



# THE COALITION FOR THE PROTECTION OF RACEHORSES Inc.

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Department of Agriculture

16 October, 2022

Dear Madam/Sir,

## **RE: Submission regarding new Animal Care & Protection Act, Victoria**

Thank you for the opportunity to present our views on this very important topic. Our organisation, the Coalition for the Protection of Racehorses focuses upon the welfare of thoroughbred racehorses. We are however, interested in the welfare of all horses, especially given that racehorses can end up in a range of non-racing homes. We agree that the Animal Care and Protection Act is due for an overhaul, and appreciate the department's attention to this matter.

CPR applauds the acknowledgement of sentience that forms a crucial part of the proposed new Act. CPR believes that all animals deserve protection, and should be given due moral consideration regarding their welfare.

The proposed new Act claims to provide new standards that are aligned to a modern society and to Australians' values towards animals. Again, this is commendable. Unfortunately, through the proposed exemptions and exclusions, The Plan for the new Act indicates tacit support for the current outdated, cruel and inhumane practices of the racing industry. This is a surprising and outdated position, especially given the obviously declining interest by the public in Victoria's Melbourne Cup, and the demise of jumps racing in South Australia. It is inconsistent with the acknowledgement that racehorses are sentient beings, capable of feeling fear, pain and the negative impacts of multiple deprivations in their daily lives.

We have addressed the main points in The Plan for application of the proposed new Act, specifically as they relate to racehorses.

Kind regards

Elio Celotto

**President**  
**Coalition for the Protection of Racehorses**

# Proposed *Animal Care and Protection Act*.

## INTRODUCTION

CPR is very concerned that the proposed operation of the new Act will enable the continuation of traditional practices that are cruel and negatively impact the horses' welfare throughout their entire lives within and after their involvement in the racing industry. These practices, such as whipping, have been normalised and accepted within racing, but in recent years, the public has developed a substantially lower acceptance of these practices, to the extent that racing's social licence is threatened (Duncan, Graham, & McManus, 2018.)

The proposed new Act claims to provide new standards that are aligned to a modern society and to Australians' values towards animals, yet in relation to horse racing, it is in fact, through its various omissions and exclusions, a tacit support for the current outdated, cruel and inhumane practices of the racing industry. This is a surprising and outdated position, especially given the obviously declining interest by the public in Victoria's Melbourne Cup, and the demise of jumps racing in South Australia.

The paragraph below from The Plan indicates that nothing will change for racehorses, yet we argue that normal practice in racing results in poor welfare and cruelty for the animals involved.

***I am a racehorse trainer***

*Because Gary and his staff adhere to the **Code of Practice for the Welfare of Horses** and the **Racing Act 1958**, little in the way of the daily care of the horses would change. Other changes in the laws are unlikely to affect Gary's business. **Horse racing would continue to be a legal activity and Gary would not be required to obtain a licence for his horses or current activities under the new laws. Practices that cause unreasonable harm, pain or distress to animals would continue to constitute cruelty offences** (Plan, 2022, p. 68).*

**The Code of Practice** mentioned above for "Gary", supposedly applies to all horses, **"for general husbandry and management practices"** (Department of Jobs, Precincts and Regions, 2019, p. 2), and as such, it fails to address the specific needs of horses who are intensively used by the racing industry. In addition, this is a naïve document that assumes that avoiding cruelty will result in good welfare, and that the Code's awareness raising will **"encourage the considerate treatment of horses"** (2019 p. iii). This guide is outdated and inadequate, and will not ensure racehorse welfare at all.

There is a feedback loop described in The Plan that effectively eliminates any real attention to racehorses, because it and the Code each refer to the other as the source of authority – even though neither address welfare or cruelty in any meaningful way for racehorses.

Our comments in relation to the Australian Rules of Racing (ARR) are in the section relating to Application of the New Laws below. The new Act defers to the Racing Act 1958, the Code of Practice referred to above for "Gary", and which are enacted in the ARR. Briefly, we submit that the ARR in the main, fail to acknowledge and adequately specific issues relating to racehorses, and thus by

omission, fail to address their welfare needs and their suffering from the cruel practices of the industry.

**In the sections below we address the main principles of the new Act, set out in the Plan.**

## **PURPOSE AND APPLICATION**

### **Recognising sentience**

We commend the government for its acknowledgment of sentience which represents a significant first step in caring for and protecting animals, that is aligned with global values towards animals.

Our comment here is, that the Plan fails to acknowledge that by definition, sentience refers to ALL animals, but through the lists of exemptions, classifications and exclusions, many animals will be excluded from the protection of the new Act, and be subjected to the cruelty of traditional and past practices (hunting, duck shooting, fishing, farming, pest control). This applies in particular to horse racing, including jumps racing, for example, where Victoria remains the only Australian jurisdiction to retain it. While the public may support the cruel use of animals for medical research, it is far less inclined to support practices that are for the sole purpose of human entertainment. The result is to give the public a false assurance that animals are being cared for, when in fact, the majority are not.

The Plan allows activities that have been shown to be cruel and inhumane, to continue unquestioned on the basis that they are “legitimate”. It is nonsensical for this Plan to claim that the new Act will deliver a more modern, updated and publicly acceptable standard of protection for animals, and then, to state that vast swathes of industry will be excluded on the basis that they are “legitimate” because they are supported by other legislation. It is very difficult not to see this as a sleight of hand. Activities, such as jumps racing are cruel, irrespective of their legislative support. Sentience means that jumps horses experience fear, pain, exhaustion and suffering.

*The Plan states that: The main aim of the new laws is to help protect animals from cruelty while enabling Victorians to continue to interact responsibly with animals. Lawful activities such as hunting, fishing, farming, racing and pest control would be able to continue (2022, p3).*

**CPR strongly recommends that the exemption of horse racing from the new Act be removed. Activities and industries such as racing, that permit the systematic harm of animals should not be exempt from the enforcement of conditions under the new Act by being classified as “legitimate” when they are supported by outdated value systems.**

## **Animals covered by the new laws**

The ARR gives preference to human financial interests over animal welfare, and allows practices towards racehorses which are inconsistent with this new Act. The Racing Act and ARR barely mention welfare and fail to address the outdated and blatantly cruel practices that impact horse's short term and long-term welfare. Whipping, tongue ties, jumps racing and over work are regarded as traditional aspects of racing that have been normalised and accepted within the industry.

CPR's 2022 *DeathWatch* report details that in 2021/2022, one Thoroughbred was killed on an Australian race track every 2.5 days. Stewards' reports list systematic, and frequent examples of the injuries suffered by racehorses: EIPH, lameness, cardiac issues, respiratory issues, lacerations, the effects of whipping, the effects of over work and training manifesting as stress fractures leading to death (CPR, 2015).

**Racehorses must be reclassified in order that they can be considered equally with other animals under this new Act. The conditions of the new Act must take precedence over other legislation that regulates horse welfare.**

## **Legislative framework and Decision-making principles**

The Code of Practice for the Welfare of Horses is a weak instrument for ensuring racehorse welfare and protection. The terms used in the Code (see quotation below) such as "encourage" and "considerate" are inadequate for protecting horses with respect to the intensive and industrialised context of the modern racing industry.

The Racing Act, Australian Rules of Racing do not provide adequate protection for racehorses, and provide loopholes for cruel practices, and other activities that undermine horses' welfare. They appear to be designed to regulate most aspects of racing, but virtually ignore animal welfare, and as such, should not be used to override the new Act.

*The Guidelines provide information to improve awareness of good welfare practices and encourage the considerate treatment of horses*  
(Department of Jobs, Precincts and Regions, 2019. P. iii).

**CPR submits that the Act must refer to mandatory standards of care. This means for example, that the Code of Practice for the Welfare of Horses (included in the *Personas* section) as an imagined authority for the way in which racehorses are treated) should be regarded for what it really is – a rough guide, lacking in substance and legal force.**

**CPR also submits that the Act include mandatory regulations, without the exemptions currently proposed for racing.**

## Application of the new laws

The exclusion of racing from the new Act presents a significant welfare threat to racehorses. It means they will continue to be abused and over used, and the negative welfare impacts will be justified on the imagined basis that racing is “legitimate”, with no regard to the actual physical and psychosocial effects on the racing “participants”.

### **Euthanasia**

We are particularly concerned for the welfare of racehorses, who will be subject to **on-farm slaughter**, which has been recently introduced as part of the racing industry's attempt to find a convenient way to deal with their unwanted animals. The Plan seems to suggest that racehorses killed under the industry's new provisions will be classed as an “exception”, and thus excluded from protection under the new Act. The Plan states that “*The new laws would not specifically mention on-farm slaughter*” (p. 22.) The Martin Inquiry (2020) found a great deal of evidence to show the complete breakdown of humane treatment of racehorses at the most vulnerable part of their lives. Part of the problem was because of the hidden nature of the slaughter processes. On-farm slaughter is another industry practice that is “out of public view”, which allows owners and trainers to get rid of animals it considers “inconvenient”.

It is also notable, that the Code of Practice provides vague and weak conditions through which a horse may be killed. This is an appalling “oversight”, given the severity of the Martin Inquiry (2020) findings. As shown below, a person need only be “competent” – but not a veterinarian, and not formally trained or qualified to slaughter a horse.

**S20.2** *Euthanasia or slaughter must be performed only by persons **competent in the method** used and licensed where appropriate.*

**S20.3** *A person humanely destroying an animal must take **reasonable action** to confirm the animal is dead or to ensure death*

Dept of Jobs Precincts and Regions (Code of Practice, 2019, p. 29).

**In the next section, we refer to the Australian Rules of Racing because of their national usage, and basis for operation of the racing industry.**

### **Australian Rules of Racing**

CPR's examination of the Australian Rules of Racing, which are often cited as the most stringent and reliable source of racing regulation, found very little content that addresses the needs of the horses. There is also an absence of specificity relating to traditional practices that in fact, cause harm to Thoroughbreds on a daily basis. Despite these omissions, the Plan proposes that the new Act will defer to the Racing Act, (and presumably the ARR, Local Rules of Racing and the Code of Practice), over and above the provisions made in the new Act.

CPR does not dispute that the various acts and regulations provide some consideration for horses, but there are many omissions, and there is no acknowledgment that numerous welfare issues are caused by racing. For example, the rules fail to address known behavioural problems in horses that result

directly from being housed in single stalls and fed a diet that causes them to develop gastric ulcers. There is nothing that refers to impaired welfare as a result of the conditions under which racing horses are forced to live through breeding, training and racing.

**Examination of the Australian Rules of Racing (ARR) found relatively little specification regarding horses and their welfare. We have given some examples to illustrate the deficiencies in the racing rules, and the subsequent welfare risks to horses.**

### **Welfare**

Only 15 instances for "welfare" were found in the ARR, with five relating to the "image, interests, integrity and welfare of racing" (AR 23, 228, 230, 263, 270), and only six to horses. These relate to appropriate registered owners (AR34), riding skills (AR144), euthanasia (AR225) and a broad section on welfare of horses, including cruelty (AR231).

There is no dedicated chapter about horses, or horse welfare in the ARR. That is, Thoroughbreds and their welfare is not given a strong priority, and are secondary to their use as part of the industry of racing. Division 2 for example, contains much about horses, but in terms of the "participation of horses in races etc". Even "euthanasia" is considered only in relation to Race Meetings. This can be taken as the anthropocentric and self-centred attitude of the racing industry towards the animals that they force to race for human benefit.

**AR75** describes the eligibility of horses to race, but it is difficult to determine any **penalty** for presenting a horse to race, who has a veterinary condition. A common incident is pre-race lameness, or any one of many types of injuries that are sustained during transport, in which cases the horse is simply "Scratched". Neither is there any consideration for the incremental effects of intensive training and racing, such as development of stress fractures (*Whitton et al. 2013*) which only become evident when a catastrophic injury occurs.

### **Age of horses (AR 77, AR78)**

The age at which horses may race is described in some detail, but CPR finds these rules confusing and contradictory.

Of concern is the extensive racing of two-year-old horses, even though evidence shows that the skeleton of a horse does not mature until approximately five years of age (Bennett, 2005). While some research shows that two-year-old racing does not cause damage these studies do not include the horses that never made it to the racetrack due to injury or had in fact broken down before their first race.

AR77 states that two-year-old horses are ineligible to race, but confuses the issue by making exceptions for a range of dates. It is difficult to determine which date applies: – the horse's actual age, 1 August (the official birth date of all Thoroughbreds), 1 October or 1 January. Why is this simple issue so confusing?

While horses may not race once they are 13 years old, they are still raced as 12-year-olds (albeit subject to a pre-race veterinary exam). Many of these older horses are not given extra consideration, and may be forced into jumps races, the most gruelling and cruel form of racing - especially so for these animals who have experienced their entire lifetime being used by the racing industry.

### **AR 79 Horses with bleeding (EIPH)**

The rules of racing prohibit horses who bleed twice from racing again. Yet, EIPH is caused by racing. In other words, acts that compromise welfare are permitted, up to the point it cannot be hidden, such as by a horse bleeding through the nose, or dying on the racetrack. The prohibitions on bleeding appears not to be motivated by animal welfare concern, but by the horse's ability to perform during a race.

**The new Act should take precedence over current Racing Acts and the ARR with respect to the treatment, care and welfare of racehorses. The new Act proposes to be the most stringent legislation, and all racing acts, guides and regulations must be consistent with it. At present, the racing acts and other guidelines take precedence over the new Act – this is unacceptable.**

**EIPH is discussed further under Cruelty below.**

**CPR proposes that an independent office of animal protection must be established, along with an animal protection Ministry. An animal crime division of law enforcement must also be established.**

## **Care**

*'Care' would not require best practice, nor would it preclude **the legitimate use of animals for activities such as farming, breeding, racing or research.** (Plan, 2022, p. 24).*

*People who care for animals know what is reasonably necessary for the health and wellbeing of an animal can vary depending on the circumstances. The requirements for nutrition, physical environment, health and behavioural interactions need to be balanced practically to achieve overall health and wellbeing. The requirements are not static and not every requirement needs to be met at every point in time. The new laws would mean that where a person caring for animals has taken **reasonable steps to meet the requirements in an appropriate way**, they would not commit an offence (Plan, 2022, p. 26)*

Given the racing industry's intimate day to day contacts with horses, it could be deemed reasonable, that their expertise and knowledge may best suit the formulation, administration and management of the more detailed rules of animal welfare. Recently however, the Martin Inquiry (2020) informed the Australian public of the glaring failings of this argument (CPR, 2020). Not only have thousands of Thoroughbreds suffered as a result, but there has also been a serious breach of trust in the relationship between the racing industry and the Australian community.

In other words, self-regulation by the racing industry has proven to be harmful to Thoroughbreds. It is difficult to understand why horse racing should be exempted from the new Act.

**CPR strongly supports the notion that regulations must be mandatory. We also submit that horse racing should not be exempted from the authority of the new Act.**

## Cruelty

Many practices that are regarded as routine or traditional in the management of racehorses, in fact cause physical and psychological harm to these animals over lengthy period of time. Almost all racehorses suffer from stomach ulcers due to the high nutrient diet that fails to acknowledge horse's natural behaviours as grazing animals (Begg, & O'Sullivan, 2003). In addition, racehorses are social, herd animals, who need companionship and interactions with other horses, yet they are forced to spend up to 22 hours each day housed in single stalls. This kind of limitation is a form of cruelty by depriving the animals of ways to express their natural needs and instincts.

Tongue ties cause pain in racehorses. A 2016 survey of Australian trainers by Findley, Sealy & Franklin (2016) demonstrated that 85% of standardbred trainers use tongue-ties (also common in Thoroughbred racing), with 23% reporting complications after the use of ties, including lacerations, swelling, bruising and head shyness. Other studies have also shown that tying a horse's tongue causes them stress, causes ischemia and can cause long-lasting damage to the horse's highly vascularized tongue (McLean & McGreevy, 2010). Whipping also causes horses pain (Tong, Stewart, Johnson, Appleyard, Wilson, James, Johnson & McGreevy, 2020).

Recent studies by Professor Chris Whitton and his team at the Melbourne University Equine Centre demonstrate that bone fatigue is the leading cause of catastrophic injury in racehorses. Recommendations include significantly increasing the frequency and duration of rest without training and racing (*Whitton et al. 2013 & Whitton Presentation*). There are currently no limits on how often a horse can be raced, nor are there requirements for spelling frequency or duration. CPR's DeathWatch reports (<https://horseracingkills.com/issues/deathwatch>) demonstrate that catastrophic limb injuries are the leading cause of death on the racetrack. The racing industry is knowingly overworking horses to the point of serious injury, most often, if not always, resulting in death.

Almost all horses experience exercise-induced pulmonary haemorrhage (EIPH) to varying degrees while being raced (Sullivan & Hinchcliff, 2015). This condition goes mostly unnoticed and therefore unreported on race day as it mostly occurs deep in the lungs and is therefore only detected via endoscopy. CPR's DeathWatch Report 2022 tracked EIPH when it is reported, mostly due to epistaxis (blood reaching the nostrils) and found stewards reported horses to be bleeding from one or both nostrils on 623 occasions. Only about 1.1% to 3.5% of horses show visible signs of bleeding, with blood at the nose (Sullivan & Hinchcliff, 2015). The rest are more difficult to diagnose because they bleed into their lungs without it being visible. In short, the overworking of horses in racing to the point of bleeds and fatal injury is standard practise and inherent to horse racing.

Despite the frequency of EIPH, whipping, death and injury, there were five mentions only, of "cruelty" in the ARR, and a definition without detail supplied as to what it really means. This is ironic, given that the rules specify the ways in which horses may be beaten during a race (AR132), or kicked by spurs (AR125) or that AR132 states whipping should not cause injury to a horse. The limitations on racing due to a horse being diagnosed with EIPH (AR79), is also ironic, given it is a condition that is caused by the demands placed upon the horses by racing (Sullivan & Hinchcliff, 2015).



These are examples of the invisible weights on horses, that help create the impression there is some kind of “balance” between humans and animals in racing. Both EIPH and whipping have been normalised within the culture of racing, and regarded as acceptable and necessary outcomes of racing. CPR argues this false notion of balance needs to change, and the real impacts on animal welfare should be addressed in the new Act.

**CPR strongly recommends that exemptions for racing be removed from the Act, and that racing be subjected to mandatory regulations and guidelines, along with other animals.**

**All practices that cause harm to racehorses must be banned, and specifically, this includes:**

- **Jumps racing must be banned;**
- **The use of whips must be banned;**
- **Tongue ties must be banned; and**
- **Two-year-old racing must be banned.**

## **REGULATED ACTIVITIES**

### **Controlled conduct**

**Please note that we have discussed Euthanasia above in the “application of the new laws” section.**

In most cases, horses are not “euthanised” on the racetrack. That is, they are not killed in circumstances that would lead to the horses making the same decision themselves, to alleviate their pain. Very little effort, and only in exceptional cases, are attempts made to save the animal. It is worth restating, that racing has directly caused the injury to these animals, either by an incident on race day, or by ignoring a gradual build-up of welfare issues that culminate in bone fracture for example.

**CPR argues that euthanasia should only be practised by a qualified veterinarian.**

### **Framework for specific classes of conduct**

In this section, reference is made to the following activities which are directly relevant to horse racing.

*Keeping an animal in an intensive environment for a commercial purpose*  
*Transporting an animal for a commercial purpose*  
*Organising an event in which animals are used in sport, competition or recreation*  
(Plan, 2022, p. 37).

And further that:

*If there are no regulations for how a particular activity must be done, then the activity would be allowed, unless it causes a care or cruelty offence (Plan, 2022, p.37).*

CPR submits that a horse race, as currently practised by the racing industry, should not be allowed because it causes care and cruelty offences. This is on the grounds that in all of its stages – breeding, training, racing and slaughter, racing is incorporated within a system that causes negative welfare to the horses involved through deprivations (inappropriate feed, housing, frequent transport and lack of social companionship), cruelty (including through the use of spurs, the bit, tongue-ties, whips, overwork and the taking of life). A horse that “breaks down” on the racetrack and fractures her pelvis for example, suffers from impacts caused by an inappropriate feeding regime, overwork in racing and training, lack of adequate rest and recovery. As CPR has shown in the above sections, the traditional, day-to-day practices of the racing industry cause pain, injury, deprivations and death to horses. As such these practices are inconsistent with the broad aims of the new Act.

**We strongly argue against the attempt to exempt and exclude practices that are inherent in the racing industry that would be illegal if applied to other animals under the new Act.**

## **COMPLIANCE AND ENFORCEMENT**

One of the major issues identified by the Martin Inquiry (2020) was that authorised officers (within the Department of Agriculture), had inadequate training and knowledge of the unique situations and requirements of racehorses. While CPR acknowledges the sentience and inherent value of all animals, we also acknowledge the unique biology of each species. Above all, the intensive use to which racehorses are subjected by the racing industry must be acknowledged and understood by officers tasked with enforcing rules for their welfare.

It is also critical that compliance and enforcement of horse welfare should not be left in the hands of the racing industry. The overwhelming objectives of profit and an entrenched anthropocentric and instrumentalist culture mean that racehorse welfare is secondary to human desires. We reject the notion that those in the racing industry who deal with Thoroughbreds on a daily basis have superior knowledge and expertise than anyone independent of the industry.

**CPR strongly recommends that compliance and enforcement of welfare must be governed by an independent body. In addition, there ought to be a ministry of animal protection/welfare; and an animal crime division of law enforcement.**

**Members of an expert and advisory committee must also be independent of the racing industry.**

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