

PART IV. HORSE RACING COMMISSION

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Authority

The provisions of this Part IV issued under act of December 11, 1967 (P. L. 707, No. 331) (15 P. S. §§ 2651—2675)(Repealed), unless otherwise noted.

Source

The provisions of this Part IV adopted May 28, 1969, effective May 28, 1969, unless otherwise noted.

Cross References

This part cited in 61 Pa. Code § 823.17 (relating to Semifinal and Grand Race Drawing procedures).

CHAPTER 161. GENERAL PROVISIONS

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§ 161.1. General powers of the Commission.

(a) Under the act the Commission will have the power to supervise generally thoroughbred horse race meetings in the Commonwealth at which parimutuel betting is conducted. The Commission is invested with the power to enact appropriate rules and regulations necessary to effectuate the purposes and provisions of the act and to prevent circumvention or evasion thereof.

(b) The rules of racing as set forth in this part and amendments or additions thereto shall apply to corporations holding or conducting a meeting within this Commonwealth licensed by the Commission where thoroughbred racing for purposes of parimutuel wagering is conducted.

(c) The rules shall also apply to a participant in or patron of a licensed meeting and each shall be charged with notice of and be conclusively bound by the provisions hereof. The Commission may so amend or repeal these rules, in whole or in part. Licensees, participants and patrons shall be similarly charged and bound by modifications. Copies of the changes are available at the Commission

office, at tracks or at the executive offices of the Commission in Harrisburg, Pennsylvania and will generally be published in the *Pennsylvania Bulletin*.

(d) Every license to hold a meeting is granted upon the condition that the licensee shall accept, observe and enforce the rules of the Commission. Furthermore, it shall be the duty of each officer, director and every official and employe of the licensee to observe and enforce the rules. Licensees are charged with the responsibility of reporting apparent violations of these rules to the Commission and of cooperating in an investigation into the same.

(e) The Commission may rescind or modify a penalty or decision on infraction of the rules imposed or made by the racing officials and may institute investigative or adjudicative proceedings on its own motion.

(f) The executive offices of the Commission are located at Room 304, Agriculture Building, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408, telephone (717) 787-1942. In addition, Commission representatives will be on duty at each track during the conduct of sanctioned race meetings.

Notes of Decisions

Forfeiture of Purse Money

The power of the Commission, under subsection (e) to rescind or modify any penalty or decision imposed or made by the racing officials does not supercede the more specific provisions of 58 Pa. Code § 163.303(c), which requires forfeiture of purse money under certain circumstances. *Bush v. State Horse Racing Commission*, 466 A.2d 254 (Pa. Cmwlth. 1983).

Notice of Rules

Every licensee is charged with notice of, and is conclusively bound by, the rules and regulations of the Horse Racing Commission. *Pinero v. State Horse Racing Commission*, 804 A.2d 131 (Pa. Cmwlth. 2002).

§ 161.2. Scope.

(a) The rules, regulations and conditions under which horse racing shall be conducted in this Commonwealth are prescribed by the racing law and by the Commission.

(b) Owners and trainers of horses and their stable employes shall be subject to the laws of the Commonwealth, and the rules promulgated by the Commission immediately upon acceptance and occupancy of stabling accommodations from or approved by an association or upon making entry to run on its track.

(c) Every person participating in and every patron of a licensed racing meeting shall abide by the laws and rules of the Commission, and accept the Stewards' decisions on questions to which their authority extends, subject to the right to appeal to the Commission.

§ 161.3. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Act—The Race Horse Industry Reform Act (4 P. S. §§ 325.101—325.402).

Age—Beginning on the first day of January in the year in which the horse is foaled.

Arrears—Includes moneys due for entrance forfeits, fees (including jockey's fees), forfeitures, subscriptions, stake, purchase money in claiming races and also a default in money incident to the rules.

Arrest—Refers to a criminal matter in which the applicant has been indicted, booked or otherwise charged and which is pending final disposition. A matter on which a final judgment or order has been entered should be reported under "conviction." (Reference should be made to the term "conviction" as set forth in this section).

Association—A person, associations or corporation licensed by the Commission to conduct a race meeting under the act.

Authorized agent—A person appointed by a written instrument, signed and acknowledged before a notary public and filed in accordance with the rules, who is thereupon entitled to represent a licensed owner-principal. Authorization will be deemed unrestricted unless otherwise prepared in strict compliance with the provisions of this subpart.

Breeder—The owner of the horse's dam at the time of foaling.

Breeding place—The place where a horse is foaled.

Calendar day—A 24-hour period commencing at 12:01 a.m., and ending at 12 a.m.

Commission—The Pennsylvania State Horse Racing Commission.

Conviction—A final judgment of guilt or criminal culpability in either juvenile or adult proceeding, whether arising from verdict, judgment or order of a Court or from a plea of guilty, of no contest or nolo contendere or other form of final disposition. Conviction does not include accelerated rehabilitative disposition adjudications (A.R.D.'s) or other similar forms of preindictment release where a final record of guilt or conviction will not follow.

Corrupt practice—Includes the commission, the attempt to commit or the solicitation, inducing or attempt to induce a violation of a rule of racing or civil or criminal statute pertinent or relevant to racing by a person whether acting alone or in concert.

Declaration—The act of withdrawing an entered horse from a race before the closing of overnight entries.

Entry—According to the requirement of the text:

- (i) A horse made eligible to run in a race.
- (ii) Two or more horses which are entered and run in a race which are owned by the same owner or trained by the same trainer.

Equipment—As applied to a horse, shall mean whips, blinkers, tongue straps, muzzles, nosebands, bits, shadow rolls, martingales, breast plates, bandages, boots and plates.

Forfeit—oney due to a party because of an error, fault, neglect of duty, breach of contract or a penalty ordered by the Stewards or the Commission.

Foul—The term includes an infraction of the rules of racing involving physical conduct occurring during the actual running and course of a race.

Horse—A thoroughbred registered with the New York Jockey's Club and includes a 2 year old, filly, mare, colt, horse, gelding or ridgling.

Jockey—A race rider currently licensed, or permitted to ride, or both.

Licensee—A person or entity holding a form of license from the Commission who is exercising the powers, privileges or prerogatives of a licensee or who is acting in a manner as to apparently indicate they are entitled to hold or who should hold a license.

Maiden—A horse which at the time of starting has never won a race on the flat at a recognized meeting in any country. A maiden which has been finally disqualified after finishing first is thereafter still to be considered a maiden.

Meeting—The entire consecutive period for which the approval to race has been granted to an association by the Commission or other period as may from time to time be established by general order of the Commission.

Minor—A person under the age of 18 years.

Month—A calendar month.

Nominator—A person in whose name a horse is entered for a race.

Owner—Includes the sole owner, a part owner, a holder of any beneficial or equitable interest present or reversionary or expectant or, the lessee of a horse. An interest only in the winnings of a horse does not constitute part ownership.

Place—First, second or third in the order of finish of a race and are referred to, respectively, as "win," "place" and "show."

Post—That place on the course from which a race is designated to start.

Post position—The position assigned to a horse at the starting line of the race.

Post time—The time set for the arrival at the starting point of the horses in a race. It shall be posted a reasonable time prior to the race on a clock device, provided for that purpose, prominently displayed before and clearly visible from the grandstand. The post time of each race shall be set by the parimutuel department manager and shall not be changed after being posted without permission of the Stewards.

Protest—A formal complaint filed after a race with the Stewards in accordance with the rules, protesting the right of any horse to a place, purse, award or entitlement in a race or protesting or excepting to a decision relating to eligibility, participation or placing of a horse in a race.

Race—A contest between horses for purse, stakes or reward on a licensed course and in the presence of authorized Stewards.

(i) *Purse races*—Those in which the participating owners do not contribute to a prize for the race.

(ii) *Claiming race*—A race in which a horse entered may be claimed in conformity with the within rules.

(iii) *Handicap*—A race in which the weights to be carried by the entered horses are adjusted by a handicapper or the Racing Secretary or a board of handicappers for the purpose of equalizing their respective chances of winning.

(iv) *Free handicap or overnight handicap*—A handicap in which no liability for entrance money is incurred.

(v) *Highweight handicap*—A handicap in which the weight assigned to the top horse in that handicap is not less than 140 pounds.

(vi) *Match race*—A private sweepstakes between two horses which are the property of two different owners. If prior to the running of the race either of the horses entered in the match dies, or if either owner dies the match is void. It remains a match even if money or another award is added to the stakes.

(vii) *Optional claiming race*—A race restricted to horses who have started previously for a designated claiming price or less, whose owner or trainer may, at his discretion, enter the horse to be claimed. In the case of horses entered to be claimed in a race, the race will be considered for the purposes of these rules, a claiming race.

(viii) *Overnight race*—Race for which entries close 72 hours or less, exclusive of Sundays, before the time set for the first race of the day on which the race is to be run.

(ix) *Purse race*—A race for money or another prize to which the owners of the horses engaged do not contribute.

(x) *Stake race or sweepstakes*—A race to which nominators of the engaged entries contribute to a purse; to which money, or another award, may be added. No overnight race, regardless of its condition, shall be deemed a stake race.

(xi) *Walkover*—Results when one and only one of the owners who has nominated for a race qualifies a horse to start. When only one horse or interest has qualified to start in a race, that horse shall be ridden past the Judge's Stand and go to the post and shall then be deemed the winner. It shall receive entrance fees, forfeit, but no portion of a purse, stake, or added money or another prize.

Race day—A day during which racing is authorized and conducted.

Recognized meeting, authorized meeting or race meeting—Includes the entire period of time designated by the Commission for the conduct of parimutuel racing activities by a licensed association. Meetings of a given association or of several associations may be split or joined as shall be determined and authorized by the Commission.

Rules—The rules and regulations adopted by the Commission as are in effect at a given time together with additions and modifications thereto.

Scratch—The act of applying for withdrawal of an entered horse after the closing of entries.

Scratch time—The time set by the association for the closing of applications for permission to withdraw from races of that day.

Starter—A horse is a starter for a race when it is in the gate and when the starter dispatches the field, the gate in front of it opens.

Stewards—The Stewards of the meeting or their appointed deputies acting at a given time.

Subscription—The act of nomination or entry of a horse to a stakes race.

Untried horse—One whose produce are maidens.

Weight for age—Standard weight according to the scale set forth in the within rules, regardless of penalties or allowances.

Year—A calendar year.

Authority

The provisions of this § 161.3 amended under sections 202 and 218 of the Race Horse Industry Reform Act (4 P. S. §§ 325.202 and 325.218).

Source

The provisions of this § 161.3 amended December 29, 1978, effective December 30, 1978, 8 Pa.B. 3824; amended March 20, 1987, effective March 21, 1987, 17 Pa.B. 1217. Immediately preceding text appears at serial pages (104989) to (104993).

Notes of Decisions

It was a violation of due process for the Commission to disqualify a horse and order the purse refunded without providing the petitioner with notice and opportunity for a reconsideration hearing. *Goldstein v. State Horse Racing Commission*, 557 A.2d 1183 (Pa. Cmwlth. 1989).

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