

Section 4.5.26 - Commission determination

SCB031224

Sports Betting Provider and Sports Controlling Body agreement dispute

What is this form for?

A Sports Betting Provider ('SBP' or 'you') may apply for a determination under section 4.5.26 of the *Gambling Regulation Act 2003* (the Act) (determination) if the SBP and a Sports Controlling Body (SCB) cannot reach an agreement under 4.5.23 of the Act.

Section 4.5.24 of the Act states:

- 1) *If a sports betting provider cannot reach agreement with a sports controlling body under section 4.5.23, the sports betting provider may apply to the Commission for a determination under section 4.5.26.*
- 2) *An application must—*
 - a. *be in the form approved by the [Commission](#); and*
 - b. *be accompanied by the prescribed fee (if any); and*
 - c. *contain or be accompanied by any additional information the [Commission](#) requires.*
- 3) *The [Commission](#) must not proceed to determine an application unless it is satisfied that the sports controlling body has unreasonably refused or failed to enter into an agreement with the sports betting provider under [section 4.5.23](#), having regard to—*
 - a. *whether the sports controlling body and the sports betting provider have engaged in genuine negotiations and there are no reasonable prospects of agreement being reached; or*
 - b. *whether the sports controlling body has refused to enter into negotiations for an agreement with the sports betting provider.*

Directions for completion

A SBP must answer every question and provide complete and accurate information. The VGCCC will review your responses and will notify you if your application has been accepted.

If a question does not apply, or if there are no details to disclose in response to a particular question, print N/A (not applicable) in response.

If the space available is insufficient, please supply the required information in an attachment. If you do so, begin each answer with the title and reference of the question you are responding to.

Carefully review your application form to ensure it is fully completed and that all required attachments are provided to save unnecessary delays.

Your application form may be returned to you if you do not provide a response to all applicable questions, or if all required attachments are not enclosed.

Who can apply for a Commission determination?

If an SCB and an SBP cannot reach an agreement under section 4.5.23 of the Act, an SBP may apply for a determination under section 4.5.26. However, before an application for a determination can be considered by the VGCCC:

- 1) the SCB and SBP must have engaged in genuine negotiations to reach an agreement under section 4.5.23 for which there is no reasonable prospect of an agreement being reached; or
- 2) the SCB must have refused to enter into negotiations with the SBP to reach an agreement under section 4.5.23.

This application form is for individual SBPs only. Please submit a separate application form for each SBP.

Process upon submission

After submission of an application form, the VGCCC will seek information from the relevant SCB to assist it establish whether the SCB has unreasonably refused or failed to enter into an agreement with the SBP.

We may also seek further information from you if required.

If the VGCCC is satisfied that an SCB has unreasonably refused or failed to enter into an agreement, the application will be 'before the Commission' for the purpose of the exemption from prosecution under section 4.5.22(2)(b) and the VGCCC will notify you. The VGCCC will then proceed to consider whether to make a determination under section 4.5.26 of the Act having regard to the integrity and financial factors in section 4.5.26(3).

The VGCCC will aim to finalise the relevant determinations under sections 4.5.23 and, if relevant, 4.5.26 in a timely manner and will be assisted by the provision of complete and accurate information from stakeholders.

Nomination of an authorised officer to complete the application form

For the purposes of this application form, the '**applicant**' must nominate an '**authorised officer**' for the SBP who is responsible for the completion of the application form and for the certification of all information provided.

An authorised officer is typically the Chair of the Board of Directors/Committee of Management, Managing Director, Chief Executive Officer, Public Officer, Company Secretary, or a Legal Representative of the SBP.

Application costs

Depending on the complexity or completeness of the information provided, the Commission may write to the applicant and prescribe a fee to support the reasonable costs of investigating the application. If this is to occur, the Commission will place the application on hold until the applicant provides their consent to proceed with their enquiry.

Commission Determination

The VGCCC determination may state whether or not a fee is payable by the SBP to the SCB in respect of betting on the sports betting event.

The VGCCC will give written notice of the determination, including the reasons, and the determination will take effect at the time the notice of the determination or at a later time as specified in the notice.

The terms of a determination are binding on the sports betting provider and the sports controlling body and may be enforced by either of them as if the determination were an agreement between the sports betting provider and the sports controlling body on those terms.

False or misleading information

In accordance with section 10.5.16 of the Act, it is an offence to give information that is false or misleading in a material particular.

Providing information that is false or misleading may result in the non-approval of your application and prosecution resulting in a fine of up to 60 penalty units.

Important information

Section 4.5.22 of the Act prohibits an SBP from offering markets until a Product Fee and Integrity Agreement (PFIA) is in place with an SCB or the VGCCC staff is satisfied that an SCB has unreasonably refused or failed to enter into a PFIA. The VGCCC will confirm in writing if an application for determination under section 4.5.26 of the Act is before the Commission.

The submission of this application form does not allow an SBP approval to offer markets in the absence of a PFIA. If an SBP is found to be offering markets without a PFIA, this is a breach of the Act, and the VGCCC will progress enforcement action.

Request for a 4.5.26 determination by the Commission

Please fill in all details. If there are no details to disclose in response to a particular question, print N/A (not applicable) in response.

Please submit the form scbnotifications@vgccc.vic.gov.au.

I _____ (print full name) acknowledge that this form is a request to apply for a determination only. Submitting this form does not amount to an application under section 4.5.24 of the Act unless and until specified in writing by the VGCCC. The VGCCC may pursue enforcement action against you if, after submission of this form, you offer a betting service on a sports betting event without an agreement under section 4.5.23 of the Act in effect with an SCB.

☐ I Agree

Date

Sports Betting Provider (SBP) (Details)

Name of entity

Trading name(s)

Online wagering licence details: (e.g. Licence #, State/Territory)

Website address(es)

ABN or ACN

Authorised representative name

Registered business address

Authorised representative contact details

Length of time SBP has been operating

Sports Controlling Body (SCB)

SCB name

SCB contact

SCB contact details

Date initial contact made

Duration period of negotiations

Has the SBP previously had an agreement in place with the SCB?

☐

YES

☐

NO

Details about the dispute

Outline in detail the nature of the dispute?

Timeline of dispute, including the detail of all interactions and attempts to negotiate between parties
(please attach evidence of interactions)

Did the SCB raise any integrity concerns in relation to your application or dispute? If so, please specify what these were.

What attempts did the SCB make to resolve the dispute? Please outline actions, negotiations and information.

What attempts did you as the SBP make to reach an agreement? Please provide details of these attempts.

Why do you believe the SCB has been unreasonable?

What do you believe is a reasonable outcome of your dispute and why?

Financial Information

Please detail the last two financial years of sports betting gross revenue earned by the SBP.

What are existing taxes, charges and levies, from conducting wagering services; that the SBP is required to pay on the sports betting gross revenue earned? (please breakdown into categories)

Supply the last two financial years of sports betting revenue earned (before SCB fees paid) from wagers on the sport betting event this application relates to (if applicable)

Supply the last two financial years of fees paid to the SCB this application relates to (if applicable)

Additional Information

All requests for a determination under 4.5.26 of the Act must be sent to:

scbnotifications@vgccc.vic.gov.au