



New South Wales

Racing Appeals Tribunal Regulation 2024

under the

Racing Appeals Tribunal Act 1983

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following regulation under the *Racing Appeals Tribunal Act 1983*.

DAVID HARRIS, MP
Minister for Gaming and Racing

Explanatory note

The object of this regulation is to repeal and remake, with some changes, the *Racing Appeals Tribunal Regulation 2015*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation—

- (a) prescribes the classes of matters for which an appeal may be made to the Racing Appeals Tribunal under the *Racing Appeals Tribunal Act 1983* (**the Act**), and
- (b) provides for procedural and consequential matters relating to appeals.

This regulation is made under the Act, including sections 15–15B, 18 and 23, the general regulation-making power.

This regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely—

- (a) matters of a machinery nature, and
- (b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Contents

	Page
Part 1 Preliminary	
1 Name of regulation	3
2 Commencement	3
3 Definitions	3
Part 2 Appeals relating to thoroughbred or harness racing	
4 Appellable decisions	4
5 Lodgement of notice of appeal by Racing NSW or HRNSW	4
6 Lodgement of notice of appeal by other persons	5
7 Extension of time for lodging notice of appeal	5
8 Actions Secretary must take on receiving notice of appeal	6
Part 3 Appeals relating to greyhound racing	
9 Appellable decisions	7
10 Lodgement of notice of appeal	7
11 Actions Secretary must take on receiving notice of appeal	8
Part 4 Appeals generally	
12 Directions for conduct of appeal	9
13 Hearing of appeal	9
14 Representation of parties	9
15 Ex parte hearings	9
16 Attendance of interested parties	9
17 Evidence on appeal	9
18 Amendment of documents	10
19 Withdrawal of appeal	10
20 Suspension of appellable decision pending determination of appeal	10
21 Lodgement fees	10
22 Costs	11
Part 5 Miscellaneous	
23 Repeal and savings	12

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Racing Appeals Tribunal Regulation 2024*.

2 Commencement

This regulation commences on the day on which it is published on the NSW legislation website.

Note— This regulation repeals and replaces the *Racing Appeals Tribunal Regulation 2015*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

In this regulation—

approved form means the form approved by the Tribunal.

Secretary means—

- (a) for an appeal against a decision specified in the Act, section 15—a member of staff of either of the following who is designated by the Minister as Secretary of the Tribunal for appeals relating to thoroughbred racing—
 - (i) Racing NSW,
 - (ii) a department that is responsible to the Minister, or
- (b) for an appeal against a decision specified in the Act, section 15A—a member of staff of either of the following who is designated by the Minister as Secretary of the Tribunal for appeals relating to greyhound racing—
 - (i) the Greyhound Welfare and Integrity Commission,
 - (ii) a department that is responsible to the Minister, or
- (c) for an appeal against a decision specified in the Act, section 15B—a member of staff of either of the following who is designated by the Minister as Secretary of the Tribunal for appeals relating to harness racing—
 - (i) HRNSW,
 - (ii) a department that is responsible to the Minister.

the Act means the *Racing Appeals Tribunal Act 1983*.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

Part 2 Appeals relating to thoroughbred or harness racing

4 Appellable decisions

- (1) For the Act, section 18(2), an appeal may be made under the Act, section 15(1) or 15B(1) only in relation to a decision to—
 - (a) warn off a person, or
 - (b) suspend a person—
 - (i) for an appeal made under the Act, section 15(1)(a)–(c) or 15B(1)(a) or (b)—for at least 3 months, or
 - (ii) for an appeal made under the Act, section 15(1)(d) or 15B(1)(c)—for any period, or
 - (c) disqualify, or cancel or revoke the licence or registration of, a person, or
 - (d) impose a fine of at least—
 - (i) for an appeal made under the Act, section 15(1)(a)–(c) or 15B(1)(a) or (b)—\$2,000, or
 - (ii) for an appeal made under the Act, section 15(1)(d) or 15B(1)(c)—\$200, or
 - (e) disqualify a horse, if made in conjunction with a decision to impose a penalty on the appellant or another person.
- (2) In addition to the grounds specified in subsection (1), an appeal may be made under the Act, section 15B(1)(c) in relation to a decision to—
 - (a) refuse to grant an application for the registration of—
 - (i) a person, or
 - (ii) a harness racing horse, or
 - (b) cancel the registration of a harness racing horse, or
 - (c) reduce, for at least 4 weeks, the grade of licence held by a driver of harness racing horses.
- (3) A word or expression used in this section has the same meaning as in the rules.
- (4) In this section—

person excludes—

 - (a) a harness racing club within the meaning of the *Harness Racing Act 2009*, and
 - (b) a race club within the meaning of the *Thoroughbred Racing Act 1996*.

rules—

 - (a) for an appeal made under the Act, section 15(1)—means the Rules of Racing within the meaning of the *Thoroughbred Racing Act 1996*, and
 - (b) for an appeal made under the Act, section 15B(1)—has the same meaning as in the *Harness Racing Act 2009*.

5 Lodgement of notice of appeal by Racing NSW or HRNSW

- (1) For the Act, section 18(1)(a), Racing NSW may appeal against a decision specified in the Act, section 15(2)(a) or (b) by lodging a notice of appeal with the Secretary within 2 months after being notified of the appellable decision.
- (2) Racing NSW may appeal against a decision specified in the Act, section 15(2)(c) by lodging a notice of appeal with the Secretary—

- (a) if the Appeal Panel or racing association failed to commence the hearing of the appeal made to it within 1 month of the appeal being lodged—not more than 3 months after the end of that month, or
 - (b) if the Appeal Panel or racing association informed Racing NSW, within 1 month of the appeal being lodged, that it would not hear the appeal—within 3 months of being informed of that fact.
- (3) HRNSW may appeal against a decision specified in the Act, section 15B(1)(a) by lodging a notice of appeal with the Secretary within 7 days after being notified of the appellable decision.
- (4) HRNSW may appeal against a decision specified in the Act, section 15B(1)(b) by lodging a notice of appeal with the Secretary—
 - (a) if the Appeal Panel failed to commence the hearing of the appeal made to it within 1 month of the appeal being lodged—not more than 3 months after the end of that month, or
 - (b) if the Appeal Panel informed HRNSW, within 1 month of the appeal being lodged, that it would not hear the appeal—within 3 months of being informed of that fact.
- (5) The notice of appeal must be—
 - (a) in the approved form, and
 - (b) accompanied by a transcript of the evidence given at the hearing or inquiry to which the appellable decision relates, if available.

6 Lodgement of notice of appeal by other persons

- (1) For the Act, section 18(1)(a), a person may appeal against a decision specified in the Act, section 15(1)(a), (b) or (d) or 15B(1)(a) or (c) by lodging a notice of appeal with the Secretary within 7 days after being notified of the appellable decision.
- (2) A person may appeal against a decision specified in the Act, section 15(1)(c) or 15B(1)(b) by lodging a notice of appeal with the Secretary—
 - (a) if the Appeal Panel or racing association failed to commence the hearing of the appeal made to it within 1 month of the appeal being lodged—not more than 3 months after the end of that month, or
 - (b) if the Appeal Panel or racing association informed the person, within 1 month of the appeal being lodged, that it would not hear the appeal—within 3 months of being informed of that fact.
- (3) The notice of appeal must be in the approved form.
- (4) If the decision appealed against was made as a result of a hearing or inquiry, the person may request that the Secretary give the person a transcript of the evidence given at the hearing or inquiry, if available.
- (5) The Secretary must comply with a request made under subsection (4) as soon as practicable.

7 Extension of time for lodging notice of appeal

- (1) The Tribunal may, on the application of a person, extend the period within which the person may lodge a notice of appeal under section 5(1) or (3) or 6(1).
- (2) An application for an extension of time for lodging a notice of appeal must be—
 - (a) in the approved form, and
 - (b) given to the Secretary.

- (3) The Tribunal may only grant an extension of time for lodging a notice of appeal if satisfied it is appropriate to do so because special or exceptional circumstances exist.

8 Actions Secretary must take on receiving notice of appeal

- (1) For the Act, section 18(1)(a), the Secretary must, as soon as practicable after receiving a notice of appeal under this part, give the respondent—
- (a) a copy of the notice of appeal, and
 - (b) if the notice of appeal was lodged by Racing NSW or HRNSW—a transcript of the evidence given at the hearing or inquiry, if available.
- (2) The Secretary must, as soon as practicable after receiving a notice of appeal lodged by a person other than Racing NSW or HRNSW in relation to a decision made as a result of a hearing or inquiry, give the person a transcript of the evidence given at the hearing or inquiry, if available.
- (3) If the result of the appeal may affect the placing of a horse, the Secretary must, as soon as practicable after receiving the relevant notice of appeal, give a copy of the notice of appeal to the owner of the horse, if the owner is not the respondent.
- (4) The Secretary must give a notice of appeal or an application for an extension of time received under this part to the Tribunal as soon as practicable after receiving the notice or application.
- (5) If the notice of appeal is not accompanied by a transcript of the evidence given at the hearing or inquiry to which the appellable decision relates, the Secretary must give a transcript, if available, to the Tribunal—
- (a) when forwarding the notice of appeal under subsection (4), or
 - (b) as soon as practicable after forwarding the notice of appeal.

Part 3 Appeals relating to greyhound racing

9 Appellable decisions

- (1) For the Act, section 18(2), an appeal may be made under the Act, section 15A only in relation to a decision—
 - (a) to refuse to grant an application for the registration of one of the following—
 - (i) a person,
 - (ii) a greyhound, including for breeding purposes,
 - (iii) a litter of greyhounds,
 - (iv) a greyhound racing club,
 - (v) a greyhound trial track, or
 - (b) to impose a condition on the registration of one of the following—
 - (i) a person,
 - (ii) a greyhound,
 - (iii) a greyhound racing club,
 - (iv) a greyhound trial track, or
 - (c) to warn off a person, or
 - (d) to suspend a person, or
 - (e) to suspend a greyhound for more than 28 days, or
 - (f) to disqualify, or cancel the registration of, a person, or
 - (g) to impose a fine of at least \$200, or
 - (h) to suspend or cancel the registration of—
 - (i) a greyhound racing club, or
 - (ii) a greyhound trial track, or
 - (i) to cancel the registration of—
 - (i) a greyhound, including for breeding purposes, or
 - (ii) a litter of greyhounds, or
 - (j) to disqualify a greyhound, if made in conjunction with a decision to impose a penalty on the appellant or another person, or
 - (k) relating to the application of a provision of the code of practice deeming greyhound housing areas used before the commencement of the code to comply with the code.
- (2) A word or expression used in this section has the same meaning as in the *Greyhound Racing Act 2017* and the rules within the meaning of that Act.

10 Lodgement of notice of appeal

- (1) For the Act, section 18(1)(a), a person may appeal against a decision specified in the Act, section 15A by lodging a notice of appeal with the Secretary within—
 - (a) 7 days after being notified of the appellable decision, or
 - (b) a longer period granted by the Tribunal on the application of the person.
- (2) The notice of appeal must be in the approved form.
- (3) If the decision appealed against was made as a result of a hearing or inquiry, the person may request that the Secretary give the person a transcript of the evidence given at the hearing or inquiry, if available.

- (4) The Secretary must comply with a request made under subsection (3) as soon as practicable.
- (5) An application for an extension of time for lodging a notice of appeal made under subsection (1)(b) must be—
 - (a) in the approved form, and
 - (b) given to the Secretary.
- (6) The Tribunal may only grant an extension of time for lodging a notice of appeal under this section if satisfied it is appropriate to do so because special or exceptional circumstances exist.

11 Actions Secretary must take on receiving notice of appeal

- (1) For the Act, section 18(1)(a), the Secretary must, as soon as practicable after receiving a notice of appeal under this part, give the respondent—
 - (a) a copy of the notice of appeal, and
 - (b) if the decision appealed against was made as a result of a hearing or inquiry— a transcript of the evidence given at the hearing or inquiry, if available.
- (2) If the result of the appeal may affect the placing of a greyhound, the Secretary must, as soon as practicable after receiving the relevant notice of appeal, give a copy of the notice of appeal to the owner of the greyhound, if the owner is not the appellant.
- (3) The Secretary must give a notice of appeal or an application for an extension of time received under this part to the Tribunal as soon as practicable after receiving the notice or application.
- (4) If the decision appealed against was made as a result of a hearing or inquiry, the Secretary must give a transcript of the evidence given at the hearing or inquiry, if available, to the Tribunal—
 - (a) when forwarding the notice of appeal under subsection (3), or
 - (b) as soon as practicable after forwarding the notice of appeal.

Part 4 Appeals generally

12 Directions for conduct of appeal

- (1) For the Act, section 18(1)(a), the Tribunal may, by order, give directions relating to the conduct of an appeal that the Tribunal thinks fit.
- (2) A party to the appeal must comply with a direction given to the party.

13 Hearing of appeal

- (1) For the Act, section 18(1)(a), the Tribunal may set a date, time and place for the hearing of an appeal that the Tribunal thinks fit.
- (2) The Secretary must give the following persons written notice of the date, time and place for the hearing at least 7 days before the hearing—
 - (a) the parties to the appeal,
 - (b) other persons the Tribunal thinks fit.
- (3) The Tribunal may, in a particular case—
 - (a) shorten the minimum notice period under subsection (2), with the consent of the appellant, if satisfied the appeal should be heard and determined as a matter of urgency, or
 - (b) extend the minimum notice period under subsection (2), if satisfied it is appropriate to do so in the circumstances of the case.
- (4) The Tribunal may expedite the hearing in accordance with subsection (3)(a) whether or not the Tribunal has received a transcript of the evidence given at the hearing or inquiry to which the appellable decision relates.
- (5) The Tribunal must commence the hearing of an appeal as soon as practicable within—
 - (a) 28 days of receiving the relevant notice of appeal, or
 - (b) a longer period determined by the Tribunal, if satisfied an extension of time is required because of the circumstances of the case.

14 Representation of parties

For the Act, section 18(1)(a), a party to an appeal may, if the Tribunal grants leave, be represented by another person, including an Australian legal practitioner.

15 Ex parte hearings

For the Act, section 18(1)(a), the Tribunal may hear an appeal in the absence of a party to the appeal.

16 Attendance of interested parties

- (1) For the Act, section 18(1)(a), a person who may be affected by a decision of the Tribunal in relation to a relevant appeal may, with the leave of the Tribunal, appear before the Tribunal to make submissions or give evidence in relation to the appeal.
- (2) In this section—
relevant appeal means an appeal against a decision referred to in section 4(1)(e) or 9(1)(j).

17 Evidence on appeal

- (1) For the Act, section 18(1)(a), the Tribunal—
 - (a) is not bound by the rules of evidence, and

- (b) may inquire into or inform itself on a matter in a way the Tribunal thinks fit, subject to the rules of natural justice.
- (2) The Tribunal may require—
 - (a) a witness to be examined on oath or affirmation, or
 - (b) evidence to be verified by a statutory declaration.

18 Amendment of documents

- (1) For the Act, section 18(1)(a), the Tribunal may, at any stage of the proceedings—
 - (a) order that a document in the proceedings be amended, or
 - (b) grant leave to a party to amend a document in the proceedings.
- (2) The Tribunal must not make an order or grant leave under this section unless the purpose of the amendment is to—
 - (a) determine the real questions in the proceedings, or
 - (b) correct a defect or error.
- (3) In this section—
document excludes a certificate, judgement or order.

19 Withdrawal of appeal

For the Act, section 18(1)(a), a duly lodged appeal may not be withdrawn except with the leave of the Tribunal.

20 Suspension of appellable decision pending determination of appeal

- (1) For the Act, section 18(1)(b), the Tribunal may, on the application of an appellant, make an order suspending the operation of the orders in the decision appealed against, in whole or in part, until the appeal is determined.
- (2) An application for an order made under this section must be—
 - (a) in the approved form, and
 - (b) given to the Secretary.
- (3) The Secretary must give an application received under this section to the Tribunal as soon as practicable after receiving the application.
- (4) An order made under this section—
 - (a) may be made subject to conditions, and
 - (b) if a condition is not complied with—is taken not to be in force during the period of non-compliance.
- (5) An order made under this section remains in force until the earlier of the following—
 - (a) the revocation of the order by a further order of the Tribunal,
 - (b) the withdrawal, dismissal or determination of the appeal to which the order relates.

21 Lodgement fees

- (1) For the Act, section 18(1)(c), a notice of appeal lodged by a person other than Racing NSW or HRNSW must be accompanied by a fee of \$250.
- (2) The fee must be paid—
 - (a) when the notice of appeal is lodged, or

- (b) if the Tribunal consents to the deferral of payment—by a later time specified by the Tribunal.
- (3) The Tribunal may, if the Tribunal thinks fit, direct that the fee be repaid, in part or in full, to the appellant following the withdrawal or determination of the appeal.

22 Costs

- (1) For the Act, section 18(1)(c), each party to an appeal determined by the Tribunal must pay the party's own costs.
- (2) The Tribunal may order that a party must pay another party's costs, in whole or in part, if satisfied—
 - (a) the appeal was frivolous or vexatious, or
 - (b) the party caused unreasonable delay in the conduct of the appeal, or
 - (c) the party conducted the appeal in a way that caused the other party to incur unreasonable costs.
- (3) In granting leave to withdraw an appeal, the Tribunal may order the appellant to pay another party's costs, in whole or in part, if satisfied of one of the matters specified in subsection (2)(a)–(c).
- (4) Costs not paid by a party in accordance with an order made under subsection (2) or (3) may be recovered as a debt in a court of competent jurisdiction.

Part 5 Miscellaneous

23 Repeal and savings

- (1) The *Racing Appeals Tribunal Regulation 2015* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Racing Appeals Tribunal Regulation 2015*, had effect under that regulation continues to have effect under this regulation.