

BY-LAWS OF EQUESTRIAN AUSTRALIA LIMITED

ACN 077 455 755

PASSED PURSUANT TO THE CONSTITUTION OF

THE COMPANY AT A MEETING OF DIRECTORS

ON FEBRUARY 8 2000

APPEALS BY-LAWS

1 Rule Paramount

These rules prescribe the procedures for an appeal by a Person in respect of a decision made by the National Tribunal under the Disciplinary By-Laws, or any Disciplinary or Administrative Tribunal or Board of any Shareholder Member of EA (hereinafter collectively called "The Tribunal") to the extent that if any of these rules are inconsistent with any other EA or F.E.I. Rule, the provisions of these rules will prevail.

The appeals procedure provides all members with a right of appeal if they have been disciplined in any way or if a decision has been made which affects their standing in the equestrian community or their right to earn income from equestrian activity.

2 Person May Appeal

An aggrieved Person may appeal to the Appeal Board in respect of a decision made by a Tribunal provided the appeal is brought no later than 5.00 p.m. Central Standard Time three days after the decision of the Tribunal was made.

3 Secretary General May Appeal

The Secretary General may appeal to the Appeal Board in respect of a decision made by the Tribunal under the Disciplinary By Laws provided the appeal is brought no later than 5.00 p.m. Central Standard Time three days after the decision of the Tribunal was made.

4 Notice of Appeal by Person

An appeal under these rules is to be brought by lodging with the Secretary of the Appeal Board a duly completed Notice of Appeal in the form prescribed in Schedule 1 and in the case of an appeal under Rule 2 must be accompanied by:-

- (a) payment to EA of the sum of \$500 for costs of the appeal, which sum is not refundable; and
- (b) payment to EA of the further sum of \$1,000 which sum will be dealt with in accordance with Rule 17.

5 Lodgement of Notice of Appeal

A Notice of Appeal may be lodged by:-

- (a) delivering,
- (b) transmitting by facsimile; or
- (c) e-mail,

that Notice addressed to the Secretary of the Appeal Board and received by the Secretary no later than 5.00 p.m. Central Standard Time three days after the decision of the Tribunal was made.

6 Time for Hearing- of Appeal

6.1 Notification

Upon receipt of a Notice of Appeal, the Secretary will after consultation with the Chairperson of the Appeal Board:-

- (a) fix the date, time and place for the hearing of the appeal as soon as practicable; and
- (b) advise all parties interested in the appeal in writing of those particulars.

6.2 Variation of Time or Place

The Appeal Board may vary the time or place specified under Rule 6. 1 and upon doing so must immediately provide all parties interested in the appeal written notice of any such variation.

6.3 Attendance

An appellant must attend and appear before the Appeal Board at the date, time and place fixed for the hearing of the appeal. Where an appellant fails to attend before the Appeal Board, the Appeal Board may still hear and determine the appeal in the appellant's absence.

7 Obligations of Appeal Board

7.1 Natural Justice and Other Obligations

The Appeal Board must: -

- (a) provide any Person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard;
- (b) hear and determine the matter before it in an unbiased manner; and
- (c) make a decision that a reasonable body could honestly arrive at.

7.2 Express Exclusion

Subject to Rule 8, the Appeal Board will hear and determine an appeal brought under this Rule before the appellant is next scheduled to compete, irrespective of whether the appeal is heard at short notice or whether the hearing of the appeal may affect the appellant's preparation for the next scheduled event. To the extent that the rules of natural justice require that:-

- (a) a person be given adequate notice of or sufficient time to prepare for an appeal; or
- (b) the appeal be scheduled at a time that does not affect the appellant's preparation for the next scheduled event,

those requirements are expressly excluded from these Rules.

8 Adjournment and Stay of Penalty

8.1 Person to Serve Penalty

Subject to Rule 8.2(b), where the Tribunal imposes a penalty that prevents the appellant from participating in an event, the appellant must serve that penalty pending the determination of the appeal.

8.2 Power to Adjourn

Subject to Rule 8.3, the Appeal Board may of its own motion or upon application of any party to the appeal, order: -

- (a) that an appeal be adjourned;
- (b) a stay of the execution of the penalty imposed by the Tribunal pending the determination of the appeal.

8.3 Exceptional and Compelling Circumstances

The Appeal Board will only make an order under Rule 8.2 where it is satisfied that there are exceptional and compelling circumstances that make it harsh and unconscionable if an appropriate order was not made. In determining that question, the Appeal Board will without limitation have regard to: -

- (a) the merits of the appeal and the appellant's prospects of success;
- (b) the interests of other competitors;
- (c) the effect on the results of any competition; and
- (d) the need to permit the due and proper administration of Equestrian Events in accordance with the constitution and these By-Laws and the rules of F.E.I.

9 New Hearing

- (a) Subject to Rule 9(b), the Appeal Board will deal with the appeal as a new hearing.
- (b) The Appeal Board may have regard to the record of the proceeding before the Tribunal as previously constituted, including a record of any evidence taken in the Tribunal hearing

10 Procedure and Evidence

10.1 Regulate own Procedure

Subject to the further matters set out in this Rule 10, the Appeal Board may regulate any proceedings brought before it in such manner as it thinks fit.

10.2 Conduct of Appeal

The hearing before the Appeal Board will be: -

- (a) inquisitorial in nature; and
- (b) conducted with as little formality and technicality and with as much expedition as the proper consideration of the matters before it permits.

10.3 Rules of Evidence

The Appeal Board is not bound by the rules of evidence or by practices and procedures applicable to Courts of Record, but may inform itself as to any matter in any such manner as it thinks fit.

10.4 Expert Evidence

- (a) A Person who intends at a hearing of the Appeal Board to adduce the evidence of a person as an expert witness must, not later than 12 hours before the time fixed for the hearing, lodge with the Secretary a written statement containing:-
 - (i) the name and address of the witness;
 - (ii) the qualifications and experience of the witness; and
 - (iii) the substance of the evidence it is proposed to adduce from the witness.
- (b) Save with the leave of the Appeal Board, a Person can not adduce the evidence of a person as an expert witness unless that Person complies with Rule 10.5(a).

11 Power of Appeal Board

The Appeal Board may confirm, reverse or modify the decision of the Tribunal the subject of the appeal and make such orders and give such directions in such manner as it thinks fit.

12 Majority Decisions

The question on appeal before the Appeal Board must be decided according to the opinion of a majority of the members constituting the Appeal Board.

13 No Reasons

The Appeal Board is not obliged to give reasons for a decision under Rule 11.

14 Onus and Standard on Appeal

On the hearing of an appeal the appellant shall bear the onus of showing on the balance of probabilities that the matter should be dismissed or sustained or that the penalty was inappropriate, as the case may be.

15 Representation

15.1 By Advocate

- (a) Subject to Rule 15.2, a Person may only be represented by an advocate at any appeal brought under this Rule. An advocate cannot be a Legal Practitioner and should be a person experienced in the discipline to which the offence relates.

15.2 By Legal Practitioner

A Person cannot be represented by a Legal Practitioner unless:-

- (a) the appeal relates to a decision of the Tribunal regarding an offence under the EA Anti-Doping Policy and By-Laws; or
- (b) in the opinion of the Appeal Board, there are exceptional and compelling circumstances which would make it harsh and unconscionable for the Person to appear without legal representation.
- (c) the Tribunal decision being appealed affects the right of the Person to carry out judging and income producing activities.

15.3 Leave of Appeal Board

- (a) A Person may seek leave to be represented by a Legal Practitioner by notice in writing lodged with the Appeal Board at the time of lodging the Notice of Appeal. Any such request must contain full particulars of the exceptional and compelling circumstances which would make it harsh and unconscionable for the Person to appear without legal representation. The Chairperson of the Appeal Board will consider any request on the basis of the written material lodged by the Person and advise the Person of the Chairperson's decision as soon as practicable before the commencement of the appeal.
- (b) A decision by the Chairperson to deny legal representation is not an exceptional or compelling circumstance for the purposes of any application made under Rule 8.
- (c) The Chairperson is not obliged to provide reasons for a decision under Rule 15.3(a).

15.4 Reporting Officer

The Reporting Officer or his/her nominee is to appear before the Appeal Board in the same capacity as that person's appearance before the Tribunal.

16 Questions of Law and Fact

In the hearing and determination of an appeal, the Appeal Board will decide all questions of law and fact and without limitation will determine the meaning of any words of a By-Law.

17 Appeal Fee

17.1 Successful Appeal

Where the Appeal Board upholds an appeal and reverses the decision of the Tribunal, the payment made under Rule 4(b) will be refunded.

17.2 Unsuccessful or Frivolous & Vexatious Appeals

(a) Where the Appeal Board: -

(i) dismisses an appeal and considers that an appeal was frivolous or vexatious or commenced for an improper purpose; or

(ii) dismisses the appeal but increases the penalty imposed by the Tribunal;
the payment made under Rule 4(b) will not be refunded.

(b) Where the Appeal Board: -

(i) dismisses an appeal and considers that the appeal was not frivolous or vexatious or commenced for an improper purpose; or

(ii) decreases the penalty imposed by the Tribunal;

it may order at its absolute discretion that all or part of the payment made under Rule 4(b) be refunded to the appellant.

18 Costs

18.1 Costs Generally

Subject to Rule 18.2, each party to an appeal will bear their own costs.

18.2 Appeal by Secretary General

Where an appeal is brought by the Secretary General and dismissed by the Appeal Board, the Appeal Board may order that EA pay the costs of the respondent to a maximum of \$500.

19 Abandon Appeal

- (a) Subject to Rule 19(b), an appellant may without penalty abandon an appeal by giving written notice to the Secretary or Appeal Board.
- (b) Where an appellant abandons the appeal during the conduct of the appeal and the Appeal Board considers that the appeal was frivolous or vexatious or commenced for an improper purpose, the Appeal Board may order at its absolute discretion that all or part of the payment made under Rule 4(b) not be refunded.

20 Validity of Charge and Hearings

- (a) Where there is any procedural irregularity in the manner in which an appeal has been brought, the Appeal Board may still hear and determine the appeal unless it is of the opinion that the irregularity has caused or may cause injustice if the appeal was heard.
- (b) A decision of the Appeal Board is not invalid because of any defect or irregularity in, or in connection with, the appointment of an Appeal Board member.
- (c) Subject to Rule 7. 1, any procedure or requirement regulating to the function of the Appeal Board is directory in nature and a decision of the Appeal Board is not invalid by reason of that procedure or requirement not being fulfilled.

21 Public Comment and Criticism

21.1 On Notice of Appeal

A Person must not **publicly comment** on the contents of a Notice of Appeal prior to the determination by the Appeal Board where such comment or comments are intended to influence or affect the appeal in a manner which is unfair or creates prejudice to any party to the appeal or the Appeal Board itself, or otherwise have such an effect. Any comment by any Person in relation to the contents of a Notice of Appeal prior to the determination by the Appeal Board will be deemed to be contrary to this Rule unless the Person who makes the public comment establishes to the reasonable satisfaction of the Chairperson of the Appeal Board that such public comment was not intended to influence or affect the conduct of the appeal.

Penalty: First Offence: \$250.

Subsequent Offence: \$500.

21.2 Appeal Board Decision

No member can shall make any public criticism of a decision of the Appeal Board or of any Appeal Board Member or any other matter touching or concerning the Appeal Board or a determination made by it.

Penalty: First Offence: \$250.

 Subsequent Offence: \$500.

APPEAL BOARD

1 Establishment

1.1 Board of EA to Establish

The Board of Directors of EA will from time to time appoint persons to a board to be known as the Appeal Board.

1.2 Members of Appeal Board

The Appeal Board will consist of. -

- (a) a Chairperson who shall be a Legal Practitioner of no less than seven years' standing;
- (b) not more than five Legal Practitioners of no less than seven years' standing, each of whom shall also be a Deputy Chairperson ("**Legal Member**"); and
- (c) not more than five persons who in the opinion of the Board possess knowledge of equestrian competitions ("**Member**").

2 Chairperson and Deputy Chairperson

For any period during which the Chairperson is absent or unable to act, a Deputy Chairperson will act as Chairperson.

3 Composition of Appeal Board for Hearing

3.1 Composition

For the purpose of hearing and determining an appeal, the Appeal Board will be constituted by: -

- (a) the Chairperson or a Deputy Chairperson;
- (b) one Legal Member (who may also be Deputy Chairperson); and
- (c) one Member.

3.2 Absent Members

If for any period and for any reason a member is absent or unable to attend the hearing of an appeal, the Appeal Board may appoint a person who in its opinion is a suitable replacement.

4 Resignation and Removal of Appeal Board Member

4.1 Resignation

A member of the Appeal Board may resign by providing notice in writing to the Secretary General of EA.

4.2 Removal

The Board of Directors of EA may remove a member of the Appeal Board at any time at its absolute discretion.

5 Secretary of Appeal Board

5.1 Appointment

- (a) The Board of Directors of EA will appoint a Secretary to the Appeal Board.
- (b) Save where otherwise determined by the Board, the Secretary of the Tribunal shall act as the Secretary of the Appeal Board.

5.2 Role

The Secretary must:-

- (a) be an employee of EA;
- (b) perform any function prescribed in these By-Laws;
- (c) assist the Appeal Board in the efficient and proper running of matters coming before it; and
- (d) perform other functions as directed from time to time by the Appeal Board.

6 Guidelines

The Chairperson of the Appeal Board may make guidelines, not inconsistent with these Rules, for the practice and procedure with respect to applications to and hearings by the Appeal Board.