficiency audit

36. Under the Racing Act, the Board must arrange for an audit to be conducted in relation to its performance and efficiency at least once every five years. The report of the inaugural audit was released in September 2008.
37. The audit reported that the organisation's performance had improved steadily and materially over its five years of existence, which indicated a good level of governance. The auditor noted that the Board had achieved much since its formation, and that industry bodies were positive about its financial progress.
38. Although there was nothing that required urgent remedial attention, the auditor made 15 recommendations aimed at improving board governance and accountability. The auditor made some additional comments around racing's regulatory framework, the so-called 'code-driven' model. The auditor reported that the three racing code bodies were 'protective of their autonomy in areas in which the evolution of better integrated, more efficient and effective industry-wide approaches appear desirable'.
39. On 30 September 2008, the Acting Minister for Racing wrote to the chairman of the Board seeking an assurance that it is meeting any challenges that arise from the regulatory framework. We note that the Board has strong levers to encourage improved performance (e.g. it can withhold a racing code body's funding if that code's statement of intent does not align with the Board's).

Equine influenza

40. In August 2007, there was an outbreak of equine influenza (EI) in Australia. Previously, New Zealand and Australia were the only major horse-racing jurisdictions that were free of the virus.
41. Prior to the EI outbreak, there was free movement of horses between the two countries. Today, horses must be quarantined for several weeks. The quarantine requirements limit the options for New Zealand racehorse owners and breeders, who wish to race or breed their horses in Australia, or vice versa.
42. The EI outbreak in Australia had significant economic and social impacts. Racing and breeding in New South Wales and Queensland were effectively shut down for three months. Australia has sought to eradicate EI and will be seeking to regain its international EI-free status in due course.
43. An EI incursion into New Zealand could shut the racing industry down for three to six months, with significant economic and social impacts. Although the primary responsibility for New Zealand's response to EI rests with MAF Biosecurity and the equine industries, the Department has maintained a watching brief because of the implications for the racing industry.
44. The New Zealand Racing Board applied to the Environmental Risk Management Agency (ERMA) for approval to import the genetically modified EI vaccine ProteqFlu. ProteqFlu was approved for use in the EU, Canada and the United States and was registered and used to control the spread of, and eventually eradicate, EI in Australia. On 19 November 2008, ERMA announced that the vaccine was approved for the export of horses, and for emergency use if there was an EI outbreak in New Zealand. It would be used only under the direct control of MAF Biosecurity New Zealand.

Internet gambling

45. Under the Gambling Act 2003, the New Zealand Racing Board and the New Zealand Lotteries Commission are the only mainstream gambling operators permitted to offer their products on-line. The policy thinking behind this approach is that it would be impractical to try to stop people from gambling on the Internet, so the TAB and NZ Lotteries are allowed to offer some regulated,

relatively attractive and relatively harmless internet products. This also seeks to ensure that the profits of this gambling benefit New Zealand communities.

46. The New Zealand Racing Board has previously expressed concern about the impact of New Zealanders betting with certain off-shore betting agencies. It submits that this leakage of betting funds is detrimental because New Zealand TAB betting profits support the New Zealand racing industry. In comparison, most off-shore betting operators make no financial contribution to the industry.
47. We note that many Australian states and territories have introduced or enacted legislation that requires out-of-state betting operators to pay a fee for the use of that jurisdiction's racing product. We note, however, that at least one of these laws has been deemed unconstitutional and was struck out by the High Court.
48. The Board itself has suggested that the continued growth of borderless internet (betting) operators might require New Zealand to consider rules regarding product fees and legislative change to monitor and control integrity issues. You may receive representations from the Board on this matter.

New Zealand Racing Board – 'non-traditional' bet types

49. In its 2006/07 Annual Report, the Board indicated its wish to offer TAB betting on events other than racing or sports (e.g. the results of general elections and other contests like the TV programmes "NZ Idol" and "Dancing with the Stars"). It noted that overseas betting agencies offer New Zealanders the opportunity to bet on these types of events. The Board believes that this represents a "direct customer, business, community and economic loss to New Zealand".
50. We note that such an expansion of the domestic gambling market would require legislative change and would be controversial. You can expect to receive representations from the Board on this matter.

New Zealand Racing Board – Annual Report

51. Under the Act, you are required to present the Board's annual report in the House. The Board is expected to submit its 2007/08 report in November.
52. We understand that the 2007/08 report will show an operating surplus of \$131m compared to \$122m in the previous year. Betting turnover exceeded the \$1.5 billion barrier for the first time. Much of the improved turnover came off the

back of Australian punters spending about \$300m more than budgeted due to Australia taking more New Zealand racing product when their schedule was decimated by EI.

53. We will provide you with a comprehensive briefing on the report once it has been published.

New Zealand Racing Board – Appointments

54. You are responsible for appointing members of the New Zealand Racing Board's governing body. The terms of membership for three members expire at the end of the current racing season (31 July 2009). These are the independent chairperson, the HRNZ-nominated member, and an independent member.
55. The statutory process for appointing independent members is a lengthy one. The process usually commences in April in order to meet the requirements of the Racing Act and to ensure new members are in place on 1 August, the first day of the racing calendar. We will provide a briefing to commence the appointments process in early 2009.

New Zealand Thoroughbred Racing – Racing Rules

56. You are required to table new or amended Racing Rules in the House. The Rules are subject to scrutiny by the Regulations Review Committee and may be disallowed by the House.
57. NZTR is in the process of completely rewriting its Racing Rules, which are currently very unwieldy. This complex, but worthwhile project has been under way for a couple of years, and is nearly completed.
58. We anticipate that the revamped Racing Rules will be submitted to you for tabling in the near future. There is a public interest in these Rules because of the sport of racing's linkages with TAB wagering and because NZTR effectively regulates people's livelihoods under the Rules.

Stakeholders – key racing industry organisations

59. Stakeholders in the racing industry comprise:
- statutory bodies
 - recognised industry organisations

- other stakeholders including commercial organisations and lobby groups.

These organisations are described in more detail below.

Statutory Bodies

60. The Racing Act 2003 established the New Zealand Racing Board and continued the Judicial Control Authority. These organisations are statutory bodies. There are no Crown entities under the racing legislation.

New Zealand Racing Board

61. The statutory objectives of the Board are to promote the racing industry to facilitate and promote racing betting and sports betting; and to maximise its profits for the long-term benefit of racing.
62. The Board's statutory functions include conducting racing and sports betting; setting the racing calendar, administering the racing judicial system, and developing and administering programmes to reduce problem gambling.
63. A key function of the Board is to develop policies that are conducive to the economic development of the racing industry, and the economic well-being of people who, and organisations which, derive their livelihoods from racing.
64. The Board is the sole New Zealand-based provider of racing and sports betting. It conducts betting under the 'TAB' brand in accordance with the Betting Rules. Like TAB operators in other jurisdictions, the Board retains a commission from each totalisator betting pool and distributes the remainder to winning bettors. From the betting commission, the Board meets its operating costs and pays the surplus to the racing code bodies. The surplus is used to support racing club infrastructure and fund racing stakes.
65. The Minister for Racing appoints all members of the Board's governing body, in accordance with Cabinet Office guidelines and the Racing Act 2003. The current membership is as follows:

Member	Membership commenced	Membership expires
Michael Stiassny <i>Independent chairperson</i>	1 January 2007	31 July 2009
Warren Bell <i>Independent member</i>	1 April 2006	31 July 2011
Julie Crengle <i>Independent member</i>	1 August 2003	31 July 2009
Liz Dawson <i>Independent member</i>	1 August 2007	31 July 2010

Thayne Green <i>NZGRA-nominated member</i>	1 August 2003	31 July 2011
Ray O'Connor <i>HRNZ-nominated member</i>	1 December 2006	31 July 2009
Alistair Sutherland <i>NZTR-nominated member</i>	1 April 2006	31 July 2011

Judicial Control Authority

66. The Judicial Control Authority (JCA) was established by statute in 1996, and is maintained by the Racing Act 2003. It appoints judicial panels for harness and thoroughbred race meetings and hears non-raceday enquiries relating to the rules of racing (e.g. horse ownership issues, racehorse doping, etc.). The Authority also appoints tribunals to hear raceday and non-raceday appeals.
67. Greyhound racing judicial panels are currently appointed in accordance with the rules of greyhound racing, and are not part of the racing judicial system explicitly mandated by statute. However, there is provision in the Racing Act 2003 to bring greyhound racing within the purview of the JCA.
68. Kirsty McDonald QC was appointed to chair the JCA in October 2008. Under the Act, this appointment is made by the chairpersons of the Board and the two horse racing code bodies.
69. The full membership of the JCA is currently as follows:

Member	Appointment Details
Kirsty McDonald QC (Chairperson)	A person who is or has been a barrister and solicitor of the High Court of not less than seven years' practice, appointed by NZ Thoroughbred Racing and Harness Racing NZ.
Paul Kenny Simon Lockhart	Appointed by the Chairperson of the JCA and the President of New Zealand Thoroughbred Racing.
Lew Christensen Garry Thompson	Appointed by the Chairperson of the JCA and the President of Harness Racing New Zealand.

Recognised Industry Organisations

70. The Racing Act 2003 recognises over 140 'recognised industry organisations'. These include the three racing code bodies, numerous racing clubs (galloping, harness or greyhound) and several sector groups.

Racing Code Bodies

71. New Zealand Thoroughbred Racing (NZTR), Harness Racing New Zealand (HRNZ) and the New Zealand Greyhound Racing Association (NZGRA) are the three racing code bodies. They are responsible for their respective Racing

Rules and for licensing and registering participants in their sporting code (e.g. horses, greyhounds, trainers, jockeys, drivers etc.).

72. Under the Act, the racing code bodies are also responsible for distributing betting profits to racing clubs. The racing code bodies must each prepare annual business plans and statements of intent, which include their policies for distributing funds to the racing clubs and their constitutional rules. The business plans and statements of intent must be approved by the Board. If a code's business plan and statement of intent are not approved, the Board can withhold its funding distribution to that code.
73. The codes' main officeholders are:
- NZTR chairman – Guy Sargent
 - HRNZ chairman – Pat O'Brien
 - NZGRA chairman – Trevor Deed.

Racing Clubs

74. Racing clubs promote, conduct and control race meetings in accordance with the relevant Rules of Racing. They are not-for-profit organisations.
75. In the 2008/09 season:
- 64 thoroughbred racing clubs hold licences to conduct 329 TAB race meetings at 50 racecourses
 - 48 harness racing clubs will conduct 284 meetings at 42 racetracks
 - 12 greyhound racing clubs will conduct 359 meetings at eight venues.
76. Several racing venues host more than one code of racing, and one venue hosts all three codes. There are 67 racecourses across New Zealand where TAB race meetings are conducted.

Sector Groups

77. The following sector groups represent the interests of various industry professionals and other participants, and are recognised by the Racing Act:
- New Zealand Racehorse Owners' Federation
 - New Zealand Thoroughbred Breeders' Association
 - New Zealand Trainers' Association

- New Zealand Jockeys' Association
- New Zealand Standardbred Breeders' Association
- New Zealand Harness Racing Trainers' and Drivers' Association
- New Zealand Trotting Owners' Association.

Other Stakeholders

78. Other major racing industry stakeholders include:

- New Zealand Bloodstock Ltd – New Zealand's premier thoroughbred sales company. In January / February each year it runs the national yearling sales series at Karaka, which is the focal point of New Zealand's thoroughbred bloodstock activities.
- New Zealand Thoroughbred Marketing Ltd (NZTM) – a body established in 1997 to market the New Zealand thoroughbred industry to domestic and international markets. NZTM is funded by industry contributions.
- The Association of Provincial Racing Clubs – a lobby group that claims to represent more than half of the galloping clubs and their associated communities.

Appendix I

Racing

