

Australian Capital Territory

Racing (Appeals Tribunal) Rules 2019 (No 1)

Disallowable instrument DI2019—224

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) 2018 (No 1)* made by disallowable instrument DI2018-293 dated 14 December 2018 and establishes rules of the tribunal pursuant to section 45(1) of the Act.

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

Subrule 1(1) 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.

Subrule 1(2) specifies that the amount of the bond is \$350.00.

Subule 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.

Rule 2 relates to the grounds of appeal.

Subrule 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.

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

Subrule 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.

Subrule 3(2) provides for the registrar to refer such an application for an appeal to the president or deputy president for decision on how to deal with it.

Subrule 3(3) provides for the president or deputy president to direct the registrar to either list the appeal or invite the applicant to provide further information responding to the tribunal's concerns, prior to making any other orders it considers appropriate, including dismissing the appeal.

Rule 4 deals with the withdrawal of an appeal.

Subrule 4(1) provides that an appeal filed with the tribunal may not be withdrawn except with leave of the tribunal.

Subrule 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.

Subrule 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.

Rule 5 relates to directions.

Subrule 5(1) is a new rule and provides that the tribunal may make directions with or without convening a directions hearing.

Subrule 5(2) provides that if the tribunal sets a date for a directions hearing, the registrar must give the parties notice of the date.

Subrule 5(3) provides that the appellant and each respondent must attend the directions hearing.

Subrule 5(4) 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.

Subrule 5(5) provides that the tribunal may amend or revoke a direction made under this rule on application by a party or on its own initiative.

Rule 6 relates to failure to comply with directions.

Subrule 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 an appeal in the absence of information that has been requested but not provided.

Subrule 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 that has been requested but not provided.

Rule 7 relates to failure to attend a hearing.

Subrule 7(1) provides that if the appellant fails to attend a hearing, the tribunal may dismiss the appeal or stay the appeal.

Subrule 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.

Rule 8 is a new rule relating to dealing with an appeal by consent.

Subrule 8(1) provides that the parties may request that the tribunal make any orders agreed by the parties by consent.

Subrule 8(2) provides that the tribunal may make the orders requested by the parties, or any other orders.