

# ESNZ General Regulations – Legal System

## Summary of Changes

### Complaints Procedure

1. In addition to protests Ground Jury and Appeal Committee can now determine, on the day, complaints of misconduct occurring at an event.
2. Misconduct occurring at an Event (complaints) **can only be dealt with by the Ground Jury and Appeal Committee or by the Complaints Review Officer if submitted (up to 10 days) after the event.** This will limit what comes before the Judicial Committee which previously dealt with the complaints. **If the complaint is not raised on the day or within the time period it cannot be dealt with at all.**
3. Complaints process simplified and streamlined to ensure efficiency and ease of use (e.g. time limits).
4. Principles of natural justice (e.g. the right for all affected parties to be heard) inserted throughout the process (except at the Complaints Review Officer level – see below).
5. ‘Complaints Review Officer’ position created. All Complaints not occurring on the day (i.e. that could not have been dealt with by the Ground Jury) now go to the Complaints Review Officer. The Complaints Review Officer operates as a “clearing house” and has powers to dismiss a complaint that is frivolous, trivial, vexatious, or otherwise without merit.
6. The Complaints Review Officer may also issue a written caution in lieu of any other action.
7. More serious complaints would be referred by the CRO to the Judicial Committee.
8. Complaints will be accompanied by a \$50 fee whether on the day of competition or after the event.

### Conflict of Interest

9. Amended Article 138 regarding conflicts of interest. Further work is necessary on each discipline’s rules to remove the ability for non-judicial decisions of the Ground Jury (e.g. the set up of the course in cross country) to be protested to the Ground Jury.

### Protests

10. Largely unchanged, although some amendments have been made to simplify the process and allow for the principles of natural justice.

### Expansion of Ground Jury’s Powers

11. The Ground Jury now has wide jurisdiction to investigate and determine matters (including issuing penalties) that are not the subject of a protest or a complaint. For example if the Chief Steward observes misconduct by Rider B, he/she could in the past have issued an Official Warning. Now he/she should bring this issue to the attention of the Ground Jury, and the Ground Jury would have jurisdiction to investigate and determine the matter, so long as

the principles of natural justice are observed. **If an official does not raise something with the Ground Jury on the day and within the time period, it cannot be dealt with at all.**

## Appeal Committee

12. Largely unchanged – acts as a straight appeal body for decisions of the Ground Jury. Appeals must be accompanied by a fee of \$100 and be submitted within 60 minutes of the Ground Jury's decision.

## Limited Appeal Rights from Appeal Committee to Judicial Committee

13. Parties may only seek a review of an Appeal Committee decision – they cannot appeal. The review must be submitted within 10 working days and accompanied by \$500. The Judicial Committee **only reviews the process or considers whether there is substantial new evidence**. A party cannot appeal if they simply don't like the decision of the Appeal Committee– there has to be a procedural flaw or a breach of natural justice.

## Judicial Committee

14. The Judicial Committee's jurisdiction is amended to the following matters:
  - a. A request for a review from the decision of an Appeal Committee;
  - b. A protest that has been determined by the Ground Jury can also be referred to the Judicial Committee by the Ground Jury if the GJ consider there are wider implications for the sport (unchanged);
  - c. A selection dispute as per the National Selection SR (unchanged);
  - d. A complaint referred by the Complaints Review Officer;
  - e. A matter referred by ESNZ (e.g. more than two official warnings in a 12 month period); and
  - f. Any other matter as determined by the CEO of ESNZ (general catch all).
15. ESNZ to have the power to select the Judicial Committee each time from the ESNZ Board-appointed Judicial Panel. This allows ESNZ to select the most suitable Committee for each individual matter – “horses for courses”.
16. Judicial Committee process streamlined and simplified, as well as the addition of natural justice principles.

## Official Warnings

17. Only the Ground Jury, Appeal Committee, and Judicial Committee may issue Official Warnings. The reason for this is two Official Warnings result in a two (which may change to four) month ban which is a significant penalty. Therefore there should be some opportunity for an affected party to appeal an Official Warning. In practice, an official who used to have the power to issue an Official Warning would now report what he/she has seen to the Ground Jury who would investigate as per paragraph 8 above.