



New South Wales

Greyhound Racing Control Board (Appeals) Amendment Regulation 1998

under the

Greyhound Racing Authority Act 1985

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Greyhound Racing Authority Act 1985*.

J RICHARD FACE MP

Minister for Gaming and Racing

Explanatory note

The objects of this Regulation are as follows:

- (a) to specify the types of decisions of the Greyhound Racing Authority, stewards, and committees of greyhound racing clubs from which an appeal lies to the Greyhound Racing Appeals Tribunal.
- (b) to provide for certain other procedural and administrative matters in relation to appeals to the Tribunal.
- (c) to modify the types of decisions of stewards and of committees of greyhound racing clubs from which an appeal lies to the Greyhound Racing Authority.
- (d) to reorganise and restate provisions relating to appeals to the Greyhound Racing Authority.

This Regulation is made under the *Greyhound Racing Authority Act 1985*, including section 18D (regulations concerning appeals) and section 25 (the general regulation-making power).

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Clause 1 Greyhound Racing Control Board (Appeals) Amendment Regulation 1998

**Greyhound Racing Control Board (Appeals)
Amendment Regulation 1998**

1 Name of Regulation

This Regulation is the *Greyhound Racing Control Board (Appeals) Amendment Regulation 1998*.

2 Commencement

This Regulation commences on 1 January 1999.

3 Amendment of Greyhound Racing Control Board (Appeals) Regulation 1994

The *Greyhound Racing Control Board (Appeals) Regulation 1994* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Part 1, heading

Insert before clause 1:

Part 1 Preliminary

[2] Clauses 5–18

Omit the clauses. Insert instead:

Part 2 Appeals to Greyhound Racing Authority

5 Appeals to Authority

Appeals to the Authority under section 18A of the Act are to be made in accordance with this Part.

6 Decisions from which an appeal lies to Authority

- (1) A person who is aggrieved by any one or more of the following decisions may appeal to the Authority against the decision:
- (a) a decision to fine the person an amount exceeding \$50 but less than \$550,
 - (b) in the case of an owner or trainer of a greyhound—a decision:
 - (i) to disqualify a greyhound. but only if the decision to disqualify is made in conjunction with a decision to impose a penalty on a person (the latter being a decision in respect of which an appeal may be made to the Authority), or
 - (ii) to place an endorsement on the registration certificate of a greyhound for fighting or failing to pursue the lure, that gives rise to a disqualification of the greyhound for a period exceeding 1 month.
 - (c) a decision relating to the payment of a bet.

- (2) In this clause, *decision* means a decision:
 - (a) by the stewards or the committee of a greyhound racing club in relation to a race meeting or a qualifying trial meeting, or
 - (b) by a steward appointed by the Authority.
- (3) A reference in subclause (1) to a person does not include a reference to a greyhound racing club.

7 Procedure for initiating and hearing appeals

- (1) An appeal is to be initiated by the lodging of a written notice of appeal with the chief executive officer within 14 days of the date on which the appellant is notified of the decision appealed against.
- (2) A notice of appeal must specify the grounds of appeal (including the particulars of those grounds). The appeal is limited to those grounds, except by leave of the Authority.
- (3) The chief executive officer is, on receiving a notice of appeal:
 - (a) to send the greyhound racing club concerned a copy of the notice of appeal, and
 - (b) to serve on the appellant any available transcript of the evidence taken at the hearing in respect of the decision appealed against, and
 - (c) to send the members of the Regulatory Committee a copy of the notice of appeal along with any such transcript of evidence.
- (4) The date, time and place for the hearing of an appeal is to be fixed by the chief executive officer. The chief executive officer is to give at least 7 days' written notice of such date, time and place to the appellant and the greyhound racing club concerned, and to such other persons as the chief executive officer thinks fit.
- (5) The Authority is to commence the hearing of an appeal as soon as practicable within 28 days of the lodging of the notice of appeal.

- (6) The Authority may, in a particular case, extend any period of time specified in this clause if in its opinion the circumstances of the case so require.

8 Fee to be lodged with notice of appeal

- (1) A notice of appeal must be accompanied by a fee of \$20 when it is lodged.
- (2) The fee may be paid at a later time with the consent of the Authority.
- (3) On the determination or withdrawal of the appeal, the Authority may, if it thinks fit, direct that the fee (or part of the fee) is to be repaid to the appellant.

9 Suspension or variation of decision pending determination of appeal

- (1) The Authority may, on written application by an appellant lodged with the chief executive officer, order that the decision appealed against:
- (a) is not to be carried into effect, or
- (b) is to be carried into effect only to the extent specified in the order.

pending the determination of the appeal, Any such order has effect for the period it is in force.

- (2) The Authority may, in making any such order, impose conditions. The order is taken not to be in force for any period during which any such condition is not complied with
- (3) An order remains in force until it is revoked by further order by the Authority or the appeal to which it relates is dismissed, determined or withdrawn (whichever happens first).

10 Withdrawal of appeal

An appeal duly lodged may not be withdrawn except with the leave of the Authority. In granting any such leave, the Authority may impose such conditions as to the payment of costs or otherwise as it thinks fit.

11 Evidence on appeal

- (1) The Authority, when hearing an appeal, is to consider as the evidence in the matter the evidence presented at the hearing in respect of the decision appealed against.
- (2) The Authority may not consider any other evidence unless it is satisfied that it is relevant to the subject-matter of the appeal and that there is good reason why it was not presented at the earlier hearing.
- (3) The Authority, when hearing an appeal, is not bound by the rules or practice as to evidence but may inform itself of any matter in such manner as it thinks fit.

12 Further investigation of appeal

- (1) If the Authority, at any time before determining an appeal, is of the opinion that the subject-matter of the appeal or any matter connected with it should be investigated, or that the evidence considered on the appeal should be reconsidered, the Authority may:
 - (a) itself conduct the investigation. or
 - (b) direct that the investigation be conducted by the person or body against whose decision the appeal is brought and that the person or body report the result of the investigation to the Authority or
 - (c) remit the whole or any part of the subject-matter of the appeal for reconsideration by the person or body against whose decision the appeal is brought and may give such directions as it thinks fit in relation to that reconsideration.

- (2) A right of appeal lies to the Authority in respect of any decision given by a person or body arising out of any reconsideration referred to in subclause (1) (c) as if the decision were an original decision of that person or body.

13 Costs where appeal dismissed

- (1) On dismissing an appeal, the Authority may order the appellant to pay to it the actual costs incurred by the Authority in hearing the appeal, including costs of any lawyer retained to assist the Authority in determining the appeal (but not including any costs incurred by directors of the Authority in hearing the appeal).
- (2) On service on an appellant of such an order for the payment of costs, the amount of the costs specified in the order becomes a debt payable by the appellant to the Authority.

14 Determination of appeal

- (1) The Authority may do any of the following in respect of an appeal:
- (a) adjourn or dismiss the appeal.
 - (b) uphold, reverse or vary the decision appealed against.
 - (c) order the refund of any stake paid or monetary prize given in connection with any race to which the appeal relates.
 - (d) order the return of any prize (other than a monetary prize) given in connection with any race to which the appeal relates.
 - (e) refer any matter in which the decision appealed against was made for re-hearing (in accordance with directions given by the Authority) to the stewards or the committee of the greyhound racing club that made that decision.

- (f) exercise its powers under clause 12,
 - (g) make such other order in relation to the disposition of the appeal as it thinks fit.
- (2) On service on a person, personally or by post, of an order made under subclause (1) (c) requiring the refund of any stake paid or monetary prize given to the person, the amount of the stake or prize becomes a debt payable by that person to the person to whom the stake or prize is required by the order to be refunded.
- (3) If an order made under subclause (1) (d) requiring a person to return a prize within a period specified in the order is served, personally or by post, on the person, and the person does not comply with the order within the time so specified, an amount equal to the value of the prize becomes a debt payable by that person to the person to whom the prize is required to be returned.

15 Conduct of appeal

The Authority may, subject to the Act and this Regulation, direct the manner in which any appeal before it is to be conducted.

Part 3 Appeals to Tribunal

16 Appeals to Tribunal

Appeals to the Tribunal under section 18A of the Act are to be made in accordance with this Part.

17 Decisions from which appeals lie to Tribunal

- (1) A person aggrieved by any one or more of the following decisions may appeal to the Tribunal against that decision:
 - (a) a decision to disqualify a person.
 - (b) a decision to cancel the registration of or refuse to register the person.

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- (c) a decision to cancel the registration of a greyhound (including registration of a greyhound as a sire and registration of a litter of greyhounds).
 - (d) a decision to disqualify a greyhound, but only if the decision to disqualify is made in conjunction with a decision to impose a penalty on a person (the latter being a decision in respect of which an appeal may be made to the Tribunal),
 - (e) a decision to suspend, for a period exceeding one month, any right or privilege conferred on the person by the Act or by the rules of the Authority,
 - (f) a decision to fine the person an amount of \$550 or more.
- (2) In this clause, *decision* means:
 - (a) a decision as referred to in clause 6 (2), and
 - (b) a decision of the Authority (other than its decision in respect of an appeal made under clause 6).
 - (3) A reference in subclause (1) to a person does not include a reference to a greyhound racing club.

18 Procedure for initiating and hearing

- (1) An appeal is to be initiated by the lodging of a written notice of appeal with the chief executive officer within 14 days of the date on which the appellant is notified of the decision appealed against.
- (2) The chief executive officer is, on receiving a notice of appeal:
 - (a) to forward notice of it to the Tribunal, and
 - (b) if the placing of any greyhound may be affected by the result of the appeal, to give a copy of the notice of the appeal to the owner of the greyhound (if the owner is not the appellant) and to the greyhound racing club concerned, and

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- (c) to serve on the appellant any available transcript of the evidence taken at the hearing in respect of the decision appealed against.
- (3) Within 7 days of receiving the transcript of evidence, the appellant is to lodge with the chief executive officer a written notice of the grounds of appeal (including the particulars of those grounds). The appeal is to be limited to those grounds, except by leave of the Tribunal.
- (4) On receiving notice of the grounds of appeal, the chief executive officer is to forward 3 copies of the notice to the Tribunal along with a transcript of the evidence taken at the hearing in respect of the decision appealed against.
- (5) The date, time and place for the hearing of an appeal is to be fixed by the Tribunal. The chief executive officer is to give at least 7 days' written notice of such date, time and place to the appellant and to such other persons as the Tribunal thinks fit.
- (6) The Tribunal is to commence the hearing of an appeal as soon as practicable within 35 days of the lodging of the notice of the grounds of appeal.
- (7) The Tribunal may, in a particular case, extend any period of time specified in this clause if in its opinion the circumstances of the case so require.

19 Expedited hearing

- (1) If the Tribunal is of the opinion that an appeal should be heard and determined as a matter of urgency, the Tribunal may, by order made with the concurrence of the appellant:
 - (a) dispense with the requirement for a transcript of the evidence taken at the hearing in respect of the decision appealed against to be served, on the appellant and forwarded to the Tribunal, and
 - (b) shorten the time fixed under clause 18 (5)

- (2) If such an order is made:
 - (a) the Tribunal may rely on such evidence as is available to it concerning the hearing in respect of the decision appealed against, and
 - (b) the appellant must lodge a notice of the grounds of appeal (including the particulars of those grounds) in such manner and within such time as the Tribunal directs. The appeal is to be limited to the grounds specified in that notice, except by leave of the Tribunal.

20 Fees

- (1) A notice of appeal must be accompanied by a fee of \$100 when it is lodged.
- (2) The fee may be paid at a later time with the consent of the Tribunal.
- (3) On the determination or withdrawal of the appeal, the Tribunal may, if it thinks fit, direct that the fee (or part of the fee) is to be repaid to the appellant.

21 Suspension or variation of decision pending determination of appeal

- (1) The Tribunal may, on the written application by an appellant lodged with the chief executive officer, order that the decision appealed against:
 - (a) is not to be carried into effect, or
 - (b) is to be carried into effect only to the extent specified in the order, pending the determination of the appeal. Any such order has effect for the period it is in force.
- (2) The Tribunal may in making any such order, impose conditions. The order is taken not to be in force for any period during which a condition is not complied with.

- (3) An order remains in force until it is revoked by further order by the Tribunal or the appeal to which it relates is dismissed, determined or withdrawn (whichever happens first).

22 Withdrawal of appeal

An appeal duly lodged may not be withdrawn except with the leave of the Tribunal. In granting any such leave, the Tribunal may impose such conditions as to the payment of costs or otherwise as it thinks fit.

23 Evidence on appeal

- (1) The Tribunal is, when hearing an appeal, to consider as the evidence in the matter the evidence presented at the original hearing in respect of the decision appealed against.
- (2) The Tribunal may not consider any other evidence unless it is satisfied that it is relevant to the subject-matter of the appeal and that there is good reason why it was not presented at the earlier hearing. If any new evidence is presented at the hearing of the appeal, the Authority or the steward appointed by the Authority, or the stewards or committee of the greyhound racing club concerned, are to be given an opportunity to make submissions in respect of that evidence at the hearing.
- (3) The Tribunal, when hearing an appeal, is not bound by the rules or practice as to evidence but may inform itself of any matter in such manner as it thinks fit.

24 Hearings in absence of a party and representation at hearings

- (1) The Tribunal may hear an appeal in the absence of a party to the appeal.
- (2) The Tribunal may grant leave for each party to be represented by a lawyer or agent at the hearing of an appeal.

25 Assessors

- (1) One or more assessors may assist the Tribunal in hearing an appeal if the Tribunal, whether before or during the hearing, so directs.
- (2) The Tribunal is to determine the assessors who may assist the Tribunal in hearing the appeal concerned.
- (3) The Tribunal may, at any time during the hearing of an appeal, dispense with the services of any assessor assisting the Tribunal.
- (4) An appellant or other party is not entitled to make any submission or objection in relation to the exercise of the Tribunal's functions under this clause,

26 Costs

- (1) On determining an appeal, the Tribunal may make such orders as to the payment of costs as the Tribunal thinks fit.
- (2) On service on a party to an appeal of an order for the payment of costs, the amount of the costs specified in the order becomes a debt payable by the party to the person specified in the order as the person to whom the costs are to be paid.

27 Determination of appeal

- (1) The Tribunal may do any of the following in respect of an appeal:
 - (a) adjourn or dismiss the appeal,
 - (b) uphold, reverse or vary the decision appealed against,
 - (c) refer any matter in which the decision appealed against was made for re-hearing (in accordance with directions given by the Tribunal) to the Authority or the steward appointed by the authority, or the stewards or committee of the greyhound racing club concerned,

- (d) order the refund of any stake paid or monetary prize given in connection with any race to which the appeal relates.
 - (e) order the return of any prize (other than a monetary prize) given in connection with any race to which the appeal relates.
 - (f) make such other order in relation to the disposition of the appeal as the Tribunal thinks fit.
- (2) On service on a person, personally or by post, of an order made under subclause (1) (d) requiring the refund of any stake paid or monetary prize given to the person, the amount of the stake or prize becomes a debt payable by that person to the person to whom the stake or prize is required by the order to be refunded.
- (3) If an order made under subclause (1) (e) requiring a person to return a prize within a period specified in the order is served, personally or by post, on the person, and the person does not comply with the order within the time so specified, an amount equal to the value of the prize becomes a debt payable by that person to the person to whom the prize is required to be returned.

28 Conduct of appeal

The Tribunal may, subject to the Act and this Regulation, direct the manner in which any appeal before it is conducted.

Part 4 Other matters relating to appeals

29 Service of instruments

Any instrument to be served on any person under this Regulation may be served:

- (a) personally, or
- (b) by leaving it, at the person's last place of residence or business known to the Authority, with some other person, or
- (c) by post addressed to the person at the person's last such known place of residence or business.

30 Persons required to attend hearings or produce documents

- (1) The Authority or the Tribunal may, by written notice served on any person, require the person to attend at a time, date and place specified in the notice for the purposes of:
 - (a) giving evidence relating to an appeal being heard or to be heard by the Authority or the Tribunal, or
 - (b) producing any document, relating to such an appeal, specified in the notice that is in the person's possession or under the person's control.
- (2) The Authority or the Tribunal may do so either on its own motion or on application by the appellant.
- (3) A person who is served with such a notice, and to whom is tendered at the time of service an amount sufficient to cover the travelling and any other expenses likely to be incurred by the person in attending at the time, date and place specified in the notice must not, without reasonable excuse, fail or refuse to comply with the requirements of the notice.

Maximum penalty: 5 penalty units.

31 False statements

- (1) A person appearing before the Authority or the Tribunal in connection with an appeal must not knowingly make a statement that is false or misleading in a material respect.

Maximum penalty: 5 penalty units.

- (2) A person appearing before the Tribunal in connection with an appeal must not say or do anything that is likely to bring the Tribunal into contempt.

Maximum penalty: 5 penalty units