



RACING
QUEENSLAND

**LOCAL RULES OF
RACING
(ALL CODES)**

amended to

21 March 2011

RACING QUEENSLAND LIMITED

LOCAL RULES (ALL CODES)

LR.(AC)1. APPEALS FROM REVIEWABLE DECISIONS OF STEWARDS

- (1) Pursuant to sections 95 and 96 of the *Racing Act 2002* (Qld), Racing Queensland Limited (Racing Queensland) shall appoint a committee, the First Level Appeal Committee, to hear appeals from reviewable decisions of the Stewards.
- (2) Any person may appeal to the First Level Appeal Committee from any reviewable decision made by a Steward to impose upon that person:
 - (a) a suspension of Licence for a period of not more than 3 months;
 - (b) a penalty of at least \$100 but not more than \$2000.
- (3) Any person who wishes to appeal to a First Level Appeal Committee (an “appellant”) must lodge a “Notice of Appeal” in the prescribed form (available on the Racing Queensland website or from Racing Queensland offices) with the Appeals Secretary:-
 - (a) by delivery to any office of Racing Queensland;
 - (b) by express post to PO Box 63 Sandgate Qld 4017;
 - (c) by facsimile to (07) 3269 9043; or
 - (d) by email to: rwhitchurch@racingqueensland.com.au.
- (4) A Notice of Appeal and the appeal fee must be received by the Appeals Secretary no later than on the 2nd business day from the date to which the Stewards made the decision which is the subject of the appeal or, in exceptional circumstances, within such longer period as may be approved by the Principal Racing Authority’s Senior Corporate Counsel. The appeal fee is as follows:
 - (a) \$600 in the case of an appeal relating to the thoroughbred racing industry;
 - (b) \$400 in the case of an appeal relating to the harness racing industry; and
 - (c) \$200 in the case of an appeal relating to the greyhound racing industry.
- (5) Should the Appeals Secretary not receive the appeal in the prescribed form and the appeal fee within the time limit in sub-rule (4), then the Notice of Appeal is deemed not to be lodged.
- (6) Upon lodgement of a notice of appeal and payment of the appeal fee, an appellant is not required to pay any penalty imposed by Stewards, until the appeal is determined.
- (7) When an appeal to the First Level Appeal Committee is properly commenced, the Appeals Secretary shall convene a panel of three (3) persons to hear the appeal.
- (8) Any First Level Appeal Committee must consist of:
 - (a) one person who is lawyer of at least 5 years standing;
 - (b) one person with a thorough knowledge of the rules of racing; and
 - (c) a further person of the type mentioned in (a) or (b).
- (9) Any person appointed to a First Level Appeal Committee must satisfy the criteria set out in section 97 of the *Racing Act 2002* (Qld) and must advise the Appeals Secretary should they become ineligible for appointment at any time.

- (10) Each member of a First Level Appeal Committee must co-operate with other members to expedite the outcome of an appeal.
- (11) For the purpose of these Rules, "interest" includes any personal, familial or financial interest (direct or indirect).
- (12) If a member of a First Level Appeal Committee has any interest in the outcome of an appeal which may affect the proper performance of that member's duties as a First Level Appeal Committee member, that person must disclose that interest in writing to the Appeals Secretary prior to the commencement of any hearing of the appeal:
 - (i) the nature of that interest; and
 - (ii) how it may affect the proper performance of the member's duties.
- (13) If the member of a First Level Appeal Committee presides over an appeal in which the member realises that he or she has an interest, then the member must immediately disclose that interest to the other members of the First Level Appeal Committee, the appellant and the representative of the Stewards present at the hearing and seek the consent of the members and the parties to continue to hear the appeal.
- (14) If any member of a First Level Appeal Committee or any party to an appeal objects to a member presiding over an appeal, due to an interest disclosed by that member of the First Level Appeal Committee, the Appeals Secretary may appoint an alternative person in place of the person disclosed the interest, but if that does not occur:
 - (a) the First Level Appeal Committee is taken to have decided to dismiss the appeal;
 - (b) the appeal fee is to be refunded to the appellant; and
 - (c) the appellant may immediately pursue any right of appeal to the Queensland Civil and Administrative Tribunal.
- (15) The Appeals Secretary will make reasonable attempts to consult with the Appellant and members of a First Level Appeal Committee to establish a mutually convenient date and time for hearing. Appeals are only held in Brisbane, Townsville and Toowoomba.
- (16) An appeal to the First Level Appeal Committee must be heard and determined within seven (7) days of the date on which the appeal was received or such longer time as agreed under sub-Rule (21).
- (17) The Appeals Secretary will notify the appellant and the members of the First Level Appeal Committee of the date, time and place of any hearing by telephone and confirm the information in writing.
- (18) Should a First Level Appeal Committee not determine an appeal within seven (7) days of the date of lodgement of the notice of appeal, the appellant may apply to the First Level Appeal Committee for a stay of any suspension of the appellant's licence, pending the outcome of the appeal.
- (19) A First Level Appeal Committee may in its absolute discretion subject to sub-rule (20) decide whether to grant a stay of any suspension, with or without conditions.
- (20) Prior to deciding an application for a stay, a First Level Appeal Committee must provide the Stewards with a reasonable opportunity to make submissions in respect of the application for a stay and must take those submissions into account in considering the application.

- (21) If an appeal before a First Level Appeal Committee is not determined within seven (7) days of the date of lodgement of the notice of appeal or such longer period of up to fourteen (14) days as may be agreed by the First Level Appeal Committee, then:
- (a) the First Level Appeal Committee is taken to have dismissed the appeal;
 - (b) any stay immediately ceases; and
 - (c) the appeal fee is to be refunded to the appellant.

- (22) An appeal may be withdrawn by the appellant provided that the appellant gives formal written notice to the Appeals Secretary outlining the reasons why the appellant is withdrawing the appeal. This submission will then be considered by Racing Queensland's Senior Corporate Counsel of the withdrawal of the appeal. A withdrawal of an appeal must be at least 24 hours prior to the scheduled appeal time.

Subject to approval by Racing Queensland's Senior Corporate Counsel:

- (a) any stay granted ceased immediately upon withdrawal of the appeal, and
 - (b) the appeal fee will not be refunded to the appellant.
- (23) All parties appearing before a First Level Appeal Committee may be represented by a lawyer on condition that the party has advised the Appeal Secretary at least two (2) business days prior to the appeal of the intention to be legally represented.
- (24) It is highly recommended that an Apprentice Jockey or other person under the age of 18 years is entitled to be represented by his/her master at an appeal or with the permission of the First Level Appeal Committee, another representative.
- (25) No party is entitled to recover costs incurred in appearing before a First Level Appeal Committee.
- (26) All persons appearing or giving evidence before a First Level Appeal Committee must show respect to all other persons involved in an appeal.
- (27) A First Level Appeal Committee may conduct its hearing in the manner and style decided by that First Level Appeal Committee.
- (28) All proceedings before a First level Appeal Committee are to be recorded.
- (29) Should an appellant fail to attend a hearing of a First Level Appeal Committee, then other than in exceptional circumstances and at the discretion of the First Level Appeal Committee, the appeal is deemed to have been dismissed.
- (30) Should an appellant require assistance in ensuring that a person gives evidence or produces documents or things at the hearing of an appeal before a First level Appeal Committee, the appellant must immediately notify the Appeals Secretary of the name, address and telephone number of the person.
- (31) Where sub-Rule (30) has been complied with, the Appeals Secretary may issue a Notice to Witness in the prescribed form, requesting the person to whom it is directed to be available to give evidence or produce documents or things, either by attendance in person or by telephone.
- (32) An appeal before a First Level Appeal Committee is an appeal by way of rehearing, unaffected by the original decision.

- (33) The First Level Appeal Committee must consider the material made available to the Steward who made the decision which is the subject of the appeal, together with any additional information the First Level Appeal Committee considers appropriate.
- (34) The First Level Appeal Committee may inform itself of any matter related to an appeal, in any way it considers appropriate and is not bound by the rules of evidence.
- (35) Without limiting the manner in which evidence may be taken, a First Level Appeal Committee may require evidence of persons to be given in person, in the form of written statement or by way of telephone.
- (36) The First Level Appeal Committee must afford an appellant natural justice.
- (37) A certificate signed by the Director of Integrity Operations or Chief Executive Officer of Racing Queensland, stating that a person has been appointed as a Steward of Racing Queensland, is evidence of the matter stated.
- (38) A certificate signed by an “accredited analyst” as defined in the *Racing Act 2002* (Qld) stating any of the following matters is evidence of the matter:
- (a) A stated drug or code substance was found in or on a stated thing; and,
 - (b) A stated amount or concentration of a stated drug or code substance was found in or on a stated thing.
- (39) A certificate purporting to be signed by an accredited veterinary surgeon and stating the pharmacology of a stated drug or code substance is evidence of the matters contained in it.
- (41) When determining an appeal, a First Level Appeal Committee may:
- (a) confirm the decision appealed against; or
 - (b) vary the decision; or
 - (b) set aside the decision and substitute its own decision.
- (42) In the event that the First Level Appeal Committee upholds an appeal in its entirety, it may order that the appeal fee be refunded to the appellant.
- (43) Within five (5) business of an appeal, a First Level Appeal Committee must give reasons for its decision in writing (Information Notice) to:
- (a) the appellant;
 - (b) the Steward who made the decision; and
 - (c) Racing Queensland

The Information Notice must contain the following information in accordance with the *Racing Act 2002* (Qld):

- (a) the decision;
- (b) the date of the decision;
- (c) the date the decision takes effect;
- (d) the reasons for the decision; and
- (e) if the decision can, under the *Racing Act 2002* (Qld), be appealed against, how the person starts an appeal and the time within which the appeal must start.

- (44) As soon as practicable after receiving the Information Notice, Racing Queensland must publish details of the decision on its website.
- (45) First Level Appeal hearings are to be open to accredited members of the press.

In some limited circumstances, upon application by either the appellant and/or the Stewards, the First Level Appeal Committee can impose a condition, known as a non-publication condition that prevents publication of:

- the contents of a document or other thing produced to the First Level Appeal Committee, or
- evidence given to the First Level Appeal Committee, or
- information that may enable a person who appeared before the First Level Appeal Committee, or is affected by a proceeding, to be identified.

The First Level Appeal Committee must be satisfied that the condition is necessary to:

- avoid injustice to a person, or
- avoid endangering the physical, mental health or safety of a person, or
- avoid offending public decency or morality, or
- avoid the publication of confidential information or information that may not be in the interests of the public.

- (46) Where the First Level Appeal Committee imposes, confirms or varies a period of suspension on an appellant, it may defer the commencement of the suspension for such a period as to allow the appellant to fulfil any declared rides.