

CODE OF PRACTICE 3

NATIONAL JUDICIAL RULES

The intention is that these primary judicial rules form a consistent platform that applies to all New Zealand Power Boat Federation member events.

Whenever an International event is being adjudicated, the Union Internationale Motonautique series 400 – Jurisdiction rules must apply.

10.01 THE JURY

The Jury hears any protest raised by a driver.

1. Composition

The Jury must be composed of at least three members. The Organisers of an event appoint a Jury Chairman. This person must be experienced and have a good knowledge of the rules pertaining to the event. The other two members must be chosen from the best persons available taking into account their knowledge and experience also. If the Organisers fail to appoint these persons, then it shall be the responsibility of the Chairman to find two suitable people.

The composition of the Jury is announced at the Drivers briefing. The Jury members must also be present at such meeting.

Race Officials or Drivers can not be Jury members.

2. Authority and Duties

The Jury sits as long as the event lasts, including the nominated time period following posting of results. The Jury shall not be excused until either any or all protests are heard, or the Race Secretary has declared that no protests have been received relating to the event.

The Jury must decide as soon as possible on all protests presented to it during the event.

3. Interested Parties

No member of a Jury who knows himself to have directly or indirectly an interest in one of the parties involved, may judge the protest.

10.02 PROTEST PROCEDURES

1. Validity of Protests

Only a driver may protest against facts pertaining only to the race(s) in which he takes part.

Joint protests signed by several members will not be considered.

All protests must be in legible writing.

It must state the reason for the protest and be accompanied by any relevant documents that shall provide evidence and the protest fee as stipulated by the Race Organiser.

All protests must be signed by the protester.

The protest must be handed to the Race Secretariat within the prescribed time. The Race Secretariat must, in the presence of the protester, record the time of receipt.

Any costs involved in verification are to be borne by the losing party.

A written protest can be withdrawn by the protester. He then loses the protest fee.

The Jury must determine whether the protest presented to it has been lodged according to the rules. If it is found to be invalid, the reason(s) must be given to the protester.

2. Protest Fee

The amount of the protest fee must be decided by the NZPBF member organisation and shall be included in the racing rules and all race programmes.

If a protest is upheld by the Jury, the fee must be returned to the protester.

3. Right of Protest

A protest can be lodged against the posted provisional results or against any decision made by the Race Committee or against one or several competitors.

In the event of a competitor protesting against a penalty imposed on him by the OOD, and another driver protesting simultaneously against this competitor due to

the same incident, the Jury will only have one meeting with both competitors being party of this protest procedure.

A protest can only be lodged on a subject that directly concerns the protester himself. A protest which complies with these rules can not be refused by the Jury.

No protest is permitted on Jury decisions. They may only be contested by the appeal procedure.

4. Time of Lodging a Protest

A protest regarding the qualification of a boat, a motor, or a driver must be made before the drivers briefing. Starting in a race is considered as acceptance of the conditions and the eligibility of the other competitors. The only exception to the above is when the protester can prove the facts were not given to him before the drivers briefing. Then a protest can be lodged within the normal one hour time following the results being posted.

Any other protest must be lodged within one hour of the first results being posted.

5. Judgement

Decisions by the Jury shall be reached by simple majority of votes. In the case of equal votes, the Chairman shall have a casting vote.

Any judgement pronounced by the Jury stays in effect until altered by the Appeal Board.

6. Notification of Decision

All decisions by any Jury must be notified to the concerned parties in writing, including their right of appeal.

7. Availability of Documents

All documents relevant to any decision by the Jury must be filed with the NZPBF member organisation secretariat and held available at least until the time limit for an appeal has expired.

10.03 HEARING OF THE PROTEST

1. Right to a Hearing

Any person being party to a protest, or being charged for an offence against the rules shall have the right to be heard before the Jury in order to defend him/her self.

The Jury must give notice to all parties of where and when the hearing will take place.

If any party duly notified, fails to appear without giving an acceptable reason, judgement can be rendered by default.

2. Evidence

It is the responsibility of the parties involved in a protest to ensure that witnesses appearing on their behalf together with any other evidence are present and the Chairman of the Jury at his/her sole discretion may take their availability into account when determining the timing of the hearing.

Any costs incurred by the appearance of witnesses shall be borne by the respective parties unless decided otherwise by the Jury.

3. The Hearing Procedure

The following procedure must be followed in all hearings unless otherwise stated elsewhere in these rules.

- * Written minutes must be taken
- * All parties to the case are entitled to be present and to hear and question all evidence at the hearing up to the time the Jury makes its decision. The protest shall be read out to the parties.
- * The parties shall be invited to state their cases. The parties may call witnesses. Each witness, after having given his account of the case, may be questioned by all parties and by the members of the Jury.
- * Any member of the Jury who is familiar with the case may give his evidence.
- * The witnesses shall withdraw and the parties shall be invited to make a final statement of their cases.
- * The Jury may recall any party, previous witness or new witness and call on other evidence.
- * The parties must be present during the whole of the recall and must be given the opportunity to question any new evidence after which they may re-make their final statements.

10.04 THE APPEALS PROCEDURE

1. Appeals Board

The Appeals Board will decide on any appeal lodged by a competitor refuting a decision of the Race Day Jury.

2. Composition

The Appeals Board shall be composed of at least three neutral members, but no more than five, the Chairman included. The members shall be appointed by the President of the NZPBF member organisation to whom the appeal has been made. These persons shall be knowledgeable and experienced within the sport. One member shall be drawn from another NZPBF member organisation. No member shall have served on the Jury from which the decision is being appealed or have directly or indirectly any interest in the parties involved.

3. Authority and Duties

The Appeals Board shall assemble and hear all evidence relating to any appeal within 28 days of the event. It shall sit until a decision is reached. Upon such decision being reached by simple majority, which shall be final and binding, the Appellant shall be notified in writing (letter, fax or email) of the result.

4. Costs

All costs of the Appeal procedure shall be borne by the Appellant. This includes all travel, accommodation, communication, venue cost, miscellaneous costs and any costs bourn by any witness's requested to attend. All NZPBF member organisations shall include such information together with the minimum Appeal deposit amount required, in their racing rules.

5. Right of Appeal

A decision made by a Jury may be appealed by the losing party when they consider that an injustice has been made against them and/or fresh evidence has been made available that may have altered the decision of the Jury.

6. Notice of Intention to Appeal

The intention to appeal must be notified in writing to the Secretariat of the NZPBF member organisation by the appellant within four days of the day following the Jury decision.

7. Lodging of an Appeal

The appeal must be sent by letter, fax or email and it must be signed by the appellant. The reason for the appeal must also be stated.

All appeal documents must be received by the Secretariat within ten days from the date when the notice of intention to appeal was received.

Address, telephone, email and/or fax should be clearly mentioned on the appeal so that the Secretariat can send any correspondence regarding the appeal.

8. Notification of the Parties of the Appeal

The Secretariat must within two days from receiving the appeal, notify by letter, fax or email the other parties that an appeal has been lodged and that they may provide any additional fresh evidence. A time limit for the provision of such fresh evidence must be provided.

9. Appeal Board Decisions

The Appeal Board takes its own decisions based on every item of information available. The decision of the Jury may be upheld, changed or not upheld. The decision of the Appeal Board is final.

10. Costs

Should the Appellant be successful with his appeal, he/she may make application for a partial refund of his/her deposit paid. Such refund shall be calculated as the difference between the actual cost of the Appeal hearing and the deposit paid, assuming the actual cost is less than the deposit.

10.05 PENALTIES

1. Penalties

Any proven breach of applicable Rules may be penalised. The OOD may impose penalties during the event under his control. He may take advice from other Race Officials, but only he may dispense such penalties during the event.

If the Rules do not determine a special penalty for a relevant breach, the penalty given has to be proportional to the seriousness of the breach. The proportionality is at the discretion of the decision maker.

The event Race Committee or the NZPBF member organisation shall only impose penalties when they deem the relevant infringement to be so serious that it has to be penalised, although the deadlines for penalising or lodging a protest

have already expired. After the expiry of the aforementioned deadlines, a penalty for an ordinary breach of the Rules shall in general not be imposed.

The Race Jury or the Appeal Board following a protest or an appeal can (only) impose penalties which can be imposed by the OOD.

2. Deadlines for Penalising

The OOD can only impose penalties until the first results of the race are posted.

The NZPBF member organisation can only impose penalties within three months from the day the infringement occurred.

These deadlines are not valid for penalties imposed by the OOD for the reason of post race technical scrutinising. In this case, the penalty has to be imposed as soon as possible after the receipt of the scrutinising results.

3. Unacceptable Behaviour

In order to protect the interests of the sporting community, the following actions may also be penalised by the OOD or the NZPBF member organisation.

- * Any deliberate act taken to gain unfair advantage.
- * Any false act made or statement given with the intention of suppressing facts required for the proper conduct of a race.
- * Any attempt to bribe or the taking of a bribe.
- * Any abusive or unsportsmanlike behaviour.

4. Reprimand

A reprimand is a notice of disapproval of an unacceptable action. It must be recorded by the Race Secretariat. A reprimand must be witnessed. A reprimand automatically constitutes warning that if the offence recurs, a heavier penalty will be given. A reprimand is valid for twelve months.

A reprimand can be given by the OOD or the NZPBF member organisation.

5. Yellow / Red Cards

A yellow or red card may be given by the OOD.

Notice of a yellow or red card will be posted with the race results. The recipient must be notified privately before a red card is posted.

The driver has one hour from the posting of the penalty to protest. If the protest is not upheld, he can make an appeal.

All yellow / red cards count towards the drivers CV.

Yellow / Red cards can be given for bad behaviour on the water, including:

- up to two yellow cards at a time for dangerous driving
- one red card for extreme blatant dangerous driving.

A driver with a red card is immediately prevented from taking any further part in the event or further heats if a multi-heat race.

A driver with a red card or three yellow cards will also lose the right to take part in the next race in his class. Then all cards are removed.

All yellow cards will remain valid for the four events in which he competes following the date on which the last yellow card was delivered.

6. Disqualification

Disqualification deletes a competitor from the results of the heat or race where the offence occurred.

Disqualification is imposed by the OOD.

7. Temporary Suspension

Temporary suspension suspends a competitor, a competitor together with crew, a crew member, or an Official from all or part of an event. Temporary suspension may be given for serious indiscipline.

Temporary suspension is imposed by the OOD.

8. Prolonged Suspension

Prolonged suspension can be imposed on a competitor, an Official or an organisation for deliberate fraud, repeated or very serious indiscipline or very serious misconduct.

Prolonged suspension can be imposed only on the licence holders, Officials and member clubs of the NZPBF member organisation, by that organisation.

A prolonged suspension is National. The NZPBF member organisation must immediately advise the NZPBF and the NZPBF must inform all other NZPBF member organisations.

9. Exclusion

Exclusion means permanent loss of all rights to take part in any activities falling under the NZPBF members and its affiliated organisations. A person or an organisation who has committed a moral or sporting offence of extreme gravity is liable to be excluded.

A sentence of exclusion can be pronounced only by the NZPBF on the recommendation of the NZPBF member organisation.

Exclusion is International. The NZPBF must immediately notify all NZPBF member organisations and the U.I.M.

10.06 PRIORITY OF THESE RULES

The course of these rules has to be exhausted before a dispute can be brought before SPARC, or a civil court.