

2006 No. 3293

BETTING, GAMING AND LOTTERIES

The Gambling Appeals Tribunal Rules 2006

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The Lord Chancellor makes the following Rules in exercise of the powers conferred on him by sections 146 and 355(5) of, and paragraphs 9 and 14 of Schedule 8 to, the Gambling Act 2005^(a), after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992^(b).

(a) 2005 c.19.
(b) 1992 c.53.

PART 1

Introduction

Citation and commencement

1. These Rules may be cited as the Gambling Appeals Tribunal Rules 2006 and shall come into force on 1st January 2007.

Interpretation

2.—(1) A reference in these Rules—

- (a) to a rule by number alone means the rule so numbered in these Rules; and
- (b) to a section or Schedule by number alone means the section or Schedule so numbered in the Gambling Act 2005.

(2) In these Rules, unless the context otherwise requires—

“the 2005 Act” means the Gambling Act 2005;

“appeal” means an appeal to the Tribunal under section 141 or 337(1);

“appeal notice” means a notice filed under rule 4;

“appellant” means a person who brings an appeal before the Tribunal;

“applicant” means a person who applies for permission to appeal from a final determination of the Tribunal;

“chairman” means the person from time to time acting as chairman of the Tribunal in respect of an appeal;

“Commission” means the Gambling Commission established under section 20;

“determination” means the Commission’s decision or action, which is the subject of an appeal, or, where appropriate, the written notification of such decision;

“direction” includes any direction, summons or order given or made by the Tribunal;

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information—

(i) in legible form; or

(ii) in a form from which it can readily be produced in a legible form;

“fee” means fee prescribed by regulations made under section 147;

“file” means send to the Tribunal;

“final determination” means the determination of the Tribunal in relation to the appeal before it;

“legal representative” means an authorised advocate or authorised litigator, as defined by section 119(1) of the Courts and Legal Services Act 1990^(a) or any person who according to the law of Scotland, has rights to conduct litigation on behalf of members of the public or rights of audience;

“party” means the appellant or the Commission and “other party” shall be construed accordingly;

“President” means the President of the Tribunal appointed under paragraph 1 of Schedule 8;

“the register” means the register maintained in accordance with rule 33;

“reply” means a reply filed by the appellant under rule 6;

(a) 1990 c.41.

“representations” means written representations or (with the consent of the Tribunal, or at its request) oral representations;

“response document” means—

- (i) in relation to the Commission, its statement of case; and
- (ii) in relation to the appellant, his reply;

“statement of case” means a statement filed by the Commission under rule 5;

“supplementary statement” means a statement that is supplementary to a response document and filed in accordance with a direction given under rule 11(f);

“the Tribunal” means the Gambling Appeals Tribunal established under section 140.

(3) Unless the context requires otherwise, anything permitted or required by these Rules to be done by a party may be done by any representative of that party.

Scope of these Rules

3. These Rules apply to all appeals to the Tribunal.

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.

PART 3

Hearings

Determination without oral hearing

21.—(1) The Tribunal may determine an appeal, or any particular issue, without an oral hearing if—

- (a) the parties agree in writing;
- (b) the issue concerns an application for directions, or
- (c) rule 19(3) applies.

(2) Where an appeal or an issue is determined in accordance with this rule, the Tribunal must consider whether there are circumstances making it undesirable to publish the whole or part of its decision.

(3) Before reaching a decision under paragraph (2), the Tribunal must invite the parties to make representations on the matter.

(4) If the Tribunal decides that a restriction on publication is desirable the Tribunal may take any steps, including any one or more of the steps specified in paragraph (6).

(5) Any step taken under paragraph (4) must be taken with a view to ensuring the minimum restriction on publication that is consistent with the need for the restriction.

(6) The steps a Tribunal can take under paragraph (4) are—

- (a) anonymising the decision;
- (b) editing the text of the decision; and
- (c) declining to publish the whole or part of the decision.

Public hearings and directions for private hearings

22.—(1) In this rule, “hearing” means any hearing under these Rules but does not include—

- (a) any determination under rule 21(1); or
- (b) the hearing of any application made to the Tribunal without notice to the other party.

(2) Subject to the following paragraphs of this rule, all hearings must be in public.

(3) The Tribunal may direct that all or part of a hearing must be in private—

- (a) upon the application of all the parties; or
- (b) upon the application of any party, if the Tribunal is satisfied that a hearing in private is necessary, having regard to—
 - (i) the interests of public order, national security or the protection of the private lives of the parties; or
 - (ii) any unfairness to the appellant that might result from a hearing in public,

if the Tribunal is satisfied that a hearing in private would not prejudice the interests of justice.

(4) Before determining an application under paragraph (3)(b), the Tribunal must give the other party an opportunity to make representations.

(5) Before giving a direction under paragraph (3) that all of a hearing should be in private, the Tribunal must consider whether only part of the hearing should be in private.

(6) The Tribunal may direct that any proceedings are to be held in private and may direct that any particular individual be excluded from those proceedings.

(7) The Tribunal may permit any individual to attend a hearing that is held in private.

(8) The Tribunal may exclude from the whole or part of a hearing any person whose conduct, in the opinion of the Tribunal, has disrupted or is likely to disrupt the hearing.

(9) Subject to any direction under paragraph (10), the Tribunal must provide for the public inspection at the Tribunal's offices of a daily list of all hearings that are to be held, together with information about the time and place fixed for the hearings.

(10) Where all or part of a hearing is held or is to be held in private, the Tribunal may direct that information about the whole or part of the proceedings before the Tribunal (including information that might help to identify any person) must not be made public.

(11) A direction under paragraph (10) may provide for the information (if any) that is not to be entered in the register or that is to be removed from it.

Representation at hearings

23.—(1) Subject to paragraph (2), the parties may appear at the hearing (with assistance from any person if desired), and may be represented by any person, whether or not that person is legally qualified.

(2) Where the Tribunal is satisfied that there are sufficient reasons for doing so, it may refuse to permit a person to assist or represent a party at the hearing.

(3) In this rule, "hearing" means any hearing under these Rules.

Adjournment of hearing

24.—(1) Where a party applies for an adjournment of an appeal hearing, he must—

- (a) if practicable, notify all other parties of the application;
- (b) show good reason why an adjournment is necessary; and
- (c) produce evidence of any fact or matter relied upon in support of the application.

(2) The Tribunal must not adjourn a hearing of an appeal on the application of a party, unless satisfied that the appeal cannot otherwise be justly determined.

(3) The Tribunal must not, in particular, adjourn a hearing on the application of a party in order to allow the party more time to produce evidence, unless satisfied that—

- (a) the evidence relates to a matter in dispute;
- (b) it would be unjust to determine the appeal without permitting the party a further opportunity to produce the evidence; and
- (c) where the party has failed to comply with directions for the production of the evidence, he has produced a satisfactory explanation for that failure.

(4) Where the hearing of an appeal is adjourned, the Tribunal must fix a new hearing date which—

- (a) must not be more than 28 days after the original hearing date, unless there are exceptional circumstances that mean the appeal cannot justly be heard within that time; and
- (b) must not be later than is strictly required by the circumstances necessitating the adjournment.

Procedure at hearing

25.—(1) Subject to the 2005 Act and these Rules, the Tribunal must conduct all hearings under these Rules in such manner as it considers most suitable to the clarification of the issues before it and generally to the just, expeditious and economical determination of the proceedings.

(2) Subject to any directions by the Tribunal, the parties may—

- (a) give evidence;
- (b) call witnesses (and, with the consent of the Tribunal, bring expert evidence);

(c) question any witnesses; and

(d) address the Tribunal on the evidence, and generally on the subject matter of the appeal.

(3) The Tribunal may require the oral evidence of a witness to be given on oath or affirmation and for that purpose may administer the oath or affirmation.

(4) Evidence may be admitted by the Tribunal whether or not it would be admissible in a court of law and whether or not it was available to the Commission when the Commission's determination was made.

(5) If a party fails to attend either in person or by representation at any hearing of which that party has been duly notified, the Tribunal may, if it is satisfied that there is no sufficient reason for the absence—

(a) hear and determine the application or appeal in the party's absence; or

(b) adjourn the hearing,

and may give any directions it thinks fit.

Late written evidence

26.—(1) A party may rely on further written evidence which satisfies the conditions set out in paragraph (2) unless the Tribunal, after considering any representations from the other party, is of the opinion that it would be contrary to the interests of justice.

(2) The conditions to be satisfied in paragraph (1) are that—

(a) the evidence was not, and could not reasonably have been, available to that party before the expiry of the period for filing a statement of case (in the case of the Commission) or a reply (in the case of the appellant);

(b) a copy of the evidence was filed by the party and sent by the Tribunal to the other party, to arrive at least 7 working days before the hearing; and

(c) the extent and form of the evidence is such that, in the opinion of the Tribunal, it is not likely to impede the efficient conduct of the hearing.

(3) If the conditions in paragraph (2) are not satisfied, the Tribunal may nevertheless give a party permission to rely on further written evidence at the hearing if it is of the opinion that it is in the interests of justice to do so.

(4) Before the hearing the Tribunal may refer to copies of evidence sent to the Tribunal under paragraph (2)(b) for the purpose of considering whether or not it satisfies the conditions in paragraph (2)(a), (b) and (c).

(5) If the evidence is not admitted the Tribunal must disregard it in determining the appeal.

Final determination of the Tribunal

27.—(1) Subject to paragraph (2) the Tribunal must make arrangements for public access to its final determination.

(2) Where the whole or any part of any hearing under these Rules was held in private, the Tribunal must consider whether, having regard to—

(a) the reason for the hearing or any part of it being in private; and

(b) the outcome of the hearing,

it would be undesirable to publish the whole or part of its final determination.

(3) If the Tribunal decides that a restriction on publication is desirable the Tribunal may take any steps, including any one or more of the steps specified in paragraph (5).

(4) Any step taken under paragraph (3) must be taken with a view to ensuring the minimum restriction on publication that is consistent with the need for the restriction.

(5) The steps that can be taken by the Tribunal under paragraph (3) are—

- (a) anonymising the decision;
 - (b) editing the text of the decision; and
 - (c) declining to publish the whole or part of the decision.
- (6) Before reaching a decision under paragraph (2), the Tribunal must invite the parties, and may invite any interested parties, to make representations on the matter.
- (7) The Tribunal must as soon as may be practicable—
- (a) whether there has been an oral hearing or not, send a notification of the final determination, including reasons for the decision, to each of the parties to the appeal; and
 - (b) subject to any steps taken under paragraph (3), under rule 21(4) or any direction given under rule 22(11), enter the final determination in the register.
- (8) The notification of the final determination which is sent to the parties under paragraph (7)(a) must be accompanied by a notification of—
- (a) any relevant provision of the 2005 Act relating to appeals from the Tribunal; and
 - (b) the time within which and the place at which an application for permission to appeal may be made.

Costs

- 28.**—(1) In this rule—
- (a) “costs order” means an order (other than a fee reimbursement order) that a party pay the whole or part of the costs, or in Scotland, expenses reasonably incurred by another party;
 - (b) “fee reimbursement order” means an order under paragraph (4);
 - (c) “paying party” and “receiving party” mean, respectively, the parties against whom and in whose favour the Tribunal makes or considers making a costs order.
- (2) The Tribunal may make a costs order against an appellant if it considers the bringing of the appeal, or the appellant’s conduct in relation to the appeal, to be unreasonable or improper.
- (3) The Tribunal may make a costs order against the Commission if it considers—
- (a) that the Commission’s decision or action which is the subject of the appeal was unreasonable to the extent that no reasonable person having the Commission’s powers and being subject to the Commission’s duties could have made that decision or taken that action; or
 - (b) that the Commission’s conduct in relation to the appeal was unreasonable or improper to the extent that no reasonable person having the Commission’s powers and being subject to the Commission’s duties would have conducted themselves in that way; or
 - (c) that both paragraphs (a) and (b) apply.
- (4) If the Tribunal allows the appellant’s appeal but does not make a costs order against the Commission it must, unless it considers that there is a good reason not to do so, order the Commission to pay the appellant an amount equal to any fees paid by the appellant.
- (5) The Tribunal must not make a costs order or a fee reimbursement order without first giving the party against whom the order is made an opportunity to make representations against the making of the order.
- (6) Where the Tribunal makes a costs order it may make an order—
- (a) that an amount fixed by the Tribunal must be paid to the receiving party; or
 - (b) that the costs shall be assessed or expenses shall be taxed—
 - (i) in England and Wales, by a costs officer; and
 - (ii) in Scotland, by the Auditor of the Court of Session;
- on such basis as the Tribunal specifies.

Review of Tribunal's decision

29.—(1) If, on the application of a party or of its own initiative, the Tribunal is satisfied that—

- (a) its final determination was wrongly made as a result of an error; or
- (b) new evidence has become available since the conclusion of the hearing to which that final determination relates, the existence of which could not have been reasonably known or foreseen,

the Tribunal may review and set aside that final determination.

(2) An application for the purposes of paragraph (1) stating the grounds on which an application is based must be made—

- (a) orally at the hearing immediately following the announcement of the decision by the Tribunal; or
- (b) by way of written application filed not later than 14 days after the notification under paragraph 27(7)(a) of the final determination is sent to the parties.

(3) Where the Tribunal proposes to review its final determination on its own initiative, it must notify the parties of that proposal not later than 14 days after the date on which the final determination was sent to the parties.

(4) The parties must be given an opportunity to make representations on any application or proposal for review under this rule and the review may be determined either by the same members of the Tribunal who decided the case or by a differently constituted Tribunal appointed by the President.

(5) The decision of the Tribunal whether or not to set aside the final determination must be recorded in a certificate signed on behalf of the Tribunal.

(6) If the Tribunal sets the final determination aside—

- (a) the Tribunal must—
 - (i) substitute such final determination as it thinks fit; or
 - (ii) order a re-hearing before either the same or a differently constituted Tribunal; and
- (b) the certificate of the Tribunal recording the final determination in accordance with paragraph (5) must be sent to the appropriate member of the Tribunal staff who must immediately—
 - (i) make such correction as may be necessary in the register; and
 - (ii) send a copy of the entry so corrected to each party.

(7) If the Tribunal does not set the final determination aside it must notify each of the parties in writing to this effect.

PART 4

Appeal from the Tribunal

Application for permission to bring an appeal against the Tribunal's final determination

30.—(1) An application to the Tribunal for permission to bring an appeal against the Tribunal's final determination may be made—

- (a) orally at the hearing immediately following the announcement of the final determination by the Tribunal;
- (b) by way of written application filed not later than 14 days after the notification of the final determination is sent to the party making the application; or
- (c) by way of written application filed not later than 14 days after the notification under rule 29(7) that a decision is not to be set aside.

(2) When an application is made under paragraph (1)(b) or (c), it must be signed by the applicant and must—

- (a) state the name and address of the applicant and any representative of the applicant;
- (b) identify the decision of the Tribunal to which the application relates; and
- (c) state the grounds on which the applicant intends to rely in the appeal from the Tribunal.

(3) Where a representative, other than a legal representative, is named under paragraph (2)(a) and the application is signed by the representative on behalf of the applicant, the applicant must file with the application a written statement, signed by him, that the representative is authorised to so act.

Permission to bring an appeal against the final determination of the Tribunal

31.—(1) The application for permission to bring an appeal against the final determination of the Tribunal must be decided without an oral hearing unless—

- (a) the application is made immediately following the hearing; or
- (b) the Tribunal considers that a hearing is desirable.

(2) The decision of the Tribunal on an application for permission to bring an appeal against the final determination of the Tribunal, together with the reasons for its decision, must be recorded in writing.

(3) Unless the decision is given immediately following an oral application, the Tribunal must notify the applicant and each of the other parties of the decision and the reasons for the decision in writing.

(4) Where the Tribunal refuses the application, the notification to the applicant under paragraph (3) must include notification of the time within which an application for permission to bring an appeal against the Tribunal's final determination may be made in England and Wales to the High Court or in Scotland to the Court of Session.

Appeal remitted for rehearing

32.—(1) This rule applies where the High Court or the Court of Session remits an appeal to the Tribunal, under section 143(3)(c), for rehearing and determination (“rehearing”).

(2) These Rules, so far as relevant, apply to the rehearing as they did to the original hearing of the appeal.

(3) The Tribunal must, within 28 days of the remittal, give directions in relation to the rehearing.

PART 5

General

The register

33.—(1) The Tribunal must maintain a register containing particulars of appeals to, and decisions of (including the final determination) the Tribunal.

(2) The register must reasonably accessible to any person without charge.

Miscellaneous powers of Tribunal

34.—(1) Subject to the provisions of the 2005 Act and these Rules, the Tribunal may regulate its own procedure.

(2) Without limiting any other powers conferred on it by the 2005 Act or these Rules, the Tribunal may, if it thinks fit—

- (a) order any response document, supplementary statement or written representation to be struck out at any stage of the proceedings on the ground that it—
 - (i) discloses no reasonable grounds for bringing or defending the appeal;
 - (ii) is an abuse of process; or
 - (iii) is otherwise likely to obstruct the just disposal of proceedings.
- (b) order any appeal to be struck out for inordinate delay.

(3) Before making any order under paragraph (2), the Tribunal must provide an opportunity for the party against whom it is proposed that the order should be made, to make representations against the making of the order.

Failure to comply

35.—(1) Where a party has, without reasonable excuse, failed to comply—

- (a) with a direction given under these Rules; or
- (b) with a provision of these Rules,

the Tribunal may take any one or more of the steps set out in paragraph (2) in respect of that party.

(2) The steps referred to in paragraph (1) are to—

- (a) make a costs order against that party;
- (b) where that party is the appellant, dismiss the whole or part of the appeal;
- (c) where that party is the Commission, strike out the whole or part of the statement of case and, where appropriate, direct that the Commission be disqualified from contesting the appeal altogether.

(3) The Tribunal must not take any of the steps set out in paragraph (2) in respect of a party unless it has given that party an opportunity to make representations against the taking of any such steps.

Dishonoured cheques for fees

36.—(1) This rule applies where the appellant pays any fee by cheque and that cheque is subsequently dishonoured.

(2) The Tribunal must serve a notice on the appellant requiring payment of the fee specifying the date by which the fee must be paid.

(3) If the fee is not paid by the date specified in the notice—

- (a) the appeal will automatically be struck out without further order of the Tribunal; and
- (b) the appellant will be liable for the costs that any other party has incurred unless the Tribunal orders otherwise.

Irregularities

37.—(1) Any irregularity resulting from failure to comply with either any provision of these Rules or of any direction of the Tribunal before the Tribunal has reached its final determination does not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Tribunal, the Tribunal may, and must if it considers that any person may have been prejudiced by the irregularity, give such directions as it thinks just to cure or waive the irregularity.

(3) Clerical mistakes in any document recording a direction or decision (including the final determination) of the Tribunal or errors arising in such a document from an accidental slip or omission, may be corrected by a certificate signed by the Tribunal.

Power of chairman to exercise powers of Tribunal

38. Where a Tribunal consists of more than one member, any matter (other than the final determination of the Tribunal or the setting aside of the final determination of the Tribunal) required or authorised by these Rules to be done by the Tribunal may be done by the chairman.

Proof of documents

39.—(1) Any document purporting to be a document duly executed or issued by the Tribunal is, unless proved to the contrary, deemed to be a document so executed or issued.

(2) A document purporting to be certified by the Tribunal to be a true copy of any entry of a decision in the register is, unless proved to the contrary, sufficient evidence of the entry and of the matters referred to in it.

Sending notices

40.—(1) This rule applies to any notice sent under these Rules, and in this rule—

- (a) “notice” includes any notice or other information required or authorised by these Rules to be sent to any person; and
- (b) “recipient” means a person to or on whom any notice is required or authorised to be sent for the purposes of these Rules.

(2) A notice may be sent—

- (a) by a postal service which seeks to deliver documents or other things by post no later than the next working day in all or in the majority of cases;
- (b) by fax;
- (c) by e-mail to an e-mail address; or
- (d) by personal delivery.

(3) A notice must be sent—

- (a) in the case of a notice directed to the Tribunal, to the Tribunal’s office;
- (b) in the case of a notice directed to the appellant—
 - (i) to his representative; or
 - (ii) where there is no representative, to the appellant, at the appropriate address notified to the Tribunal in accordance with rule 4(3)(c);
- (c) in the case of a notice directed to the Commission, to the Commission’s head office; or
- (d) otherwise, to the recipient’s registered office or last known address.

(4) Subject to paragraphs (5) and (6), a notice that is sent is deemed, unless the contrary is proved, to have been received—

- (a) where it was sent by post, on the second day after it was sent; and
- (b) in any other case, on the day it was sent.

(5) Where a notice is sent by post to the Tribunal, it is deemed to have been received on the day it was actually received by the Tribunal.

(6) No notice is deemed to have been received if it is not received—

- (a) in legible form; or
- (b) in a form from which it can readily be produced in a legible form.

(7) Paragraph (8) applies where—

- (a) a recipient cannot be found;
- (b) a recipient has died and has no known personal representative;
- (c) a recipient has no address for service in the United Kingdom; or

(d) for any other reason service on a recipient cannot be readily effected.

(8) Where this paragraph applies the Tribunal may dispense with service on the recipient or may make an order for alternative service on such other person or in such other form (whether by advertisement in a newspaper or otherwise) as the Tribunal may think fit.

Calculation of time

41.—(1) Where a period of time for doing any act is specified by these Rules or by a direction of the Tribunal, that period is to be calculated—

- (a) excluding the day on which the period begins; and
- (b) where the period is 10 days or less, 10 working days.

(2) In this rule “10 working days” means any period of 10 days not including—

- (a) Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) any day which is a bank holiday under, the Banking and Financial Dealings Act 1971(a).

Signature of documents

42. Any requirement in these Rules for a document to be signed by a party or his representative is satisfied, in the case of a document which is sent electronically in accordance with these Rules, by the person who is required to sign the document typing his name or producing it by computer or other mechanical means.

On the authority of the Lord Chancellor

8th December 2006

Cathy Ashton
Parliamentary Under –Secretary of State
Department for Constitutional Affairs

(a) 1971 c.80.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules regulate the procedure for appeals to the Gambling Appeals Tribunal (“the Tribunal”), established under section 140 of the Gambling Act 2005.

Part 1 (rules 1 to 3) introduces the Rules and includes interpretation of terms used in the Rules.

Part 2 (rules 4 to 20) contains preliminary matters, which take place prior to the appeal hearing.

Part 3 (rules 21 to 29) applies when the appeal hearing has commenced.

Part 4 (rules 30 to 32) makes provision for appeals from the Tribunal to the High Court in England and Wales or in Scotland, the Court of Session.

Part 5 (rules 33 to 42) makes provision for general matters such as, the register kept by the Tribunal and the rules that apply to the sending of notices.

In particular, the Rules make the following provision.

Rule 4 provides for the bringing of an appeal by the appellant filing an appeal notice with the Tribunal.

Rule 5 provides that a statement of case must be filed by the Commission in support of its determination and rule 6 provides that the appellant must reply to that statement of case. Both rules set out what information the relevant documents should contain and also that they should be accompanied by a list and copies of certain information all of which must be filed with the Tribunal.

Rule 8(2) allows a party to request that a document that they are otherwise obliged to disclose is exempted from such disclosure on the grounds that it would not be in the public interest, that the document contains commercially sensitive information, that the document is privileged or that it is disproportionate to the case to order such disclosure.

The direction making powers of the Tribunal are contained in rules 10 to 13 and 15 and 16. Rule 10 provides that the Tribunal may make directions to ensure the just, expeditious and economical determination of the appeal. Rule 11 lists examples of particular directions that the Tribunal may give; rules 12, 13, 15 and 16 provide further information about the making of a particular direction listed in rule 11.

Rule 18 applies where the Tribunal directs that a hearing to determine a preliminary question of law or fact is to take place before the substantive hearing of the appeal takes place.

Rule 20 applies where the Tribunal directs that a pre hearing review of the case is to be held. The purpose of a pre hearing review is to assist the Tribunal in ensuring the fair and prompt hearing of the appeal by making any directions necessary to achieve that objective.

Rule 21 applies when the Tribunal determines an appeal without an oral hearing. When an appeal is determined in accordance with this rule the Tribunal must consider whether it is undesirable to publish of the whole or part of its final determination. The Tribunal will take into account the circumstances of the case, such as whether there are matters of commercial sensitivity or personal details relating to key personnel in an organisation or relating to a personal licence holder before deciding to publish the whole or part of its final determination.

Rule 22 provides an exemption to the general rule that all hearings must be held in public. The Tribunal will look at the particular circumstances of the case and will allow the hearing to take place without the attendance of the press and public when it considers that it is in the interests of justice to do so. Under this rule, the Tribunal can permit any other person to attend a private hearing when it thinks that it is necessary for the fair hearing of the appeal, for example, the attendance of an interpreter.

Rule 27 allows the Tribunal to consider whether it would be undesirable to publish the whole or part of its' final determination when the whole or part of the hearing was held in private.

Rule 28 allows the Tribunal to make a costs order against the appellant or the Commission in relation to the bringing of the appeal or their conduct.

Rules 30 and 31 apply when a person seeks permission from the Tribunal to bring an appeal against the final determination of the Tribunal to the High Court in England and Wales or the Court of Session in Scotland. The application for permission to bring an appeal in these circumstances must be decided without an oral hearing unless the Tribunal considers that a hearing is desirable.

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