7 OFFENCES, PROTESTS AND APPEALS

7.1 OFFENCES

7.1.1 List of Offences

- 7.1.1.1 Any promoter, club, licensee, rider, member or support person, who:
 - Breaches any of these Rules, Policies or any Supplementary Regulations,
 - Acts in a manner which is prejudicial to the sport or breaches the Code of Conduct.
 - Behaves in an offensive or abusive manner toward any competitor or any official exercising authority under these Rules.
 - Bribes or attempts to bribe, directly or indirectly, any competitor, Controlling Body, appellate body or official exercising authority under these Rules,
 - Offers, receives or offers to receive, directly or indirectly, any bribe in respect of the exercise of any authority under these Rules,
 - f) Enters, or attempts to enter, any ineligible person, body or machine in any competition or recreational activity,
 - g) Acts in a reckless or dangerous manner while participating,
 - Disobeys the lawful direction, order or requirement of any Controlling Body, appellate body, inspector or official under these Rules,
 - Obstructs or misleads any official in the exercise of any of the powers and duties conferred on that official by these Rules,
 - Assaults any participant or spectator or any official exercising authority under these Rules,
 - k) Without reasonable cause, fails to participate in a competition for which entrant fees have been paid by or on behalf of that person or body or in the case of Speedway a competitor who has nominated for that competition.
 - I) Does any act, the direct or indirect

- purpose of which is to breach or cause to be breached any agreement between any Promoter, entrant, or rider in respect of any competition or recreational event.
- m) Participates in any competition or recreational event for which that person or body has failed to complete an entry form or pay entrant fees,
- n) Being a Promoter advertises, and/ or programs riders who have not entered the meeting,
- o) Being a Promoter, club, entrant, or rider knowingly publishes false information concerning the results of any competition,
- Promotes, participates in, or officiates at any competition which is capable of being sanctioned by MA but which is not authorized under these Rules.
- q) Uses other than the prescribed fuel in any competition,
- Fails to comply with the direction of an authorised official to submit to a fuel test under these Rules,
- s) Being an entrant causes or permits the rider entered by the entrant, or any Support person of that rider not to comply with these rules
- Being a competitor or participating rider where any of their Support persons fails to comply with any of these Rules
- Commits a doping offence under MA's Anti-Doping Policy,
- v) Being an official who knowingly:
 - Signs a record of measurement as a personal record when it was not,
 - ii) Assists in the promotion or conduct of any competition which is not authorised under these Rules, or
 - iii) Fails to comply with these Rules, is liable to be penalised under these Rules.

- 7.1.1.2 Should a Support person breach any rule, the entrant, rider, licensee or competitor, may in addition to the Support person be held responsible and sanctioned in accordance with these GCRs.
- 7.1.1.3 Subject to Rule 7.1.1.4, a prosecution for any alleged offence under Rule 7.1.1.1 committed during the course of a meeting must:
 - a) If instituted by the Clerk of Course, be:
 - Heard and determined by the Clerk of Course, or
 - ii) Referred to the Steward, or
 - b) If instituted by the Steward, be
 - i) Heard and determined by the Steward, or
 - ii) Referred to the Relevant Controlling Body, or
 - If instituted by a duly appointed Inspector, be heard and determined by the Relevant Controlling Body.
- 7.1.1.4 A prosecution for any alleged offence under GCR 7.1.1.1 committed during the course of a meeting being part of an MA Series must:
 - a) If instituted by the Clerk of the Course, be:
 - Heard and determined by the Clerk of Course, or
 - ii) Referred to the Steward, or
 - b) If instituted by the Race Director; be referred to the Steward, or
 - c) If instituted by the Steward, be
 - i) Heard and determined by the Steward, or
 - ii) Referred to the Relevant Controlling Body, or
 - d) If instituted by a duly appointed Inspector, be heard and determined by the Relevant Controlling Body.
- 7.1.2 Imposition of Penalties during Events
- 7.1.2.1 In any event during the course of a meeting, a Steward or Clerk of Course may fine, exclude, impose penalty or time points on, or relegate, any competitor, if:
 - The whole or any part of that competitor's machine has left the track and thereby gained an

advantage, unless such action was:

- For the safety of other competitors, or
- ii) Due to the action of other competitors,
- The competitor has gained an advantage as a result of an unfair start,
- c) The competitor has been guilty of unfair or unsafe conduct,
- d) The competitor receives outside assistance other than:
 - By a relevant official at the start of an event, or
 - ii) In the interests of safety,
- e) The competitor's machine is dangerous,
- f) The competitor's machine does not comply with the requirements of these Rules or any supplementary regulations,
- g) The competitor has unreasonably refused to submit to a medical test required by the Steward under these Rules.
- h) The competitor, or the competitor's team, has breached the refueling Rule.
- 7.1.2.2 For the purposes of GCR 7.1.2.1, outside assistance includes radio communication, provided that supplementary regulations may permit outside assistance.
- 7.1.2.3 No person may protest against, or appeal from, a decision to impose a penalty during an event.
- 7.1.2.4 For the purpose of this GCR a decision does not operate as such unless and until it is notified to the competitor affected by it or to that competitor's team, providing such notification is practicable within the context of the event.
- 7.1.3 Hearing and Determination of Charges during Meetings
- 7.1.3.1 In any proceeding relating to the imposition of penalties for offences committed during the course of a meeting:
 - a) The Steward or Clerk of Course:
 - i) May act on their own initiative,
 - ii) May act on such information and

- in such manner as they think fit having regard to the conduct for which a penalty is to be imposed,
- Must, in respect of all prosecutions other than those under GCR 7.3.2, conduct a hearing,
- Must, as soon as practicable after determining the penalty, inform the person, rider or competitor and the competitor's team of the penalty imposed,
- May not impose any fine greater than the maximum prescribed in by-laws.
- b) No person may be represented by a legal practitioner.

7.1.4 Inspectors

- 7.1.4.1 A Controlling Body may, by written authority, appoint Inspectors.
- 7.1.4.2 The powers and duties of Inspectors are:
 - To institute prosecutions for offences under these Rules other than offences alleged to have been committed by competitors during the course of an event, and
 - To collect and collate evidence reasonably required for the preparation of any prosecutions under these Rules, and to present such evidence to the Relevant Controlling Body,
 - To investigate the conduct of meetings and make recommendations to the Relevant Controlling Body.
- 7.1.4.3 In performing duties under these Rules, an Inspector:
 - May ask questions and give directions as reasonably required,
 - b) Must comply with all directions of any appellate body, and
 - Must maintain proper and accurate records of all investigations undertaken and any proceedings arising there from.

7.1.5 Charges

- 7.1.5.1 Charges for offences under these Rules, other than by Stewards, Race Director or Clerks of Course may only be instituted by Inspectors.
- 7.1.5.2 In relation to any charge instituted by an Inspector:
 - The offence will not be taken to have been committed unless proved to the satisfaction of the Relevant Controlling Body,
 - The person charged may be represented by a legal practitioner or other advocate or may be unrepresented,
 - c) The person charged may:
 - i) Give evidence,
 - ii) Call any witness,
 - iii) Produce any exhibit, or
 - iv) Remain silent, and no adverse inference may be drawn from the exercise of the right of silence.
 - d) The Relevant Controlling Body must:
 - Deliver written reasons for the finding to the person charged, whether of guilty or innocent, and any penalty imposed.
 - e) The Relevant Controlling Body may refer charges to its appellate body.

7.1.6 Penalties

- 7.1.6.1 In imposing any penalty, the Steward, Clerk of Course, Relevant Controlling Body or the appellate body must have regard to the following principles:
 - a) No penalty should be imposed unless and until the offender has been given the opportunity to make representations as to the nature and extent of the penalty.
 - b) In ordinary circumstances a single penalty should be imposed for a single offence,
 - The punishment for an offence should be commensurate with the gravity and effects of the offence,
 - d) The interests of the sport are paramount,
 - e) The severity of penalties imposed on an individual should increase if

- that individual continues to commit offences against these Rules,
- f) Mitigating factors put by, or on behalf of an offender, must be taken into account, as must the effects on others of the actions of the offender.
- 7.1.6.2 The Clerk of Course may impose the following penalties for any offence committed under these Rules:
 - a) A reprimand,
 - b) A fine no greater than \$1,000,
 - c) Relegation,
 - d) Exclusion.
 - e) Removal or ejection from the venue
- 7.1.6.3 The Steward may impose the following penalties for any offence committed under these Rules:
 - a) A reprimand,
 - b) A fine no greater than \$2,000,
 - c) Relegation,
 - d) Exclusion.
 - e) Suspension of no more than six (6) months.
 - f) Removal or ejection from the venue
- 7.1.6.4 The Relevant Controlling Body may impose the following penalties for any offence committed under these Rules:
 - a) A reprimand.
 - b) A fine no greater than \$7,000,
 - c) Relegation,
 - d) Exclusion.
 - e) Suspension of no more than 24 months.
- 7.1.6.5 The Relevant Controlling Body may determine a period during which a licence will not be issued to persons falsely completing a licence declaration under GCR 3.1.1.9. b).
- 7.1.6.6 An appellate body may impose the following penalties for any offence committed under these Rules:
 - a) A reprimand.
 - b) A fine no greater than \$10,000,
 - c) Relegation,
 - d) Exclusion,
 - e) Suspension,
 - f) Disqualification.

- 7.1.6.7 In imposing a penalty under these Rules an appellate body may:
 - a) Fix a time for payment of any fine,
 - Suspend the operation of any penalty unconditionally or subject to terms and conditions,
 - Fix a time for the commencement of any penalty, but in the absence of such fixing, the penalty will commence from the moment of its pronouncement,
 - d) Impose such conditions as are in the circumstances just and expedient,
 - Require the offender to deliver any document, record, material, object, piece of equipment, machine or thing as is reasonably necessary to ensure:
 - i) That the penalty is carried into full force and effect,
 - ii) That all persons or bodies affected are made aware of the penalty, and
 - iii) That any consequential orders or directions are complied with.
 - f) Make such consequential orders or directions as the appellate body considers necessary and reasonable for the full and effectual operation of the penalty.
- 7.1.6.8 Unless otherwise ordered:
 - Every decision of an appellate body will take effect from the moment of pronouncement of the penalty,
 - The operation of a decision of an appellate body will be suspended upon the lodging of a notice of appeal against the decision.
- 7.1.7 Penalties: Juniors
- 7.1.7.1 The Steward may fine or exclude any junior competitor for the actions of the agents or parents of the competitor.
- 7.1.8 Default Penalties
- 7.1.8.1 Any person or body having power to impose any fine under these Rules must fix a time within which the fine is to be paid.
- 7.1.8.2 An Relevant Controlling Body may impose, as a penalty in default of payment of the fine within that time, a penalty of

suspension or disqualification, which may be double the period the payment of the fine was in default.

- 7.1.9 Tests for Prohibited Substances
- 7.1.9.1 A person who commits a doping offence contrary to the MA Anti-Doping Policy will be sanctioned by MA in accordance with that policy which is published in this manual.
- 7.1.9.2 For the purposes of this GCR:
 - a) A State Controlling Body may, by instrument in writing, delegate to MA its authority to administer tests under this GCR, and in that case, MA will be deemed to be the Relevant Controlling Body in relation to the administration of tests,
 - The Relevant Controlling Body is responsible for the receipt of the results of tests.
- 7.1.10 Prohibited Substances
- 7.1.10.1 Refer to the World Anti-Doping Agency (WADA) Prohibited List under Chapter 25 for prohibited substances.
- 7.1.11 Fines
- 7.1.11.1 Fines are payable to the Relevant Controlling Body.
- 7.1.12 Suspension and Disqualification
- 7.1.12.1 An order for suspension of any person or body will operate throughout the period thereof so as to prevent that person or body from participating in any competition or recreational event.
- 7.1.12.2 An order for suspension or disqualification from competition may operate so as to prevent from participation in competition a machine or machines of a particular manufacturer provided that no such order may be made unless the appellate body is satisfied that the offence or offences leading to the making of the order were committed with the knowledge, or at the instigation, of the manufacturer or the manufacturer's agent.
- 7.1.12.3 Any person or body who is the subject of:
 - a) An order of exclusion, or
 - An order for suspension or disqualification for any offence committed at, connected with, or

- arising from, any competition; is liable to forfeit the right to receive or retain any award, trophy or prize in respect of that competition.
- 7.1.12.4 If any penalty imposed alters the result of any competition, the Relevant Controlling Body must, as soon as practicable after being notified of the penalty, alter the record of that competition so as to reflect the alteration
- 7.2 PROTESTS
- 7.2.1 Right of Protest
- 7.2.1.1 With the exception of penalties imposed during an event any entrant or competitor may protest:
 - Against a decision to reject an application by a competition licence holder to compete in any competition,
 - b) Against a decision, action or determination of any official,
 - Against the action or conduct of any other competitor, entrant, mechanic or team member during the course of any event.
- 7.2.1.2 Any protest must:
 - a) Be in writing,
 - Be accompanied by the prescribed fee which will be refunded if the protest is upheld, or if not must be remitted to the Relevant Controlling Body,
 - c) Be made to a Steward of the relevant meeting,
 - d) Comply with the following time limits:
 - For a protest under sub-Rules a) and b) of the previous Rule, as soon as practicable after being informed of the decision,
 - For a protest under sub-Rule c) of the previous Rule, no more than 30 minutes after the action or conduct.
 - For a protest under sub-Rule c)
 in a Speedway or Supercross
 meeting, no more than five
 (5) minutes after the action or
 conduct.

7.2.2 Protest Hearings

- 7.2.2.1 A Steward must hear and determine any protest and must notify the outcome to the protester, and any person materially affected, within a reasonable time.
- 7.2.2.2 A Steward may refer any question raised in any protest, or the protest itself, to the relevant appellate body and must:
 - Notify such referral to the protester, and to any person materially affected by the protest,
 - Provide to the appellate body all evidence and exhibits submitted to the Steward in relation to that protest,
 - c) Comply with all directions and instructions of the appellate body.
- 7.2.2.3 In hearing and determining any protest, a Steward may:
 - a) Direct any reasonable alteration or modification to any course,
 - b) Alter or amend any program,
 - c) Overrule, vary or amend any decision or direction of an official,
 - d) Substitute for any decision of an official, the decision of the Steward with or without conditions,
 - e) Give such directions, instructions or orders as the Steward thinks fit for the efficient and fair conduct of any competition,
 - Alter, vary or amend the result of, or prize for, any competition.
 - g) Do whatever is necessary for the proper consideration of the protest.
- 7.2.2.4 In hearing and determining any protest, a Steward must apply the following principles:
 - The protester and any person materially affected or likely to be so affected by the outcome of the protest must be notified of the protest and the time and place fixed for the hearing.
 - The determination of the protest must be in writing and published to the protester and any person affected by the determination.
 - The principles of natural justice must apply,

- d) The protester and any person materially affected or likely to be so affected by the determination may not be represented by a legal practitioner,
- e) The Steward is not bound by the rules of evidence and may be informed of facts in such manner as the Steward thinks fit.
- f) The Steward must determine the protest according to equity, good conscience and the substantial merits of the case.
- g) Unless otherwise ordered, every decision made by a Steward will take effect from the moment of pronouncement of the decision.

7.2.3 Protests - Engines

7.2.3.1 If an engine is measured for the purposes of a protest, the protesting party must submit a \$500 bond. This bond will be refunded in full if the measured engine is found to be illegal. If the measured engine is found to be legal any reasonable costs in reassembly up to a maximum of \$500 will be deducted and the remaining bond returned to the protesting party.

7.2.4 Protests - Juniors

- 7.2.4.1 In addition to the Rules regulating the making of protests in all competitions, Juniors must comply with the following:
 - a) A protest may only be made by a competitor.
 - The competitor must indicate the protest to an official prior to returning to the pits,
 - c) The Clerk of Course must designate an area, to be announced at the riders' briefing and to be marked by a purple flag, where an official must be present to note any indications of protest.
 - No discussion on the content of the protest may take place at the marked position,
 - e) A competitor who indicates a protest must return to the pits and present the protest to the Clerk of Course.

7.3 APPELLATE BODIES

- 7.3.1 The Appointment of Appellate Bodies
- 7.3.1.1 Each Controlling Body must appoint a suitably qualified person or persons as an appellate body. A person is suitably qualified if:
 - In the case of an appellate body consisting of one member, that person is an admitted practitioner of the Supreme Court of any State or Territory of Australia, or
 - b) In the case of an appellate body of three members, the chair is held by an admitted practitioner of the Supreme Court of any State or Territory of Australia and the other members have knowledge of, and experience in, any aspect of the sport.
- 7.3.1.2 No person may sit as a member of an appellate body, hearing any appeal, if that person has an interest in the outcome of the appeal.
- 7.3.2 Hearings by Appellate Bodies
- 7.3.2.1 An appellate body must hear and determine each appeal and in so doing:
 - a) Is not bound by the rules of evidence.
 - b) May inform itself in such manner as it thinks fit,
 - Must act according to equity, good conscience and the substantial merits of the case.
 - May affirm, quash or vary the decision appealed against in such manner and subject to such conditions as it thinks fit,
 - e) May not impose any fine greater than that prescribed in by-laws,
 - f) Must publish reasons for its decision,
 - g) May, at its discretion, award such costs to any party as it thinks fit.
- 7.3.2.2 An appellate body may not direct that an event be re-run.
- 7.3.3 Decisions by Appellate Bodies
- 7.3.3.1 Unless otherwise ordered:
 - Every decision made by an appellate body will take effect from the moment of pronouncement of the decision.

 The operation of a decision of an appellate body will be suspended upon the lodging of a notice of appeal against the decision,

7.4 APPEALS

- 7.4.1 Right to Appeal
- 7.4.1.1 A person or body having a material interest in a decision of:
 - a) A Steward or jury arising from a protest, or
 - b) A Key Official of a recreational event, or
 - A specialist sub-committee may appeal to the appellate body of the Relevant Controlling Body.
- 7.4.1.2 A person or body, including a Steward of a meeting, having a material interest in a decision of a State Controlling Body or the appellate body of an State Controlling Body, may appeal to the appellate body of MA.
- 7.4.2 Commencement of Appeals
- 7.4.2.1 Appeals must be commenced by notice of appeal which must be:
 - a) In writing and signed by the appellant,
 - b) Lodged with the relevant appellate body, and
 - c) Accompanied by the prescribed filing fee.
- 7.4.3 Time Limits for Appeals
- 7.4.3.1 The time for lodging a notice of appeal is 21 days after the decision has been notified to the appellant.
- 7.4.3.2 An appellate body may extend the time for lodging a notice of appeal if it considers that it is just and equitable so to do.
- 7.4.3.3 Unless otherwise directed by the appellate body, appeals must be heard and determined no more than four (4) months after lodgement of the notice of appeal.

7.4.4 Fees

ACTION	FEE (INC GST)
Protest Lodgement (GCR 2.4.7.7)	\$70
Appeal to State Controlling Body lodgement	\$500
Appeal to MA lodgement	\$1000