

### STEWARDS INQUIRY DECISION

- Date of Decision:** 25 July 2021
- Stewards Panel:** S Shinn (Chair), G Griffin, B Baudinette
- Name:** Troy McDonald
- Track/Race:** Elwick Racetrack
- Date:** 18 July 2021
- Rule no:** AHRR 238. A person shall not fail to comply with any order, direction or requirement of the Controlling Body or the Stewards relating to harness racing or to the harness racing industry.
- Charge(s):** The particulars of the charge were that while in attendance at Elwick Racetrack on Sunday, 18 July 2021 Mr McDonald, having returned to Tasmania subsequent to 8 July 2021, failed to wear a facemask at all times and therefore breached AHRR 238. The breach of the rule being that he failed to comply with the Stewards direction, issued on 18 May 2020, that persons must comply with all COVID-19 protocols when present at any racing activity. The relevant protocol being that issued by TASHEALTH on 16 July 2021 which included that from 11:59pm, Friday July 16 any person who had visited Victoria from 8 July 2021 must wear a facemask when in public.

**Inquiry Decision:** Mr McDonald pleaded guilty to the charge. A fine of \$1000 was issued.

#### FACTS:

- On 18 May 2020 The Office of Racing Integrity issued a direction to all racing participants that they were required to comply with all COVID-19 protocols when present at any racing activity.
- On 16 July 2021 Acting Director of Health Dr Scott McKeown issued a requirement that, from 11:59pm 16 July 2021 any person who had been in Victoria since 8 July 2021 would be required to wear a mask when in public.
- Mr McDonald confirmed that he had been in Victoria since 8 July 2021 prior to returning to Tasmania.
- Mr McDonald confirmed that he had received text alerts from TASHEALTH concerning the requirement to wear a mask.
- Mr McDonald was in attendance at the race meeting at Elwick Racetrack on 18 July 2021.

#### INQUIRY:

The inquiry was opened at Mowbray Racetrack Stewards Room on Sunday, 25 July 2021 regarding Mr McDonald failing to comply with a TASHEALTH protocol in that he failed to wear a mask at all times when in public at Elwick Racetrack on 18 July 2021. When questioned, confirmed that he had been in Victoria for a time subsequent to 8 July 2021. Mr McDonald confirmed that he had received the text from TASHEALTH regarding the requirement to wear a facemask.

When questioned as to whether he had worn a facemask at all times while in public Mr McDonald told the Stewards that he had not worn a facemask around his colleagues at work, or on the way to the racetrack on 18 July 2021. He told the Stewards that he had not worn a mask at the racetrack on 18 July 2021 until he went to the drivers' room to get changed into his racing outfit prior to signing in with the race office that he was in attendance.

Having considered the evidence tendered at the inquiry Stewards issued the charge under the provisions of AHHR 238 as detailed above. Mr McDonald pleaded guilty to the charge.

Subsequent to Mr McDonald pleading guilty to the charge Stewards invited Mr McDonald to make a submission on penalty were there to be one. Mr McDonald repeated that although he had not worn a mask at all times until after he had changed into his racing gear he had from that time worn a mask. He added that he had lost income from driver's fees on 18 July 2021 due to the Stewards removing him from his scheduled drives and having him leave the racetrack. He further added that the risk of him infecting someone with COVID19 was negligible as he had not been present in any official high risk zone whilst in Victoria. Stewards questioned Mr McDonald on the effect on him should a fine be imposed. Mr McDonald advised the Stewards that his income was derived from his race driving and advised of his average earnings per week. Regarding if a suspension of his licences was imposed he said as his income was entirely from his race driving a suspension would have a significant effect on his income.

**DECISION:**

Having considered Mr McDonald's guilty plea and his submission on penalty, Stewards deemed that a fine of \$1000 was the appropriate penalty. In determining the penalty Stewards took into account his submission in regard to penalty, his guilty plea, his income and ability to pay a fine as well as his loss of potential income on 18 July 2021.

Stewards also considered the seriousness of the breach which placed at risk the health of those Mr McDonald came into contact with whilst not wearing a facemask.

Stewards further considered that the racing industry was placed at risk of another shutdown as occurred in 2020.

Although the matter of specific deterrent is relevant, the matter of general deterrent was considered most important, in that a clear message needs to be sent to the racing industry that any breach of COVID-19 protocols would be treated with the utmost seriousness.

Stewards also note that the official direction issued by the Office of Racing Integrity on 18 May 2020 clearly states that any person who breaches the direction to comply with all COVID-19 protocols may be subject to a significant fine.

Mr McDonald was advised of his right of appeal.