



AMENDMENTS TO AUSTRALIAN RULES OF RACING

Trainer & Owner Reforms

Summary:

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.

1. Amend TOR Rule 3 as follows:

“TOR Rule 3 – The requirement for *Trainers* to issue a *Fees Notice*”

- (1) (a) A *Trainer* must issue a *Fees Notice* to the *Managing Owner* within 7 days of the date on which he or she is appointed as the trainer of a horse.

(b) The *Managing Owner* must provide a copy of the *Fees Notice* to each *Owner* within 5 days of being issued the *Fees Notice* by the *Trainer*.

(c) If the *Managing Owner* does not object to the *Trainer* within 14 days of being issued the *Fees Notice*, the basis for providing *Training Services* set out in that notice is deemed to have been accepted by the *Owner/s*.

- (2) The *Fees Notice* must set out:

- (a) the *Training Fees* itemised by category of service or item provided;
- (b) the anticipated *Training Disbursements* by name of service and anticipated provider (if known);

- (c) the anticipated *Direct Payment Disbursements* by name of service and anticipated provider (if known);
 - (d) any additional fees the *Trainer* proposes to charge the *Owner*, including bonuses for winning races, or commissions on the sale of a *horse*; and
 - (e) whether a *Trainer* proposes to charge interest on any unpaid *Training Fees* and/or *Training Disbursements*. The *Trainer* is entitled to do so from the day after an amount falls due and payable, at an interest rate not more than the rate prescribed from time to time for pre-judgment interest in the Supreme Court of the State or Territory of the *TDT* at which any dispute in relation to *Training Fees* and/or *Training Disbursements* would be heard pursuant to TOR Rule 5(4).
- (3) A *Trainer* who fails to issue a *Fees Notice* in accordance with TOR Rule 3(1)(a) is not permitted to rely on the *Presumption of a Training Debt* in respect of *Training Fees* and/or *Training Disbursements* relating to *Training Services* provided prior to the date on which a *Fees Notice* was issued."

Date of Effect: 1 August 2018