

HORSE RACING AND ANIMAL CRUELTY LAWS



This Fact Sheet is for general information purposes and is not legal advice. It provides a brief overview only of this area of the law. If you require legal advice relating to your particular circumstances you should contact the ADO or another solicitor.

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THE PROBLEM: RACING IS INHERENTLY HARMFUL TO HORSES

During the running of a recent Melbourne Cup, the horse Anthony Van Dyck's fetlock (ie ankle) fractured on the final bend so he was taken from the track and killed.[1] In the previous nine years, seven horses had died during or shortly after the Melbourne Cup due to injuries sustained during the race.



According to the RSPCA, there are 'significant problems associated with the horseracing industry.'[3] These include:

- Risk of injury, pain and death relating to over-exertion during races and training.
- Use of whips, spurs and tongue ties, which may result in discomfort, pain and/or permanent injury.
- Overbreeding and oversupply of racehorses, many of whom are sent to be slaughtered (known as 'wastage').

So why isn't horseracing an animal cruelty offence?



RACEHORSES AND ANIMAL WELFARE LAW IN NSW

The *Prevention of Cruelty to Animals Act 1979* (NSW) ("POCTAA") defines **cruelty** as an act or omission which leads to an animal being unreasonably, unnecessarily or unjustifiably over-worked, over-driven, over-ridden or over-used.[4] If the act of cruelty results in a serious injury or a situation where it is considered cruel to keep the animal alive, then it is 'aggravated cruelty'.[5]

In NSW, POCTAA does not contain an explicit exemption from or defence to cruelty offences for the treatment of thoroughbred horses used for racing.

QUICK FACTS [2]

- In the last 10 years, a horse has **died** from racing every 2-3 days.
- In the 2024 racing year, NSW/ACT had the highest recorded deaths with **48**.
- In 2023, **the most lethal track** in Australia was Thoroughbred Park in Canberra with a death every 2 months at that one (small) track.
- In 2024 the **most common cause of death** was a 'front limb' injury.
- In 2024 the most common age for racehorses to die from racing-related injuries was **4 years of age**.

The *Thoroughbred Racing Act 1996* (NSW) establishes Racing NSW as the body in charge of regulating and controlling thoroughbred horse racing in NSW. Racing NSW's 'Rules of Racing' defines **cruelty** as including 'any act or omission as a consequence of which a horse is mistreated.'[6] This definition lacks clarity and does not elaborate on what constitutes mistreatment (which is not a defined term).

Racing NSW's rules require that owners and trainers 'exercise reasonable care, control and supervision...to prevent any such horse from being subject to cruelty or unnecessary pain or suffering'[7] and that horses are 'not to be directly or indirectly sent to an abattoir, knackery or similarly disposed of'.[8]

However, the NSW rules merely state that any person who fails to comply with them 'may be penalised'. It is not clear whether there are penalties for breaching these guidelines or any kind of independent or external assessment to ensure compliance.

Thus, a **lack of clarity and meaningful consequences** for non-compliance in NSW's legislation and the industry's rules raise serious questions about the ability of the law to protect racehorses in NSW.

'Horses must not be overworked, overridden or overdriven'

ACT Welfare of Horses Code 2024

RACEHORSES AND ANIMAL WELFARE IN THE AUSTRALIAN CAPITAL TERRITORY

Thoroughbred racing is regulated by the Canberra Racing Club under the *Racing Act 1999* (ACT) s 15. The Canberra Racing Club's Rules of Racing consist of 'Local Rules' and the 'Australian Rules of Racing' (LR 1), and therefore contain the same provisions as the NSW rules.

The definition of **cruelty** in the *Animal Welfare Act 1992* (ACT) includes causing an animal pain 'that is unjustifiable, unnecessary or unreasonable in the circumstances' and 'abusing, terrifying or tormenting' an animal.[9] However, if conduct that is cruelty to an animal complies with a code of practice, then the law states that this conduct is **not** animal cruelty.[10] To put it another way, the conduct is legalised cruelty.

The *Animal Welfare (Welfare of Horses in the ACT) Mandatory Code of Practice 2024* applies to race horses.[11] It contains a mandatory standard that 'Horses must not be overworked, overridden or overdriven. The workload imposed must not exceed the horse's ability for its age, size, strength, and fitness.' (S5.2). It also recommends that 'Horses, particularly immature horses, should not be subjected to excessive strenuous exercise. Horses do not achieve full musculoskeletal maturity until 5 to 6 years of age.' (G5.1).



Photo: [Thoroughbred Park](#)

Therefore it appears that the 2024 ACT Code would not allow treatment of a racehorse that would amount to a breach of animal welfare laws. So, 'overriding' a horse such as Anthony Van Dyck or The Cliffsofmoher could be considered cruelty under ACT law **if** it could be shown that riding the horse caused pain that is unjustifiable, unnecessary or unreasonable in the circumstances, or that riding the horse is a form of abuse, torment or terror, and that the Code was not complied with. It is a separate animal cruelty offence to breach a mandatory code of practice (s 24B *Animal Welfare Act 1992* (ACT)).

DISCLAIMER

While all care has been taken in preparing the information on this fact sheet, it is not a substitute for legal advice. For any specific questions we recommend you seek legal advice. The Animal Defenders Office accepts no responsibility for any loss or damage suffered by people relying on the information contained in this fact sheet.

[1] M Hytner, 'Melbourne Cup: Anthony Van Dyck euthanised, Kerrin McEvoy fined \$50k for whip breach', *The Guardian*, 3/11/2020.

[2] <https://www.horseracingkills.com/issues/deathwatch/>. The 2024 DeathWatch report was released on 24/10/2024.

[3] <https://kb.rspca.org.au/knowledge-base/what-are-the-animal-welfare-issues-with-thoroughbred-horse-racing/>.

[4] POCTAA s 4 (2) (b).

[5] Ibid s 4 (3).

[6] Rules of Racing of Racing NSW: <https://www.racingnsw.com.au/wp-content/uploads/NSWRules.pdf>, AR 2.

[7] Ibid, LR 114 (3).

[8] Ibid, LR 114 (5) (e).

[9] *Animal Welfare Act 1992* (ACT) s 6A.

[10] Ibid s 20.

[11] <https://www.legislation.act.gov.au/di/2024-11> p 2.

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