

SHOW HORSE COUNCIL OF AUSTRALASIA INC.



RULES - PART III

DISPUTES and DISCIPLINE

Adopted 1/8/00

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PART III - DISPUTES and DISCIPLINE

1. PRELIMINARY

- 1.1 For the purpose of this part of the regulations, except in so far as the context or subject matter otherwise indicates or requires:

'**Committee**' means the Disputes/Disciplinary Committee conducting the inquiry.

'**inquiry**' includes an investigation.

- 1.2 Subject to regulation 1.3, all inquiries pursuant to rule 36 shall be conducted in accordance with these regulations.
- 1.3 Any person who is or whose actions are the subject of an inquiry or who is otherwise concerned therewith, may agree to the procedures provided for herein being varied in any respect and any such agreement shall be binding on the person concerned for all purposes connected with the inquiry or arising therefrom.

2. BODIES THAT MAY CONDUCT INQUIRIES

- 2.1 All inquiries shall be conducted by the Committee.
- 2.2 The Committee constituted for any particular inquiry shall comprise such number as the Council may determine (one of whom shall be chairman), but no more than 2 members of the Committee shall be (or have been within the preceding 12 months) Financial Members of the same Affiliate.

3. HOW INQUIRIES ARE INITIATED

An inquiry may be initiated by the Committee: An inquiry may be initiated by the Committee:

- 3.1 (a) Upon receipt by the secretary of a completed SHC "Lodgement Form for Alleged Dispute" detailing the alleged Dispute/Complaint/Breach along with payment of the prescribed Lodgement Fee.
- (b) in any other circumstance contemplated by rule 36.
- 3.2 Subject to regulation 3.3, the initiation of an inquiry shall always be at the absolute discretion of the Committee.
- 3.3 Except in special circumstances as the Committee may from time to time decide, no inquiry shall be initiated pursuant to regulation 3.1 in respect of any matter that is:
- (a) of a domestic nature relating only to the internal affairs of an Affiliate or its Financial Members and not relating to the objects of the Council or to the rules or regulations;
- (b) in the nature of a civil dispute which in the opinion of the Committee is better resolved in a court or other tribunal.

4. PROCEEDINGS OF COMMITTEE

- 4.1 The Committee may, for the purpose of section 3 of these regulations, meet at such time and place and generally regulate its proceedings in such manner as the Committee sees fit.

5. MEDIATION

- 5.1 In respect of a suitable matter, the Committee may in its absolute discretion, decide that it might be suitable for mediation.
- 5.2 For the purpose of this section 5, a suitable matter is a matter that has been referred to the Committee and in which it considers the following characteristics to be present:
- (a) the matter concerns only a minor disagreement or argument at a Show or at a meeting of an Affiliate;
 - (b) there was no physical contact, or threat of physical contact, between the relevant parties; and
 - (c) there is no question of financial loss sustained by any of the relevant parties.
- 5.3 In respect of a suitable matter, the Committee may invite the relevant parties to consent to participate in a mediation process.
- 5.4 If the relevant parties provide their written consent to participate in a mediation process, the chairman of the Committee shall then nominate a member of that Committee to act as a mediator.
- 5.5 The mediator's role is to assist the parties to resolve the dispute between them. The mediator does not impose a solution and it is not his function to attempt to persuade a party into agreement or to make any substantive decisions for the parties.
- 5.6 Within 7 days of his nomination as a mediator, the mediator must arrange a meeting with the relevant parties and that meeting must take place within a further 14 days. At that and any subsequent meeting, the mediator is free to conduct the mediation in such manner as he considers appropriate in the circumstances but as a guide, the procedure might be as follows:
- (a) a brief opening statement by the mediator explaining the nature of the process;
 - (b) an opening statement or explanation by each party of their position in relation to the dispute;
 - (c) to the extent necessary, clarification by the mediator of the issues and the needs and interests of the parties;
 - (d) discussion of possible solutions; and
 - (e) recording in writing of any resolution or settlement that has been agreed.

- 5.7 A settlement agreement that emanates from mediation pursuant to this section 5 shall, subject to its terms, be regarded as finalising for all time the matter that was referred for inquiry.
- 5.8 If, within 45 days of the date upon which the mediator was nominated as such, the matter in dispute has not been resolved pursuant to the mediation process, the Committee must then decide whether or not an inquiry should be initiated pursuant to regulation 3.1.
- 5.9 If a settlement agreement emanating from a mediation does not resolve all matters that were referred for inquiry, the Committee must then decide whether or not an inquiry should be initiated pursuant to regulation 3.1 in respect of the unresolved matters.
- 5.10 The fact that a mediation has not resolved, or fully resolved, a matter in dispute between the relevant parties is not relevant to and shall not be taken into account by the Committee when conducting any inquiry.
- 5.11 The fact that a member of the Committee has acted as a mediator in a matter that was not resolved in the mediation process does not disqualify that person from sitting as a member of the Committee should it be decided that an inquiry should be initiated.

6. MATTERS THAT MUST BE REFERRED FOR POSSIBLE INQUIRY.

- 6.1 An Affiliate must notify the Secretary of a dispute between the Affiliate and a Financial Member or any other person as soon as the committee of the Affiliate is aware of the dispute, but no dispute shall be so notified that is of a domestic nature relating only to the internal affairs of an Affiliate or its members and not relating to the objects of the Council or to the rules or regulations.
- 6.2 Upon receipt of notification pursuant to regulation 6.1, the Committee may, before considering or deciding whether or not to initiate an inquiry, appoint any person (other than a member of the Committee) to advise the parties and to endeavour to resolve the dispute.

7. CONDUCT OF INQUIRIES

- 7.1 Any matter the subject of an inquiry or investigation must, so far as possible, be reduced to writing.
- 7.2 The person concerned shall be informed in writing of any complaint and be provided with a copy of all documents in the possession of the Committee necessary to enable the person to understand the nature of the complaint and of any case that he may have to answer.

(a) Where the committee has declared a matter to be the subject of an Inquiry a caveat shall be placed upon the record/s of any horse owned or part owned by the person under Inquiry until the matter is resolved to the satisfaction of the Committee

- 7.3 (a) The Committee shall conduct a hearing at such time and place as it considers appropriate, provided that at least 21 days' written notice thereof is given to the

person or persons against whom the complaint is made and to the person or persons (if any) who lodged the complaint upon which the inquiry is based and to any witnesses to the events in question and all such persons shall be entitled to appear and be heard at the inquiry and to give such evidence as shall be relevant in the circumstances.

- (b) Where a witness in relation to a matter the subject of an inquiry ordinarily resides more than 100 kilometres by road from the place at which the inquiry hearing is to be conducted and that witness has presented a written statement to the Committee, the Committee may permit the witness to give evidence and be cross examined by means of a telephone conference facility.
 - (c) All persons who constitute the Committee for the purpose of an inquiry should be present at any hearing conducted by the Committee.
- 7.4 The Committee may conduct the inquiry notwithstanding that any person (including a person directly affected) who has been given notice fails to appear at the inquiry.
- 7.5
- (a) The Committee may from time to time on its own motion adjourn the conduct of the inquiry to such time and place as it considers fit but notice of such adjournment shall not be required to be given to persons not present at the inquiry when the adjournment is announced.
 - (b) The Committee shall only grant an application for an adjournment by a person directly affected in circumstances where to fail to do so would in the Committee's opinion constitute a denial of natural justice.
- 7.6 The Committee shall not be bound by any rules of evidence and shall conduct the inquiry with the minimum of formality and in such manner as it sees fit.
- 7.7
- (a) The Committee may require any person to attend a hearing before the Committee and to furnish such information and evidence and to produce such documents relevant to the matter the subject of the inquiry as the Committee sees fit.
 - (b) Any Financial Member who fails without reasonable excuse to comply with a requirement of the Committee pursuant to paragraph (a) is deemed to have committed misconduct.
 - (c) The Committee may of its own motion call evidence from experts.
- 7.8
- (a) No person shall be legally represented before the Committee.
 - (b) The Committee may, at the expense of the Council, obtain legal advice concerning any matter or thing relevant to the inquiry but any such advice shall, unless the Committee otherwise resolves, be and remain confidential to the Committee.
- 7.9 In respect of any inquiry where it is necessary or appropriate for evidence or submissions to be given or made for or on behalf of the Council, the Council may

nominate one of their number (who is not a legal practitioner) to collate and present the evidence and make submissions to the Committee.

- 7.10 All deliberations of the Committee are and must remain confidential to the Committee. Any breach of this regulation is deemed to be misconduct.

SECTION 8

8. DECISIONS OF THE COMMITTEE & CERTAIN PENALTY GUIDELINES.

- 8.1 (a) The Committee shall submit a written report to the Secretary on the facts as found by the inquiry and the penalty (if any) the Committee considers appropriate to impose in the circumstances.
- (b) If the opinion of the members of the Committee is not unanimous, the decision of the majority shall prevail. If the members of the Committee are equally divided on any question concerning the guilt or innocence of a person who is or whose actions are the subject of the inquiry, the question shall be resolved in the person's favour.
- (c) *The Secretary shall cause the report to be submitted to the next meeting of the Council held after the date on which the Secretary receives the report as contemplated by paragraph (a).*
- 8.2 (a) If the Committee considers that the imposition of a penalty is appropriate, it may either:
- (1) reprimand the person;
 - (2) impose upon the person such fine as it may think appropriate in the circumstances;
 - (3) disqualify the person from exhibiting or handling a horse or from acting as a Show official, or from admission to a Show;
 - (4) suspend the person from membership of the Affiliate;
 - (5) require the person to tender his resignation from the Affiliate;
 - (6) terminate the person's membership of the Affiliate;
 - (7) require the person to take such steps or do such things as may in the circumstances be considered appropriate; or
 - (8) impose upon the person any combination of the above or other such penalty as may be deemed appropriate *which may include payment of any costs incurred by the Council.*
- (b) In considering an appropriate penalty, the Committee:
- (1) shall have regard to any submissions on penalty that the person concerned may wish to make;

- (2) may have regard to any previous instance in which the person concerned has been found guilty of misconduct, provided that the Committee shall not be made aware of any such previous instance until after the Committee has reached the decision that the person concerned is guilty in respect of the matter then before the Committee.
- (c) It shall be the duty of the Secretary to cause to be provided to the chairman of the Committee, prior to the Committee's consideration of the question of penalty, an envelope in which shall be contained a paper on which shall be written either information concerning any such previous instance or a statement to the effect that there has been no such previous instance. The information shall not make reference to any occasion when the complaint was dismissed or found not proved.
- 8.3 (a) Where a penalty comprises or includes the payment of a monetary penalty, that amount must be paid no later than the date nominated by the Committee as the date for payment. If the monetary penalty is not paid within the applicable time, the person's membership of the Affiliate is ipso facto suspended until payment is made.
- (b) Where a payment due under (a) above remains unpaid for 6 months from the applicable date for payment, the person's membership of the Affiliate shall ipso facto terminate on the expiration of that months period.
- 8.4 Regulation 8.5 provides guidelines for the assessment of penalty (in cases where a monetary penalty and/or suspension from membership are considered appropriate) and in particular kinds of cases or circumstances. Notwithstanding these guidelines, the question of penalty shall always be within the discretion of the Committee and the imposition of a penalty that is outside these guidelines (whether above or below or of a different kind or description) shall not be a basis for challenging the decision in question. The reference in regulation 8.5 to only a monetary penalty or a suspension from membership is not intended to exclude the imposition of the other penalties referred to in regulation 8.2(a) if considered to be appropriate in the circumstances.
- 8.5 *Possible suspension of membership of an Affiliate and/or monetary penalty:*

(a)	Excessive discipline of horse	3 to 24mths	\$1,000 to \$3,000
(b)	Causing hurt to a horse or undue stress	12 to 24mths	\$1,000 to \$3,000
(c)	Causing injury to a horse	24mths to life	\$1,500 to \$5,000
(d)	Denigration of an exhibitor, an exhibit, judge or a spectator prior, during or after a Show including on any form of social media	3 to 24mths	\$1,000 to \$3,000

(e)	Abuse of an exhibitor	12 to 24mths	\$1,000 to \$3,000
(f)	Abuse of a judge or Show Official	24mths to life	\$1,500 to \$5,000
(g)	A Breach of SHC Rules, Regulations & By-Laws	3mths to 24 mths	\$1,000 to \$3,000

8.6 Within 14 days of receipt by the Secretary of the report of the Committee pursuant to regulation 8.1, the Secretary shall send to the person who lodged the complaint in respect of which the inquiry was initiated and to the person concerned a copy of the report advising the determination of the Disputes/ Discipline Committee and Penalty if any imposed. Decisions of the Committee are final and there is no Right Of Appeal. The person concerned shall be deemed to have received the report no later than the third business day after posting.

SECTION 9

9. FRIVOLOUS COMPLAINTS

9.1 If the Committee is of the opinion that the complaint which led to the initiation of an inquiry was made:

- (a) frivolously;
- (b) without sufficient evidence to justify the making of the complaint; or
- (c) out of ill will, spite or in bad faith;

the Committee may decide that:

- (d) financial compensation be provided to the person the subject of the complaint in respect of expenses actually incurred in dealing with the matter;
- (e) there be a penalty imposed on the person considered by the Committee to have acted in any manner described in (a) to (c).

SECTION 10

10. PUBLICATION OF REPORTS AND DECISIONS

10.1 If a Financial Member has been found guilty of misconduct, the Council may cause a report of that finding to be published in such manner and to such persons as Council sees fit.

SECTION 11

11. WAIVER OF FINANCIAL PENALTY

11.1 If:

- (a) a monetary penalty in excess of \$1,000 has been imposed on a Member,
- (b) the penalty has not been paid in full within a period of 2 years from the date of the report pursuant to which the penalty was imposed, and
- (c) the Council is satisfied that the only reason the penalty has not been paid in full is financial hardship suffered by the person concerned,

the Council may resolve to waive the payment of the penalty or of any outstanding balance.

- 11.2 A waiver by the Council pursuant to regulation 12.1 is not to be taken as affecting in any respect the decision of the Committee or the Council concerning the matter.