

- (x) establishing and governing the imposition and enforcement of sanctions and penalties under this Act;
 - (y) subject to this Act, governing the conduct of inspections, searches and seizures carried out under this Act;
 - (z) governing the conduct of investigations and hearings carried out under section 18 by racing officials including, for the purposes of conducting an investigation and hearing, making, with all necessary modifications, rules with respect to the same subject-matter with respect to which rules may be made under section 28;
 - (aa) governing the records, accounts and documentation to be maintained by persons licensed under this Act;
 - (bb) prescribing the duties of racing officials and governing the carrying out of those duties;
 - (cc) governing the activities of racing participants in respect of matters governed by this Act;
 - (dd) governing, subject to section 2, the nomination and appointment of persons as members of the board.
- (2) The *Regulations Act* does not apply to rules made under this section.
- (3) Where a rule is made under subsection (1), the Corporation shall publish the rule in Part I of The Alberta Gazette.
- (4) A rule that is not published in accordance with subsection (3) is not valid against a person who has not had actual notice of the rule.
- (5) On publication of a rule in Part I of The Alberta Gazette, every person is deemed to have notice of the rule.

1996 cR-1.5 s22

Part 3 Appeals

Appeal Tribunal

23(1) The Minister shall

- (a) appoint an Appeal Tribunal consisting of not more than 3 persons to hear appeals under this Act, and
- (b) designate one of the members of the Appeal Tribunal as the chair of the Appeal Tribunal.

(2) The term of office of a member of the Appeal Tribunal shall not exceed 3 years.

(3) A person who is a member of the Appeal Tribunal may, subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, be reappointed as a member of the Appeal Tribunal.

(3.1) Subsection (3) applies to members holding office on the coming into force of this subsection.

(4) A person shall not at any one time be a member of both the board and the Appeal Tribunal.

(5) The Minister shall, in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*, prescribe the remuneration and expenses payable to the chair and members of the Appeal Tribunal.

(5.1) If regulations under the *Alberta Public Agencies Governance Act* establish rates in respect of remuneration or expenses payable to the chair or members of the Appeal Tribunal, those regulations prevail, to the extent of any conflict or inconsistency, over any regulations prescribing a rate under subsection (5).

(6) The amount of the remuneration and expenses prescribed under subsection (5) and the expenses and costs incurred in the operation of the Appeal Tribunal shall be paid by the Corporation.

(7) The Corporation shall not give any directions to the Appeal Tribunal with respect to the conduct of appeals or the operation of the Appeal Tribunal.

(8) Notwithstanding subsection (7), the Corporation is entitled to appear as a party before the Appeal Tribunal and to present evidence and make submissions to the Appeal Tribunal.

(9) The quorum of the Appeal Tribunal is 2 members of the Appeal Tribunal.

(10) Notwithstanding subsection (1), the Minister may appoint persons as acting members of the Appeal Tribunal to act when the Appeal Tribunal is unable to establish a quorum.

RSA 2000 cR-1 s23;2002 c22 s7;2009 cA31.5 s51

Right to appeal

24 Where a racing official makes a ruling or gives a direction, a person affected by that ruling or direction may appeal that ruling or direction to the Appeal Tribunal.

1996 cR-1.5 s24

Commencement of appeal

25(1) A person who has a right of appeal may commence an appeal by serving on the Corporation, or on a person designated by the Corporation, a notice of appeal within 30 days from the day that the person receives written notification of the ruling or direction being appealed.

(2) On being served with a notice of appeal, the Corporation shall, within 10 days from the day of being served with the notice of appeal, deliver the notice of appeal to the chair of the Appeal Tribunal.

1996 cR-1.5 s25

Decision of Appeal Tribunal

26(1) When the Appeal Tribunal hears an appeal, the Appeal Tribunal may, by order, do one or more of the following:

- (a) dismiss the appeal;
- (b) allow the appeal and give such directions, if any, that the Appeal Tribunal considers appropriate in the circumstances;
- (c) vary the decision;
- (d) prescribe terms and conditions to which its order is subject;
- (e) make any other decision that in the opinion of the Appeal Tribunal is in the best interests of horse racing;
- (f) award costs.

(2) The Appeal Tribunal shall notify the parties to the appeal and the Corporation in writing of the Appeal Tribunal's decision.

(3) Notwithstanding subsection (1), the Appeal Tribunal does not have the authority to order that a rule made under this Act be repealed, amended or otherwise varied.

1996 cR-1.5 s26

Judicial review

27(1) Subject to subsection (2), no decision, order, directive, ruling or proceeding of the Appeal Tribunal shall be questioned or reviewed in any court by way of an application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Appeal Tribunal or any of its proceedings.

(2) A decision, order, directive, ruling or proceeding of the Appeal Tribunal may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the originating notice is filed with the Court of Queen's Bench and served on the Appeal Tribunal no later than 30 days after the date of the decision, order, directive, ruling or proceeding, or reasons in respect of it, whichever is later.

(3) The Court of Queen's Bench may, in respect of any application under subsection (2),

- (a) determine the issues to be resolved on the application, and
- (b) limit the contents of the return from the Appeal Tribunal to those materials necessary for the disposition of those issues.

1996 cR-1.5 s27

Procedure before Appeal Tribunal

28(1) For the purposes of conducting appeals before the Appeal Tribunal,

- (a) the chair and the other members of the Appeal Tribunal have the same power as is vested in the Court of Queen's Bench for the trial of civil actions
 - (i) to summon and enforce the attendance of witnesses,
 - (ii) to compel witnesses to give evidence on oath or otherwise,
 - (iii) to compel witnesses to give evidence in person or otherwise, and
 - (iv) to compel witnesses to produce any record, object or thing that relates to the matter being heard;
- (b) the Appeal Tribunal may take evidence under oath;
- (c) any member of the Appeal Tribunal may administer oaths for the purpose of taking evidence;
- (d) the Appeal Tribunal may grant interim relief and stays in respect of the proceedings before the Appeal Tribunal;
- (e) the Appeal Tribunal may reconsider a previous decision made by the Appeal Tribunal.

(2) With respect to appeals before the Appeal Tribunal, the Appeal Tribunal may make rules

- (a) governing notices of appeal;

- (b) governing the procedure before the Appeal Tribunal;
- (c) governing adjournments of matters before the Appeal Tribunal;
- (d) governing the attendance of witnesses;
- (e) governing the applicability of the rules of evidence in judicial proceedings to hearings before the Appeal Tribunal;
- (f) governing the receiving and recording of evidence;
- (g) empowering the Appeal Tribunal to proceed when a party to the appeal fails to appear at or attend a hearing;
- (h) governing the interim relief and stays that may be granted;
- (i) providing for majority and minority decisions;
- (j) empowering the Appeal Tribunal to consider an appeal without holding a hearing and governing the procedure to be used in those circumstances;
- (k) governing the applicability of the *Alberta Rules of Court*;
- (l) providing for the issuing and publication of decisions of the Appeal Tribunal;
- (m) empowering the Appeal Tribunal to require the production of any record, object or thing;
- (n) governing the reconsideration of decisions made by the Appeal Tribunal;
- (o) governing costs.

(3) The *Regulations Act* does not apply to rules made under this section.

(4) Where a rule is made under subsection (2), the Appeal Tribunal shall publish the rule in Part I of The Alberta Gazette.

(5) A rule that is not published in accordance with subsection (4) is not valid against a person who has not had actual notice of the rule.

(6) On publication of a rule in Part I of The Alberta Gazette, every person is deemed to have notice of the rule.

1996 cR-1.5 s28