

CONSULTATION NOTICE - RULES OF RACING

Code of Racing	Thoroughbred
Rule	Australian Rules of Racing: <ol style="list-style-type: none"> 1. AR 85, AR 88C, AR 88D, AR 88E 2. AR 231 3. Australian Residue Limits, AR 2 and AR 257B 4. AR 109A and AR 223
Description	Refer to summary provided below.
Authorised for Consultation	October 9, 2024
Consultation Closes	October 24, 2024
Submissions to	policies@racingqueensland.com.au

Racing Queensland (**RQ**) has received notice from Racing Australia (**RA**) that it has adopted amendments to the Australian Rules of Racing as summarised below:

- AR 85 (Horses that have had a firing procedure), AR 88C (Horses that have had a blistering procedure), AR 88D (Horses that have had a chemical castration or immunocastration), AR 88E (Horses that have had a bloodletting procedure). The changes create specific offence provisions under each of these rules.
- AR 231 (Care and welfare of horses). The changes to subclause (1) and new subclause (7) are considered necessary for the promotion and championing of equine welfare.
- AR 2 (Dictionary), AR 257B (Environmental substances), Schedule 1, Part 2, Division 3 - Prohibited List B thresholds, Australian Residue Limits (ARL) Preamble and Table. The changes include adding a new definition in AR 2, introducing a new ARL Table with a preamble, and creating AR 257B.
- AR 109A (Trainer conclusively treated as representative of the owner for the purposes of the principles of procedural fairness and natural justice) and AR 223 (withholding of prizes pending consideration of a protest or inquiry). The changes consider the implications for the Australian Rules of Racing resulting from the decision of the Court of Appeal of Queensland in *Queensland Racing Integrity Commission v Endresz; Racing Queensland Board v Endresz* [2024] QCA 76. A further change to AR 223 concerns the withholding of prizemoney pending a protest or inquiry.

Full details and background to the rule amendments are provided in the following pages in documentation issued by RA.

RA has advised that the rule amendments will take effect from November 1, 2024.

Stakeholders are invited to provide feedback on the rule amendments as per the details at the top of this document.



AMENDMENTS TO AUSTRALIAN RULES OF RACING

Proposed Amendment - AR 88C, AR 88D, AR 88E and AR 85

Summary

At a meeting of the Veterinary and Analytical Advisory Group (VAAG) noted that the recently adopted Prohibited Practice Rules – AR 88C, AR 88D & AR 88E; and also, the current rule dealing with “firing procedures” – AR 85, does not explicitly prohibit persons from performing these procedures, whereas the rules dealing with shockwave therapy (AR 86), intra-articular injections (AR 87), injections (AR 254) and injections of Cobalt salts (AR 254A) makes provision in this regard.

The Veterinary and Analytical Advisory Group (VAAG) proposed amendments to AR 85, AR 88C, AR 88D & AR 88E to include a sub-rule which reads as follows;

“A person must not:

- (a) administer;
- (b) cause to be administered;
- (c) attempt to administer; or
- (d) be a party to the administration of (insert relevant procedure).

to the horse at any time.”

The Chairmen of Stewards Committee (COSC) then unanimously supported the proposal of VAAG to include a sub-rule to each of AR 88C, AR 88D, AR 88E and AR85 which prohibits a person from engaging in the procedures covered by the relevant rules (“prohibition clause”).

Consultation with and by the PRA’s was undertaken between May 2024 and August 2024. The PRA’s have confirmed their support for this amendment.

1. Amend AR 85 as follows:

AR 85 Horses that have had a firing procedure

(1) If a horse has been subjected to a firing procedure in Australia:

- (a) the horse is ineligible for; and
- (b) a person must not enter or start the horse in, any race, official trial, jump-out or trackwork.

(2) If a horse is subject to a firing procedure, the owner of the horse or that owner's authorised agent must provide written notification of that to the Stewards as soon as practicable. The Stewards will then seek to ensure that:

- (a) details of the procedure and the horse's ineligibility to race are recorded in Racing Australia's national online database; and
- (b) if applicable, the Thoroughbred Identification Card of the horse is endorsed with details of the procedure and the horse's ineligibility to race.

(3) A person must not:

- (a) administer;
- (b) cause to be administered;
- (c) attempt to administer; or
- (d) be a party to the administration of a firing procedure,
to the horse at any time.

Date of effect: 1 November 2024

2. Add to AR 88C as follows:

AR 88C Horses that have had blistering procedure

(1) If a horse has been subjected to a blistering procedure in Australia:

- (a) the horse is ineligible for a minimum period of 12 months; and
- (b) a person must not enter or start the horse in any race, official trial, jump-out or trackwork.

(2) If a horse is subject to a blistering procedure, the owner of the horse or that owner's authorised agent must provide written notification of that to the Stewards as soon as practicable. The Stewards will then seek to ensure that:

(a) details of the procedure and the horse's ineligibility to race are recorded in Racing Australia's national online database; and

(b) if applicable, the Thoroughbred Identification Card of the horse is endorsed with details of the procedure and the horse's ineligibility to race.

(3) A person must not:

(a) administer;

(b) cause to be administered;

(c) attempt to administer; or

(d) be a party to the administration of a blistering procedure,
to the horse at any time.

Date of effect: 1 November 2024

3. Amend AR 88D as follows:

AR 88D Horses that have had chemical castration or immunocastration

(1) If a horse has been subjected to a chemical castration or immunocastration procedure in Australia:

(a) the horse is ineligible for a minimum period of 12 months; and

(b) a person must not enter or start the horse in any race, official trial, jump-out or trackwork.

(2) If a horse is subject to a chemical castration or immunocastration, the owner of the horse or that owner's authorised agent must provide written notification of that to the Stewards as soon as practicable. The Stewards will then seek to ensure that:

(a) details of the procedure and the horse's ineligibility to race are recorded in Racing Australia's national online database; and

(b) if applicable, the Thoroughbred Identification Card of the horse is endorsed with details of the procedure and the horse's ineligibility to race.

(3) A person must not:

(a) administer;

(b) cause to be administered;

(c) attempt to administer; or

(d) be a party to the administration of a chemical castration or immunocastration procedure,
to the horse at any time.

Date of effect: 1 November 2024

4. Amend AR 88E as follows:

AR 88E Horses that have had a bloodletting procedure

(1) If a horse has been subjected to a bloodletting procedure in Australia:

- (a) the horse is ineligible for a minimum period of 12 months; and
- (b) a person must not enter or start the horse in, any race, official trial, jump-out or track work.

(2) If a horse is subject to a bloodletting procedure, the owner of the horse or that owner's authorised agent must provide written notification of that to the Stewards as soon as practicable. The Stewards will then seek to ensure that:

- (a) details of the procedure and the horse's ineligibility to race are recorded in Racing Australia's national online database; and
- (b) if applicable, the Thoroughbred Identification Card of the horse is endorsed with details of the procedure and the horse's ineligibility to race.

(3) A person must not:

- (a) administer;
- (b) cause to be administered;
- (c) attempt to administer; or
- (d) be a party to the administration of a bloodletting procedure,
to the horse at any time.

Date of effect: 1 November 2024



AMENDMENTS TO AUSTRALIAN RULES OF RACING

Proposed Amendment - AR 231

Summary

This rule change concerns the wording of the Care and Welfare Rule AR 231, with changes to the wording of sub clause (1) and the introduction of a new sub clause (7).

A draft rule in relation to this matter was first proposed in 2021 in response to a September 2020 Victorian Supreme Court decision in the matter of Jody Thompson which limited the ambit of AR 231(1)(b). The Chairmen of Stewards Committee considered that amendments should be made to reverse the precedent established in that case. It is considered that amendments are necessary for the promotion and championing of equine welfare

The draft rule to address this issue was then refined and finalized with multiple communications between VAAG and COSC between in 2022 and 2023.

Consultation with and by the PRA's was undertaken between May 2024 and August 2024. The PRA's have confirmed their support for these amendments.

Add the following to AR 231:

(1) A person must not:

(a) commit or commission an act of cruelty to a horse, or be in possession of any article or thing which, in the opinion of the Stewards, is capable of inflicting cruelty to a horse;

(b) if the person is in charge of a horse – fail at any time:

(i) to exercise reasonable care, control or supervision of the horse so as to prevent:

A. an act of cruelty to the horse; or

B. the horse's body condition from declining to, in the opinion of the Stewards based on veterinary advice, an unacceptable level;

(ii) to take such reasonable steps as are necessary to alleviate any pain inflicted upon or being suffered by the horse;

(iii) to obtain veterinary advice and provide treatment in accordance with that advice where such treatment is necessary for the welfare of a horse; and/or

(iv) to provide and ensure that the horse is ingesting proper and sufficient nutrition

.....

(7) For the purposes of subrule (1)(b)(iii), "veterinary advice" must include, but is not limited to, a diagnosis and/or advice and/or opinion from a qualified veterinary surgeon.

Date of effect: 1 November 2024



AMENDMENTS TO AUSTRALIAN RULES OF RACING

Proposed Amendment - Australian Residue Limits, AR2 and AR 257B

Summary

These proposed rule changes cover the Australian Residue Limits (ARL) including a new definition to be included in AR 2, a new ARL Table with preamble and new AR257B.

Communication has taken place between Veterinary and Analytical Advisory Group (VAAG) and the Chairmen of Stewards Committee (COSC) during several meetings in 2023 based on communication from VAAG in 2022 providing the technical basis for these changes.

In July 2022 VAAG provided the following information to COSC;

“The IFHA publish a list of International Residue Limits, which are in effect screening limits for substances of environmental origin or those that may be found naturally occurring in a horse’s diet. These substances may be detected in a sample at low levels consistent with the substances arising as a result of being found naturally in the horse’s environment or diet.

As these substances may vary in their presence in the environment due to regional factors the view of VAAG is that Australia should not be a signatory to the full IFHA residue limit list – however it would be prudent to maintain an agreed Australian residue limit list in the interests of a national approach to residue limit screening.

It is also noted that the IFHA has previously advised Australia that both theobromine, and more recently dimethyl sulfoxide (DMSO), have now been removed from the list of substances to which a threshold should apply within the international rules and moved to the International Residue Limits list. Australia has responded previously by removing theobromine from Division 3 – Prohibited List B thresholds and agreeing to add theobromine to the current unofficial list of recognised residue limits. It is noted that should this ARL list be formally adopted and recognised within the rules, that DMSO should then also be removed from Division 3 – Prohibited List B thresholds.

In addition to the approval of the proposed list of ARL’s the Australian Rules should be amended to formally recognise the adoption and maintenance of this list in industry publications, in a similar approach to that taken with the adoption and maintenance of an agreed list of screening limits that apply to equine therapeutic substances. It would be proposed that the residue limits list would never contain any substances that are considered permanently banned at all times (Prohibited List A substances).”

Consultation with and by the PRA's was undertaken between May 2024 and August 2024. The PRA's have confirmed their support for these amendments.

1. Add the following to AR 2:

Australian residue limit (ARL) means the concentration of a substance of environmental origin or its specified metabolite present in a sample during a screening test or analysis as set out in AR 257B (2), above which the substance of environmental origin will be specified as a prohibited substance.

Date of effect: 1 November 2024

2. Add the new AR 257B as follows:

AR 257B Environmental substances

- (1) For analysis of an environmental substance in a sample taken at any time from a horse, there must be an initial screening test or screening analysis of the sample.
- (2) As a minimum requirement, the initial screening test or screening analysis must be conducted by an Official Racing Laboratory in accordance with the following procedure:
 - (a) the relevant biological matrix, equivalent in volume to the portion or aliquot of the sample being tested, is to have added to it a quantity of the environmental substance, sufficient to bring its concentration to the Australian Residue Limit specified for that environmental substance – this is known as the “spiked sample” and is to be analysed concurrently with the sample;
 - (b) the portion or aliquot of the sample is then to be tested to determine whether or not it contains a quantity of the environmental substance that exceeds that Australian Residue Limit, by making a direct comparison with the spiked sample;
 - (c) if the Australian Residue Limit is not exceeded, the detection of the environmental substance in the sample is not to be reported on a Certificate of Analysis;
 - (d) if the Australian Residue Limit is exceeded, then the sample is to be further tested in accordance with normal laboratory procedures designed to certify the presence of the environmental substance in the sample.
- (3) An environmental substance for the purpose of this rule and the Australian Residue Limit applicable to it, is to be approved and published from time to time by Racing Australia.
- (4) The Australian Residue Limit testing provided for in this rule is not intended to and does not operate to mean that for the purpose of the Rules the relevant environmental substance only becomes a prohibited substance if and when the Australian Residue Limit is exceeded.
- (5) It is no defence to an alleged breach of AR 240 or AR 241 that the result of any initial Australian Residue Limit test or screening analysis should have been below the Australian Residue Limit for the environmental substance in question.

Date of effect: 1 November 2024

3. Amend Division 3 – Prohibited List B thresholds as follows:

Delete subrule 3 of this division.

Date of effect: 1 November 2024

4. Amend and insert the Preamble to ARL publication and ARL Table (the preamble will precede and be the heading to the ARL Table) as follows:

For the purpose of AR 257B, it is hereby notified that Australian residue limits applicable to the following substances of environmental origin, as approved by Racing Australia, are set out as follows;

Australian Residue Limits (ARL) Table

Residue Limit Substance	Australian Residue Limit (in urine)
Caffeine	100 ng/mL
Theobromine	2000 ng/mL
Theophylline	250 ng/mL
Hyoscine (Scopolamine)	50 ng/mL in urine if atropine is present between 10 and 50ng/mL
Atropine	50 ng/mL in urine in the presence of hyoscine up to 50ng/mL
Dimethyl sulfoxide(DMSO)	15 ug/mL
Methylsulfonylmethane(MSM)	1200 ug/mL
Synephrine	500 ng/mL
Residue Limit Substance	Australian Residue Limit (in plasma)
Caffeine	20 ng/mL
Theobromine	300 ng/mL
Dimethyl sulfoxide(DMSO)	1000 ng/mL

Date of effect: 1 November 2024



AMENDMENTS TO AUSTRALIAN RULES OF RACING

Proposed Amendment - AR 109A and AR 223

Summary

Racing Australia considered the implications for the Australian Rules of Racing resulting from the decision of the Court of Appeal of Queensland in *Queensland Racing Integrity Commission v Endresz; Racing Queensland Board v Endresz* [2024] QCA 76.

Racing Australia in consultation with the PRAs recommended the introduction of a new rule and one amendment to an existing rule in the Australian Rules of Racing.

The new Rule 109A addresses the principles of procedural fairness and natural justice under the Rules of Racing for a horse owner to be given notice of, and an opportunity to be heard at, an investigation or stewards' inquiry into a matter relating to a horse with the notice being given to the trainer or trainer's representative.

The amendment to AR 223 concerns the withholding of prizemoney pending a protest or inquiry. The sub rule (c) change clarifies that any relevant investigation or inquiry is not required to have commenced for prizemoney to be withheld.

Consultation with and by the PRA's was undertaken between May 2024 and August 2024. The PRA's have confirmed their support for this amendment.

1. Introduce a new rule AR 109A as follows:

AR109A Trainer conclusively treated as representative of the owner for the purposes of the principles of procedural fairness and natural justice

(1) For the purposes of the principles of procedural fairness and natural justice (where applicable under any part of the Rules), the owner or owners of a horse shall be conclusively treated as having been given adequate notice of any matter relating to a horse, and/or an adequate opportunity to be heard in relation to that matter, where such notice and/or an opportunity to be heard is given to the trainer of that horse or the trainer's authorised representative.

(2) For the avoidance of doubt, any right or entitlement of an owner or owners pursuant to the principles of procedural fairness and natural justice to receive notice of any matter relating to a horse, and/or an adequate opportunity to be heard in relation to that matter, separate from or additional to (1) above, is excluded."

Date of effect: 1 November 2024

2. Amend AR 223 as follows:

AR 223 Withholding of prizes pending consideration of a protest or inquiry

Whenever:

- (a) a protest has been lodged; or
- (b) an investigation or inquiry which may affect the placing of a horse has been instituted; or
- (c) any action is taken or **is** about to be taken which may lead to an investigation or inquiry which may affect the placing of a horse ~~has been instituted~~,

any prize due in respect of a horse may be withheld pending the consideration of the protest, investigation or inquiry”.

Date of effect: 1 November 2024