
STATUTORY INSTRUMENTS

2006 No. 3293

The Gambling Appeals Tribunal Rules 2006

PART 2

Preliminary matters

Appeal notice

4.—(1) An appeal must be made by way of a written notice (“the appeal notice”) signed, dated and filed by the appellant.

(2) The appellant must send to the Tribunal the appropriate fee with the appeal notice unless, the appeal notice includes an application for reduction, waiver or exemption from that fee.

(3) The appeal notice must state—

- (a) the name and address of the appellant;
- (b) the name and address of the appellant’s representative (if any);
- (c) the address for service;
- (d) that the notice is an appeal notice; and
- (e) the grounds of appeal that the appellant wishes the Tribunal to consider.

(4) Where the appellant fails to send the appropriate fee in accordance with paragraph (2), the appeal notice will not be treated as being received by the Tribunal and will be returned to the appellant.

(5) Where a representative, other than a legal representative, is named under paragraph (3)(b) and the appeal notice is signed by the representative on behalf of the appellant, the appellant must file with the appeal notice a written statement, signed by the appellant, that the representative is authorised to so act.

(6) Where a representative is named under paragraph (3)(b) the appellant shall notify the Tribunal in writing immediately of any change to the person so named.

(7) Where a representative is appointed by the appellant after having filed the appeal notice under paragraph (1), the appellant shall notify the Tribunal immediately of that fact and of the name and address of the representative.

(8) In paragraph (3)(a), “address” in respect of a corporation means the address of the registered or principal office.

(9) A copy of the Commission’s determination must be filed with the appeal notice.

(10) The appellant may include an application for directions with the appeal notice.

(11) Where the time limit for bringing an appeal under section 142(1) has expired, the appellant must include with the appeal notice an application for a direction to extend the time limit for making an appeal, which must include a statement of the reasons for the extension.

(12) Where an application for reduction, waiver or exemption of the fee has been included with the appeal notice in accordance with paragraph (2), no further action shall be taken in relation to the

appeal notice until such application has been determined and the appellant has been notified of the appropriate fee (if any) to be paid.

(13) Where an application is made under paragraph (10) or (11), the Tribunal must refer the application for determination and must take no further action in relation to the appeal notice until such an application has been determined.

(14) Subject to paragraphs (12) and (13) and to any directions given by the Tribunal, upon receiving an appeal notice the Tribunal must—

- (a) enter particulars of the appeal in the register;
- (b) inform the parties in writing of—
 - (i) the date when the Tribunal received the appeal notice; and
 - (ii) the Tribunal’s decision on any application made for directions (including the particulars of any direction given);
- (c) provide the Commission with a copy of—
 - (i) the appeal notice;
 - (ii) any application for directions made under paragraph (10); and
 - (iii) any other document filed with the appeal notice.

(15) The Tribunal, when sending the parties the information and documents in accordance with paragraph (14), must specify the date on which they are being sent.

Commission’s statement of case

5.—(1) The Commission must file a written statement (“a statement of case”) in support of its determination so that it is received by the Tribunal no later than 28 days after the day on which the Tribunal sends the Commission the information and any documents under rule 4(14).

- (2) The statement of case must—
 - (a) state whether or not the Commission intends to oppose the appeal;
 - (b) specify the statutory provisions under which the Commission’s determination was made;
 - (c) specify the reasons for the Commission’s determination unless provided in accordance with paragraph (3)(b);
 - (d) set out all the matters and facts relied upon to support the Commission’s determination;
 - (e) specify the name of a contact person at the Commission or the name and address of a representative; and
 - (f) be signed by any person authorised to sign it on behalf of the Commission, which may be by e-mail.
- (3) The statement of case must be accompanied by—
 - (a) a list of and a copy of—
 - (i) the documents relied upon in support of the Commission’s determination; and
 - (ii) any further material that in the opinion of the Commission might undermine its determination or adversely affect its case or support the appellant’s case.
 - (b) a copy of the Commission’s determination if not filed by the appellant under rule 4(9).
- (4) The Tribunal shall send to the appellant a copy of the statement of case and a copy of the list and the information referred to in paragraph 3(a).
- (5) The Commission may include an application for directions with the statement of case.

(6) If at any time the Commission amends the statement of case it must file an application for a direction under rule 11(f) with the amended statement of case.

(7) If the application in paragraph (6) is granted by the Tribunal, the Tribunal must send a copy of the amended statement of case to the appellant.

Appellant's reply

6.—(1) The appellant must file a written reply no later than 28 days after—

- (a) the date on which the appellant received a copy of the statement of case; or
- (b) if the Commission amends its statement of case, the date on which the appellant received a copy of the amended statement of case.

(2) The reply must—

- (a) state the grounds the appellant relies upon in his notice of appeal;
- (b) identify all matters contained in the statement of case which are disputed by the appellant; and
- (c) state the appellant's reasons for disputing the matters identified in paragraph (b).

(3) The reply must be accompanied by a list of and a copy of all the documents on which the appellant relies in support of his case.

(4) Upon receipt of the appellant's reply, the Tribunal must send to the Commission a copy of the reply and of the list and documents referred to in paragraph (3).

(5) If at any time the appellant wishes to amend the reply provided in accordance with this rule he must file an application for a direction under rule 11(f) with the amended reply.

(6) If the application under paragraph (5) is granted by the Tribunal, the Tribunal must send a copy of the amended reply to the Commission.

Secondary disclosure by the Commission

7.—(1) Following the filing of the appellant's reply, if there is any further material which might be reasonably expected to assist the appellant's case as disclosed by the appellant's reply and which is not mentioned in the list provided in accordance with rule 5(3)(a), the Commission must file a list and a copy of such further material.

(2) Any list and material required to be filed by paragraph (1) must be filed so that it is received no later than 14 days after the day on which the Commission received the appellant's reply.

(3) The Tribunal must send to the appellant a copy of any list and material filed by the Commission in accordance with paragraph (1).

Exceptions to disclosure

8.—(1) A list provided in accordance with rule 5(3)(a), 6(3) or 7(1) need not include any document in respect of which an application has been or is being made under paragraph (2).

(2) A party may apply to the Tribunal (without giving notice to the other party) for a direction authorising that party not to include a document in the list required by rule 5(3)(a), 6(3) or 7(1) on the ground that—

- (a) disclosure would not be in the public interest;
- (b) the document contains commercially sensitive information;
- (c) disclosure could not be compelled in the trial of an action in a court of law in that part of the Great Britain where the appeal is to be decided; or

- (d) disclosure would not be fair, having regard to—
 - (i) the likely significance of the document to the appellant in relation to the appeal before the Tribunal; and
 - (ii) the potential prejudice to the legitimate interests of a person other than the appellant, which would be caused by disclosure of the document.
- (3) For the purpose of deciding an application by a party under paragraph (2), the Tribunal may—
 - (a) require that the document be produced to the Tribunal together with a statement of the reasons why it should not be included in the list; and
 - (b) invite the other party to make representations.
- (4) If the Tribunal refuses an application under paragraph (2) it must direct that party—
 - (a) to revise the list so as to include the document; and
 - (b) to file a copy of that list as revised and the relevant document.
- (5) The Tribunal must send a copy of the list and document filed under paragraph (4) to the other party.

Provision of copy documents

9. Where the Tribunal considers that it would be unreasonable to provide any document contained in a list filed under rule 5(3)(a), 6(3), 7(1) or 8(4)(b) it may make provision for the inspection of that document instead

Directions

- 10.—(1) The Tribunal may at any time give directions to—
- (a) enable the parties to prepare for the hearing of the appeal;
 - (b) assist the Tribunal to determine the issues; and
 - (c) ensure the just, expeditious and economical determination of the appeal generally.
- (2) The Tribunal may give directions on the application of any party or of all the parties or on its own motion.
- (3) Where the Tribunal gives a direction of its own initiative, it may (but need not) give prior notice to the parties of its intention to do so.
- (4) Any application by a party for directions must include the reasons for making that application.
- (5) An application for directions must be filed unless it is made during the course of an oral hearing.
- (6) Unless the application in paragraph (5) is accompanied by the written consent of all the parties or an application without notice is permitted by the Tribunal, the Tribunal must send a copy of the application to the other party.
- (7) Where the application for directions has been filed and a copy sent to the other party in accordance with paragraph (6) any objection to the directions applied for, together with the reasons for the objection, must be sent to the Tribunal within 14 days of the date on which the copy application was sent.
- (8) The Tribunal must send a copy of the objection and reasons in paragraph (7) to the party who applied for the directions and before notifying the parties of the decision that it is minded to make, the Tribunal must invite the parties to object to that decision.
- (9) Directions may be given orally or in writing and, unless the Tribunal decides otherwise in any particular case, notice of any direction (or refusal to give a direction) must be given to the parties.

(10) Directions containing a requirement may specify a time limit for complying with the requirement and must include a statement of the possible consequences of a party's failure to comply with the requirement.

(11) A person to whom a direction is given under these Rules may apply to the Tribunal showing good cause why it should be varied or set aside.

(12) The Tribunal must not grant an application under paragraph (11) without first giving the person who applied for the direction an opportunity to make representations.

Particular types of direction

11. Directions given by the Tribunal may in particular—

- (a) permit the appellant to bring an appeal after the expiry of the time limit under section 142(1);
- (b) fix the time and place of any hearing and alter any time and place so fixed;
- (c) provide for an oral hearing, upon such notice as the Tribunal may determine, in connection with any matter arising under the appeal;
- (d) subject to rule 24, adjourn any oral hearing;
- (e) vary any time limit for anything to be done under these Rules;
- (f) permit or require any party to provide further information or supplementary statements or to amend a response document or a supplementary statement;
- (g) require any party to file any document—
 - (i) that is in the custody or under the control of that party;
 - (ii) that the Tribunal considers is or may be relevant to the determination of the appeal and which is to be used only for the purposes of determining the appeal; and
 - (iii) that has neither been exempted from disclosure by direction given pursuant to rule 8(2) nor been made available pursuant to rules 5(3)(a), 6(3), 7(1) or 8(4)(b),
and may also provide that any such document filed shall be copied to the other party by the Tribunal, or require a party to make it available to the other party for inspection and copying;
- (h) require any party to provide a statement of relevant issues and facts, and to identify those which are, and are not, agreed by the other party;
- (i) require any party to file documents for any hearing under these Rules unless the parties reach an agreement in relation to the documents to be filed;
- (j) require any party to file—
 - (i) a list of the witnesses that the party wishes to call to give evidence at the hearing of the appeal; and
 - (ii) statements of the evidence which those witnesses intend to give, if called;
- (k) make provision for any expert witness to be called (including the number of such witnesses) and the evidence to be given, or any documents to be provided by them;
- (l) provide for the manner in which any evidence may be given;
- (m) provide for languages in addition to English, including provision—
 - (i) as to the venue of any hearing under these Rules so as to ensure the availability of simultaneous interpretation facilities, and
 - (ii) for the translation of any document;
- (n) require that the register must include no or limited particulars about the appeal;

- (o) where two or more appeal notices have been filed—
 - (i) in respect of the same matter;
 - (ii) in respect of separate interests in the same matter; or
 - (iii) which involve the same issues,provide that the appeals or any particular issue or matter raised in the appeals be consolidated or heard together.

Application for permission to make a late appeal

12.—(1) Where the appellant has made an application to the Tribunal for a direction to allow an appeal to be brought after the time limit for doing so has expired, the Tribunal subject to paragraph (2) must consider whether—

- (a) the determination was such as to notify the appellant properly and effectively of the Commission’s decision or action; and
- (b) the existence of the right to make the appeal and the time limit had been notified to the appellant.

(2) The Tribunal must not allow the late appeal to proceed unless it considers that it is in the interests of justice to do so.

Directions fixing the time and place of a hearing

13. Before making a direction under rule 11(b) to fix the time and place of a hearing, the Tribunal must consider—

- (a) whether the appeal should be heard in England or Wales or in Scotland, depending on which jurisdiction is most closely connected to the matters that are the subject of the appeal;
- (b) whether the appeal should be dealt with as a matter of urgency;
- (c) the convenience of the appellant in attending or being able to attend a hearing which is to be heard as a matter of urgency at short notice; and
- (d) the convenience of any person that a party is minded to call as a witness, being able to attend a hearing which is to be heard as a matter of urgency at short notice.

Notification of witnesses

14. Each party must, not less than 14 days before the day fixed for the hearing of the appeal, file a written notice stating—

- (a) whether he intends to call witnesses; and
- (b) the names of those witnesses he intends to call,

and the Tribunal must send a copy of the notice to the other party.

Directions varying time limits

15.—(1) The Tribunal must not make a direction under rule 11(e) to vary any time limit imposed by these Rules or by a previous direction of the Tribunal, whether on the application of any party or of its own initiative, unless it is satisfied that it is in the interests of justice to do so.

(2) Before making a direction to vary any time limit, the Tribunal must consider whether the appeal should be dealt with as a matter of urgency and without prejudice to paragraph (3), must take into consideration any objections.

(3) The Tribunal may direct that a time limit be extended by 14 days or less without first considering whether any party objects to the direction, but any such objection must be taken into account on any subsequent application to extend a time limit.

(4) The Tribunal may direct that a time limit be extended whether or not that time limit has already expired.

(5) A time limit which has previously been extended may from time to time be further extended by directions of the Tribunal, whether or not that or any subsequent such time limit has already expired.

(6) Where a party files a response document or list later than any time limit imposed or extended under these Rules but without applying for a direction under rule 11(e) extending the time limit, that party must be treated as applying for such a direction.

(7) If a response document or list is not filed in accordance with the time limit imposed by or extended under these Rules, the Tribunal may of its own initiative direct that the document or list be filed by a specified date.

Further matters regarding specific directions

16.—(1) If the Tribunal gives a direction under rule 11(f) to permit or require a party to provide further information, a supplementary statement or to amend a response document or supplementary statement, the direction may require that party to file any such information, statement or amendment and provide that the Tribunal will send a copy to the other party.

(2) The Tribunal must not give a direction under rule 11(g) or (i) if it considers that any of the grounds in rule 8(2) apply in relation to the documents which would be the subject of the direction, and for the purpose of satisfying itself in respect of any such document, the Tribunal may—

- (a) require that the document be produced to the Tribunal;
- (b) conduct any hearing in the absence of any party; and
- (c) invite any party to make representations.

(3) In the case of an application for a direction under rule 11(n) that the register should include no or limited particulars about the appeal, the Tribunal may give such a direction if it is satisfied that this is necessary, having regard to—

- (a) the interests of public order, national security or the protection of the private lives of the parties; or
- (b) any unfairness to the appellant or prejudice to the interests of justice that might result from the register including particulars about the appeal.

Summoning of witnesses

17.—(1) Any party may apply to the Tribunal for a summons to require any person to—

- (a) attend, at such time and place as is specified in the summons, to give evidence as a witness;
- (b) file, within the time specified in the summons, any document in his custody or under his control which the Tribunal considers it necessary to examine; or
- (c) both attend and file in accordance with sub-paragraphs (a) and (b).

(2) Any summons issued by the Tribunal under paragraph (1) must—

- (a) state the name and address of the person to be summoned; and
- (b) be signed on behalf of the Tribunal,

and it is the responsibility of the party who made the application under paragraph (1) to serve the summons.

(3) No person may be required under this rule to file a document where the Tribunal is satisfied that a ground in rule 8(2) applies in relation to the document and, for the purpose of satisfying itself in respect of any such document, the Tribunal may—

- (a) require that the document be produced to the Tribunal;
- (b) conduct any hearing in the absence of any party; and
- (c) invite any party to make representations.

(4) The person to whom a summons is addressed must be given not less than 7 days notice of their obligations under paragraph (1).

(5) Every summons under paragraph (1) must contain a statement warning of the effect of failing to comply with the summons.

(6) The Tribunal may, upon the application of the person to whom the summons is addressed, direct that the summons be set aside or varied.

(7) If a person, without reasonable excuse, fails to comply with a summons, he commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) At the time of service of a summons under paragraph (1) a person must be offered or paid a sum to cover his expenses in travelling to and from the Tribunal by the party serving the Summons.

Preliminary hearing

18.—(1) The Tribunal may direct that any preliminary question of fact or law which appears to be in issue in relation to the appeal be determined at a preliminary hearing.

(2) If, in the opinion of the Tribunal, the determination of that question substantially disposes of the appeal, the Tribunal may treat the preliminary hearing as the hearing of the appeal and may make such order by way of disposing of the appeal, as it thinks fit.

(3) If the parties so agree in writing, the Tribunal may determine the question under paragraph (1) without an oral hearing, but, in any such case, the Tribunal may not at the same time dispose of the appeal unless the parties have agreed in writing that it may do so.

Withdrawal of appeal and unopposed appeals

19.—(1) The appellant may withdraw the appeal—

- (a) at any time before the hearing of the appeal, without permission, by filing a notice in writing to that effect; or
- (b) at the hearing of the appeal, with the Tribunal's permission,

and the Tribunal must dismiss any appeal that is so withdrawn.

(2) The Commission may state that it does not oppose the appeal or that it is withdrawing its opposition to it—

- (a) at any time before the hearing of the appeal, without permission, by filing a notice to that effect; or
- (b) at the hearing of the appeal, with the Tribunal's permission,

and the Tribunal must allow the appeal.

(3) In any case where—

- (a) the Commission does not file a statement of case within the time limit imposed by rule 5(1) (or any such time limit as varied by a direction under rule 11(e)); or
- (b) the appellant does not file a reply within any time limit imposed by rule 6(1) (or any such time limit as varied by a direction under rule 11(e)),

the Tribunal may (subject to its power to give a direction pursuant to rule 15(7)) determine the appeal without an oral hearing in accordance with rule 21, but it must not dismiss an appeal without notifying the appellant that it is minded to do so and giving him an opportunity to make representations.

Pre-hearing review

20.—(1) The following paragraphs of this rule apply if the Tribunal directs that it is appropriate to hold a pre-hearing review.

(2) The pre-hearing review may be held at any time before the hearing of the appeal.

(3) The Tribunal must give the parties not less than 14 days' notice of the time and place of the pre-hearing review.

(4) At the pre-hearing review—

- (a) the Tribunal must give all directions appearing necessary or desirable for securing the just, expeditious and economical conduct of the appeal; and
- (b) the Tribunal must endeavour to secure that the parties make all admissions and agreements, as they ought reasonably to make in relation to the proceedings.