



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 7 **E+W+S**

#### OPERATING AND PERSONAL LICENCES: APPEALS

#### [<sup>F1</sup>140 Definition of “the Tribunal” **E+W+S**

In this Part “the Tribunal” means the First-tier Tribunal.]

##### Textual Amendments

**F1** S. 140 substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 94](#) (with [Sch. 5](#))

##### Commencement Information

**II** S. 140 in force at 1.1.2007 by [S.I. 2006/3272](#), art. 2(1), [Sch. 1](#) (with arts. 7-11, 7-12, [Sch. 4](#))

#### 141 Appeal to Tribunal **E+W+S**

- (1) Where the Commission determines an application under section 69 or 112 (including either of those sections as applied by section 128) for the issue or renewal of an operating licence or a personal licence, the applicant may appeal to the Tribunal.
- (2) Where the Commission attaches a condition to a licence under section 77 (including that section as applied by section 128) the licensee may appeal to the Tribunal.
- (3) Where the Commission determines an application under section 102(2)(b) the applicant may appeal to the Tribunal.
- (4) Where the Commission determines an application under section 104 (including that section as applied by section 128) the applicant may appeal to the Tribunal.
- (5) Where the Commission gives a notice under section 114(1)(b) (including that section as applied by section 128) the licensee may appeal to the Tribunal.

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- (6) Where the Commission takes action, or determines to take action, under section 117 (including that section as applied by section 128) in respect of a licence, the licensee may appeal to the Tribunal.
- (7) Where the Commission takes action, or determines to take action, under section 118 (including that section as applied by section 128) in respect of a licence, the licensee may appeal to the Tribunal.
- (8) Where the Commission takes action, or determines to take action, under section 119 (including that section as applied by section 128) in respect of a licence, the licensee may appeal to the Tribunal.
- (9) Where the Commission gives a notice imposing a penalty on a licensee under section 121(4) (including that section as applied by section 128) the licensee may appeal to the Tribunal.

**Modifications etc. (not altering text)**

- C1** S. 141 modified (1.1.2007) by [The Gambling Act 2005 \(Commencement No. 6 and Transitional Provisions\) Order 2006 \(S.I. 2006/3272\)](#), art. 1(1), **Sch. 4 para. 48(10)**

**Commencement Information**

- I2** S. 141 in force at 1.1.2007 by [S.I. 2006/3272](#), art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

**<sup>F2</sup>142 Timing E+W+S**

**Textual Amendments**

- F2** S. 142 omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 95** (with Sch. 5)

**<sup>F3</sup>143 Appeal from Tribunal E+W+S**

**Textual Amendments**

- F3** S. 143 omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 96** (with Sch. 5)

**144 Powers of Tribunal E+W+S**

- (1) On an appeal under section 141 against a decision or action taken by the Commission the Tribunal may—
  - (a) affirm the Commission's decision or action;
  - (b) quash the Commission's decision or action in whole or in part;
  - (c) substitute for all or part of the Commission's decision or action another decision or action of a kind that the Commission could have taken;

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- (d) add to the Commission's decision or action a decision or action of a kind that the Commission could have taken;
  - (e) remit a matter to the Commission (generally, or for determination in accordance with a finding made or direction given by the Tribunal);
  - (f) reinstate a lapsed or revoked licence.
- (2) In determining an appeal instituted out of time under [<sup>F4</sup>Tribunal Procedure Rules] or following a direction under section 145(2) the Tribunal may, in addition to the matters specified in subsection (1) above, make any order that it thinks appropriate.
- (3) In determining an appeal the Tribunal shall have regard to any relevant provision of a code of practice issued by the Commission under section 24.
- (4) In determining an appeal the Tribunal may take account of evidence which was not available to the Commission.
- (5) Section 141 applies to a decision or action of the Commission following remittal under subsection (1)(e) above.

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**Textual Amendments**

- F4** Words in s. 144(2) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 97](#) (with [Sch. 5](#))
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**Commencement Information**

- I3** S. 144 in force at 1.1.2007 by [S.I. 2006/3272](#), art. 2(1), [Sch. 1](#) (with arts. 7-11, 7-12, [Sch. 4](#))

**145 Stay pending appeal** **E+W+S**

- (1) A decision or other action under Part 5 or 6 shall have no effect while an appeal under section 141—
- (a) could be brought (ignoring the possibility of an appeal out of time under [<sup>F5</sup>Tribunal Procedure Rules] ), or
  - (b) has been brought and has not yet been either finally determined or abandoned.
- (2) But when making a decision or taking other action under Part 5 or 6 the Commission may direct that subsection (1) shall not apply.

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**Textual Amendments**

- F5** Words in s. 145(1)(a) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 98](#) (with [Sch. 5](#))
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**Commencement Information**

- I4** S. 145 in force at 1.1.2007 by [S.I. 2006/3272](#), art. 2(1), [Sch. 1](#) (with arts. 7-11, 7-12, [Sch. 4](#))

**146** [<sup>F6</sup>Tribunal Procedure Rules] **E+W+S**

- [<sup>F7</sup>(1) Tribunal Procedure Rules may make provision—
- (a) regulating the exercise of a right of appeal under this Act to the Tribunal;

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- (b) for the suspension by the Tribunal of decisions of the Commission (whether or not they have already taken effect).]

<sup>F8</sup>(2) .....

- (3) [<sup>F9</sup>In the case of proceedings before the Tribunal under this Act, Tribunal Procedure Rules may] provide—

- (a) that a person commits an offence if without reasonable excuse he fails to comply with a requirement of a specified kind imposed by or in accordance with the rules, and
- (b) that a person guilty of the offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Textual Amendments**

**F6** S. 146 heading substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 99(a)** (with Sch. 5)

**F7** S. 146(1) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 99(b)** (with Sch. 5)

**F8** S. 146(2) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 99(c)** (with Sch. 5)

**F9** Words in s. 146(3) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 99(d)** (with Sch. 5)

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**Commencement Information**

**I5** S. 146 in force at 1.1.2007 by [S.I. 2006/3272](#), art. 2(1), **Sch. 1** (with arts. 7-11, 7-12, Sch. 4)

<sup>F10</sup>**147 Fees** **E+W+S**

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**Textual Amendments**

**F10** S. 147 omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 100** (with Sch. 5)

**148 Legal assistance** **E+W+S**

- (1) The Lord Chancellor may by regulations establish a scheme for the provision of legal assistance to appellants to the Tribunal.
- (2) Regulations under subsection (1) may, in particular—
  - (a) specify the kinds of assistance that may be provided;
  - (b) specify the classes of person by whom assistance may be provided;
  - <sup>F11</sup>(c) .....
  - <sup>F11</sup>(d) .....
  - (e) enable the Tribunal to determine eligibility for assistance by reference to criteria specified in the regulations;
  - (f) make provision for an appeal against refusal of assistance;

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- (g) enable assistance to be granted subject to conditions or restrictions imposed by the Tribunal (which may, in particular, include conditions requiring—
    - (i) a person receiving assistance to contribute towards its cost;
    - (ii) a person who received assistance to defray all or part of its cost in specified circumstances);
  - (h) enable the Tribunal to vary or revoke a decision that assistance should be provided;
  - (i) include provision for enforcement of a duty of payment arising under the regulations (which may, in particular, confer jurisdiction on a court).
- (3) Regulations under subsection (1) may, in particular, apply generally or only—
- (a) in relation to specified kinds of appeal;
  - (b) in specified circumstances.
- (4) The Lord Chancellor shall defray the costs of assistance provided under the scheme (subject to subsection (2)(g)).
- (5) Regulations under this section shall have no effect in relation to proceedings heard or to be heard by the Tribunal sitting in Scotland.

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**Textual Amendments**

**F11** S. 148(2)(c)(d) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 101](#) (with Sch. 5)

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**Commencement Information**

**I6** S. 148 in force at 1.1.2007 by [S.I. 2006/3272](#), art. 2(1), [Sch. 1](#) (with arts. 7-11, 7-12, Sch. 4)

**<sup>F12</sup>149 Enforcement of costs orders** **E+W+S**

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**Textual Amendments**

**F12** S. 149 omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 102](#) (with Sch. 5)

**Changes to legislation:**

There are currently no known outstanding effects for the Gambling Act 2005, Part 7.