

Judicial Notes for Guidance

Appendix 4

The Machinery of Justice

This appendix is not part of these Regulations and is not mandatory but is intended to assist competitors when becoming involved in or contemplating becoming involved in MSA judicial procedures. It gives an explanation of the course of any judicial procedure and must be read in conjunction with Section C – Judicial.

1. The three main Judicial Bodies, in order of progression, are, the Clerk of the Course, the Stewards of the Meeting and the National Court. At most events there should be three Stewards of the Meeting. The club organising an event is responsible for appointing the Stewards, although at all Race, Speed, Kart, Stage Rally and some other events, the MSA appoints the Chief Steward. The MSA list of Stewards comprises of people who have considerable experience of Motor Sport, and who usually have acted as Club appointed Stewards for a number of years. They are, however, independent, and are not employed by the MSA. In order to ensure impartiality, any Steward finding they have any connection with a party to a hearing or with the subject matter of a hearing must declare a possible conflict of interest. Unless all parties agree otherwise, then that Steward must withdraw.

The National Court is appointed by the MSC and the members are usually either senior MSA Stewards, members of one of the specialist Committees or other experienced people who are independent of the MSA. The Chairman of the National Court will usually be a person who is legally qualified.

Clerk of the Course

2. The Clerk of the Course is the first judicial authority in any competition and deals with any protests from Competitors or adverse reports from Observers, Scrutineers or Technical Commissioners, Judges of Fact, etc. Whenever possible Competitors should be given the opportunity to explain their side of the matter, and after considering all relevant reports, the Clerk of the Course will make a decision.

The various time limits for lodging Protests are given in C.5.2. These may be extended by the Clerk of the Course in exceptional circumstances. Joint Protests are not accepted, but more than one individual Protest may be accepted on the same grounds. Protests must be in writing, signed and accompanied by the appropriate fee.

The Clerk of the Course's decision will normally be given verbally, and confirmed in writing. If an offence is found to have been committed, the Clerk should state which rules have been breached, what actions or penalties have been applied, and the time that the verbal decision was notified to the Competitor. The Competitor concerned has 30 minutes if he wishes to Appeal against the Clerk's decision. Any Appeal, which must be in writing and accompanied by the appropriate deposit, will be heard as soon as practicable by the Stewards of the Meeting.

Stewards of the Meeting

3. The Stewards of the Meeting are the second judicial body at any competition. They will hear any Appeals arising out of a decision of the Clerk of the Course or of any other Official of the meeting. The Stewards decision will normally be final, and can only be appealed to the National Court, in accordance with C.7.1.

The National Court

4. The National Court normally sits at the MSA offices at Colnbrook, but it can meet at other venues at the MSC's discretion. The press and other observers are not permitted to attend. Any hearing can proceed in the absence of any party or witnesses, provided that sufficient notice of the hearing has been given.

Appeal Hearings

- These hear appeals from decisions made by Stewards of a Meeting. The Court is obliged to confine its decisions to matters actually appealed, though they are free also to make recommendations to the MSC arising out of their deliberations. They have the power to review and amend any penalty previously applied.
- Prior to the start of an Appeal Hearing, the Court members and all parties will be given a dossier incorporating the original protest or complaint, any reports or sketches etc produced at the original Hearing, the notes or transcript (if any) of the Stewards' Hearing the Stewards' report and the original findings.
- Normally the Court first hears the Appellant's case, with witnesses called and cross-examined if necessary. The respondent follows, calling witnesses who may also be cross-examined. The respondent and appellant can then make a final address if desired. In the case of a partial or complete re-hearing however, the Court can change the order of the hearing.
- The Court then adjourns to consider its decision, which is given verbally to the parties and confirmed in writing. The Court may also order the Return of the Appeal Fee if the Appeal has been successful, or its forfeiture if the Appeal has failed. An allocation of costs may be made if appropriate. Exceptionally judgement can be reserved.
- Recorded witness evidence, in the form of electronic voice and/ or video recordings, should be admitted as evidence by Clerks of the Course, Stewards or the National Court, provided they are satisfied as to its authenticity. Unless otherwise agreed by the parties involved, the witness should attend the hearing so they can be examined on the recorded evidence. In all cases, the admissibility of recorded evidence and the weight to be attached to such evidence (particularly if the witness is not present) is at the sole discretion of the Judicial Body.

Disciplinary Hearings

These are held to try cases brought before the Court by the MSA for alleged breaches of rules by persons or groups subject to these Regulations.

Disciplinary hearings have two primary functions:

- To determine whether or not the breach is proved (unless the matter has been referred to them for the application of an additional penalty); and
- If so, to impose the appropriate penalty.

Procedure at Disciplinary Hearings involves The Clerk to the Court bringing in the main parties and briefly stating the purpose of the Hearing. The alleged breach is read to the party and the party issues a plea to each charge. If the party accepts the charge, proceedings may be shortened and mitigation considered.

- If the party contests the charge, the prosecution proceeds first, summarising its case. Prosecution witnesses may be cross-examined by the defence, and re-examined by the prosecution. The defence then presents its evidence, defence witnesses being cross examined and re-examined in turn. All witnesses may be questioned by members of the Court. The prosecution and defence can then address The Court, summarising the evidence, before the Court adjourns to determine its decision. No person, other than the Clerk to the Court if required, can be present or enter discussions with the Court at this stage.
- If the Court finds the charge(s) have not been proved, it will dismiss the case. If any of the charges are, proved, the Court will announce whether a penalty is to be imposed, and the nature of the penalty. The Court has full discretion to award and allocate costs as it thinks fit.

Investigatory Hearings

- These are held under Regulation C.9 to enquire into matters referred to the Court by the MSA.

The Court is free to receive evidence and to hear witnesses as they wish. They can make such order as it deems appropriate including, for example, amendment to the results of a competition, or recommendations to the MSC, and if a breach of the Regulations has occurred either impose an appropriate penalty or refer the matter to a subsequent Disciplinary Hearing. The Court has full discretion to award and allocate costs as it thinks fit.

Technical Eligibility Appeals

These are dealt with entirely by written submissions in accordance with the procedure laid down in C.7.2.

- If a Competitor wishes to Appeal in respect of an eligibility ruling or penalty under C.3.5.1.(c) or 3.5.3, confirmation of lodging the Appeal, together with the grounds of Appeal must be submitted to the Clerk to the National Court in writing within ten days. Within the same period, the Technical

Commissioners concerned must also submit their reasons for coming to their decision, quoting the relevant regulation numbers, dimensions etc as appropriate. Copies of these submissions will be sent to the opposing parties, who will then be allowed a further ten days for written comments.

- The National Court will then consider all these submissions, plus any other appropriate exhibits, and will adjudicate on the matter. The Decision will be notified to all parties in writing. The Court will also decide whether the Appeal fee should be returned or forfeited, and may also allocate costs if appropriate.

Anti-Doping Hearing

- The Anti-Doping Regulations are detailed in H.39.

Witnesses and Examination

5. Witnesses are not required to give evidence on oath. They may be examined by the party calling them, and shall give evidence directly and/or by answering questions.

- Documents may be produced in evidence: in such case the Hearing must be satisfied as to their source, validity, relevance etc., and to do so it may be necessary to call direct evidence in this respect. It should be remembered that documents on their own may not be accepted without corroboration.
- A report from any official that has been produced, and has later been open to challenge at the original Stewards' Hearing is acceptable, but should not be amplified later unless that official is attending as a witness.
- Data logged evidence, video and other photographic evidence may be considered by Clerks of the Course, Stewards or the National Court, providing they are satisfied as to its authenticity, and in all circumstances at their sole discretion. Where data logged evidence is to be used, must only be presented or validated by an independent person qualified to do so (J.5.21).
- Prior to the hearing of an Appeal each party is required to specify to all other parties, details of all reports, documents, objects, photographs or recordings which are to be used at the hearing. All parties must have the opportunity of inspecting any or all of the items detailed in the list, prior to the hearing if requested
- Objects may be put in evidence, as for instance, the cylinder head in question.

Degree of Proof

6. The degree of proof required is what is more probable i.e. the balance of probability. Although some sporting or social stigma may accrue to persons found to have been in breach of the Regulations of a sporting body, it is not sufficient to justify the necessity of proof beyond reasonable doubt.