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### **Article 137: Preamble**

1. The legal and disciplinary regulations are made pursuant to the power to make such regulations contained in the ESNZ Constitution.
2. The power to establish judicial and disciplinary bodies is contained in the ESNZ Constitution. These regulations provide for the following:
  - 2.1. The powers functions and Jurisdiction of:
    - 2.1.1. Officials;
    - 2.1.2. The Ground Jury;
    - 2.1.3. The Complaints Review Officer;
    - 2.1.4. The Judicial Committee;
    - 2.1.5. The Appeal Committee; and
    - 2.1.6. The Sports Tribunal of New Zealand.
  - 2.2. A procedure for lodging protests and Complaints.
  - 2.3. Penalties.

2.4. A process for appeal where appeal rights are available.

### **Article 138: Conflict of Interest**

1. In equestrian sports the participants and officials are often known to each other. Conflicts of interest must be identified and dealt with appropriately. It is important that any decision maker is as independent as possible, and conflicts of interests are minimised.
2. A decision maker (whether a member of the GJ, member of the Appeal Committee, Complaints Review Officer or member of the JC) must not participate in any decision making process if their duties in relation to that decision will involve a conflict of interest. The following Articles (Article 138.3-9) provide examples of conflict of interest which are not exhaustive and do not limit the generality of the nature of the Article.
3. The following persons must declare a conflict of interest and not participate in any related decision of a GJ or an Appeal Committee at an Event:
  - 3.1. The owners or riders of horses which are taking part in the Competition in relation to which the decision is being made;
  - 3.2. Chefs d'equipe, team officials, regular trainers and employers/employees of competitors taking part in the Competition in relation to which the decision is being made;
  - 3.3. Grandparents, parents, siblings, grandchildren or children of owners, competitors, Chefs d'Equipe or team officials taking part in the Competition in relation to which the decision is being made;
  - 3.4. Persons having a financial or personal interest in a horse or competitor taking part in the Competition in relation to which the decision is being made.
4. Except as provided by the Discipline Rules, a Technical Delegate, Course Designer or Veterinary Official at an Event may not be a member of a GJ or Appeal Committee.
5. Members of the GJ may not serve on the Appeal Committee and vice versa at an Event.
6. A member of the GJ or Appeal Committee in relation to a matter at an Event may not take part as a member of the Judicial Committee or serve as an arbitrator of the Sports Tribunal of New Zealand at a hearing relating to a decision taken by them on that matter or at that Event.
7. A team veterinarian or individual private veterinarian may not act as a veterinary delegate or a member of the veterinary commission or compete at the same Event.
8. The Veterinary Delegate or any member of the Veterinary Commission may not act as a Team Veterinarian or compete at the same Event.
9. No person or body may hear an appeal from a decision or order made by that person or body.
10. In exceptional circumstances and in order to promote the best interests of the sport, the Board may permit deviations from the provisions of Article 138. If the Board does take such action under this Rule 10, the Board will publicise full written reasons for doing so.
11. All officials should declare any actual or potential conflict of interest. The decision as to whether an official has a conflict of interest shall be made by the President of the GJ, the Chairperson of the Appeal Committee or Chairperson of the JC, as applicable.

### **Article 139: Ground Jury and Appeal Committee – Judicial Duties and Process**

1. The judicial role of the GJ is to promptly and fairly deal with matters and issues that are directly connected with a Competition or Competitions at an Event that may affect the

outcome or result of the Competition or Competitions at an Event and therefore require timely consideration and resolution,.

2. The judicial role of the Appeal Committee is to hear appeals from a judicial decision of the GJ.
3. The jurisdiction of the GJ and Appeal Committee begins one hour before the start of the first Competition at an Event and extends until 60 minutes after the conclusion of the last Competition at an Event, unless the GJ is required to hear a protest under Rule 14 of this Article 139 in which case the GJ will have jurisdiction to hear that protest and the Appeal Committee will have jurisdiction to hear an appeal from the GJ's decision regarding that protest.

#### **Matters Other than Matters under Protest or Complaints**

4. The GJ may have any matter brought to its attention by any person or may observe a matter concerning the operation of the Event, other than a matter which is under protest or which is a Complaint. In relation to these matters the GJ may, during the period of its jurisdiction, take any or all of the following actions:
  - 4.1. Investigate at the GJ's sole discretion;
  - 4.2. Hold a meeting of the parties. If the GJ determines that a hearing is necessary, the hearing will be conducted as per Rules 9.1-9.11 of this Article.
  - 4.3. Decide the matter and/or take such steps as the GJ considers are appropriate to remedy or dispose of the matter; and or
  - 4.4. Impose such penalties as set out in Rule 23 of this Article.

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

Subject to Rule 36, any decision made by the GJ under Rule 4.3 and/or 4.4 of this Article may be appealed by an affected party to the Appeal Committee (see Rules 31-36).

#### **Complaints**

5. The GJ shall have power to receive and determine a Complaint against any competitor, ESNZ Member or any Official where the conduct that is the subject of the Complaint occurred during the Event and is not a matter that could be protested under Rule 11 of this Article.
6. A Complaint must be received by the GJ in writing, and prior to 60 minutes after the end of the Event.
7. The GJ may investigate the Complaint at the GJ's sole discretion.
8. Should any member of the GJ have a conflict of interest, the President of the GJ may appoint a suitable replacement. If the President has a conflict, the remaining members of the GJ shall appoint a suitable replacement.
9. If the GJ determines that the Complaint is frivolous, vexatious, trivial, or without merit, the GJ must dismiss the Complaint. If the GJ does not make such determination the GJ must hold a hearing:
  - 9.1. All affected parties must be invited to the hearing and given the opportunity to be heard.
  - 9.2. No party at the hearing may be represented by parent, counsel, or agent unless the party is under the age of 18 in which case a parent or guardian is permitted, or the GJ allows representation (for example a competitor with a speech impediment or a competitor who does not speak English).
  - 9.3. Hearings may be conducted as informally as the GJ determines, but must give each party a

fair opportunity to be heard.

- 9.4. The GJ must receive and consider any information put to it by an affected party and is not bound by the rules of evidence.
  - 9.5. Affected parties are entitled to call witnesses to give evidence.
  - 9.6. The GJ, in its discretion can compel a Member to give evidence.
  - 9.7. The hearing may be recorded and evidence may be committed to writing, at the discretion of the GJ.
  - 9.8. The standard of proof on all questions to be determined by the GJ shall be on the balance of probabilities. [For example, if it was more likely than not that competitor breached a rule then the standard of proof has been met].
  - 9.9. The decision of the GJ must (even if announced verbally) be recorded in writing and issued to all affected parties, the relevant Discipline Committee, and ESNZ as soon as practicable.
  - 9.10. A decision of the GJ may include penalties as set out in Rule 23 of this Article.
  - 9.11. A decision of the GJ may be unanimous or by majority vote. No member of the GJ may abstain from any decision.
10. Subject to Rule 36, any decision made by the GJ under Rules 9.9 and 9.10 of this Article may be appealed by an affected party to the Appeal Committee (see Rules 31-36).

## **Protests**

11. The GJ shall have the power to receive and determine any of the following protests received during its period of jurisdiction:
- 11.1. Protests relating to a breach of Discipline Rules or By Laws and/or ESNZ Regulations by a competitor while riding and competing in an Event (for the avoidance of doubt this is conduct that could not be the basis of a Complaint).
  - 11.2. Protests relating to the eligibility of a competitor for a Competition or Event.
  - 11.3. Protests relating to the eligibility of a horse for a Competition or Event.
  - 11.4. Protests relating to the eligibility of any combination of horse and rider for a Competition or Event.
  - 11.5. Protests to an obstacle, or to the plan or length of a course for a jumping Competition.
  - 11.6. Protests relating to the steeple chase, cross country courses or obstacles at an Event.
  - 11.7. Protests relating to the classification of a Competition.
  - 11.8. Protests relating to abuse of a horse as set out in Article 132.
  - 11.9. Protests relating to Article 3 of the VRs.
12. For a Protest to be valid it must:
- 12.1. be made by a competitor who has competed in the specific Competition from which the protest ensues, or that competitor's representative when the competitor making the protest is incapacitated or is under the age of 18;
  - 12.2. be submitted to the GJ in writing and accompanied by a fee of \$50.00. The fee can be paid in cash or as a cheque;
  - 12.3. reference the relevant Rule alleged to have been infringed from the ESNZ Regulations and/or the Discipline Rules or By-Laws; and
  - 12.4. subject to Rules 13 or 14 of this Article, be submitted to the GJ no later than 60 minutes after the completion of the Competition from which the protest ensues. For the purposes of this Rule, the GJ is the sole judge of time.

13. Protests concerning an obstacle or the plan or length of the course for a jumping Competition must be lodged no later than 15 minutes before the start of the Competition.
14. Protests concerning the steeplechase or cross-country obstacles or course in Eventing, or the Course in Endurance must be lodged no later than 6pm on the day before the relevant Competition.
15. At all Events, all Officials must be available until the deadline for the lodging of a protest, as determined by the President of the GJ, has passed. If a protest is lodged before this deadline, all Officials must, if required, remain available to assist in relation to the hearing of the protest and any appeal to the Appeal Committee.
16. On receipt of a protest the GJ will immediately inform the organizer of the Event. If the protest could potentially affect the result of a class, the official result will immediately be deemed under protest and no prize money, trophies, and other awards from the affected class shall be awarded until the protest is finally determined including exhaustion of the appeal process.
17. Protests are determined by the GJ. Should any member of the GJ have a conflict of interest, the President of the GJ may appoint a suitable replacement. If the President has a conflict, the remaining members of the GJ shall appoint a suitable replacement. The President, or if the President is replaced then a member of the GJ as determined by the GJ, will be the chair of the GJ.
18. The GJ will hold a hearing as soon as possible.
  - 18.1. The hearing will be conducted as per Rules 9.1 to 9.11 of this Article.
19. If the protest is upheld, the protest fee will be refunded. Otherwise the protest fee is to be forwarded to ESNZ.
20. If, after dealing with the protest, the GJ is of the opinion that the matter, issue or events that gave rise to the protest are sufficiently serious or potentially have wider implications or ramifications for the sport of equestrian, it may order that the protest be referred to the Judicial Committee for further consideration notwithstanding the fact that the GJ has dealt with the protest. No fee will be payable by any affected party for this referral.
21. Subject to Rule 36, a decision made by the GJ under Rule 18 of this Article may be appealed by an affected party to the Appeal Committee (see Rule 31-26)
22. If no Appeal Committee is available at an Event decisions of the GJ may be reviewed by the Judicial Committee under Article 141.

### **Penalties**

23. A determination of the Ground Jury under this Article may include such order or orders as the GJ considers appropriate in the circumstances. Where the GJ determines a penalty is appropriate the GJ may impose one or more of the following penalties:
  - 23.1 A verbal warning, written caution, or Official Warning;
  - 23.2 A fine;
  - 23.3 Deduction of points;
  - 23.4 Re-orderings of placings in the Competition;
  - 23.5 Disqualification from the entire Event or Competition or Competitions within the Event;
  - 23.6 Suspension from participation in any FEI or ESNZ Event.

- 23.6 If the protest is regarding Article 3 of the VRs, the GJ may exclude a competitor from any further participation in a Competition or Event as set out in Article 3 of the Veterinary Regulations and/or disqualify a horse as set out in Article 3 of the VRs; and/or
- 23.7 Any other penalty the GJ considers appropriate in the circumstances.
24. In deciding on the appropriate penalties to be imposed, the following factors shall be taken into consideration, together with any other relevant factors:
- 24.1 Whether the action or omission resulted in an unfair advantage to the offender or a competitor;
  - 24.2 Whether the action or omission resulted in a material disadvantage to any other person or body involved;
  - 24.3 Whether the action or omission involved the maltreatment of horses;
  - 24.4 Whether the action or omission affected the dignity or integrity of any person involved in the sport;
  - 24.5 Whether the action or omission involved fraud, violence or abuse or any criminal acts; and/or
  - 24.6 Whether the action or omission was deemed to be deliberate.
25. In cases of a less serious nature and without significant consequences, an oral warning, a written caution, or Official Warning will be appropriate.
26. A fine is appropriate particularly in cases where the offender has acted negligently.
27. Disqualification is appropriate when it is specified in the relevant Rules, Constitution, By-Laws or Discipline Rules or if the circumstances require immediate action:
- 27.1 Disqualification from a Competition means that the competitor and horse or horses concerned - even should they change ownership are removed from the list of starters and the classification, and includes the forfeiture of prize money won in that particular Competition.
  - 27.2 Disqualification from an Event means that the competitor and horse or horses concerned - even should they change ownership - may take no further part in that Event and it may include the forfeiture of any prize money won in previous Competitions at that Event where this is provided for in the Constitution Rules and Regulations.
28. A suspension (which may be on specified terms and subject to conditions) is appropriate in cases of intentional or very negligent violations or contravention. In certain cases suspension may be automatic under the relevant Rules, Constitution, By-Laws, or Discipline Rules.
- 28.1 Suspension must be for a stated period and during that period the person or body suspended may take no part in Competitions or Events as a competitor or official or in the organisation of, or participation in, any event under the jurisdiction of the FEI or any Event under the jurisdiction of ESNZ in accordance with any ESNZ or FEI rules.
  - 28.2 In deciding when any suspension will commence, the appropriate body shall, in order to achieve a just penalty, have regard to the gravity of the offence.
29. Notwithstanding anything to the contrary indicated in Rules 23-28 of this Article above, the penalties listed below shall be imposed in the following cases:
- 29.1 The finding on analysis of a Prohibited Substance as defined in Article 3 of the VRs is presumed to be a deliberate attempt of the person responsible to affect the performance of the horse and will entail at a minimum the disqualification of the competitor and the horse from the Event, the forfeiture of any prize money and suspension for 3 months or longer and may entail the possibility of a fine. But if the person responsible can prove (on the balance of probabilities) that it was not a deliberate attempt to affect the performance of the horse the suspension and fine will be discretionary.
  - 29.2 In cases of Article 152 & Article 3 of the VRs a fine and / or suspension may also be imposed.

30. Before imposing a penalty, the decision-maker must give all affected parties the opportunity to make submissions on penalties. The decision maker may as it thinks fit give this opportunity either before or after making its decision on the substance of the proceeding.

### **Appeals to the Appeal Committee**

31. Subject to Rule 36, a decision by the GJ under Rules 4.3, 4.4, 9.9, 9.10, and/or 18 of this Article may be appealed to the Appeal Committee.
32. For an appeal under Rule 31 to be valid it must:
  - 32.1. be made by a party affected by the relevant decision, or that party's representative when the competitor making the protest is incapacitated or is under the age of 18;
  - 32.2. be submitted to the Appeal Committee in writing and accompanied by a fee of \$100.00. The fee can be paid in cash or as a cheque;
  - 32.3 refer to the grounds of the appeal; and
  - 32.4 be submitted to the Appeal Committee no later than 60 minutes after the relevant decision of the GJ was notified to the affected parties.
33. Any appeal is to be conducted on a de novo basis (i.e. it is heard afresh). The Appeal Committee will hold an appeal hearing as soon as possible. The Appeal Committee may hold the hearing by teleconference or videoconference and it does not need to be physically present at the Event.
  - 33.1. All affected parties must be invited to the appeal hearing and given the opportunity to be heard.
  - 33.2. No party at the appeal hearing may be represented by a parent, counsel or agent unless the party is under the age of 18, in which case a parent or guardian is permitted or the Appeal Committee allows representation (for example a rider with a speech impediment or a rider who does not speak English).
  - 33.3 Appeal hearings may be conducted as informally as the Appeal Committee determines, but must give each party a fair opportunity to be heard.
  - 33.4 The Appeal Committee must receive and consider any information put to it by an affected party and is not bound by the rules of evidence.
  - 33.5 Affected parties are entitled to call witnesses to give evidence.
  - 33.6 The Appeal Committee, in its discretion, can compel any Member to give evidence.
  - 33.7 The appeal hearing may be recorded and evidence may be committed to writing, at the discretion of the Appeal Committee.
  - 33.8 The decision of the Appeal Committee must (even if announced verbally) be recorded in writing and issued to all affected parties, the relevant Discipline Committee, and ESNZ.
  - 33.9 A decision of the Appeal Committee may be unanimous or by majority vote. No member of the Appeal Committee may abstain from any decision.
  - 33.10 The standard of proof on all questions to be determined by the Appeal Committee shall be on the balance of probabilities. [For example, if it was more likely than not that competitor breached a rule then the standard of proof has been met].
  - 33.11 After hearing an appeal the Appeal Committee may:
    - 33.11(a) Dismiss the appeal;
    - 33.11(b) Allow the appeal in whole or in part;
    - 33.11(c) Vary, add to, or remove any orders imposed by the GJ; and/or
    - 33.11(d) Vary add to, or remove any penalties imposed by the GJ.
34. If the appeal is upheld, the appeal fee will be refunded. Otherwise the appeal fee is to be

forwarded to ESNZ.

35. Subject to Rule 36 of this Article, a decision of the Appeal Committee under Rule 33 may only be reviewed by the Judicial Committee.
36. There is no appeal against decisions of the GJ or right of review of a decision of the Appeal Committee in the following situations:
  - 36.1 Where the question for decision is a factual observation of performance during a Competition or the award of marks for performance; Examples (which are not exhaustive): whether an obstacle was knocked down, whether a horse was disobedient, whether a horse refused at an obstacle or knocked it down while jumping, whether a rider or horse has fallen, whether a horse circled in a combination or refused or ran out, what was the time taken for the round, or whether an obstacle was jumped within the time; whether, according to the Discipline Rules, the particular track followed by a competitor has caused the competitor to incur a penalty.
  - 36.2 The elimination of a horse for veterinary reasons, including non-acceptance of a horse at a horse inspection.

#### **Time of Implementation of Decisions**

37. Decisions against which there cannot be an appeal shall be effective from the date and / or time as applicable of the notification to the persons or bodies concerned.
38. Decisions to which the parties concerned have formally renounced their right of appeal, shall become effective on the date when the renunciation reaches ESNZ.
39. Judicial decisions taken by GJs, Appeal Committees and JCs shall be effective immediately.
40. Any fine imposed under the Constitutional Rules and Regulations will automatically entail suspension of the competitor concerned from competing in Competitions and Events under the jurisdiction of ESNZ and/or FEI until such fine is paid. Should an appeal against the imposition of a fine be upheld, the fine will be refunded.

#### **Article 140: Complaints Review Officer**

1. Complaints occurring outside of the jurisdiction of the GJ will be referred to the ESNZ Complaints Review Officer (CRO) if, no later than 10 working days after the alleged incident, the Complaint:
  - a. is submitted in writing to ESNZ on the official Complaint form and signed by the complainant (or by a parent or legal guardian in the case of a complainant under the age of 18) and accompanied by a fee of \$50.00. The fee can be paid by cash or by cheque and will be refunded if the Complaint is upheld either in full or in part; and
  - b. sets out the grounds of the Complaint.
2. To avoid doubt, if a Complaint involves conduct that occurred within the period of the GJ's jurisdiction at an Event, then it may only be dealt with under Article 139.
3. With the leave of the CEO of ESNZ, a Complaint under Rule 1 of this Article may be referred to the CRO if the Complaint is received outside of the 10 working day period. Leave under this Rule shall be given only in exceptional circumstances.
4. When a Complaint is validly received by ESNZ, ESNZ shall immediately refer the Complaint to the CRO.

5. If the CRO determines the Complaint is frivolous, vexatious, trivial or otherwise without merit he/she must dismiss the Complaint. If the CRO does not make such determination the CRO must either:
  - a. if the Complaint relates to conduct of a less serious nature and without significant consequences and the person who is the subject of the Complaint has not within the period of 6 months preceding receipt of the Complaint received an Official Warning, notify ESNZ that an Official Warning should be issued by ESNZ to the subject of the Complaint; or
  - b. in all other cases notify ESNZ that the Complaint should proceed to a hearing before a JC.
6. No reasons need be given by the CRO for his/her decision.
7. There is no right of appeal against any decision made by a CRO.

## **Article 141: Judicial Committee**

### **Composition of JC**

1. ESNZ shall appoint three members from the Board-appointed Judicial Panel as needed to form a JC, one of whom shall be a Barrister and Solicitor of the High Court and who will act as Chairman of the JC. No member of the Judicial Panel may be employed by ESNZ or a member of ESNZ's Board.

### **Jurisdiction**

2. The JC has jurisdiction to hear:
  - a. a request for a review from any person or body affected by a judicial decision of a GJ under Rules 4, 9 or 18 of Article 139 (see Rules 4 and 5 of this Article 141) where no Appeal Committee was available to hear an appeal;
  - b. a request for a review from any person or body affected by a judicial decision of an Appeal Committee under Rule 33 of Article 139 subject to the exceptions in Rule 36 of Article 139;
  - c. a protest referred to the JC by the GJ under Rule 20 of Article 139;
  - d. a selection dispute as per the National Selection SR;
  - e. a complaint referred to the JC by the CRO under Article 140;
  - f. a matter referred to it by ESNZ under Article 143; or
  - g. any other matter as determined by the CEO of ESNZ in his/her sole discretion.

### **Review of GJ or Appeal Committee Judicial Decision**

3. Rules 4-5 of this Article are to be read in accordance with the remainder of this Article.
4. A request for review by any person or body affected by a judicial decision of a GJ (where no Appeal Committee was available at the Event to hear an appeal) or an Appeal Committee under Rules 9.9, 9.10, 18 or 33 of Article 139 will proceed to a hearing in front of the JC if, no later than 10 working days after the date that the decision of the GJ or Appeal Committee was

issued, the notice of request for review:

- a. is in writing and signed by a party affected by the decision of the GJ or Appeal Committee and submitted to ESNZ;
    - i. it can be submitted and signed by a legal guardian in the case of a party under the age of 18.
  - b. sets out the grounds of review (as per Rule 5 of this Article); and
  - c. is accompanied by a filing fee of \$500 paid by cash or cheque or a bank transaction confirmation that \$500 has been paid by direct credit to the ESNZ bank account.
5. The role of the JC when reviewing a decision is to:
- a. review the process used by the GJ or Appeal Committee (the decision-maker) to reach the decision to which the review relates;
  - b. determine whether there were procedural errors or flaws in the decision maker's process;
  - c. determine whether the decision-maker's decision breached principles of natural justice;
  - d. determine whether, in law, it was not open to the decision-maker to reach the decision reached or the decision was not one that the decision-maker, acting reasonably could make; and
  - e. determine whether there is substantial new evidence, which was not available at the time of the decision-maker's hearing (for the avoidance of doubt, if the evidence was available but was simply not presented at the initial hearing, this is not "new evidence").
6. If the JC makes a decision under Rules 5(b), 5(c), 5(d) or 5(e) of this Article against the decision-maker, the JC will consider the matter on its merits and:
- a. affected parties will be entitled to make submissions regarding these merits; and
  - b. the JC may impose penalties as per Rules 23-30 of Article 139.

### **Initial Process**

7. Once ESNZ receives valid proceedings that fall within the JC's jurisdiction ESNZ will:
- a. appoint three members of the Judicial Panel to the JC;
  - b. if ESNZ considers it appropriate to do so, deem the relevant results of a Competition to be under review and no prize money, trophies, and other awards from the affected specific Competition shall be awarded until the review is finally determined including exhaustion of the appeal process;
  - c. forward the details of the matter (including the Notice of Review or Complaint and any supporting material if applicable) to the JC and all affected parties as soon as practicable;
  - d. inform all affected parties that they may make submissions to the JC whether in writing or otherwise and may attend the hearing;
  - e. in the case of a review under Rules 3-6 of this Article, inform the parties that they should also be prepared to make submissions on the merits of the matter;

- f. 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 ESNZ, in its discretion, determines that exceptional circumstances exist that mean the hearing should be held earlier;
- g. immediately circulate any submissions or evidence received from an affected party to all other parties including the JC.

### **Procedure at Hearings**

- 8. Except as otherwise provided in the ESNZ Constitution or this Chapter 9 a JC may determine its own practices and procedures. However in each case, the JC 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.
- 9. The JC must elect a Chairperson.
- 10. Hearings may be conducted via any form of audio or video conference at the discretion of the JC. A party or witness may be connected to the hearing via any form of audio or video conference.
- 11. 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.
- 12. The Chairperson 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.
- 13. Any hearing may be adjourned as and when the JC thinks fit.
- 14. Each party may be represented or assisted in any proceedings. If the proceedings involve a person under the age of 18, they may have a parent or legal guardian present, in addition to a representative of their choice, with both the parent/legal guardian and the representative having speaking rights.

### **Evidence**

- 15. The JC 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:
  - a. receive as evidence any statement, document, information or matter that may in its opinion assist it to deal effectively with the proceedings;
  - b. permit any person to appear as a witness;
  - c. permit any person to give their evidence in writing;
  - d. inspect and examine any papers, documents, or records; and/or
  - e. 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.

### **Decisions**

- 16. A decision of the JC may be unanimous or by majority vote. No member of the JC may abstain from any decision.
- 17. 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].

18. All decisions of the JC shall be issued in writing, with reasons, to the parties and ESNZ, as soon as possible after the conclusion of the Judiciary Committee's deliberations.
19. Any decision of the JC 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].
20. A JC shall be entitled to:
  - a. Dismiss the proceedings at any stage; or
  - b. Make an order to impose a penalty pursuant to Rule 29 of this Article.
21. In addition to its decisions the JC may also make non-binding recommendations to the Board, ESNZ, or any party to the proceedings.
22. ESNZ may, in its discretion, publish notice of the JC's decision including particulars of names and penalties.
23. A party to a hearing before the JC may appeal the decision of the JC to the Sports Tribunal of New Zealand in accordance with Article 142.

#### **General Matters**

24. All information received by the JC, and its deliberations, shall be kept confidential except as required by law or as determined pursuant to Rule 22 of this Article.
25. Any member of the JC who considers they may have a potential conflict of interest in determining a proceeding shall declare that potential conflict of interest to ESNZ and if ESNZ considers it appropriate to do so, ESNZ may replace that member with another member from the Judicial Panel.
26. No member of the JC will be liable for any act done or omitted to be done by any member of the JC in good faith in accordance with the functions, duties, and/or powers of the JC.
27. Every party involved in a proceeding shall bear their own costs, including any costs of attendance at a hearing. However, the JC may, at its discretion, refund all or part of the fee referred to in Rule 4(c) of this Article.
28. To assist efficiency a JC must hold the hearing within 4 weeks of the proceedings being referred to it, however this time frame may be extended in circumstances as determined by the JC.

#### **Penalties**

29. Before imposing a penalty, the JC must give all affected parties the opportunity to make submissions on penalties. The JC may as it thinks fit give this opportunity either before or after making its decision on the substance of the proceeding.
30. The JC may make such order or orders as it considers appropriate in the circumstances and where it determines a penalty is appropriate it may impose one or more of the following penalties:
  - a. an Official Warning;
  - b. a fine;
  - c. deduction of points;
  - d. re-orderings of placings in the Competition;

- e. disqualification from the entire Event or Competition;
  - f. suspension from participation in any FEI or ESNZ Event;
  - g. termination of ESNZ membership; and/or
  - h. any other sanction that the JC considers appropriate in the circumstances.
31. In deciding on the appropriate penalties to be imposed, the following factors shall be taken into consideration, together with any other relevant factors:
- a. Whether the action or omission involved the maltreatment of horses;
  - b. Whether the action or omission is or was likely to bring the sport of equestrian into disrepute publicly;
  - c. Whether the action or omission involved fraud, violence or abuse or any criminal acts; and/or
  - d. Whether the action or omission was deemed to be deliberate.
32. In cases of a less serious nature and without significant consequences, an Official Warning will be appropriate.
33. A fine is appropriate particularly in cases where the offender has acted negligently.
34. Disqualification is appropriate when it is specified in the relevant Rules, Constitution, By-Laws or Discipline Rules or if the circumstances require immediate action:
- a. Disqualification from a Competition means that the competitor and horse or horses concerned - even should they change ownership are removed from the list of starters and the classification, and includes the forfeiture of prize money won in that particular Competition.
  - b. Disqualification from an Event means that the competitor and horse or horses concerned - even should they change ownership - may take no further part in that Event and it may include the forfeiture of any prize money won in previous Competitions at that Event where this is provided for in the Constitution Rules and Regulations.
35. A suspension (which may be on specified terms and subject to conditions) is appropriate in cases of intentional or very negligent violations or contravention. In certain cases suspension may be automatic under the relevant Rules, Constitution, By-Laws, or Discipline Rules.
- a. Suspension must be for a stated period and during that period the person or body suspended may take no part in Competitions or Events as a competitor or official or in the organisation of, or participation in, any Event under the jurisdiction of the FEI or any Event under the jurisdiction of ESNZ in accordance with any ESNZ or FEI rules.
  - b. In deciding when any suspension will commence, the appropriate body shall, in order to achieve a just penalty, have regard to the gravity of the offence.
36. Notwithstanding anything to the contrary indicated in Rules 29 to 34 of this Article, the penalties listed below shall be imposed in the following cases:
- a. The finding on analysis of a Prohibited Substance as defined in Article 3 of the VRs is presumed to be a deliberate attempt of the person responsible to affect the performance of the horse and will entail at a minimum the disqualification of the competitor and the horse from the Event, the forfeiture of any prize money and suspension for 3 months or longer and may entail the possibility of a fine. But if the person responsible can prove (on the balance of probabilities) that it was not a deliberate attempt to affect the performance of the horse the suspension and fine will be discretionary.
  - b. In cases of Article 152 & Article 3 of the VRs a fine and / or suspension may also be

imposed.

## **Article 142: Sports Tribunal of New Zealand**

1. A party to a decision made by the Judicial Committee (other than a decision regarding a selection appeal) may only appeal to the Sports Tribunal of New Zealand on one or more of the following grounds:
  - 1.1. That natural justice was denied;
  - 1.2. That the Judicial Committee acted outside of its powers and / or jurisdiction;
  - 1.3. That substantially new evidence has become available after the decision, which is being appealed, was made; and/or
  - 1.4. in respect of a penalty imposed the penalty was either excessive or inappropriate.For a selection appeal a party may only appeal on the grounds set out in Article 17 of the Selection SR.
2. Appeals to the Sports Tribunal of New Zealand must be filed within 10 working days from the date the appellant was notified in writing of the decision of the Judicial Committee and in all other respects shall be in accordance with the rules of the Sports Tribunal.
3. Subject to the limited rights of appeal set out in the Sports Tribunal of New Zealand rules, the decision of the Sports Tribunal shall be final and there shall be no further right of appeal.
4. Subject to the procedures set out in the Constitutional Rules and Regulations to deal with disciplinary matters and disputes, ESNZ recognises the Sports Tribunal of New Zealand as an appropriate forum to resolve certain sports related matters as set out in the rules of that Tribunal. Without prejudice to the rights and procedures set out in the Constitutional Rules and Regulations parties to a dispute may agree to refer a dispute to the Sports Tribunal of New Zealand.
5. Notwithstanding any other Constitutional Rules or Regulations, any allegation that a competitor has committed an anti-doping rule violation shall be dealt with in accordance with ESNZ Anti-Doping Policy referred to in Article 152.

## **Article 143: Official Warnings Procedure**

1. ESNZ Official Warnings are possible sanctions that may be used by the GJ, the AC, the CRO, and/or the JC in the course of proceedings set out in this Chapter 9.
2. Once an Official Warning has been given by one of these bodies, and the appeal/review process has been exhausted, ESNZ will list the Official Warning on the ESNZ database against the relevant Member's profile and visible to all members. It will also be placed on a list that is posted on the ESNZ website. It will remain on the profile and on the list for 12 months.
3. If a Member receives a second Official Warning within 12 months of the first Official Warning, ESNZ must fine the Member \$200 and must suspend the Member from competing in any ESNZ or FEI Event for two months. ESNZ will notify the Member of the sanction and the details will also be listed on the ESNZ website and recorded against the Member's profile for a period of 12 months. These sanctions are mandatory.

4. Any third or subsequent Official Warning within 12 months of the second Official Warning will be referred to the JC for determination of sanction only.

A copy of the Official Warning Procedure can be found here:

<https://www.nzequestrian.org.nz/wp-content/uploads/Official-Warning-Procedure-2017.pdf>

### **Article 144: Judicial Process – VRs and Anti-Doping**

1. To avoid doubt, all matters determined by the GJ under Article 3 of the VRs must be referred to the Judicial Committee by the GJ for further consideration.
2. All allegations that an Anti-Doping rule violation has occurred shall be dealt with in accordance with ESNZ's Anti-Doping Policy referred to in Article 152.

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