

Legal Notice No.
Republic of Trinidad and Tobago

The Gambling (Gaming and Betting) Control Act, 2015

REGULATIONS

Made by the Minister under section 95 of the Gambling (Gaming and Betting) Control Act, 2015

The Gambling (Gaming and Betting) Control (License Denials, Disciplinary Actions and Hearings) Regulations, 2015

PART ONE – PRELIMINARY

Citation 1. These regulations may be cited as the Gambling (Gaming and Betting) Control (Amusement Machine Controls) Regulations, 2015.

Interpretation 2. In these Regulations,

"Act": The Gambling (Gaming and Betting Control) Act, 2015;

"gaming employee" means, all persons who hold a personal licence, as defined in section 40(1) of the Act which includes –

- (a) all persons employed by licensed manufacturers or distributors to repair or maintain slot machines;
- (b) all persons who perform daily accounting functions, services or duties for any licensed operator which involves the handling, processing, manipulating or generating of gaming documentation or funds, except those persons who perform solely payroll or payables services who do not have access to gaming documentation or funds, or those persons who perform independent audits;

"licence" or "operating licence" means any licence issued by the Commission, in respect of gaming activities, pursuant to the provisions of the Act.

PART TWO – LICENSE DENIALS

- 1) If the Commission finds that an applicant is not suitable for licensure, it shall issue the applicant a notice of denial.
- 2) The Commission shall serve notice on the applicant by personal service or certified mail to the last known address of the applicant. Service is complete four days after mailing.

PART THREE – DISCIPLINARY ACTIONS

- 1) When notified of facts sufficient to support disciplinary action against a licensee or a person with significant influence or control, the Chief Executive Officer shall immediately notify the Commission and the licensee of the proposed disciplinary action. The notice shall advise the licensee of the following:
 - a) A statement of the facts supporting the proposed disciplinary action;
 - b) A description of the rule or statutory section the licensee has violated;
 - c) A statement or description of the matters asserted and the consequences of the failure to respond;
 - d) The name and mailing address of the Commission.
- 2) The Chief Executive Officer shall serve the notice of proposed disciplinary action on the licensee by personal service or TTpost certified mail or TTpost regular mail to the last known address of the licensee. Service is complete four days after mailing.

PART FOUR – REQUESTS FOR HEARING

- 3) Should an applicant wish to contest the action the Commission has taken regarding his application or proposed disciplinary action, the applicant must submit a request for hearing to the Commission.
- 4) All requests for hearing shall be in writing and shall include an original and one copy. The request shall contain the following:
 - a) The name, current address and current telephone number of the petitioner (the applicant);
 - b) Detailed reasons why and the facts upon which the petitioner will rely to show that the petitioner is suitable for licensure or should not be subject to discipline, including specific responses to any facts enumerated in the Commission's notice of denial or proposed disciplinary action;
 - c) A signature of the petitioner;
 - d) A verification of the petition in the following form:
 - i) The undersigned certifies that the statements set forth in this request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.
 - e) The request must be notarized.
- 5) A request for hearing must be made within 15 days after receipt of notice of denial or proposed disciplinary action from the Commission. A request shall be deemed filed on the date on which it is postmarked.
- 6) If a request for hearing is not filed within 15 days after the receipt of notice from the Commission, then the notice of denial or proposed disciplinary action becomes the final order of the Commission denying the applicant's license application or imposing the proposed discipline.
- 7) A request for hearing shall be deemed granted unless denied. The Commission may deny a request for hearing if the statement of the reasons and facts that it contains does not establish a prima facie case or fails to comply with any of the other requirements of this Section. The Commission's denial of a request for hearing is a final decision and the denial of licensure or proposal for discipline becomes a final order on the date the Commission denies the request for hearing.

- 8) A request for hearing may not be withdrawn or voluntarily dismissed if the Commission determines that withdrawal or voluntary dismissal is not in the best interests of the public and the gaming industry. If the Commission allows a petitioner to withdraw a hearing request, the initial notice of denial becomes a final Commission order on the date leave to withdraw is granted. If the petitioner does not prosecute his/her case after 21 days, the Commission may move for entry of default judgment. Failure to prosecute shall result in entry of default judgment against the petitioner.
- 9) The petitioner may submit a request for hearing by:
 - a) personal delivery;
 - b) certified mail, postage prepaid; or
 - c) overnight express mail, postage prepaid.
- 10) All requests for hearing must be submitted to the Chief Executive Officer at the Commission's main office address listed on its website or otherwise obtained from the Commission.
- 11) If a request is granted, an **Magistrate Judge** will be appointed to conduct a hearing.
- 12) All petitioners may be represented by an attorney who is licensed to practice in Trinidad and Tobago. All attorneys who appear in a representative capacity on behalf of a petitioner must file a written appearance setting forth:
 - a) The name, address and telephone number of the attorney;
 - b) The name and address of the petitioner the attorney represents; and
 - c) An affirmative statement that the attorney is licensed to practice in Trinidad and Tobago.
- 13) Only individual attorneys may file appearances. Any petitioner's attorney who has not filed an appearance may not address **the Magistrate Judge** or sign pleadings.
- 14) An attorney may only withdraw his appearance upon written notice to the **Magistrate Judge**.
- 15) An individual may appear on his own behalf.
- 16) A partner may appear on behalf of a partnership.
- 17) A corporation and a limited liability company must be represented by an attorney.
- 18) The Chairman of the Commission may provide for or appoint a Commission member or an attorney admitted to the practice of law by, and in good standing to serve as a **Magistrate Judge** to conduct a hearing in accordance with this Subpart. If designated, the Chief Executive Officer may provide for the appointment of a **Magistrate Judge** to conduct a hearing in accordance with this Subpart. The petitioner will be copied on the letter of appointment and the letter will serve as notice of the pendency of the hearing. The **Magistrate Judge** shall establish a status date and notify the parties of that date.
- 19) If the petitioner believes the **Magistrate Judge** is biased or has a conflict of interest, the petitioner may file with the Commission a motion to disqualify the **Magistrate Judge** from conducting the hearing. The motion must be in writing, accompanied by an affidavit signed and dated by the petitioner setting forth the specific grounds for disqualification. The petitioner shall serve a copy of the motion on the **Magistrate Judge**. Prior adverse rulings against the petitioner or its attorney in other matters shall not, in and of themselves, constitute grounds for disqualification. On satisfactory evidence submitted by the petitioner in support of the motion to disqualify, the Commission shall remove the **Magistrate Judge** and provide for the reassignment of the case to another **Magistrate Judge** to continue the hearing. Any **Magistrate Judge** may voluntarily disqualify himself upon determining that bias or conflict of interest exists. Grounds for disqualification of **Magistrate Judge** shall include but not be limited to:

- a) Financial interest or pecuniary benefit derived from the gaming industry;
 - b) Personal friendship with any of the parties, witnesses or attorneys involved;
 - c) Past representation of any of the parties or witnesses involved; or
 - d) Demonstrable pre-disposition on the issues.
- 20) If the motion to disqualify a Magistrate Judge is denied, the Commission shall set forth in writing the reasons for the denial and the Magistrate Judge will proceed with the hearing. The motion to disqualify the Magistrate Judge and the reasons for the denial of the motion will be part of the administrative record in the appeal of a final administrative decision upon conclusion of the hearing.
- 21) Upon written request served on the opposing party, a party shall be entitled to:
- a) The name and address of any witness who may be reasonably expected to testify on behalf of the opposing party;
 - b) All documents or other materials in the possession or control of the opposing party that the opposing party reasonably expects will be necessary to introduce into evidence. Petitioner's burden of production includes those documents petitioner reasonably expects to introduce into evidence either in his, her or its case-in-chief or in rebuttal. Rebuttal documents, to the extent that they are not immediately identifiable, shall be tendered to the Commission within 14 days after receipt of documents tendered to petitioner by the Commission unless additional time is granted by the Magistrate Judge.
- 22) Discovery may be obtained only through written requests to produce witness lists, documents or other materials, as specified in subsection (21) of this Section. Witnesses and documents responsive to a proper request for production that were not produced shall be excluded from the hearing and additional sanctions or penalties may be imposed.
- 23) Subpoenas for the attendance of witnesses at hearing may be served by the petitioner only upon application to the Magistrate Judge.
- a) The petitioner must show good cause, state the testimony to be elicited from a witness, state why the evidence to which the testimony relates cannot otherwise be obtained, and state the reasons why the testimony is necessary and relevant.
 - b) An agent or employee of the Commission may not be required by the petitioner to appear except under the procedures provided in this Section.
- 24) The General Counsel of the Commission or the Chief Executive Officer may issue subpoenas for the attendance of witnesses or subpoenas duces tecum for the production of relevant documents, records or other material at a proceeding conducted under this Subpart.
- 25) The Magistrate Judge may recommend the granting or denial of a summary judgment motion upon the filing of an appropriate motion by any party. A recommendation for denial of a summary judgment motion shall not be considered by the Commission until the completion of the proceedings pursuant to the Act.
- 26) The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing by clear and convincing evidence that the petitioner is suitable for licensing, should not be subject to discipline or that enforcement of a security interest is warranted.
- 27) All testimony shall be given under oath or affirmation.
- 28) Both parties may present opening statements. Petitioner proceeds first.
- 29) The petitioner shall then present his, her or its case-in-chief.

- 30) Upon the conclusion of the petitioner's case-in chief, the Commission may move for a directed finding. The Magistrate Judge may hear arguments on the motion or may grant, deny or reserve decision, without argument.
- 31) If no motion for directed finding is made, or if the motion is denied or decision reserved, the Commission may present its case.
- 32) Each party may conduct cross-examination of adverse witnesses.
- 33) Upon the conclusion of the Commission's case, the petitioner may present evidence in rebuttal.
- 34) Both parties may present closing arguments. The petitioner proceeds first, then the Commission, and thereafter the petitioner may present rebuttal argument.
- 35) The hearing need not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statute that might make improper the admission of evidence over objection in a civil action. Hearsay may support a finding of the Magistrate Judge if it is the best evidence available, has sufficient indicia of trustworthiness and reliability and is of the type reasonably and customarily relied on in the video gaming industry.
 - a) If relevant and not precluded from the hearing by the Act, official Commission records or certified copies of the records shall be admissible into evidence;
 - b) Official Commission records are documents either prepared by or provided to the Commission for the purpose of conducting its regular business;
 - c) A petitioner must afford the Commission an opportunity to investigate and verify information that petitioner intends to offer in support of his case. Petitioner shall not be permitted to introduce into evidence any information that the Commission has not been afforded the opportunity to investigate and verify.
- 36) The parties should, to the fullest extent possible, stipulate to all matters that are not or fairly should not be in dispute.
- 37) The parties may make objections to evidentiary offers. When an objection is made, the Magistrate Judge may receive the disputed evidence subject to a ruling at a later time.
- 38) The Magistrate Judge may take official notice of any generally accepted information or technical or scientific matter within the field of gaming, and any other fact that may be judicially noticed by courts of Trinidad and Tobago. The parties shall be informed of any information, matter or facts so noticed, including any staff memoranda or data, and shall be given reasonable opportunity to refute that information.
- 39) No party or its representative shall communicate directly or indirectly with the Magistrate Judge or a member of the Commission regarding any matter subject to hearing, except upon notice to and opportunity for all parties to participate.
- 40) The Magistrate Judge may impose sanctions and penalties if the Magistrate Judge finds that a party has acted in bad faith, for the purpose of delay, or has otherwise abused the hearing process. Sanctions and penalties include but are not limited to default judgment or directed finding on one or more issues.
- 41) If a petitioner fails to testify on his own behalf with respect to any question propounded to him, the Magistrate Judge may infer that such testimony or answer would have been adverse to the petitioner's case.

- 42) Failure of a petitioner to appear at a hearing or scheduled proceeding shall constitute an admission of all matters and facts contained in the notice of denial or proposal for discipline. In such cases the Magistrate Judge may take action based upon that admission or upon any other evidence, including affidavits, without any further notice to the petitioner.
- 43) The record of the hearing shall consist of the following:
 - a) The notice of denial or proposal for discipline, the request for hearing and all motions and rulings;
 - b) All evidence received;
 - c) A statement of matters officially noticed;
 - d) Offers of proof, objections and rulings;
 - e) The recommendation and any findings of fact and conclusions of law made by the Magistrate Judge.
- 44) Oral proceedings or any part of the proceedings involving contested issues shall be recorded stenographically or by such other means as to adequately insure the preservation of such testimony or oral proceedings and shall be transcribed on request of any party. The transcript shall be paid for by the requesting party.
- 45) Upon conclusion of the hearing, the Magistrate Judge shall issue to the Commission written findings of fact and conclusions of law and his/her recommendations. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
- 46) Any party to the hearing may file exceptions to the recommendations of the Magistrate Judge with the Commission no later than 14 days after receipt of the recommended decision. Exceptions shall specify each finding of fact and conclusion of law to which exception is taken. There shall be no oral argument on exceptions.
- 47) Final Commission Order
 - a) The Commission shall review the entire record, including any exceptions filed, and shall render a written order including the bases for its decision.
 - b) Copies of the final Commission order shall be served on petitioner by personal delivery, certified mail or overnight express mail to petitioner's last known address.
 - c) A final Commission order shall become effective upon personal delivery to a party or upon posting by certified or overnight express mail to petitioner's last known address.
- 48) An applicant who has been denied a license and who has requested a hearing under this Subpart shall be considered an applicant for purposes of compliance with applicable statutory provisions and this Part until final resolution of the request for hearing.