

CHAPTER SEVEN – Disciplinary Processes (Road)

7.1 Protests

- 7.1.1 The Steward may have brought to his attention or may observe a matter concerning the operation of the meeting, other than under protest.
The Steward may:
- a. Investigate at the Stewards sole discretion
 - b. Hold a meeting of all the parties concerned
 - c. Take such steps as the Steward feels are appropriate
 - d. Impose such penalties as allowed in the Manual of Motorcycle Sport
 - e. The result of such an investigation and/or action must be in written form to the parties concerned by way of a Competitor Infringement Notice.
- 7.1.2 The Steward of a meeting may within a reasonable time and prior to the end of the meeting, take reasonable steps to remedy a previous decision at that meeting.
- 7.1.3 At all events, all officials and marshals must be available until the deadline for the lodging of a protest as determined by the Steward of the meeting, has passed.
- 7.1.4 Any competitor considering himself aggrieved by any matter connected with a competition or the conduct of any official or other competitor may make a formal protest as provided by these regulations.
- 7.1.5 A protest may only be made by a competitor who has competed in a race or competition from which the protest ensues, or that rider's representative where the rider making the protest is incapacitated by reason of injury.
- 7.1.6 The protest must be submitted to the Steward of the Meeting in writing and accompanied by a fee of \$50.00 and must make reference to the relevant rule alleged to have been infringed.
- 7.1.7 Protest committees shall be set up prior to all events. They will comprise of the Steward of the Meeting, a representative of the promoting club, and a representative of the riders.
- 7.1.8 The Steward shall be the chairman of the committee. Members of the Protest Committee will be announced at riders briefing prior to practice.
- 7.1.9 Protests must be adjudicated on as soon as possible. The result must be advised in writing to the party making the protest, the party against whom the protest is made and the organising club as soon as possible after the decision is reached.

- 7.1.10 Where a competitor under the age of 16 years is the subject of a protest, the parent or guardian of that competitor should, where practicable, be present at the hearing, but shall only have speaking rights if invited to do so by the Chairperson of the Protest Committee.
- 7.1.11 All prize money, trophies or other awards shall be withheld in respect of any event from which a protest ensues until such time as the protest is resolved.
- 7.1.12 Where any protest against the final order of finishing a race under Rule 7.1.19 or 7.1.20 is upheld, the placing and prize must be awarded to the competitor who is next in order.
- 7.1.13 Where a protest is upheld, no prize money, trophies or other awards shall be distributed in respect of that event from which the protest ensues until 7 working days has elapsed from the date of the protest hearing,
- 7.1.14 **Protests may only be made against a competitor on account of:**
- a. Machine specifications;
 - b. Rider conduct;
 - c. Conditions of competitions;
 - d. Order of finishing a race.
- 7.1.15 Protests in respect of machine specifications, rider conduct, and conditions of competitions must be submitted to the Steward of the Meeting no later than 30 minutes after the completion of the race or event from which the protest ensues.
- 7.1.16 Where a protest against machine specifications, is not upheld, the protest fee shall be treated as a deposit against any cost of dismantling and reassembling the protested machine and where necessary a comparison machine, and the obtaining of comparison parts and manufacturers parts catalogues.
- 7.1.17 Where a protest against machine specification is upheld, the protest fee may be refunded, subject to the result of any subsequent appeal. The rider of the offending machine will be required to meet all costs as outlined in above.
- 7.1.18 Protests against the final order of finishing a race in events where the results are confirmed before the completion of the meeting, must be submitted to the Steward of the Meeting within 30 minutes after the checker flag or posting of results of that race.
- 7.1.19 Protests against the final order of finishing a race in events where the results are not confirmed before the completion of the meeting must be submitted no later than 7 working days from the date of notification of the official results.
- 7.1.20 On receipt of a protest under the provisions of 7.1.19 the Steward of the Meeting will advise the organising club of the fact. The official result will then be deemed under protest and no prize money shall be paid on any placing affected by the protest in that race.

- 7.1.21 A protest under 7.1.19 will be adjudicated on by the protest committee, chaired by the Steward of the Meeting, at the first practicable opportunity. The decision arising therefrom will be immediately conveyed in writing to the protesting party, the party against whom the protest was made, and the organising club.
- 7.1.22 No prize money will be distributed subsequent to events held under the provisions of 7.1.19 until a period of 7 working days has elapsed from the date of notification of official results.
- 7.1.23 The Chairperson of the Protest Committee shall immediately forward details of the protest, the result thereof and accompanying fees to the MNZ Office, whether the protest is upheld or not.
- 7.1.24 Costs relating to any technical tests required to prove or disprove a protest shall be the responsibility of the unsuccessful party.
- 7.1.25 Any decision being the outcome from a protest at an event cannot be overturned or negated except by the appeal process set out in the rules.

7.2 DISCIPLINARY POWERS AND PROCEDURE - STEWARD

7.2.1 **Disciplinary Powers of Steward:**

The disciplinary powers of the Steward are exercisable in the case of any Member or person for whom the Member is responsible:

- i. Contravening any competition rule, supplementary regulation or any instruction of the Steward at any meeting;
- ii. Conduct on or off the track or course during the course of a meeting that, in the Steward's opinion, brings discredit or disrepute to MNZ.
- iii. Code of Conduct

7.2.2 For avoidance of doubt the Steward will not have disciplinary powers in relation to allegations that a doping offence (as defined in the MNZ Anti-Doping Rules) has occurred. All matters relating to doping will be dealt with in accordance with the MNZ Anti-Doping Rules and will be referred to the Sports Disputes Tribunal of New Zealand for hearing and determination.

7.2.3 **Disciplinary Procedure for hearings before the Steward:**

No person may sit as a Steward in the determination of any matter in which he or she is in any way interested.

- 7.2.4
- a: The Steward may, during or immediately following any meeting, hold a hearing of any complaint of complaints against the member.
 - b: A Member may answer the complaint by appearance before the Steward.
 - c: No party at the hearing may be represented by counsel or agent.
 - d: Hearings must be conducted informally as the Steward thinks fit, but so as to give each party a fair opportunity to be heard.

- e: The Steward may receive and consider the complaint upon such information and submissions as it thinks fit and is not bound by the rules of evidence.
- f: The hearing may be recorded and evidence given may, at the discretion of the Steward, be committed to writing.
- g: The decision of the Steward must (even if announced at the hearing) be recorded in writing and delivered to the Member and MNZ.
- h: A decision of the Steward may impose a penalty in accordance with Rule 7.4.1.

7.3 DISCIPLINARY POWERS AND PROCEDURES – JUDICIARY COMMITTEE

7.3.1 **Judiciary Committee:**

The Board shall as required appoint an independent Judiciary Committee or Committees in accordance with the Constitution.

7.3.1 A pool of established persons made up of Grade four official(s) and Senior Stewards appointed in accordance with the Constitution.

7.3.1.1 The three members of the Judiciary Hearing Committee to be appointed as follow. 1 nominated by the Complainant, 1 x nominated by the Alleged Offender and 1 x nominated by the GMO, from a supplied list. The parties have 3 working days to nominate an appointee, otherwise one will be appointed for them by the GMO.

7.3.2 **Jurisdiction:**

- a The Constitution sets out the matters which may be referred to the Judiciary Committee. Such matters to include the Allegations and Appeals.
- b; For avoidance of doubt the Judiciary Committee will not have disciplinary powers in relation to an allegation that a doping offence (as defined in the MNZ Anti-Doping Rules) has occurred. All matters relating to doping will be dealt with in accordance with the MNZ Anti-Doping Rules and will be referred to the Sports Tribunal for hearing and determination.

7.3.3 **Functions:**

- a; The functions of the Judiciary Committee are to:
 - i. Do all things to comply with and implement this Rule 7.3
 - ii. Hear and determine Allegations referred to it
 - iii. Hear and determine Appeals from disciplinary decisions of the Steward made under Rule 7.2
 - iv. Generally take all steps necessary or desirable to achieve the purposes of this Rule 7.3

7.3.4 **Confidentiality:**

All information received by a Judiciary Committee and its deliberations shall be kept confidential except to the extent required by law or as otherwise determined pursuant to Rule 7.3.9 (b) and/or 7.3.11(h)

7.3.5

Conflict:

Any member of a Judiciary Committee who considers they may have a potential conflict of interest in determining a disciplinary matter shall declare that potential conflict of interest to the Chair and if the Chair considers it appropriate to do so they may require that member to vacate their position on that Judiciary Committee. If the chair considers that he/she has a conflict of interest he/she shall report it to the GMO for a decision.

7.3.6

Expenses and Remuneration:

- a. MNZ shall reimburse members of a Judiciary Committee for reasonable travel and other expenses incurred in the course of performance of their duties on the Judiciary Committee provided such expenses have been approved in advance by MNZ.

7.3.7

No Personal Liability:

No member of a Judiciary Committee will be liable for any act done or omitted to be done by any member of a Judiciary Committee in good faith in accordance with the functions duties, powers or authorities specified in this Rule 7.3.

7.3.8

Initial Process:

- a. The office will receive in writing Allegations and determine those requiring to be investigated by the Judiciary Committee.
- b. The Judiciary Committee either by e-mail or conference phone call shall decide to manage the proceedings in order to bring the matter to prompt resolution including determining:
 - i. The manner in which evidence (if any) and documents are to be provided to the Judiciary Committee.
 - ii. the date, place, time and format of a hearing (if any)
 - iii. Such other matters or information required to bring the matter to a prompt resolution.
(collectively known as “the Directions”)
 - iv. Elect a chair from the senior steward(s) on the committee
- c. **The Directions and notice of the Allegations must be notified to the Member who is the subject of the Allegations and the complainant, not less than 10 working days before any hearing date.**
- d. The member who is the subject of the Allegation may:
 - i. Respond to the Allegations in writing and/or
 - ii. Attend any hearing
- e. If the Member who is the subject of the Allegations wishes to appear at any hearing he or she must give notice of his or her intention to attend at least 5 working days prior to the date of the hearing
- f. **Five working days prior to the hearing the parties must file with the Judiciary Committee, any written material including submissions, intended to be presented at the hearing.**

7.3.9

Procedure:

- a. Except as provided for in the Constitution or this Rule 7.3 a Judiciary Committee may determine its own practices and procedures for performing the functions specified in this Rule 7.3
- b. The Chair shall explain the procedure to all those present at any hearing and advise whether or not the Proceedings are confidential.
- c. A hearing may be conducted via remote audio and video conferencing facilities at the discretion of the Judiciary Committee.
- d. Any hearing may be adjourned as and when the Judiciary Committee thinks fit.
- e. The parties may be represented or assisted in any Proceeding by a lay person of their choice. Legal or professional representation is prohibited. If the Allegation involves a minor, they may have their parent or legal guardian present, in addition to a lay person of their choice. However, only one of these has speaking rights, unless approved by the Judiciary Committee. NB This does not preclude seeking legal advice prior to the hearing.

7.3.10

Evidence in Procedure:

- a. A Judiciary Committee shall have the power to receive, permit or inquire into the subject matter of any Proceeding as it thinks fit and is not bound by the rules of evidence including at its discretion.
 - i. Receiving as evidence any statement, document, information or matter that may in its opinion assist it to deal effectively with the matters before it.
 - ii. Permitting any person to appear as a witness
 - iii. Permitting any witness to give their evidence in writing
 - iv. Inspecting and examining any papers documents records or items
 - v. Requiring any party or person bound by this Rule 7.3 (and request any other person) to produce for examination any papers, documents, records or things in that person's possession or under that person's control to allow copies of or extracts from any such papers, documents or records to be made.
 - vi. In respect of any Proceeding, hear evidence at its own request or upon application by a party whether or not such evidence is new to the dispute.

7.3.11

Decisions:

- a. A decision of a Judiciary Committee in any Proceeding under this rule 7.3 shall be made by majority decision of the members of the Judiciary Committee.
- b. In the event of a tie, the Chair shall have a casting vote.
- c. The Judiciary Committee shall be entitled to make such inference and draw such conclusions as it considers appropriate from the failure by any person or party to respond to any Allegation or to comply with any request by a Judiciary Committee under Rule 7.3.10.
- d. All decisions of the Judiciary Committee shall be issued in writing to the parties on the proceedings, with reasons, as soon as possible after any hearing or determination.

- e. Any decision of a Judiciary Committee shall be enforceable by any party to the Proceeding in which the order is made in the courts of New Zealand under the law of contract.
- f. A Judiciary Committee shall be entitled to:
 - i. Dismiss an Allegation at any stage in the disciplinary process or;
 - ii. Make an order to impose a penalty pursuant to Rule 7.4.2
- g. In addition to its decisions a Judiciary Committee may also make non-binding recommendations to the Board or any other party of any Proceeding.
- h. The Board may in its discretion publish notice of the Judiciary Committee's decision including such particulars of names, Allegations and penalties or orders as it thinks fit.

7.3.12

Costs:

Every party and person involved in any Proceeding shall bear their own costs including any costs of attendance at a hearing. However, a Judiciary Committee may award costs (in full or part) to one party if at its discretion it deems appropriate to do so.

7.3.13

Document Service:

- a. Every document which is filed with a Judiciary Committee shall also be served on all other parties in the Proceeding at the address for service notified by that party in its documents in the Proceedings.
- b. Documents to be filed with a Judiciary Committee or served on another party shall be sent by post, courier, email, facsimile or delivered in person.
- c. Where a document is served on a party or person under this Rule 7 the document shall be deemed to have been served as follows;
 - i. if delivered in person between the hours of 9.00am and 5.00pm then on that day and if such delivery is outside these hours, then on the next day.
 - ii. if posted, then on the earlier of:
 - (a) The fifth day after the day on which it was posted; or
 - (b) The day on which it was received
 - iii. if transmitted by facsimile number or by email then on the day which it was transmitted unless such transmission commenced after 5.00pm in which case it shall be the next day.

7.3.14

Natural Justice:

A Judiciary Committee may determine any Proceeding before it with or without a hearing (at its discretion) but at all times in accordance with the principles of natural justice.

7.4

PENALTIES

7.4.1

Penalties imposed by the Steward:

Subject to the Constitution the penalties or orders which may be imposed by the Steward pursuant to this Rule are:

- a. Reprimand or warning
- b. A fine of not more than \$500
- c. Exclusion from entry at a race meeting

- d. Referral of any matter to the GMO for consideration to present to the Judicial committee
- e. Relegation and/or exclusion
- f. In Road Race a time penalty exists for jumping the start, refer to Rule 14.3b

7.4.2

Penalties imposed by the Judiciary Committee:

Subject to the Constitution the penalties or orders which may be imposed by the Judiciary Committee are:

- a. Reprimand or warning
- b. Interim suspension order pending the Judiciary hearing of any Allegations
- c. A fine
- d. Exclusion from entry at a race meeting
- e. Suspension from an activity or activities of MNZ including but not limited to training camps, competitions, events, tournaments, meetings and functions, on such terms and for such a period as it thinks fit.
- f. Suspension of membership of MNZ
- g. Relegation
- h. Termination of membership of MNZ
- i. Such other penalty as the Judiciary Committee considers appropriate for the offence; or
- j. Such combination of any of the above penalties as a Judiciary Committee thinks fit.

7.4.3

Fine:

A fine must be paid within 48 hours of it being ordered. A Member will be suspended during any period the fine remains unpaid.

7.4.4

An entrant will be liable to pay any fine inflicted on their rider, assistant, passenger, pit crew or other team member.

7.4.5

If interim suspension is imposed the GMO may, if he/she thinks fit, request a Judiciary Committee to convene for the hearing of the complaint as a matter of urgency.

7.4.6

Consequences of Suspension:

- a. Upon imposition of a penalty of suspension, the Member's certificate of membership must be delivered to the MNZ office for the period of the suspension. The Member (while remaining on the register of members) is not entitled to exercise any of the rights and privileges of membership during the period of suspension.
- b. Subject to 7.3.6c below, upon expiry of a period of suspension the Member will again be entitled to exercise the rights and privileges of membership of that class in which he or she was entered prior to the suspension and certificate of membership must be returned to the Member.
- c. If the suspended member holds his or her membership under Rule 4.1.4 of the MNZ Constitution, the Board may, upon the expiry of the Member's suspension, determine whether or not the member is a fit & proper to hold that position. The Board's determination shall be final and binding and there shall be no right of review or appeal to any other

body, including the Sports Tribunal. If the Board determines that the Member is not a fit and proper person to hold that position, the member may become a Member of MNZ under any other class/category of membership by following the procedure applicable to that class/category.

7.4.7

Consequences of Expulsion:

- a. Upon imposition of a penalty of expulsion the certificate of membership of the Member must forthwith be delivered up to the MNZ Office.
- b. Upon expulsion the Member must forthwith pay all money, subscriptions and other sums due to MNZ.
- c. Upon expulsion the Member is not entitled to exercise any rights or privileges of membership.
- d. Every person to whom the penalty of expulsion or suspension is deemed to apply may not be or become a principal, partner, office or responsible servant or agent of any other Member nor be a party to or concerned in any application for new membership of himself or herself of any firm, partnership, corporation or body corporate by which he or she is engaged.
- e. Any Member expelled or person to whom expulsion is deemed to apply may apply for membership (or for engagement in any firm, partnership, corporation or body corporate) after the expiry of 5 years from the date on which the expulsion became effective. The Executive may grant or refuse the application as it thinks fit and upon such terms and conditions (including the giving of any apology, undertaking, advice or information or any other matter) as the Board may think fit.

7.4.8

Connection with MNZ:

A suspended or expelled person or body must not, during the period of suspension or expulsion:

Hold any official position in connection with MNZ or any affiliated club or in connection with any meeting or competitor and/or be a registered member of a club for competition purposed and/or promote or hold competitions requiring a permit from MNZ; and/or apply for membership of any overseas motorcycling association.

7.5

APPEALS

7.5.1

Any person or body affected by a decision of the Steward and/or Protest Committee may Appeal the decision to the Judiciary Committee. Any person or body affected by a decision of the Judiciary Committee or who is dissatisfied with the outcome of an Appeal to the Judiciary Committee may Appeal the decision to the Sports Tribunal.

7.5.2

An Appeal to the Judiciary Committee from a decision of the Steward/and or Protest Committee shall be brought and dealt with as follows:

- a. Rule 7.3 as it relates to the procedures of the Judicial Committee and its rights and obligations (but excluding Rule 7.3.8) shall also apply to any Appeal hearing. In the event of a conflict between any provision of this Rule 7.5.2 and Rule 7.3 the provisions in this Rule 7.5.2 shall prevail.

- b. If the Appeal arises from the determination of a protest only the protestee and protestor have the right to Appeal.
- c. A person wishing to Appeal must file a Notice of Appeal and filing fee of \$750 with the MNZ Office.
- d. The Notice of Appeal must be signed by the Appellant or legal guardian in the case of a minor, and must set out the grounds of the Appeal. No ground of Appeal not set out, may be argued at the hearing, unless with leave of the Judiciary Committee, on terms it thinks fit.
- e. The filing of a Notice of Appeal will not operate as a stay of the decision or penalty appealed against unless on a written application to it, the Judiciary Committee directs otherwise in its sole discretion.
- f. Timing for filing Appeals
 - i. An Appeal against a decision of the Steward or Protest Committee must be filed with the MNZ Office within 3 working days of the decision of the Protest Committee
 - ii. An Appeal against a decision of the Judiciary Committee to the Sports Tribunal must be filed within 14 working days of the date of the decision being received in writing
- g. The hearing of the Appeal will be convened at a place and time convenient to the Judiciary Committee, who will notify the parties to the Appeal of that date, place and time.
- h. **The Judiciary Committee must give the Member not less than 10 working days notice of the hearing of the Appeal.**
- i. The GMO of MNZ will appoint an Appeals Co-ordinator who is responsible for ensuring that the Judiciary Committee obtain and are made aware of all the necessary information and evidence to conclude an informed decision.
- j. All Appeals will be by way of rehearing based on the evidence produced at the first hearing conducted by the persons or body whose decision is appealed against unless the Judiciary Committee in its sole discretion determines that new evidence is potentially significant to the outcome of the Appeal.
- k. Five working days prior to the hearing of the Appeal, MNZ and the appellant must file with the Judiciary Committee, any written material including submissions, intended to be presented at the Appeal hearing.
- l. Neither MNZ nor the Judiciary Committee is liable to any Member or servant, agent or other representative of a Member or to any witness for travelling or other expenses relating to the hearing and attendance at the Appeal hearing.
- m. If the appellant fails to appear at the time fixed for the hearing of the Appeal, the Judicial Committee may at its discretion;
 - i. Dismiss the Appeal;
 - ii. Proceed with the hearing; or
 - iii. Adjourn the hearing to another time and/or place on conditions it thinks fit.
- n. The Judiciary Committee may make the following orders resulting from an appeal hearing;
 - i. Dismiss the Appeal and Uphold the original decision
 - ii. Quash or amend the original decision or;
 - iii. Quash or amend any penalty imposed

- o. The decision of the Judiciary Committee from an Appeal must be recorded in writing and delivered to the MNZ Office within 7 working days. MNZ shall deliver the decision to Members who were involved in the Appeal and other parties to the hearing within 5 working days of receipt.
- p. **If the parties wish to appear at the Appeal Hearing they must give notice of their intention to attend at least 5 working days prior to the date of the Appeal Hearing.**

7.5.3 An application to appeal a decision of the Judicial Committee shall be lodged with the Sports Disputes Tribunal of New Zealand within 14 working days of the decision being received in writing

Appeals to the Sports Tribunal may only be made on one or more of the following grounds:

- a. That natural justice was denied
- b. That the Judiciary Committee acted outside of its powers and/or jurisdiction
- c. That substantially new evidence has become available after the decision which is being appealed was made
- d. In respect of a penalty imposed the penalty was either excessive or inappropriate.

7.5.4 An appeal to the Sports Disputes Tribunal of New Zealand shall be heard and determined in accordance with the rules of the Sports Disputes Tribunal of New Zealand (copies of which are available from MNZ).