

## SOUTH AFRICAN RUGBY UNION

### DISCIPLINARY AND JUDICIAL MATTERS REGULATIONS

#### 1 Definitions

For the purposes of these Regulations the terms below shall have the following meanings assigned to them unless the context otherwise requires.

- 1.1 **“Appeal Panel”** means a panel of individuals appointed in terms of regulation 4.1 below;
- 1.2 **“CEO”** means the Chief Executive Officer of SARU;
- 1.3 **“Constitution”** means the constitution of the South African Rugby Union;
- 1.4 **“Judicial Panel”** means a panel of individuals appointed in terms of regulation 3.1 below;
- 1.5 **“National Judicial Committee”** means the committee to which the Executive Council of SARU in terms of clause 17.13 of the Constitution has delegated its disciplinary powers in terms of clause 17.12.2 of the Constitution, and otherwise, with the right to further delegate such powers to disciplinary committees or judicial officers;
- 1.6 **“Person”** means a player, trainer, referee, touch-judge, coach, selector, medical officer, physiotherapist, player agent or other individual who is or has been at any time involved in the Game of Rugby Football, or in the organisation, administration, or promotion of the Game under the jurisdiction of the Union or a Member of the Union or other body affiliated to the Union or a club as defined in clause 1.2.7 of the Constitution; and for the purposes of the adjudication of breaches or contraventions of the Code of Conduct, the persons mentioned in paragraphs 1.4 and 1.6 of the Code of Conduct;
- 1.7 **“Province”** means a provincial union as defined in clause 1.2.21 of the SARU Constitution;
- 1.8 **“Rugby Body”** means a club as defined in clause 1.2.7 of the Constitution, a Province, a rugby body as defined in clause 1.2.24 of the Constitution; or a

Province or a corporate or incorporate association of Provinces participating in the SANZAR Super Rugby competitions;;

1.9 “SARU” means the South African Rugby Union.

## 2 Breach of the Constitution, Regulations, etc

2.1 A Province, Rugby Body or Person shall be guilty of an offence and subject to sanction by a Judicial Officer, Judicial Committee or arbitrator if it is found to have –

2.1.1 breached, failed to comply with or contravened the Constitution of SARU;

2,1.2 breached, failed to comply with or contravened the regulations of SARU;

2.1.3 breached, failed to comply with or contravened the by-laws, rules or regulations of the International Rugby Board, or any other body of persons or organisation to which SARU is affiliated or associated with in terms of a joint venture agreement or other agreement, including but not limited to, SANZAAR, CAR, or otherwise, binding on SARU;

2.1.4 breached, failed to comply with or contravened any decisions taken, any resolutions adopted or rulings made by a general meeting, the executive council, World Rugby or any other body of persons or organisation to which SARU is affiliated or associated with in terms of a joint venture agreement or other agreement, including but not limited to, SANZAAR, CAR, or otherwise;

2.1.5 breached, failed to comply with or contravened any contract entered into by SARU to which such a Province, Rugby Body or Person is a party;

2.1.5 breached, failed to comply with or contravened the SARU Code of Conduct;

2.1.6 brought SARU or the Game or any Person into disrepute; or

2.1.7 engaged in conduct, behaviour or practice(s) which or action or lack of action is detrimental to the interests of SARU or of the Game.

### 3. The Appointment and Functions of Judicial Officers and Judicial Committees

- 3.1 The National Judicial Committee shall appoint a panel of individuals (“the Judicial Panel”) of such number as the National Judicial Committee shall think fit, each of whom shall be eligible to sit as Judicial Officers and/or as Members of Judicial Committees. The Chairman of the National Judicial Committee (or his designee) shall appoint individual Judicial Officers or Judicial Committees from members of the Judicial Panel to resolve, hear and adjudicate on the following:
- 3.1.1 alleged breaches, contraventions or offences of the Constitution and/or the Regulations (excluding the Illegal, Foul Play and Misconduct Regulations and the Anti-Doping Regulations of SARU), rulings, resolutions, contracts and the Code of Conduct, mentioned in 2.1.1 to 2.1.6 above; and alleged offences mentioned in 2.1.7 to 2.1.9 above;
  - 3.1.2 disputes, alleged breaches or offences arising under the Player Status, Player Contracts and Player Movement Regulations;
  - 3.1.3 alleged breaches, contraventions or offences under Clause 24 of the Constitution;
  - 3.1.4 disputes, alleged breaches, contraventions or offences under the Player Agent Regulations; and
  - 3.1.5 such other matters as the Executive Council, Chairman of the National Judicial Committee (or his designee) or the CEO may from time to time refer to a Judicial Officer or Judicial Committee for adjudication.
- 3.2 Members of the Judicial Panel shall include the following:
- 3.2.1 Legal practitioners with previous experience of judicial proceedings in rugby. Such legal practitioners shall be appointed to sit as Chairmen of Judicial Committees.
  - 3.2.2 Eminent rugby administrators, rugby players, coaches and officials with previous experience of judicial proceedings in rugby.
  - 3.2.3 Such other individuals as the National Judicial Committee may consider appropriate.
- 3.3 Members of the Judicial Panel shall be appointed for an indefinite period and until replaced by the National Judicial Committee. The National Judicial Committee may, at its discretion, remove any member of the Judicial Panel, at any time. The decision of the National Judicial Committee shall be final and binding.

- 3.4 When a Judicial Committee is appointed to adjudicate on a case it shall, ordinarily, be made up of three members of the Judicial Panel, one of whom shall be nominated to act as Chairman of the Committee. The Chairman of the National Judicial Committee (or his designee) shall, however, in any case, be entitled, at his discretion, to appoint a Judicial Committee of such number as he considers appropriate, up to a maximum of five and a minimum of two.
- 3.5 Judicial Officers or Judicial Committee members shall not have had any personal involvement with any case referred to them for adjudication and shall be impartial.
- 3.6 If a Judicial Officer or member of a Judicial Committee having been appointed to deal with a case is unable or unwilling to adjudicate then the Chairman of the National Judicial Committee (or his designee) may; (1) appoint another member of the Judicial Panel as a replacement; or (2) appoint a new Judicial Committee; or (3) allow the remaining Judicial Committee members to proceed and adjudicate on the case.
- 3.7 The Chairman of the National Judicial Committee (or his designee) shall have the power, exercisable in his discretion, to co-opt from time to time additional persons with specialist skills and experience to sit as Judicial Officers and/or as members of a Judicial Committee to deal with cases that require such specialist skills and experience whether such persons are members of the Judicial Panel or not.

#### **4 The Appointment and Functions of Appeal Committees**

- 4.1 The National Judicial Committee shall appoint a panel of individuals of such number as the National Judicial Committee thinks fit (“the Appeal Panel”), each of whom shall be eligible to sit as members of Appeal Committees.
- 4.2 Members of the Appeal Panel shall include the following:
- 4.2.1 Senior legal practitioners with previous experience of judicial proceedings in rugby. Such legal practitioners shall be appointed to sit as Chairmen of Appeal Committees.
- 4.2.2 Eminent rugby administrators, rugby players, coaches and officials with previous experience of judicial proceedings in rugby.
- 4.2.3 Such other individuals as the National Judicial Committee may consider appropriate.

- 4.3 The functions of Appeal Committees shall be to hear and decide appeals from decisions made by Judicial Officers or Judicial Committees. The Chairman of the National Judicial Committee (or his designee) shall appoint Appeal Committees from Appeal Panel members to hear such appeals.
- 4.4 Members of the Appeal Panel shall be appointed for an indefinite period and until replaced by the National Judicial Committee. The National Judicial Committee may, at its discretion, remove any member of the Appeal Panel, at any time. The decision of the National Judicial Committee shall be final and binding.
- 4.5 When an Appeal Committee is appointed to adjudicate on a case it shall, ordinarily, be made up of three members of the Appeal Panel, one of whom shall be nominated to act as Chairman of the Appeal Committee. The Chairman of the National Judicial Committee (or his designee) shall be entitled, however, at his discretion to appoint Appeal Committees of such number as he considers appropriate, up to a maximum of five and a minimum of two.
- 4.6 If a member of an Appeal Committee having been appointed to deal with a case, is unable or unwilling to adjudicate then the Chairman of the National Judicial Committee (or his designee) may: (1) appoint another member of the Appeal Panel as a replacement; or (2) appoint a new Appeal Committee; or (3) allow the remaining Appeal Committee members to proceed and adjudicate on the appeal.
- 4.7 The Chairman of the National Judicial Committee (or his designee) shall have the power, exercisable in his discretion, to co-opt from time to time additional persons with specialist skills and experience to sit as Appeal Committee Members to deal with cases that require such specialist skills and experience whether such persons are members of the Appeals Panel or not.

**5. Procedures relating to breaches and offences mentioned in 3.1 above.**

- 5.1 A Province, Associate Member, Rugby Body or Person may notify the CEO of an alleged breach, contravention or offence mentioned in 3.1 above. To be valid, such notification must be made in writing, set out full details of the alleged breach, contravention or offence and must be received by the CEO not later than 20 (twenty) days following the notifying Province, Rugby Body, Associate Member or Person having knowledge of the alleged breach, contravention or offence. Notification after the 20 day period may be condoned or may be extended by the Chairman of the National Judicial Committee on written application and on good cause shown. The decision of the Chairman of the National Judicial Committee shall be final. Upon receipt of any such notification, the CEO shall initiate an enquiry into the matter and/or refer the notice via the Chairman of the National Judicial Committee (or his designee) to

a Judicial Officer or Judicial Committee for adjudication. In the event of an enquiry, such enquiry shall be carried out by the CEO or his designee(s). The procedure for such enquiry shall be determined by the CEO.

- 5.2 The Executive Council or CEO may, of its own motion, initiate an enquiry into any alleged or apparent breach or contravention or offence mentioned in 3.1 above and/or refer the notice via the Chairman of the National Judicial Committee (or his designee) to a Judicial Officer or Judicial Committee for adjudication. In the event of an enquiry, such enquiry shall be carried out by the CEO or his designee(s).
- 5.2.1 To be valid the CEO or his designee must initiate his investigation not later than 30 (thirty) days after having knowledge of the alleged breach, contravention or offence.
- 5.2.2 To be valid the Executive Council must take a decision to investigate the alleged breach, contravention or offence at the first meeting following knowledge of the alleged breach, contravention or offence or not later than 30 (thirty) days after having knowledge of the alleged breach, contravention or offence, whichever is the latter.
- 5.3 A Province, Rugby Body, Player and accredited Player Agents only may notify the CEO or his designee of an alleged breach, contravention or offence of or disputes under SARU's Player Status, Player Contracts and Player Movement Regulations. To be valid, such notification must be made in writing, set out full details of the alleged breach, contravention or offence and must be received by the CEO not later than 30 (thirty) days following the notifying Province, Rugby Body, Associate Member or Person having knowledge of the alleged breach, contravention or offence. Notification after the 30 (thirty) day period may be condoned or may be extended by the Chairman of the National Judicial Committee on written application and on good cause shown. Upon receipt of any such notification, the CEO shall initiate an enquiry into the matter and/or refer the notice via the Chairman of the National Judicial Committee (or his designee) to a Judicial Officer or Judicial Committee for adjudication. In the event of an enquiry, such enquiry shall be carried out by the CEO or his designee(s). The procedure for such enquiry shall be determined by the CEO.
- 5.4 in the event of a dispute remaining unresolved following the Complaint Resolution Process referred to in regulation 4.1 – 4.3 of the Player Agent Sub-Regulations, the dispute may be referred in accordance with regulation 4.4 of the Player Agent Sub-Regulations to the CEO or his nominee. The CEO or his nominee will refer the matter to the Chairman of the National Judicial Committee who will appoint an arbitrator from the SARU Judicial panel who will adjudicate the dispute by means of arbitration.

## **6 Referral to Judicial Officers, Judicial Committees or an Arbitrator**

- 6.1 Where a matter is referred to a Judicial Officer or Judicial Committee, the Judicial Officer or Judicial Committee shall, subject to Appendix 1, be entitled to deal with the matter procedurally as it considers appropriate provided that the parties concerned are aware of the case against them and are afforded a reasonable opportunity to make representations and present their case. For the avoidance of doubt, SARU shall have the right to be represented and shall be entitled through its nominated representative to make submissions during any proceedings conducted by Judicial Officers or Judicial Committees.
- 6.2 The decisions of Judicial Committees shall be made by majority. In the event of an even vote, the Chairman of the Judicial Committee shall have a casting vote.
- 6.3 All Judicial Committee members must take part in the deliberations of the committee and no member of a Judicial Committee may abstain.
- 6.4 The decision of the Judicial Officer or Judicial Committee shall, subject to the right of appeal under regulation 8 below, be final and binding. Any punishment or penalty imposed by a Judicial Officer or Judicial Committee shall not, ordinarily, take effect until the period allowed for an appeal in regulation 8.1 below has elapsed or the appeal has been determined. The decision of the Judicial Officer or Judicial Committee may be published by the CEO.
- 6.5 Any dispute dealt with in accordance with 5.4 above, shall unless otherwise resolved amongst the Parties to the dispute, be referred to and determined by final and binding arbitration.

## 7 Referral of a dispute to an Arbitrator

- 7.1 The arbitrator appointed by SARU may give such directions as to the conduct of the arbitration proceedings as may be necessary for the expeditious resolution of the dispute.
- 7.2 The arbitration proceedings must be convened within 21 days after the appointment of the arbitrator.
- 7.3 The party who initiated the dispute (claimant) must file full particulars of his claim within seven (7) days after being notified of the appointment of the arbitrator.
- 7.4 The claimant shall further discover all documents on which he/she will rely in the arbitration proceedings simultaneously with the filing of his/her claim.

- 7.5 The defendant in the arbitration proceedings must file his/her plea within seven (7) days after receipt of the claimants claim and must also discover all documents that will be used in the arbitration proceedings in support of this defense.

## 8 Penalties

- 8.1 Upon finding a breach, contravention or offence as mentioned in 3.1 above, Judicial Officers and Judicial Committees shall be entitled to impose such penalties as they think fit. Such penalties may include, but shall not be limited to:
- 8.1.1 a caution, warning as to future conduct, reprimand and/or a fine of up to R1 000 000 (one million rand in the case of a Province and up to R100 000 (one hundred thousand rand) in the case of a Person or Rugby Body (excluding a Province);
- 8.1.2 a suspension for a specified number of matches and/or a specified period; a requirement that a match or matches be played with the exclusion of the public; the cancellation of a match result and, where appropriate, the replaying of a match; the forfeiture of a match or matches and/or tie(s); the deduction or cancellation of match and/or log points; the immediate or future expulsion or suspension from a tournament(s) or competition(s); or any such similar sanctions;
- 8.1.3 cancellation or refusal of the registration of any Person registered in contravention of the Constitution or Regulations;
- 8.1.4 a recommendation to the General Council that a Province or Associate Member be expelled or suspended from membership of SARU.

*(NOTE: In terms of Clause 24.3.9 of the Constitution, only the members of SARU in general meeting shall be competent to expel or suspend a Province and any such expulsion or suspension shall only have effect if supported by at least 75% (seventy five percent) of the representatives at a general meeting.)*

- 8.1.5 an order that any Province, Associate Member, Rugby Body, or Person pay compensation and/or restitution;
- 8.1.6 the withdrawal of other benefits or membership of SARU;
- 8.1.7 expulsion from any or all positions in SARU or S A RUGBY or a Rugby Body, or from any or all rugby activities;
- 8.1.8 any combination of the penalties set out in 8.1.1 to 8.1.7 above;

Approved by the General Meeting on 6 December 2018

- 8.1.9 An order that any Province, Rugby Body or Club issue a clearance certificate as is required in terms of the Player Status, Player Contracts and Player Movement Regulations within a prescribed time period failing which the CEO shall be entitled to issue such clearance certificate;
- 8.1.10 such other penalty or remedy as may be provided for in the Constitution or any of the Regulations of SARU; and/or
- 8.1.11 any other sanction or penalty as the Judicial Officer may think fit.
- 8.1.12 In the event of an Agent being in breach of the World Rugby Regulations Relating to the Game, SARU Constitution and/or Regulations or SANZAR Regulations, the Judicial Officer may decide on one or more of the following:
- 8.1.12.1 issue an informal reprimand in writing to the Agent to be retained in the Agent's file;
- 8.1.12.2 issue a formal letter of reprimand to the Agent which may be made public in SARU, SARPA and Provincial publications and the media;
- 8.1.12.3 suspend for any period the License of the Agent;
- 8.1.12.4 suspend for any period the Accreditation of the Agent;
- 8.1.12.5 revoke the License of the Agent;
- 8.1.12.6 revoke the Accreditation of the Agent;
- 8.1.12.7 impose a monetary fine at the discretion of the Judicial Officer or Judicial Committee;
- 8.1.12.8 impose a suspensive condition to the sanctions mentioned in subparagraphs 8.1.12.1 – 8.1.12.7.
- 8.2 Judicial Officers and Judicial Committees shall be entitled to make such order in relation to cost as is deemed appropriate. Where SARU is not a party to the

dispute, but had to incur costs to facilitate the outcome of the dispute, both parties to the dispute shall be liable for SARU's cost jointly and/or separately;

- 8.3 In determining the appropriate penalty under these Regulations, a Judicial Officer or Judicial Committee shall be entitled to take account of mitigating and/or aggravating circumstances.

## 9 Appeals

- 9.1 A Province, Associate Member, Rugby Body or Person or the Executive Council or the CEO, may appeal against the decision of a Judicial Officer or Judicial Committee, against the penalty imposed and/or any costs order. To be valid, any such appeal, together with the written grounds of appeal, must be lodged with the Chairman of the National Judicial Committee (or his designee) within 15 (fifteen) days of the date of the written decision of the Judicial Officer or Judicial Committee. Each Notice of Appeal shall be accompanied by a deposit of R5000 (five thousand rand). The Appeal Officer or Chairperson of the Appeal Committee may condone the late filing of the said deposit if satisfied that the appeal is not without merit and acceptable reasons for the failure to pay the deposit timeously have been advanced.
- 9.2 On receipt of a notice of appeal and the grounds for appeal within the time limit set out in regulation 9.1, an Appeal Committee shall be appointed by the Chairman of the National Judicial Committee (or his designee). The Appeal Committee shall, ordinarily, be made up of three members of the Appeal Panel, under the Chairmanship of a senior legal practitioner who shall, subject to regulation 9.3 and Appendix 2, have the discretion to regulate the procedure prior to and at any Appeal Committee hearing.
- 9.3 The Appeal Committee shall determine the basis on which an appeal will proceed, including the standard of review and may, in its discretion rehear the whole or any part of the evidence given before the Judicial Officer or Judicial Committee (as the case may be) as it considers appropriate. For the avoidance of doubt the Executive Council or the CEO shall have the right to be represented and shall be entitled through its nominated representative to make submissions in any proceedings conducted by Appeal Committees.
- 9.4 The Appeal Committee shall have full discretionary power to hear and receive such further evidence as it thinks fit, provided it is established by the appellant that such evidence was not, on reasonable enquiry, available at the time of the original hearing.
- 9.5 For appeal hearings procedural matters shall be determined by the Chairman of the Appeal Committee. Decisions of the Appeals Committee shall be made by majority. In the event of an even vote, the Chairman of the Appeal

Committee shall have a casting vote. No member of an Appeal Committee may abstain and all members of the Committee must take part in its deliberations.

## 10 Powers of Appeal Committees

10.1 An Appeal Committee shall have the power to:

10.1.1 allow or re-affirm, or dismiss the appeal;

10.1.2 vary the decision in such manner as it shall think fit (including power

10.1.3 to increase, reduce, uphold, decrease or cancel any penalty;

10.1.4 make such further order (in relation to costs or otherwise) as it thinks fit; and

10.1.5 take any other step which in the exercise of its discretion the Appeal Committee considers it would be appropriate to take in order to deal justly with the case in question.

## 11 Notification of Appeal Committee Decision

11.1 The parties to the appeal shall be notified in writing as soon as reasonably practicable following the conclusion of the hearing. On notification to the Province, Associate Member, Rugby Body or Person, the decision shall be final and binding. The decision of the Appeal Committee may be published.

**APPENDIX 1****General Procedures relating to proceedings of Judicial Officers, Judicial Committees and Appeal Committees.**

- 1 The standard of proof on all questions to be determined by Judicial Officers, Judicial Committees and Appeal Committees shall be the balance of probabilities.
- 2 Judicial Officers and the Chairmen of Judicial Committees and Appeal Committees shall be entitled to publish as they think fit reports of their proceedings, findings and penalties.
- 3 Judicial Officers, Judicial Committees and Appeal Committees shall have absolute discretion in imposing orders as to the payment of costs in relation to any proceedings.
- 4 Judicial Officers, Judicial Committees and Appeal Committees shall be entitled to adjourn and/or postpone proceedings.
- 5 All hearings shall take place in private.
- 6 The non-attendance of a party at a hearing in respect of which that party has received notice shall not prevent the matter being dealt with in their absence.
- 7 Any procedures pursuant to disciplinary processes under these Regulations or proceedings, findings or decisions of Judicial Officers, Judicial Committees and Appeal Committees shall not be quashed or invalidated by reason of any departure from the procedural Regulations, defect, irregularity, omission or technicality unless such departure, defect, irregularity, omission or technicality raises a material doubt as to the reliability of the findings or decisions of these bodies or results in a miscarriage of justice.
- 8 The Executive Council may prescribe additional regulations for the conduct of Judicial Officer(s), Judicial Committees, Disciplinary Committees, Appeal Committees, Appeal Tribunals and may from time to time vary, revoke or replace any such regulations.
- 9 The Judicial Officer or Judicial Committee appointed shall have the discretion to determine the procedures to be adopted prior to and at any hearing in connection with such a matter. The decision of the Judicial Officer or Judicial Committee shall be binding on the Union, Association, Person, Club or other Rugby bodies who are

parties to the dispute upon receipt of notification of the Judicial Officer's or Judicial Committee's decision.

- 10 An appeal against the decision of a Judicial Officer or Judicial Committee in relation to the issues referred to in 11.1 above may be lodged with the Chairman of the National Judicial Committee (or his designee) in accordance with regulation 8. The Chairman of the National Judicial Committee (or his designee) shall refer the matter to an Appeal Committee for final and binding adjudication.
- 11 In respect of any matter not provided for in these Regulations the appropriate body shall take a decision according to general principles of justice and fairness.