

**EXPLANATORY MEMORANDUM TO
THE GAMBLING APPEALS TRIBUNAL (AMENDMENT) RULES 2007**

2007 No. 577

1 This Explanatory Memorandum has been prepared by the Tribunals Service of Department for Constitutional Affairs ('DCA') and is laid before Parliament by Command of Her Majesty.

1.1 This memorandum contains information for the Joint Committee on Statutory Instruments.

2 Description

2.1 The Gambling Appeals Tribunal (Amendment) Rules 2007 ("the corrective instrument") amends drafting errors in the Gambling Appeals Tribunal Rules 2006, S.I. 2006/3293 ('the procedural rules').

2.2 The procedural rules set out the practice and procedures to be followed in relation to proceedings before the Gambling Appeals Tribunal. The overall objective of the procedural rules is to ensure the fair and timely hearing of appeals.

2.3 The corrective instrument makes the following amendments to the procedural rules:

- in rule 5(2)(f) the words "which may be by email" are deleted because they were found to be unnecessary in view of rule 42 which also deals with the signing of documents sent electronically;
- rule 41 has been amended to ensure that, when the time for doing an act in the procedural rules is 10 days or less, only working days are counted as being a day;
- rules 2(2) and 26(2)(b) have been amended as a consequence of the amendments to rule 41 so that there is now a definition of "working day" in rule 2(2), and rule 26(2)(b) no longer makes reference to "working days";
- rule 22(6) has been amended to reflect the policy intention, missing from the procedural rules, that a member of the Council on Tribunals or its Scottish Committee has a right to attend any proceedings of the Gambling Appeals Tribunal that are held in private; and
- rules 17(8) and 33(2) have been amended: a capital letter in the former is replaced with a lower case version and a missing word is inserted into the latter rule.

2.4 The procedural rules were laid before Parliament on 11 December 2006 and came into force on 1st January 2007. The procedural rules were subject to the negative resolution procedure. The corrective instrument is also subject to the negative resolution procedure and will come into force on 26 March 2007.

3 Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 The corrective instrument amends defects in rules 5(2)(f) and 41 of the procedural rules that were brought to the attention of the Department by the Joint Committee on Statutory Instruments ('JCSI').

3.2 The corrective instrument will be issued free of charge to all known recipients of the procedural rules.

4 Legislative Background

4.1 The Gambling Act 2005 ('the 2005 Act') introduced a new independent regulator, the Gambling Commission ('the Commission'), which was established on 1 October 2005. Since 1 January 2007, the Commission has been able to issue operating licences (for organisations and individuals) and personal functional licences and personal management licences (for certain individuals working in the gambling industry, for example croupiers, or managers of a casino).

4.2 The 2005 Act allows for a right of appeal against determinations of the Commission in relation to operating or personal licences (or applications for them) to a new independent tribunal, the Gambling Appeals Tribunal ('GAT') to be administered by the Tribunals Service. The Lord Chancellor has the power under section 146 and paragraph 14 of Schedule 8 of the 2005 Act to make rules in respect of the conduct of proceedings before the GAT.

4.3 The procedural rules were made to further those provisions of the Act. The corrective instrument has been made to amend defective drafting in the procedural rules.

5 Extent

5.1 This instrument applies to Great Britain.

6 European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure, and does not amend primary legislation, no statement is required.

7 Policy Background

7.1 The 2005 Act establishes a new regime for the regulation of commercial gambling in Great Britain. The Commission, which has replaced the Gaming Board for Great Britain, has been set up to regulate betting, gaming (which includes casinos, bingo halls, gaming machines and arcades) and lotteries. Subject to specified exemptions, it is an offence under the 2005 Act to provide facilities for gambling without the appropriate permissions, which include operating and personal licences.

7.2 The 2005 Act sets out different types of operating licence, which can be issued to organisations or individuals, that cover the full spectrum of commercial gambling activities conducted in Great Britain. In addition there are two types of personal licence: personal functional and personal management as detailed in paragraph 4.1. The Commission may specify conditions under which these licences are granted and will issue codes of practice directed at those providing facilities for gambling.

- 7.3 Any organisation or individual directly affected by a decision of the Commission in relation to their operating or personal licence (or an application in respect of that licence), has a right to refer the matter to the GAT within 1 month of the date of the decision or action appealed against. Parties to a bet also have a right to appeal to the GAT if the Commission voids the bet. It is legally important that such a Tribunal should exist.
- 7.4 The procedural rules regulate proceedings before the GAT and are intended to ensure the just, economical and expeditious determination of appeals. The corrective instrument ensures that the parties to an appeal before the GAT properly understand the procedure that is to be followed. In particular, the corrective instrument ensures that a party to the appeal understands the requirements in relation to signing documents that they send by email; and also, the method of calculating periods in which they are required to do something where that period is stated as being 10 days or less in the procedural rules.
- 7.5 In accordance with section 8 of the Tribunals and Inquiries Act 1992 the Department has consulted the Council on Tribunals on the amendments to the procedural rules. The Council has confirmed that the amendments do not present any difficulty from its viewpoint but wishes to ensure that rule 22 makes provision for members of the Council or its Scottish Committee to attend a hearing of a tribunal when that hearing is held in private. Such provision was included in an earlier draft of the procedural rules but was inadvertently deleted from the final version. The corrective instrument ensures that this provision is reinstated in the procedural rules. No further consultation has been undertaken because the amendments are corrections and will not impact on stakeholders.

8 Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9 Contact

- 9.1 Jenny Patterson at the Department for Constitutional Affairs (telephone: 020 7340 6572); email jenny.patterson@tribunals.gsi.gov.uk, can answer any queries about the corrective instrument.