

Australian Capital Territory

# Racing Appeals Tribunal (Rules of the Tribunal) 2018 (No 1)

Disallowable instrument DI2018—293

made under the

*Racing Act 1999*, s45(1) - Rules of the tribunal

## **EXPLANATORY STATEMENT**

The *Racing Act 1999* (the Act) regulates thoroughbred racing and harness racing conducted for the purpose of betting in the Australian Capital Territory.

Part 5 of the Act establishes the Racing Appeals Tribunal (the tribunal). In particular, section 45 of the Act provides that the tribunal may make rules for the procedure of the tribunal.

Section 53 of the Act provides that the tribunal must not hear an appeal unless the appellant has first lodged with the registrar any bond required under the rules of the tribunal.

This instrument revokes the Racing Appeals Tribunal (Rules of the Tribunal) 2007 (No 1) made by disallowable instrument DI2007-184 dated 18 July 2007 and establishes rules of the tribunal pursuant to section 45(1) of the Act.

**Section 1** of the Rules relates to the lodgment of a bond with the registrar of the tribunal when an appellant lodges an appeal.

Rule 1.1 of this instrument provides that at the time of filing of an appeal with the registrar of the tribunal a bond must also be lodged by the appellant.

Rule 1.2 indicates that the amount of the bond is \$350.00.

Rule 1.3 provides that the bond must not be refunded, in full or in part, unless ordered by the tribunal, in accordance with section 53(2) of the Act.

**Section 2** is a new rule relating to the grounds of appeal.

Rule 2.1 provides that when an appeal is filed with the registrar of the tribunal the documentation provided must set out the grounds for the appeal.

**Section 3** relates to the tribunal rejecting an appeal lodged with the registrar.

Rule 3.1 relates to an appeal filed with the registrar that appears on its face to be an abuse of the tribunal's process or to be frivolous or vexatious.

Rule 3.2 provides for the registrar to refer the application for an appeal to the president or deputy president for decision on the appeal prior to the hearing.

Rule 3.3 provides for the president or deputy president to direct the registrar to either accept the appeal or make other orders it considers appropriate, including dismissing the appeal.

**Section 4** deals with the withdrawal of an appeal.

Rule 4.1 provides that an appeal filed with the tribunal may not be withdrawn except with leave of the tribunal.

Rule 4.2 provides that where the tribunal grants or refuses leave to withdraw an appeal, it may impose such conditions as it thinks fit, including the payment of costs.

Rule 4.3 provides that where the tribunal grants or refuses leave to withdraw an appeal, it must order that the bond be forfeited or refunded, either in full or in part.

**Section 5** is a new rule relating to directions hearings

Rule 5.1 provides that if the tribunal sets a date for a directions hearing, the registrar must give the parties notice of the date.

Rule 5.2 provides that the appellant and each respondent must attend the directions hearing.

Rule 5.3 provides that the tribunal may, at the directions hearing, give the directions it considers appropriate to have the appeal made ready for hearing, or adjourn the directions hearing or fix a date, time and location for the hearing of the appeal.

Rule 5.4 provides that the tribunal may amend or revoke a direction made under this rule.

Rule 5.5 provides that the tribunal may on application by a party or on its own initiative amend or revoke a direction made under this rule.

**Section 6** is a new rule relating to a failure to comply with directions.

Rule 6.1 provides that if the appellant fails to comply with a direction, the tribunal may dismiss the appeal, stay the appeal until the appellant complies, or proceed with the appeal in the absence of information if the required information has not been provided.

Rule 6.2 provides that if the respondent fails to comply with a direction, the tribunal may set aside the decision on review or proceed with the appeal in the absence of information if the required information has not been provided.

**Section 7** is a new rule relating to the failure to attend a hearing.

Rule 7.1 provides that if the appellant fails to attend a hearing, the tribunal may dismiss the appeal or stay the appeal.

Rule 7.2 provides that if the respondent fails to attend a hearing the tribunal may allow the appeal and set aside the decision on review.

**Section 8** is a new rule relating to the dismissal of the appeal by consent.

Rule 8.1 provides that the parties may request that the appeal be dismissed by consent.

Rule 8.2 provides that if the parties agree about the substantive orders the tribunal will be asked to make by consent, but do not agree about the order for costs, the tribunal may make the orders agreed by the parties by consent and hear the parties only in relation to costs.