

### 7.1 Disciplinary Powers of the Steward

7.1.1 A Steward's powers only operate within the days of the meeting as set out on the permit or at the commencement of sign on/machine examination for that event and until any matters raised at the meeting have reached conclusion. The meeting shall be deemed to commence at the scheduled time and finish at the expiry of the deadline for the lodging of a protest and/or the time at which technical or sporting verification's have been concluded, whichever is the latest. Any machines sealed during the meeting or series may be subjected to technical inspections and must remain as they were sealed, until inspected, or advised otherwise in writing by the Steward. An example of this would be a technical inspection ordered at the meeting but not able to be done until later at an offsite venue and the resolution of inspection outcomes.

#### **Matters Other Than Matters Under Protest or Complaints**

7.1.2 The Steward may have any matter brought to his/her attention by any person or may observe a matter concerning the operation of the meeting, other than a matter which is under protest or which is a Complaint. In relation to these matters the Steward may, prior to the end of the meeting, take any or all of the following actions:

- a. investigate at the Steward's sole discretion;
- b. hold a meeting of the parties to which all the parties affected must be invited, and at which all affected parties that take up the invitation to attend are given an opportunity to be heard;
- c. decide the matter and/or take such steps as the Steward feels are appropriate to remedy or dispose of the matter; and/or
- d. impose such penalties as required or as allowed by the Manual of Motorcycle Sport.

The result of such an investigation and/or action must be issued in written form to all affected parties.

7.1.3 The Steward may, within a reasonable time and prior to the end of the meeting, take reasonable steps to remedy a decision at that meeting made by any meeting official (including the Steward), but may not alter any decision made by the Protest Committee.

#### **Complaints**

7.1.4 The Steward shall have power to receive and determine any Complaint against any Member or any Official where the conduct that is the subject of the Complaint occurred at the meeting and is not a matter that could be protested under Rule 7.2.

- a. Should the Complaint be against the Steward, or if the Steward has a conflict of interest, the Steward will immediately refer the Complaint to the Judiciary Committee.

7.1.5 A Complaint must be received by the Steward in writing, and prior to the end of the meeting.

- 7.1.6 The Steward must investigate the Complaint at the Steward's sole discretion.
- 7.1.7 Subject to Rules 7.1.4(a) or 7.1.8, unless the Steward determines that the Complaint is frivolous, vexatious, trivial or without merit, the Steward must hold a hearing:
- a. All affected parties must be invited to the hearing and given the opportunity to be heard.
  - b. No party at the hearing may be represented by parent, counsel or agent unless the party is under the age of 16 in which case a parent or guardian is permitted, or the Steward allows representation (for example but not limited to a rider with a speech impediment or a rider who does not speak English).
  - c. Hearings may be conducted as informally as the Steward determines, but must give each party a fair opportunity to be heard.
  - d. The Steward must receive and consider any information put to him/her by an affected party and is not bound by the rules of evidence.
  - e. Affected parties are entitled to call witnesses to give evidence.
  - f. The Steward, in his/her discretion, can compel any Member to give evidence.
  - g. The hearing may be recorded and evidence may be committed to writing, at the discretion of the Steward.
  - h. The decision of the Steward must (even if announced verbally) be recorded in writing and issued to all affected parties, the organising club, and MNZ as soon as practicable.
  - i. A decision of the Steward may include penalties as set out in Rule 7.4.1.
- 7.1.8 The Steward may, at his/her discretion, refer Complaints of a more serious nature to the Judiciary Committee.
- 7.1.9 Any decision of the Steward (regardless of whether it is disciplinary or not) may be appealed by an affected party to the Judiciary Committee under Rule 7.3.2(a).

## **7.2 Protests**

- 7.2.1 Protests may only be made regarding:
- a. the Machine Specifications of another competitor's motorcycle;
  - b. rider conduct during racing which is the period from leaving the dummy grid until completion of the race (for the avoidance of doubt, this is conduct that could not be the basis of a Complaint);
  - c. the Conduct of Competitions as set out in Chapter 6 of the Manual of Motorcycling Sport; and/or
  - d. the order of finishing a race.
- 7.2.2 For a Protest to be valid it must:
- a. 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 or is under the age of 16.
  - b. be submitted to the Steward of the Meeting in writing and accompanied by a fee of **\$100.00**. The fee can be paid in cash or by direct credit to the MNZ bank account;
  - c. reference the relevant Manual of Motorcycling Sport rule alleged to have been infringed; and

- d. if it is regarding Rule 7.2.1(a), (b), or (c), 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;
  - e. if it is regarding Rule 7.2.1(d) and the results are confirmed before the completion of a meeting, be submitted to the Steward of the Meeting no later than 30 minutes after the chequered flag or posting of the results of a race (whichever is latest); and
  - f. if it is regarding Rule 7.2.1(d) and the results are not confirmed before the completion of the meeting, be submitted within 2 working days from the date of notification of the official results on the MNZ website.
- 7.2.3 For the purposes of Rule 7.2.2 the Steward is the sole judge of time and provided that unless there is a valid reason as to why it is not possible, the start time of the 30 minute period is taken from the time the race is completed as per the electronic timing equipment.
- 7.2.4 At all meetings, all Officials and marshals must be available until the deadline for the lodging of a protest, as determined by the Steward, has passed.
- 7.2.5 On receipt of a protest the Steward will immediately inform the organising club. The official result will immediately be deemed under protest and no prize money, trophies, and other awards from the affected race and/or series shall be awarded until the protest is finally determined including exhaustion of the appeal process.
- 7.2.6 Protests are adjudicated by the Protest Committee. A Protest Committee will be set up prior to each event, and will comprise the Steward of the Meeting, a representative of the organising club, and a representative of the riders. Should any of these people have a conflict of interest, the Steward may appoint a suitable replacement. The Steward will be the chair of the committee provided that if the Steward is replaced then the Steward's replacement will be the chair of the committee.
- 7.2.7 The Protest Committee will hold a hearing as soon as possible. Protest hearings arising from Rule 7.2.2(f) may be held through any method of audio or video conference.
- a. All affected parties must be invited to the hearing and given the opportunity to be heard for example, if a protest by 3<sup>rd</sup> against 1<sup>st</sup> could affect 2<sup>nd</sup>'s result, then 2<sup>nd</sup> should have the opportunity to be heard.
  - b. No party at the hearing may be represented by a parent, counsel or agent unless the party is under the age of 16, in which case a parent or guardian is permitted or the Protest Committee allows representation (for example but not limited to a rider with a speech impediment or a rider who does not speak English).
  - c. Hearings may be conducted as informally as the Protest Committee determines, but must give each party a fair opportunity to be heard.
  - d. The Protest Committee must receive and consider any information put to it by an affected party and is not bound by the rules of evidence.
  - e. Affected parties are entitled to call witnesses to give evidence.
  - f. The Protest Committee, in its discretion, can compel any Member to give evidence.

- g. The hearing may be recorded and evidence may be committed to writing, at the discretion of the Protest Committee.
- h. The decision of the Protest Committee must (even if announced verbally) be recorded in writing and issued to all affected parties, MNZ, and the organising club as soon as practicable.
- i. A decision of the Protest Committee may be unanimous or by majority vote. No member of the Protest Committee may abstain from any decision.
- j. The standard of proof on all questions to be determined by the Protest Committee shall be on the balance of probabilities. [For example, if it was more likely than not that rider A illegally overtook rider B then the standard of proof has been met].
- k. A decision of the Protest Committee may include penalties as set out in Rule 7.4.1.

7.2.8 Unless Rule 7.2.9 applies, the protest fee will be forwarded to MNZ. MNZ may, in its discretion, refund the fee to the party who submitted the protest, or pay the fee to the party who is the subject of the protest.

7.2.9 If there are costs relating to any technical tests required to prove or disprove a protest (including but not limited to the cost of dismantling and reassembling machines and comparison machines, and the obtaining of comparison parts and manufacturers parts catalogues), these costs shall be borne by the unsuccessful party. If the party who submitted the protest is unsuccessful, the protest fee will be applied towards these costs, with any surplus forwarded to MNZ.

7.2.10 Decisions of the Protest Committee may only be appealed to the Judiciary Committee under Rule 7.3.2(a). To avoid doubt Protest Committee decisions cannot be amended or altered by the Steward.

### **7.3 Judiciary Committee**

7.3.1 MNZ shall appoint three members from the Board appointed Judiciary Panel of Officials as needed to form a Judiciary Committee.

7.3.2 The Judiciary Committee has jurisdiction to hear:

- a) an appeal by any person or body affected by any decision of a Steward and/or Protest Committee;
- b) An appeal by any person who has been provisionally suspended in relation to a non-negative result under clause 6.32a/b of the MNZ Drug & Alcohol Rules, a confirmed positive result under clause 6.32b of those same rules where the substance is not on the WADA Prohibited Substance List (at the time of testing) but is illegal in New Zealand, or a refused test result under clause 6.33 of those same rules. This appeal right is strictly confined to the question of the provisional suspension;
- c) a Complaint referred to it by the Steward under Rules 7.1.4(a) or 7.1.8;
- d) a Complaint made directly to MNZ regarding conduct outside of MNZ permitted events; and

- e) a referral by MNZ in relation to a non-negative result under clause 6.32a/b of the MNZ Drug & Alcohol Rules, a confirmed positive result under clause 6.32b of those same rules where the substance is not on the WADA Prohibited Substance List (at the time of testing) but is illegal in New Zealand, or a refused test result under clause 6.33 of those same rules. Any such referral will proceed to a hearing in front of the Judiciary Committee; and
- f) any other matter as determined by MNZ in its sole discretion.

To avoid doubt, the Judiciary Committee will not have jurisdiction to hear an allegation that a doping offence (as defined in the MNZ Anti-Doping Rules) has occurred. A referral by MNZ in relation to a confirmed positive result under clause 6.32b of the MNZ Drug & Alcohol Rules where the substance is on the WADA Prohibited Substance List (at the time of testing) will be dealt with in accordance with the MNZ Anti-Doping Rules and will be referred to the Sports Tribunal of New Zealand for hearing and determination.

7.3.3 An appeal by any person or body affected by any decision of a Steward or Protest Committee under clause 7.3.2(a) or (b) will proceed to a hearing in front of the Judiciary Committee if, no later than 3 working days after the date that the decision of the Steward or Protest Committee was issued, or the provisional suspension was imposed, the appeal:

- a) is submitted in writing to MNZ, and signed by a party affected by the decision of the Steward or Protest Committee, or by a party who has been provisionally suspended (Notice of Appeal);
  - i. a Notice of Appeal can be submitted and signed by a legal guardian in the case of a party under the age of 16.
- b) sets out the grounds of appeal; and
- c) is accompanied by a filing fee of **\$1,000** paid by a bank transaction confirmation that **\$1,000** has been paid by direct credit to the MNZ bank account.

7.3.4 A Complaint referred to the Judiciary Committee by the Steward under Rules 7.1.4(a) or 7.1.8 will proceed to a hearing unless the Judiciary Committee decides the Allegation is frivolous, vexatious, trivial or without merit.

- a) A decision of the Judiciary Committee under Rule 7.3.4 cannot be appealed.

7.3.5 Subject to Rule 7.3.6, a Complaint made directly to MNZ regarding conduct outside of MNZ permitted events will proceed to a hearing in front of the Judiciary Committee if, no later than 5 working days after alleged incident, the Complaint:

- a) is submitted in writing to MNZ, and signed by a Member (or by a parent or legal guardian in the case of a Member under the age of 16); and
- b) sets out the grounds of the Complaint.

7.3.6 A Complaint made directly to MNZ under Rule 7.3.5 will not proceed to a hearing in front of the Judiciary Committee if the Judiciary Committee decides the Complaint is frivolous, vexatious, trivial or without merit.

a) A decision of the Judiciary Committee under Rule 7.3.6 cannot be appealed.

**7.3.7 Initial process:**

a) Once MNZ receives a valid appeal, referral or Complaint it will appoint three members of the Judiciary Panel to the Judiciary Committee.

b) If the proceeding is an appeal under Rule 7.3.2(a) MNZ will immediately inform the organising club. The official result will immediately be deemed under appeal and no prize money, trophies, and other awards from the affected race and/or series shall be awarded until the appeal is finally determined including exhaustion of the appeal process.

c) MNZ will forward the details of the matter (including the relevant Notice of Appeal or Complaint, and any supporting material) to the Judiciary Committee as soon as practicable.

d) If the matter is a Complaint under Rule 7.3.2(c) the Judiciary Committee will, by any means of communication and as soon as practicable, decide if the matter is frivolous, vexatious, trivial or without merit. The decision must be immediately communicated to MNZ.

e) If the matter is to proceed to a hearing MNZ will:

i. send the details of the matter (including the relevant Notice of Appeal or Complaint, and any supporting material) to all affected parties;

ii. inform all affected parties that they may make submissions to the Judiciary Committee whether in writing or otherwise and may attend the hearing;

iii. schedule a time, date, and venue (if applicable) for the hearing. All parties must receive at least 5 working days' notice of the time, date, and venue (if applicable), unless MNZ, in its discretion, determines that exceptional circumstances exist that mean the hearing should be held earlier [for example, an appeal from a Steward's decision in Round 3 of a series, when Round 4 is the following weekend]; and

iv. immediately circulate any submissions received by an affected party to all other parties including the Judiciary Committee.

**7.3.8 Procedure at Hearings:**

a. Except as provided in the Constitution or this Chapter, a Judiciary Committee may determine its own practices and procedures. However in each case, the Judiciary Committee shall ensure that any affected party has a reasonable opportunity to be heard and present their case, and shall ensure that all proceedings are determined in accordance with the principles of natural justice.

b. The Judiciary Committee must elect a Chairperson.

c. Hearings may be conducted via any form of audio or video conference at the discretion of the Judiciary Committee. A party or witness may be connected to the hearing via any form of audio or video conference.

- i. The non-attendance of a party at a hearing in respect of which that party has received notice shall not prevent the matter being dealt with in their absence.

d. The Chair shall explain the procedure. Usually, the party bringing the proceedings will speak first, followed by a party in respect of whom the proceedings are brought against, and then any other affected party.

e. Any hearing may be adjourned as and when the Judiciary Committee thinks fit.

f. The parties may be represented or assisted in any proceedings by a lay person of their choice. Legal representation is prohibited unless the Judiciary Committee determines, in its discretion, that special circumstances apply. If the proceedings involve a person under the age of 16, they may have a parent or legal guardian present, in addition to a lay person of their choice, with both the parent/legal guardian and the lay person having speaking rights. [NB: This Rule does not preclude seeking legal advice prior to the hearing].

### 7.3.9 Evidence

a. The Judiciary Committee has the power to receive, permit or allow any evidence and may inquire into the subject matter of any proceeding as it thinks fit, and is not bound by the rules of evidence, and may at its discretion:

- i. receive as evidence any statement, document, information or matter that may in its opinion assist it to deal effectively with the matters before it;
- ii. permit any person to appear as a witness;
- iii. permit any witness to give their evidence in writing;
- iv. inspect and examine any papers, documents, or records;
- v. require any Member 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, it to be made; and/or
- vi. subject to rule 7.3.9(b), hear evidence at its own request or upon application by a party whether or not such evidence is new to the dispute.

b. Proceedings under Rule 7.3.2(a) are by way of rehearing and are to be based only on the evidence produced at the first hearing, unless the Judiciary Committee, in its discretion, determines that there is new evidence that was not available at the time of the first hearing.

### 7.3.10 Decisions

- a) A decision of the Judiciary Committee may be unanimous or by majority vote. No member of the Judiciary Committee may abstain from any decision. Where a Committee has an even number of members and they are unable to reach a unanimous or majority decision, then the Chairman shall have a casting vote.
- b) The standard of proof on all questions to be determined by the Judicial Committee shall be on the balance of probabilities. [For example, if it was more likely than not that Member A verbally abused Member B then the standard of proof has been met].
- c) All decisions of the Judiciary Committee shall be issued in writing, with reasons, to the parties and MNZ, as soon as possible after the conclusion of the Judiciary Committee's deliberations.
- d) Any decision of a Judiciary Committee shall be enforceable in the courts of New Zealand by any party to the proceeding or any beneficiary of any order made. One example is recovery of a fine or debt.
- e) A Judiciary Committee shall be entitled to:
  - i. Dismiss the proceedings at any stage; or
  - ii. Make an order to impose a penalty pursuant to Rule 7.4.1; and/or
  - iii. In the case of proceedings brought under Rule 7.3.2(a) quash or amend either or both of the original decision and the original penalty imposed; and/or
  - iv. In the case of proceedings brought under Rule 7.3.2(b) quash or amend the provisional suspension.
- f) In addition to its decisions the Judiciary Committee may also make non-binding recommendations to the Board, MNZ, or any party to the proceedings.
- g) MNZ may, in its discretion, publish notice of the Judiciary Committee's decision including particulars of names and penalties.

### 7.3.11 General Matters – Judiciary Committee

- a) All information received by the Judiciary Committee, and its deliberations, shall be kept confidential except as required by law or as determined pursuant to Rule 7.3.10(g).
- b) Any member of the Judiciary Committee who considers they may have a potential conflict of interest in determining a proceeding shall declare that



potential conflict of interest to MNZ and if MNZ considers it appropriate to do so, MNZ may replace that member.

- c) MNZ shall reimburse members of the 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.
- d) No member of the Judiciary Committee will be liable for any act done or omitted to be done by any member of the Judiciary Committee in good faith in accordance with the functions, duties, and/or powers of the Judiciary Committee.
- e) Every party involved in a proceeding shall bear their own costs, including any costs of attendance at a hearing. However, the Judiciary Committee may, at its discretion, refund all or part of the fee referred to in Rule 7.3.3(c).

## 7.4 Penalties

7.4.1 Decisions of the Steward or the Protest Committee may include any or all of the following penalties:

- a) a reprimand or warning;
- b) a fine of not more than \$500, to be paid to MNZ;
- c) exclusion from entry at a defined future race meeting or future race meetings;
- d) relegation in the current race and/or series in which the conduct occurred;
- e) exclusion from the race and/or meeting and/or series in which the conduct occurred;
- f) in Road Races where the offence is 'jumping the start' a Time Penalty is to apply as per Rule 14.3b (Road) of the Manual of Motorcycle Sport.
- g) a time penalty.**

7.4.2 Decisions of the Judiciary Committee may include any or all of the following penalties:

- a) a reprimand or warning;
- b) a fine;
- c) exclusion from entry at a defined future race meeting or future race meetings;
- d) relegation in the current race and/or series in which the conduct occurred;
- e) exclusion from the race and/or meeting and/or series in which the conduct occurred;
- f) 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 period as the Judiciary Committee thinks fit;
- g) Suspension of membership of MNZ;
- h) Termination of membership of MNZ; and/or
- i) Such other penalty as the Judiciary Committee considers appropriate.

- 7.4.3 A fine must be paid within 3 working days of it being ordered. A Member will be suspended during any period the fine remains unpaid.
- 7.4.4 An entrant to any competition will be liable to pay any fine inflicted on their rider, assistant, passenger, pit crew, or other team member.
- 7.4.5 **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 Rule 7.4.5(c) 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 (as an Official) of the MNZ Constitution, the Board or any persons to whom the Board has delegated such determination may, upon the expiry of the Member's suspension, determine whether or not the Member is a fit & proper person to hold the position they have. The Member must be given the right to be heard before the persons making the determination. The determination shall be final and binding and there is no right of review or appeal. If the determination is that the Member is not a fit and proper person to hold that position, the Member may apply to become a Member of MNZ under any other class/category of membership by following the procedure applicable to that class/category.
- 7.4.6 **Consequences of expulsion:**
- a) The certificate of membership of the Member must be immediately delivered to the MNZ office.
  - b) The member must pay all money, subscriptions, and other sums due to MNZ or to any Member Club.
  - c) 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 during the period of such expulsion or suspension be or become a principal, partner, Officer, Official or responsible servant or agent of any other member or affiliated club nor be a party to or concerned in any application for new membership of MNZ by any person or body.
- 7.4.7 A suspended or expelled person or body must not, during the period of suspension or expulsion:
- a) hold any official position in connection with MNZ or any affiliated club or in connection with any meeting or competitor;
  - b) be a registered member of a club for competition purposes;
  - c) promote or hold competitions requiring a permit from MNZ; and
  - d) apply for membership of any overseas motorcycling association.

7.4.8 All upheld protest and subsequent outcomes shall be documented and be made available on demand to MNZ licence holders.

## **7.5 Sports Tribunal**

7.5.1 Any person or body affected by any decision of the Judiciary Committee may appeal to the Sports Tribunal of New Zealand by lodging an appeal with the Sports Tribunal within 14 days of the Judiciary Committee decision being received in writing.

7.5.2 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; and/or
- d) in respect of a penalty imposed the penalty was either excessive or inappropriate.

7.5.3 An appeal to the Sports Tribunal shall be heard and determined in accordance with the Rules of the Sports Tribunal.