Rt. Hon Winston Peters, Minister for Racing

Proactive release of Cabinet material regarding the introduction of the Racing Industry Bill 2019
5 December 2019

This document has been proactively released:

2 December 2019, CAB-19-MIN-0631.01 Minute: Racing Industry Bill: Approval for introduction; and

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

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Racing Industry Bill: Approval for Introduction

Portfolio  Racing

On 2 December 2019, following reference from the Cabinet Business Committee (CBC), Cabinet:

1  noted that:
   1.1  s(2)(f)(iv)  
   1.2  

2  noted that the Racing Reform Bill No. 2 has been renamed as the Racing Industry Bill;

3  agreed that the Racing Industry Bill should be an omnibus Bill, repealing and replacing the Racing Act 2003, and amending the Dog Control Act 1996;

4  noted that the Racing Industry Bill empowers the industry to revitalise itself and become more sustainable and profitable, through creating a statutory framework that incentivises the industry to make hard decisions and pivot towards a stronger commercial orientation;

5  agreed to amend the definition of working dogs under section 2 of the Dog Control Act 1996 to include any dog registered with Greyhound Racing New Zealand and kept solely or principally for racing;

6  authorised the Parliamentary Counsel Office to make technical changes to the Racing Industry Bill up to the date of its introduction;

7  approved the Racing Industry Bill [PCO 21819/6.0] for introduction, subject to the final approval of the government caucuses and sufficient support in the House of Representatives;

8  agreed that the Racing Industry Bill be introduced on or before 3 December 2019;

9  agreed that the government propose that the Racing Industry Bill be:
   9.1  referred to the Transport and Infrastructure Committee for consideration;
   9.2  enacted by 1 July 2020;
10 noted that approval of the House Business Committee is required for the Bill to be considered an omnibus bill;

11 authorised the Minister for Racing and the Leader of the House to approve the content of separate bills in the event that the Business Committee declines to agree to an omnibus bill.

Michael Webster
Secretary of the Cabinet

Secretary’s Note: This minute replaces CBC-19-MIN-0049. Cabinet added paragraphs 10 and 11.

Hard-copy distribution:
Prime Minister
Minister for Racing
Leader of the House
Racing Industry Bill: Approval for introduction

Proposal

1. This paper seeks approval for the introduction of the Racing Industry Bill (the Bill). The Bill provides the Government’s final legislative response to the recommendations of the *Review of the New Zealand Racing Industry*¹ (the Messara Report).

Policy

2. On 5 November 2018 Cabinet agreed policy proposals for the first stage of work to reform the New Zealand racing industry [CAB-18-MIN-0551 refers]. A key element was establishing the Ministerial Advisory Committee for Racing (MAC) to drive and inform government decisions on the Messara Report recommendations. The MAC provided an interim report to the Minister for Racing on 28 February 2019, and a final report on 28 June 2019.

3. On 15 April 2019 Cabinet agreed to a stepped change, with two Bills proposed for 2019 [DEV-19-MIN-0087, DEV-19-MIN-0088, CAB-19-MIN-0168.02 refer]. The Racing Reform Act 2019 came into force on 1 July 2019. It put into place transitional arrangements, including reconstituting the New Zealand Racing Board (NZRB) as the Racing Industry Transition Agency (RITA) and measures to increase the financial sustainability of the industry.

4. In November 2019 Cabinet agreed to further policy proposals for inclusion in a second Racing Bill. A key proposal is the separation of the racing and betting functions. The revised governance structure will empower the racing codes to manage the industry and set its direction for the future. A separate entity (TAB NZ) will have a sole focus on providing betting on racing and sports. In addition, Cabinet agreed policy proposals to maximise the contribution of racing industry property to the revitalisation of the industry, and the introduction of an approval mechanism to enable consideration of new betting products, while ensuring that harm minimisation is prioritised [DEV-19-MIN-0288, DEV-19-MIN-0290, CAB-19-MIN-0560.01, CAB-19-MIN-0574 refer].

5. Legislation is required to implement Cabinet’s policy decisions. The Racing Industry Bill will empower the industry to revitalise itself and become more sustainable and profitable. It creates a statutory framework that incentivises the industry to make hard decisions and pivot towards a stronger commercial orientation. The Bill:

5.1 disestablishes RITA and transfers RITA’s betting functions to TAB NZ, a new entity created as the sole betting operator for racing and sports, with RITA’s racing responsibilities transferring to the racing codes;

5.2 creates the Racing Integrity Board (RIB), a single entity responsible for all integrity functions, including investigative and adjudicative functions;

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5.3 creates a statutory process that can be used if a club and its code cannot agree the utilisation of surplus venues through the industry led Future Venues Plan process;

5.4 introduces an approval mechanism for new wagering products, while balancing the Government’s responsibility to prevent and minimise harm from gambling; and

5.5 refreshes the purpose of the Act to provide a high-level overview of the overall racing industry, recognition of the potential harm from gambling products, and recognition that racing property should remain in the racing industry and be used for maximum industry benefit.

6. The property proposals within the Bill are significant and are likely to be contentious.

7. Given the substantive nature of the reforms, a new Act will provide the clearest articulation of the Government’s intentions. Cabinet agreed to create a new Act [CAB-19-MIN-0560.01 refers]. Therefore, this Bill will repeal the Racing Act 2003 and create a new Racing Industry Act 2020, that amalgamates the existing provisions from the Racing Act with the policy decisions agreed by Cabinet in November 2019. This paper considers the elements of the Bill that relate to policy decisions made by Cabinet in November 2019, rather than the Bill in its entirety.

**Change of name of the Bill**

8. The papers considered by the Cabinet Economic Development Committee in October 2019 and by Cabinet in November 2019, referred to the Bill as the Racing Reform Bill No. 2. However, subsequently the Bill has been renamed as the Racing Industry Bill.

**Defining greyhounds as ‘working dogs’**

9. The Dog Control Act 1996 treats racing greyhounds as domestic dogs, rather than working dogs. It generally costs more to register a domestic dog than a working dog. In 2017 Rodney Hansen CNZM QC provided a report to the NZRB on welfare issues in greyhound racing in New Zealand. It identified an inconsistency in approaches to greyhound registration taken by territorial authorities as a barrier to achieving a uniform approach to dog registration, and accurately recording greyhound numbers.

10. With support from the Minister of Local Government, it is proposed that the definition of ‘working dog’ in the Dog Control Act be amended to include any dog registered with Greyhound Racing New Zealand and kept solely or principally for racing. This amendment will recognise the role that greyhounds fulfil in the racing industry, which is sufficiently different from a domestic animal to support separate treatment under the Act. It will result in territorial authorities, by default, charging the same fee for greyhound registration as working dog registration.
Regulatory impact analysis

11. The Department of Internal Affairs (the Department) prepared a Regulatory Impact Assessment (RIA) for the policy proposals, in accordance with the necessary requirements. The Department assessed that the RIA partially meets the requirements. The RIA was submitted at the time that Cabinet approval of the policy relating to the Bill was sought. A RIA has also been prepared on defining greyhounds as working dogs. The Department assessed that the RIA partially meets the requirements. This is attached as Appendix A.

Compliance

12. The Bill complies with:
   12.1 the principles of the Treaty of Waitangi;
   12.2 disclosure statement requirements (refer to the statement attached to this paper);
   12.3 the principles and guidelines set out in the Privacy Act 1993; and
   12.4 relevant international standards and obligations.

13. The property sections of the Bill are likely to be contentious. They have been considered in relation to whether the Bill is consistent with the New Zealand Bill of Rights Act 1990 (NZBORA), the Human Rights Act 1993, and the legislation guidelines which are maintained by the Legislation Design and Advisory Committee.

14. 9(2)(h)

15. The powers of clubs to deal with assets under their constitutions will be impacted by the proposed statutory restriction on club property transactions and the proposal that agreements made between club and code should override club constitutions.

16. 9(2)(h)

Consultation

18. The following agencies have been consulted on this paper and the draft Bill: Treasury, State Services Commission, Ministry of Health, Ministry of Justice, Land Information New Zealand, Ministry for Business Innovation and Employment, Inland Revenue, Ministry for Primary Industries and Sport New Zealand. RITA has also been consulted on the draft Bill. Minor changes have been made to the Bill following consultation.
Binding on the Crown

19. The Racing Industry Bill will bind the Crown.

Creating new agencies and amending law relating to existing agencies

20. The Bill disestablishes RITA and creates TAB NZ, with the objectives of facilitating and promoting racing and sports betting, maximising its profits for the long-term benefit of New Zealand racing and maximising returns to sports, while ensuring harm minimisation is prioritised. The Bill also creates the RIB, a single entity responsible for the investigative and adjudicative functions of racing, while maintaining independence between these functions. The current integrity system, the Judicial Control Authority and the Racing Integrity Unit, will be disestablished at the point the RIB is established.

21. TAB NZ and the RIB will be established as statutory bodies, each with boards of up to seven members appointed by the Minister for Racing. Both agencies will be required to present their statements of intent (SOIs) and business plans to the Minister for Racing, for tabling in Parliament.

22. The Bill transfers racing responsibilities held by RITA, to the three racing code bodies (Thoroughbred Racing New Zealand, Harness Racing New Zealand and Greyhound Racing New Zealand). The Bill amends the accountability requirements of the codes, requiring them to submit their SOIs and business plans to the Minister, for tabling in Parliament.

Allocation of decision-making powers

23. The draft legislation does not involve the allocation of decision-making powers between the executive, the courts, and tribunals. The Bill creates powers to make regulations to specify further detail related to the operation of the RIB, including the judicial committees and appeals tribunals.

Associated regulations

24. The clauses which relate to the establishment of the RIB (clauses 33 to 41) will come into force on a date to be made by Order in Council. The following Order in Council powers are also included:

24.1 ending the statutory restriction on club property transactions without the club first obtaining code approval; and

24.2 enabling the transfer of club property to the code, with payments to the club and local community where warranted.

25. In addition, given the scale of the changes, the Bill creates powers to make regulations if required, in the following ways:

25.1 if a commissioner is appointed to resolve a significant disagreement between the codes, whose decision would be binding on those involved, levying the codes for the associated costs;

25.2 specifying further detail related to the operation of the RIB, including the judicial committees and appeals tribunals;

25.3 setting the level of funding for the RIB if a funding agreement cannot be reached;
25.4 prescribing the independent body responsible for assessing and approving TAB NZ’s request to introduce new betting products;

25.5 setting the decision-making framework and fee arrangements for the independent body responsible for assessing and approving TAB NZ’s request to introduce new betting products; and

25.6 prescribing a process and criteria that codes must apply when negotiating with clubs about the use of surplus venues, having due regard to any community interests in the venue.

Other instruments

26. The Bill does not include any provision empowering the making of other instruments deemed to be legislative instruments or disallowable instruments.

Definition of Minister/department

27. The Bill continues the definition of Department within the Racing Act. It includes the option for the Department to be the designated agency that will administer the levy relating to the appointment of a Commissioner in clause 14.

Commencement of legislation

28. Except for clauses 17, 18, 33 to 41, and clause 5 in Schedule 1, the Bill will come into force on 1 July 2020. Clauses 17, 18 and clause 5 in Schedule 1, will come into force the day after Royal assent. Clauses 33 to 41 will come into force on a date to be determined by Order in Council. It is anticipated this will take place within 12 months of the Bill being enacted. A deferred commencement is required to prepare the current integrity system for the transition.

Parliamentary stages

29. It is intended the Bill be introduced on or before 3 December 2019 and referred to the Transport and Infrastructure select committee, for a select committee process of four months. Given the timeframes, approval is being sought for PCO to make any technical changes to the Bill prior to introduction. The Bill must be passed on, or before, 30 June 2020.

Proactive release

30. Consistent with Cabinet Office Circular CO (18) 4 – Proactive Release of Cabinet Material: Updated Requirements, the Minister for Racing intends to proactively release this paper, subject to any redactions that may be warranted under the Official Information Act 1982, within 30 business days of decisions being taken.

Recommendations

31. The Minister for Racing recommends the Cabinet Legislation Committee:

1. note that the Racing Reform Bill No. 2 has been renamed as the Racing Industry Bill;
3. **note** that the Racing Industry Bill is an omnibus Bill, repealing and replacing the Racing Act 2003, and amending the Dog Control Act 1996;

4. **note** that the Racing Industry Bill empowers the industry to revitalise itself and become more sustainable and profitable, through creating a statutory framework that incentivises the industry to make hard decisions and pivot towards a stronger commercial orientation;

5. **agree** to amend the definition of working dogs under section 2 of the Dog Control Act 1996 to include any dog registered with Greyhound Racing New Zealand and kept solely or principally for racing;

6. **authorise** the Parliamentary Counsel Office to make technical changes to the Racing Industry Bill up to the date of its introduction;

7. **approve** the Racing Industry Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;

8. **agree** that the Racing Industry Bill be introduced on or before 3 December 2019;

9. **agree** that the Government propose the Racing Industry Bill be:

   9.1 referred to the Transport and Infrastructure committee for consideration;

   9.2 enacted by 1 July 2020.

Authorised for lodgement

Rt Hon Winston Peters
Minister for Racing

Appendix A: Defining greyhounds as working dogs - Regulatory Impact Assessment