

## **7 PROTESTS, APPEALS AND PENALTIES**

- 7.1 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.
- 7.1.1 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.
- 7.1.2 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.
- 7.1.3 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.
- 7.1.3.1 "Protests – Junior and Senior Motocross Only
- a. The Clerk of the Course and the steward must designate an area, to be announced at riders briefing for the placement of the purple protest flag.
  - b. Protest in respect of rider conduct and conditions of competition must be marked by the raising of the purple flag.
  - c. A competitor must indicate the protest to an official at the purple flag area after competing in a race and prior to returning to the pits.
  - d. No discussion or correspondence will be entered into once the competitor has returned to the pits and not complied with this rule.
  - e. A competitor who indicates a protest must return to the pits and present the protest to the steward in line with the protest rules
- 7.1.4 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.
- 7.1.5 The protest must be submitted to the Steward of the Meeting in writing and accompanied by a fee of \$35.00 and must make reference to the relevant rule alleged to have been infringed.
- 7.1.6 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.
- 7.1.7 The Steward shall be the chairman of the committee. Members of the Protest Committee will be announced at riders briefing prior to practice.

- 7.1.8 Protests must be adjudicated on as soon as possible. The result must be advised 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.
- 7.1.9 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.
- 7.1.10 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.
- 7.1.11 Where any protest against the final order of finishing a race under Rule 7.1.18 or 7.1.19 is upheld, the placing and prize must be awarded to the competitor who is next in order.
- 7.1.12 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 days has elapsed from the date of the protest hearing, subject always to the party against whom the protest has been upheld giving notice in writing of the intention not to appeal the decision.
- 7.1.13 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.
- 7.1.14 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.
- 7.1.15 Where a protest against machine specifications, including fuel or noise testing, 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.
- 7.1.16 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.
- 7.1.17 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 no later than 30 minutes after the posting of results of the day's programme.
- 7.1.18 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 days from the date of notification of the official results.

- 7.1.19 On receipt of a protest under the provisions of this rule 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.
- 7.1.20 A protest under this rule 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.
- 7.1.21 No prize money will be distributed subsequent to events held under the provisions of this rule until a period of 7 days has elapsed from the date of notification of official results.
- 7.1.22 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.
- 7.1.23 Costs relating to any technical tests required to prove or disprove a protest shall be the responsibility of the unsuccessful party.
- 7.1.24 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 HEARINGS**

### Disciplinary Powers of Steward

- 7.2.1 The disciplinary powers of the Steward are exercisable in the case of any Member or person for whom the Member is responsible:
- a. Contravening any competition rule, supplementary regulation or any instruction of the Steward at any meeting;
  - b. 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.
  - c. Code of Conduct

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.

### Disciplinary Powers of Board

- 7.2.2 The disciplinary powers of the Board are exercisable in the case of any Member or person for whom the Member is responsible for:
- a. Contravening any rule, regulation, bylaw or law of MNZ or acting in contravention of its objects;
  - b. Failing to observe or perform any provisions of MNZ's Code of Ethics or policies;
  - c. Bringing discredit or disrepute to MNZ;

- d. Being guilty of conduct unbecoming a Member of MNZ.
- e. Code of Conduct

For avoidance of doubt the Board 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 Disputes Tribunal of New Zealand for hearing and determination.

#### Decision by the Board

7.2.3 Subject to Rule 7.2.7, the Board when exercising its disciplinary powers will consist of a panel of the same number of persons as required to constitute a quorum for Board Meetings under the MNZ Constitution. In the event of Rule 7.2.7 applying, the Board will elect an additional panel member who shall, for the purposes of the disciplinary hearing, have the same rights and privileges (including voting rights) as other Board/Panel members.

7.2.4 The Board will decide any disciplinary matter by a majority. In the event of a tie, the President shall have a casting vote.

#### Disciplinary Procedure for hearings before the Steward

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

- 7.2.6
- a. The Steward may, during or immediately following any meeting, hold a hearing of any complaint or 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.

#### Disciplinary Procedure for hearings before the Board

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

7.2.8 In any case where the appointed President of the Board is unable or unwilling to act in relation to a particular matter, the Board will appoint another of its members to act as President in relation to the matter.

- 7.2.9
- a. The Board must give the Member not less than 10 working days notice of the hearing of any complaint or complaints against the Member.
  - b. A Member may answer the complaint:
    - i. by letter to the Board; or
    - ii. by appearance before the Board.
  - c. If the Member wishes to appear in answer to the complaint he or she must not less than 3 days before the hearing give written notice of his or her intention to do so together with brief details of the matters in issue.
  - d. Any party at the hearing must not be represented by counsel or agent.
  - e. Hearings must be conducted informally as the Board thinks fit, but so as to give each party a fair opportunity to be heard.
  - f. The Board may receive and consider the complaint upon such information and submissions as it thinks fit and is not bound by the rules of evidence.
  - g. The hearing may be adjourned as the Board thinks fit.
  - h. The hearing may be recorded and evidence given may, at the discretion of the Board, be committed to writing.
  - i. Neither MNZ nor the Board 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 hearing.
  - j. The decision of the Board must (even if announced at the hearing), be recorded in writing and delivered to the Member.

#### Decisions of the Board

- 7.2.10 The Board, having heard the Member and any other party entitled to be heard, and the evidence adduced, will determine the proceeding. It may find any breach alleged proved or dismiss the charge or make such other order as it thinks fit.
- 7.2.11 On finding a breach proved the Board may impose a penalty in accordance with Rule 7.3.
- 7.2.12 On the determination of any proceedings, the Board may order all or any of the costs and/or expenses of any party be paid by such person or body as it thinks fit.
- 7.2.14 The Board may in its discretion publish notice of its decision including such particulars of names, complaints, finding and penalties or orders as it thinks fit.

### **7.3 PENALTIES**

#### Penalties imposed by the Steward

- 7.3.1 The penalties or orders which may be imposed by the Steward pursuant to this Rule are:
- a. Reprimand;
  - b. A fine of not more than \$500;
  - c. Exclusion from entry at the meeting;
  - d. Referral of any matter to the Board.
  - e. Relegation and/or exclusion
  - f. In Road Race a time penalty exists for jumping the start, refer to rule 22.8.16.

#### Penalties imposed by the Board

7.3.2 The penalties or orders which may be imposed by the Board pursuant to this Rule are:

- a. Reprimand;
- b. Interim suspension order pending the hearing of any charges;
- c. A fine;
- d. Exclusion from entry at the meeting;
- e. Suspension;
- f. Relegation;
- g. Expulsion.

#### Fine

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

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

- 7.3.5
- a. The Board may, before or during any hearing of a complaint, make an order for interim suspension where the Board is of the opinion that the complaint is sufficiently serious for that order to be made or is otherwise in the interests of MNZ or its Members.
  - b. In considering interim suspension the Board may, if it thinks fit, convene the hearing of the complaint as a matter of urgency.

#### Consequences of Suspension

- 7.3.6
- 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.

#### Consequences of Expulsion

- 7.3.7
- 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.

#### Connection with MNZ

- 7.3.8 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.

## 7.4 APPEALS

- 7.4.1 Any person or body affected by a decision of the Steward and/or Protest Committee may appeal the decision to the Appeal Committee. Any person or body affected by a decision of the Board or who is dissatisfied with the outcome of an appeal to the Appeal Committee may appeal the decision of the Board or of the Appeal Committee to the Sports Disputes Tribunal of New Zealand.
- 7.4.2 An appeal to the Appeals Committee shall be brought and dealt with as follows:

- a. If the appeal arises from the determination of a protest, only the protestee and protestor have the right to appeal.
- b. A person wishing to appeal must file a Notice of Appeal and filing fee of \$500 with the MNZ Office.
- c. 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 Appeal Committee, on terms it thinks fit.
- d. 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 Appeals Committee directs otherwise.
- e. Time for filing Appeals
  - a. 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.
  - b. An appeal against a decision of the Appeal Committee must be filed within 5 working days of the date of the decision.
- f. Procedure on Appeal  
Appeal Hearing Committee:  
A committee established by MNZ to hear Appeals. Such committee to comprise three members nominated from Senior Stewards, one by the relevant Commissioner, one by the Stewards Commissioner and the other by the Appellant. The members shall determine the Chairperson of the committee.
- g. No person may sit as a member of the Appeal Committee in the determination of any matter in which he or she is in any way interested.
- h. In any case where a member of the Appeal Committee is unable or unwilling to act in relation to a particular matter, the Board will appoint another of its members to sit on the Appeal Committee in relation to the matter.
- i. The hearing of the appeal will be convened at a place and time convenient to the Appeal Committee, who will notify the parties to the appeal of that date, place and time.
- j. The Appeal Committee must give the Member not less than 10 working days notice of the hearing of the appeal.
- k. The Board of MNZ will appoint an Appeals Co-ordinator who is responsible for ensuring that the Appeal Committee obtain and are made aware of all the necessary information and evidence to conclude an informed decision.

- I. The Appeal hearing must be held within 10 working days after the issue of the notice.
- m. No representation on behalf of the appellant is permitted except in the situation that appellant is a minor then he/she may have present a parent or legal guardian who shall have speaking rights if so invited by the chairperson.
- n. 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.
- o. The Appeals Committee may conduct the hearing of the appeal in the manner it thinks fit.
- p. The Appeals Committee may adjourn the hearing from time to time on such terms and conditions as it thinks fit.
- q. The Appeal Committee may receive and consider the appeal upon such information and submissions as it thinks fit and is not bound by the rules of evidence.
- r. Three days prior to the hearing of the appeal, MNZ and the appellant must file with the Appeal Committee, any written material including submissions, intended to be presented at the appeal hearing.
- s. Neither MNZ nor the Appeal 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 hearing.
- t. If the appellant fails to appear at the time fixed for the hearing of the appeal, the Appeal Committee may dismiss the appeal or proceed with the hearing or adjourn it to such time and place on conditions it thinks fit.
  - a. The Appeal Committee may award costs as it thinks fit at the conclusion of the appeal hearing.
- u. The decision of the Appeal Committee must be recorded in writing and delivered to the MNZ Office within 5 working days. MNZ shall deliver the decision to members who were involved in the appeal and others parties to the hearing within 5 days of receipt.
- v. Powers of the Appeal Committee on Appeal  
In its decision, the Appeal Committee may:
  - a. Uphold the decision
  - b. Dismiss the appeal
  - c. Quash or amend the decision
  - d. Quash or amend any penalty imposed
  - e. Refer any matter to the Board for further consideration but may not order any competition to be re-run.

- w. The Appeal Committee will not have powers to hear 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.

7.4.3 An application to appeal a decision of the Board or of the Appeal Committee shall be lodged with the Sports Disputes Tribunal of New Zealand within 15 working days of the decision of the Board or of the Appeal Committee. Appeals to the Sports Disputes Tribunal of New Zealand may only be made on one or more of the following grounds:

- A That natural justice was denied
- B That the decision maker 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.

7.4.4 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).