



# Gambling Act 2005

## 2005 CHAPTER 19

### PART 7

#### OPERATING AND PERSONAL LICENCES: APPEALS

#### **140 The Gambling Appeals Tribunal**

- (1) There shall be a tribunal to be known as the Gambling Appeals Tribunal.
- (2) Schedule 8 (which makes provision about the constitution and proceedings of the Tribunal) shall have effect.
- (3) In this Part “the Tribunal” means the Gambling Appeals Tribunal.

#### **141 Appeal to Tribunal**

- (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.
- (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.

#### **142 Timing**

- (1) An appeal under section 141 must be instituted before the end of the period of one month beginning with the date of the decision or action appealed against.
- (2) But the Tribunal may permit an appeal to be instituted after the end of that period.

#### **143 Appeal from Tribunal**

- (1) A party to proceedings before the Tribunal under section 141 may appeal on a point of law to—
  - (a) the High Court (where the Tribunal proceedings were held in England or Wales), or
  - (b) the Court of Session (where the Tribunal proceedings were held in Scotland).
- (2) An appeal under this section may be brought only with the permission of—
  - (a) the Tribunal, or
  - (b) if the Tribunal refuses permission, the court referred to in subsection (1).
- (3) A court to which an appeal is brought under this section may—
  - (a) affirm the Tribunal's decision;
  - (b) quash the Tribunal's decision;
  - (c) remit the matter to the Tribunal (generally, or for determination in accordance with a finding made or direction given by the court).

#### **144 Powers of Tribunal**

- (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;
  - (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 section 142(2) 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.

#### **145 Stay pending appeal**

- (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 section 142(2)), 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.

#### **146 Rules**

- (1) The Lord Chancellor may make rules—
  - (a) regulating the exercise of a right of appeal to the Tribunal;
  - (b) about practice and procedure in relation to proceedings before the Tribunal.
- (2) Rules under this section may, in particular, specify that a class of person is or is not to be treated as a party to proceedings before the Tribunal—
  - (a) for the purpose of section 143(1);
  - (b) for another specified purpose.
- (3) Rules under this section may, in particular, 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.

#### **147 Fees**

- (1) The Lord Chancellor may, having consulted the Secretary of State, by regulations provide for a fee to be charged for bringing an appeal to the Tribunal.
- (2) The regulations may, in particular—
  - (a) provide for different fees to be charged for different classes of case or in different circumstances;
  - (b) enable the Tribunal to reduce or waive a fee having regard to an appellant's circumstances.

**148 Legal assistance**

- (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;
  - (c) make provision about applications to the Tribunal for assistance;
  - (d) require, or enable the Tribunal to require, the provision of information by an applicant for assistance;
  - (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;
  - (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.

**149 Enforcement of costs orders**

- (1) Where the Tribunal has ordered the payment of the costs of one party to an appeal (“the judgment creditor”) by another party (“the judgment debtor”), payment of those costs may be enforced by the judgment creditor in accordance with subsection (2).
- (2) The judgment creditor may, on application to the county court for the district in which the judgment debtor is resident (or, if the judgment debtor is a company, where it has its registered office), enforce payment in accordance with Part V of the County Courts Act 1984 (c. 28) as if the costs were a sum payable under an order of that court.