

NORTHERN TERRITORY OF AUSTRALIA

TOTALISATOR LICENSING AND REGULATION (ARBITRATION)
REGULATIONS

As in force at 1 March 2011

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Regulations as in force at 1 March 2011. Any amendments that commence after that date are not included.

TOTALISATOR LICENSING AND REGULATION (ARBITRATION) REGULATIONS

Regulations under the *Totalisator Licensing and Regulation Act*

1 Citation

These Regulations may be cited as the *Totalisator Licensing and Regulation (Arbitration) Regulations*.

2 Definitions

In these Regulations, unless the contrary intention appears:

arbitrator, in relation to an arbitration proceeding, means the person appointed under section 76 of the Act to be the arbitrator of the dispute the subject of the arbitration.

party, in relation to an arbitration proceeding, means the authority or the licensee with whom the dispute the subject of the arbitration arises.

President of the Law Society means the President of the Law Society Northern Territory as established by section 635 of the *Legal Profession Act*.

3 Commencement of arbitration

(1) If a dispute as to what constitutes compliance with a term or condition of the licensee's licence arises between the authority and the licensee and the authority or the licensee requires that the dispute be resolved by arbitration, the authority or licensee must in writing:

- (a) notify the other party of the requirement; and
- (b) request, in writing, the President of the Law Society to appoint an arbitrator.

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- (2) On receiving the request, the President of the Law Society must appoint a person who in the opinion of the President is qualified to conduct arbitration proceedings to be the arbitrator of the dispute between the authority and the licensee and give written notification of the appointment to the parties of the arbitration.

4 Preliminary investigation

- (1) Within 14 days of the date of notification of the appointment of the arbitrator under regulation 3, each party must give the arbitrator a written statement setting out the nature of the dispute.
- (2) The written statement is to identify the issues that are to be resolved and include facts and evidence relied on to substantiate the party's position.
- (3) As soon as possible after receiving the statements of both parties, the arbitrator must set the time and date when and the place where the arbitration proceedings will be held.
- (4) The arbitrator must notify the parties of the time and date when and the place where the arbitration proceedings will be held.
- (5) In notifying the parties under subregulation (4), the arbitrator must give each party at least 14 days notice of the time and date when the arbitration proceedings will be held.

5 Arbitration

- (1) Each party is to present its case by making oral submissions in respect of the dispute based on the statement given to the arbitrator under regulation 4.
- (2) Unless the arbitrator agrees otherwise, the party who requested the appointment of the arbitrator is to present its case first.
- (3) The arbitrator may adjourn arbitration proceedings until another time and, if appropriate, another date.
- (4) The arbitrator may commence and conduct proceedings in the absence of a party who was given notice of the proceedings under regulation 4 but fails to attend without reasonable excuse.

6 Resolution by agreement

- (1) If a dispute that is being arbitrated is resolved or partly resolved by an agreement made between the parties before the determination of the arbitration, the parties must inform the arbitrator without delay.

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- (2) On being informed of the agreement, the arbitrator must record the terms of the agreement, have the agreement signed by the parties and ensure that each party receives a copy of the agreement.
 - (3) If the effect of the agreement is to resolve the dispute, the arbitration ceases on the parties signing the agreement.
 - (4) If the effect of the agreement is to resolve only some of the issues of the dispute, on the parties signing the agreement the arbitration continues in respect of the issues of the dispute that have not been resolved.

7 Determination by arbitrator

- (1) The arbitrator must complete his or her determination of the arbitration of a dispute and give a copy of his or her determination to each party within 28 days after the conclusion of the arbitration proceedings.
- (2) The authority must retain a record of the determination.
- (3) The determination is not to be made available to a member of the public to read or copy.

8 Costs of parties

Each party to a dispute must pay its own costs in respect of the arbitration of the dispute.

9 Arbitrator: powers

The arbitrator may:

- (a) request in writing a person (who may or may not be a party) to attend arbitration proceedings; or
- (b) request a person (who may or may not be a party) to answer truthfully questions put by him or her or a party or to make submissions that are relevant to the resolution of the dispute; or
- (c) request a person mentioned in paragraph (b) to take an oath to answer truthfully all such questions; or
- (d) request a person (who may or may not be a party) to produce a specified document or provide specified information in writing to the arbitrator relevant to the resolution of the dispute; or

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- (e) request a person referred to in paragraph (d) to produce a document or provide information within a specified time; or
 - (f) copy or take extracts from a document or information referred to in paragraph (d) and retain possession of the document or information for as long as is reasonably necessary to do so.

10 Arbitrator: costs and assistance

- (1) The costs of the arbitrator are to be paid by the parties of the arbitration in equal shares.
- (2) The Agency administering the Act must provide the arbitrator with the assistance of an administrative nature as he or she requires in conducting the arbitration.
- (3) A person who assists the arbitrator is subject to the direction of the arbitrator.

11 Procedural fairness

In arbitrating a dispute, an arbitrator is to have regard to the principles of procedural fairness.

12 Informality of procedures

In arbitrating a dispute, an arbitrator:

- (a) must proceed with as little formality and technicality and as expeditiously as the requirements of these Regulations and the proper consideration of the dispute permits; and
- (b) is not bound by the rules of evidence but may inform himself or herself of any matter in any manner that he or she considers appropriate.

13 Representation of parties

A party to an arbitration may:

- (a) attend before the arbitrator personally;
- (b) if a body corporate – be represented before the arbitrator by a director, officer, member or employee; or
- (c) with the agreement of the arbitrator – be represented before the arbitrator by another person (who may be a legal practitioner).

14 Proceedings not open to public

A person who is not:

- (a) a party to an arbitration;
- (b) a person representing a party to an arbitration;
- (c) a person, who the arbitrator has requested to attend and to answer questions put by the authority or by a party to the hearing, while being questioned;
- (d) a person, who the arbitrator has requested to produce a document or provide information, in writing while producing the document or providing the information;
- (e) the arbitrator; or
- (f) a person assisting the arbitrator,

may not be present at any of the proceedings of an arbitration.

15 Offences relating to provision of information

A person must, in the absence of reasonable excuse (proof of which lies on the person), comply with a request of the arbitrator that the person:

- (a) attend before him or her; or
- (b) take an oath to answer truthfully all questions relevant to the resolution of the dispute put by the arbitrator or a party; or
- (c) answer truthfully questions put by the arbitrator or a party that are relevant to the resolution of the dispute; or
- (d) produce a specified document or provide specified information in writing to the arbitrator relevant to the resolution of the dispute; or
- (e) produce a document or provide information referred to in paragraph (d) within a specified time.

Maximum penalty: 50 penalty units.

16 Offences relating to obstruction etc. of arbitrator

A person must not without reasonable excuse (proof of which lies on the person) obstruct, hinder, resist or improperly influence an arbitrator when exercising a power or performing a function for the purposes of the arbitration of a dispute.

Maximum penalty: 100 penalty units.

17 Preservation of confidentiality

A person must not record, disclose or use information about another person's affairs gained by the person in the course of arbitration proceedings under these Regulations or because of an opportunity provided by being involved in the administration of these Regulations unless for the purposes of the Act, regulations made under the Act or the Rules.

Maximum penalty: 100 penalty units.

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<i>Gaz</i> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Totalisator Licensing and Regulation (Arbitration) Regulations (SL No. 28, 2000)***

Notified	16 June 2000
Commenced	16 June 2000

Statute Law Revision Act 2002 (Act No. 18, 2002)

Assent date	7 June 2002
Commenced	7 June 2002

Legal Profession (Consequential Amendments) Act 2007 (Act No. 7, 2007)

Assent date	17 May 2007
Commenced	s 10: 1 July 2007 (<i>Gaz</i> G26, 27 June 2007, p 3); rem: 17 May 2007

Penalties Amendment (Justice and Treasury Legislation) Act 2010 (Act No. 38, 2010)

Assent date	18 November 2010
Commenced	1 February 2011 (<i>Gaz</i> S6, 1 February 2011)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 <i>Oaths, Affidavits and Declarations Act 2010</i> (Act No. 39, 2010) and <i>Gaz</i> G7, 16 February 2011, p 4)

3 LIST OF AMENDMENTS

r 2	amd Act No. 18, 2002, s 7; Act No. 7, 2007, s 16
r 9	amd Act No. 40, 2010, s 202
r 15	amd Act No. 38, 2010, s 3; Act No. 40, 2010, s 202
rr 16 – 17	amd Act No. 38, 2010, s 3