

### STEWARDS INQUIRY DECISION

- Date of Decision:** 25 July 2021
- Stewards Panel:** S Shinn (Chair), G Griffin, B Baudinette
- Name:** Mitchell Ford
- 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 Ford, 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 16 July any person who had visited Victoria from 8 July 2021 must wear a facemask when in public.

**Inquiry Decision:** Mr Ford pleaded guilty to the charge. A fine of \$600 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 Ford confirmed that he had been in Victoria since 8 July 2021 prior to returning to Tasmania.
- Mr Ford confirmed that he had received text alerts from TASHEALTH that he concedes were concerning the requirement to wear a mask however he had deleted the texts without reading them.
- Mr Ford 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 Ford 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. Mr Ford was accompanied by Mr Ben Yole as a support person.

When questioned, Mr Ford confirmed that he had been in Victoria for a time subsequent to 8 July 2021. He also confirmed that he had received texts from TASHEALTH subsequent to returning to Tasmania and that he had deleted the texts without reading them. He conceded that he now knows that these texts advised that anyone returning from Victoria subsequent to 8 July 2021 must wear a facemask whilst in public. When questioned as to whether he had worn a facemask at all times while in public more specifically during his attendance at the Elwick Racetrack on 18 July 2021 Mr Ford admitted that he had not.

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

Subsequent to his pleading guilty to the charge Stewards invited Mr Ford to make a submission on penalty were there to be one. Mr Ford advised the Stewards that he had limited income, being 17 years old and that his income is from driver's fees. 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.

Stewards questioned Mr Ford on the effect on him should a fine be imposed. He again advised the Stewards that his very limited income was solely 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 derived entirely from his race driving a suspension of his licences would have a significant impact on his ability to earn.

**DECISION:**

Having considered Mr Ford's guilty plea and his submission on penalty, Stewards deemed that a fine of \$600 was the appropriate penalty.

In determining the penalty Stewards took into account his submission in regard to penalty, his guilty plea, his income and his ability to pay a fine as well as his loss of potential income on 18 July 2021.

Stewards also considered that Mr Ford had deleted texts from TASHEALTH without reading them and that this gave no excuse for his actions/inactions.

Stewards also took into consideration Mr Ford's young age and that a suspension of his licences would have a far greater negative impact on him at this stage of his race driving career.

Further, Stewards considered the seriousness of the breach which placed at risk the health of those Mr Ford 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 Ford was advised of his right of appeal.