

2006

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

Racing (Jockeys Accident Insurance) Amendment Bill 2006

EXPLANATORY STATEMENT
With respect to additional Government Amendments

**Circulated by authority of the
Treasurer
Mr Ted Quinlan MLA**

Racing (Jockeys Accident Insurance) Amendment Bill 2006
Outline

The *Racing (Jockeys Accident Insurance) Amendment Bill 2006* provides an essential mechanism by which jockeys, apprentices and approved riders (jockeys) who engage in racing, track work or barrier trials (riding activities) in the ACT may be insured against the consequences of injury in the performance of their profession.

These amendments provide clarification and greater certainty with respect to the application of the insurance scheme. Senior counsel has opined that these amendments are critical to the efficacy of the agreements that will implement the insurance scheme.

Specifically, these amending provisions describe in greater detail the application and boundaries of the insurance scheme. In addition, they specify the respective powers and obligations of jockeys and Racing NSW, the NSW statutory body providing jockeys accident insurance, under the scheme.

All of the amendments, described below, pertain to Clause 4 of the original Bill.

Clause Notes

1

Clause 4 – proposed new section 61A (page 2, line 13) – definitions Part 5A
– This clause has been replaced in its entirety. It now contains a considerably expanded set of definitions to clarify the specific provisions of NSW law that are to be invoked as part of the accident insurance scheme contemplated by the Bill. It also provides new definitions: a definition of injury, by reference to the NSW Law that will be invoked, a definition of Racing NSW; the insurer for NSW licensed jockeys riding in the ACT; definitions of the various categories of jockeys who will be the beneficiaries of the scheme and a definition of the scheme itself.

2

Clause 4 – proposed new section 61B (page 3, line 3) Accident insurance arrangements – authorisation – this clause has been replaced in its entirety. The provision contains the core authorisation provisions as before, but in a more clearly expressed way. This clause provides the necessary legislative mechanism sought by Racing NSW to extend its accidents compensation scheme to cover NSW licensed jockeys undertaking riding activities in the ACT. The provision now correctly characterises the legal status of Racing NSW as a “specialised insurer” under NSW law and it completes the formula by which application of the scheme elements to the Canberra Racing Club is achieved. The provision also clarifies the application of the specific NSW laws that are to be invoked as part of the insurance scheme. The clause now introduces a new clause (5) that clarifies and better defines the existing regulation power.

61BA – this new clause is necessary to clarify the outer boundaries of scheme structure and to remove any doubt as to the true intention of the scheme to convey rights upon NSW licensed jockeys injured while riding in the ACT to access the scheme and to be insured and protected by it. It also sets out the limits and extent of rights conveyed under the scheme, including elements such as jurisdiction, limitations and claims. The clause also provides a regulation power that facilitates the parties' ability to exclude by agreement, irrelevant provisions of NSW law and likewise provides for the allocation of appropriate jurisdiction in case of disputes. This power removes any residual uncertainty remaining in light of recent cross border amendments to NSW law and a potential internal inconsistency in NSW law arising from conflicting decisions of the NSW Court of Appeal.

3

Clause 4 – proposed new section 61C (1) (a) – page 3, line 18 – this clause changes the nomenclature of ACT jockeys, without changing meaning or characterisation.

4

Clause 4 – proposed new section 61D – Application of pt 5A – page 4, line 4 – this clause introduces a necessary transitional provision, inadvertently omitted from the original Bill.