



RACING AND WAGERING WESTERN AUSTRALIA

AMENDMENTS TO RWWA RULES OF RACING

In accordance with Section 45 (1) (a) of the *Racing and Wagering Western Australia Act 2003*, notice is hereby given that the Board of Racing and Wagering WA has resolved that the RWWA Rules of Thoroughbred Racing 2004 be amended.

Amendment to National Rules applicable 1 August 2018

Add new definition to AR.1 “Bullying” – Amend AR.175(x)

Amendment to these rule prohibiting workplace harassment so that it now also includes bullying.

The rule amendment reflects a change in terminology used socially and legally with respect to what is considered unacceptable workplace behaviour. While many elements of bullying are the same as harassment, the key differences are that bullying requires the unreasonable behaviour to be repeated (i.e. more than once) and to create a risk to the bullied person’s health and safety (e.g. physical, psychological).

The definition of bullying is consistent with the Fair Work Commission’s definition and, like workplace harassment, notes that reasonable management action carried out in a reasonable way does not constitute bullying.

Amend AR.8E(1) – Investigators’ powers to take samples from horse handlers

Investigators are now able to take samples from horse handlers. Given investigators have power to take samples from riders, there is no reason why they should be restricted from taking samples from horse handlers.

Investigators’ powers are now therefore consistent with Stewards’ powers in this regard.

Add AR.56AA – Only licensed trainers to train horses

There is no rule that expressly prohibits a person who is not licensed as a trainer from training a horse at a registered racecourse, training track or training facility.

Although AR.56A provides that only horses trained by a licensed trainer are permitted to run in races, trials etc, there is now also a rule in place which restricts unlicensed persons from training horses at registered training premises. Among other things, such a rule will assist Stewards to ensure that all persons training horses are subject to the obligations imposed on licensed trainers.

Also includes the power to penalise a person who is party to a breach of the rule.

Amend AR.64(1) – Lifetime bans for unsafe or unsound horses

Further enables Stewards to prevent or suspend unsafe horses from engaging in trackwork, jump-outs, trials and races and the rule is expanded to ensure that such horses are not participating and creating safety risks for themselves, as well as other horses and riders.

It is noted that:

- (a) AR.64(1)(b) is expanded to include pre-race behaviour in addition to barrier manners, which would allow the Stewards to prevent or suspend from participating in trackwork, jump-outs, trials and races horses that are unruly or dangerous in the mounting enclosure and/or preliminary (such as rearing, kicking or bucking).
- (b) A new AR.64(1)(c) is added to provide the Stewards with an express power to prevent or suspend a horse from participating in trackwork, jump-outs, trials and races where they are of the opinion that it is not suitable to do so. This view may (but need not) be informed by a veterinarian's diagnosis of a particular injury or because the horse's veterinary history over the course of its career.
- (c) AR.64(1) is amended to clarify that the Stewards' power to prevent or suspend unsafe/unsound horses from participating in trackwork, jump-outs, trials and races includes the power to order a lifetime ban on the horse's participation in the industry. It is clear from the wording of the existing subrule (2) that subrule (1) allows both temporary and permanent bans, but this should be made clear in subrule (1) so there can be no dispute.

Add AR.80E(3) & AR.177B(7) – Prohibiting supply/procurement of prohibited substances and unregistered products

Specific offences apply for the supply and procuring of:

- (a) prohibited substances which are not permitted to be administered to a horse at any time; and
- (b) substances which should not be in the possession of licensed persons.

These Rules need the flexibility to deal with persons who (or attempt to) supply or procure such substances/products, even if they are not found in that person's possession, or that that person has actually administered the substance.

The rules are intended to support the industry's drug-free racing position, and to allow the Stewards to deal adequately with offences which may lead to the administration of substances which are prohibited at all times or to the possession of substances which persons are not permitted to possess.

Amend AR.87A(2) – Leading horses

Amended to expressly allow the use of stallion chains, which are already permitted by the Stewards in all States and Territories.

Amend AR.134A – Declaration of non-starters

Rule that allows Stewards to declare a horse a non-starter where it has been materially prejudiced from finishing in the top 3 places due to an incident at the start of the race (provided it doesn't finish in the top 3) is expanded to the top 4 places. Such a change accords with first 4 betting and the deductions that flow when a horse is declared a non-starter.

Occurrences at the start of a race that materially affect a horse's chance (which are the subject of this rule), are expanded to include other outside influences – for example, where the starter inadvertently activates the false start siren after a fair start and one horse is affected.

Amend AR.135 – Advantaging another runner

Rule is expanded to require riders to ride their horses in a manner that:

- (a) only benefits their horse's own best interests; and
- (b) does not advantage any other horses or riders.

While the current running and handling rules require that horses be run on their merits and that riders take all reasonable and permissible measures to obtain the best place in a race, the expansion of the rule will further strengthen this suite of rules from an integrity perspective. In addition to seeking to prevent any corrupt conduct affecting the running of a race, such a rule would also limit the use of pacemakers and team/stable riding practices.

The proposed drafting is in accordance with the International Agreement on Breeding, Racing & Wagering model rule, save for the exception in respect of horse and rider safety. Such an exception is necessary to ensure that the rule does not create any perverse outcomes, such as a jockey riding in a manner that is in his horse's best interests but is unsafe to others.

Amend AR.137A – Possession of non-approved and modified whips

Rule prohibiting use of whips which have not been approved and whips that have been approved but have been modified has been extended to include possession of such whips. This will strengthen the rule and further limit the use of such whips by riders.

Add AR.137AB – Possession of stockwhip

New offence under the Rules which prohibits the possession of a stockwhip in relation to racing, training and pre-training.

Under AR.175(w), it is an offence for any person to use a stockwhip on a horse in any circumstances relating to racing, training, or pre-training. A possession offence will significantly strengthen the current rule and further improve welfare practices.

Importantly, the proposed rule includes an exemption from the possession offence where the person satisfies Stewards that such possession at the person's premises is unrelated to training or pre-training a horse. For example, where horses are pre-trained on a property that also includes cattle.

Amend AR.140(a) – Notification of conditions, treatments, etc

Rule has been widened as follows:

- (a) Include notification obligations on a person in control of the horse, in addition to those imposed on the trainer. (Any person in control of the horse who has knowledge as to the horse's condition etc should be subject to the same obligations as the trainer.)

- (b) Include notification by nomination time where the condition is present, treatment is administered etc before nomination time. (Stewards should be made aware of this information by nomination time, in order to allow them to make any relevant enquiries and/or make the information public. Making the information public is particularly important in the context of betting markets which open prior to acceptances.)
- (c) Include notification of any surgery performed which may affect a horse's performance in a race. (A strict interpretation of the rule as currently drafted may not include surgery performed on a horse, which is likely to affect its performance in a race. Stewards and punters should be aware of this information.)

Amend AR.141A(1) – Horses arriving on course

The requirement that horses are presented for racing wearing appropriate plates and tips is amended to bring forward that requirement to the time that horses arrive on course.

Australia wide there have been reports of increasing instances of horses not being appropriately shod at the relevant time, which results in unnecessary delays prior to the start of races. The revised rule will allow Stewards to check each horse's plates and tips when they are being unloaded from floats when arriving on course, and for any issues to be rectified at that time, rather than just prior to a race.

The proposed amendment contains a discretion for the Stewards to permit a trainer to bring his/her horse onto the course without its racing plates and tips.

Amend AR.143 – Weighing in light

AR.143(a) currently refers to a rider being allowed to weigh in light by a half kilogram "for the weight of his bridle". This is creating confusion as to whether other items should be included and the reality is that the rider is simply allowed a half kilogram.

The reference to the bridle has therefore been removed.

Add AR.175D – Prohibition on betting with non-approved wagering operators

Adds a rule to prohibit industry participants from betting with non-approved (likely offshore) wagering operators that are not subject to racefields regulations.

Betting with non-approved wagering operators is a significant integrity risk for the industry. PRAs and Stewards have no visibility as to who is betting with such wagering operators as they have no powers to require the production of customers' betting records. This necessarily limits their ability to inquire into and investigate a range of integrity matters.

Further, given that non-approved wagering operators are not subject to racefields regulations and their associated fees, the industry suffers a financial detriment each time a bet on Australian thoroughbred races is placed with such a wagering operator.

Amend AR.177C, Amend AR.178, Delete AR.178G & Amend AR.200A – Elevated hydrocortisone levels from endogenous origin

There have been instances in other states of Australia where the threshold for hydrocortisone has been exceeded for endogenous reasons rather than administration of a prohibited substance, which warrant an exception in the Rules, similar to the exception that applies in respect of testosterone. Accordingly, AR.177C should be extended to include hydrocortisone.

Further, given that AR.178G essentially duplicates AR.177C, Racing Australia is of the view that AR.178G can be deleted, with some additional minor amendments to AR.177C, AR.178 and AR.200A.

Amend AR.178F(2) – Treatment records to include taking blood samples

A trainer's obligation in respect of their treatment records is expanded to include the taking of blood samples. This will provide Stewards with greater transparency and allow lines of inquiry into reasons for taking blood samples and the results of any analysis.

The proposed addition may also assist trainers where they seek to prove that they have not breached the race day/one clear day injection rules.

Amend Trainer & Owner Reform Rules

The purpose of TOR Rule 3 is to ensure that all owners are aware of the training fees for which they will be liable. The rule imposes an obligation on trainers to issue a fees notice to owners within a certain time of being appointed as trainer, and contains a mechanism under which the fees notice can be disputed or accepted. The fees notice then provides the basis upon which a trainer can rely on the "presumption of a training debt" under the TOR Rules and the Standard Training Agreement when an invoice is not paid.

As currently drafted, TOR Rule 3 is silent as to what occurs when a trainer has not provided the owners with a fees notice by the required time, or at all. It is recommended that this issue is cured by the addition of a new subrule (3) which provides that a trainer who has not issued a fees notice on time is precluded from relying on the "presumption of a training debt" for any fees incurred prior to the provision of a fees notice.

This approach is fair in that it restricts the trainer's ability to rely on the TOR processes to recover unpaid training fees where the owners were not aware of those fees. Importantly, the trainer can still seek payment from the owners for services provided prior to issuing the fees notice, just not under the TOR processes.

It is also recommended that subrule (1) be amended to remove the transitional provisions which only applied to fees notices during the first month of the TOR.