

# **SOUTH AFRICAN RUGBY REFEREES ASSOCIATION**

**SOUTH AFRICAN RUGBY UNION: Referees Department**

## **DISCIPLINARY AND JUDICIAL RULES & REGULATIONS**

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## Table of Contents

1. SCOPE .....	3
2. PURPOSE .....	3
3. TERMONOLOGY APPLICATION .....	3
4. BREACH OF THE BYE-LAWS OR REGULATIONS .....	4
5. JURISDICTION TO ADJUDICATE.....	4
6. THE APPOINTMENT OF THE DISCIPLINARY COMMITTEE.....	4
7. EVIDENCE.....	5
8. THE HEARING CO-ORDINATOR .....	5
9. COURSE OF THE DISCIPLINARY PROCEDURE INCLUDING THE HEARING .....	5
10. PENALTIES .....	9
11. APPEALS .....	9
12. AMENDMENTS TO THIS DISCIPLINARY AND JUDICIAL RULES & REGULATION .....	10

# SARRA DISCIPLINARY AND JUDICIAL RULES & REGULATIONS

## SOUTH AFRICAN RUGBY UNION: REFEREES DEPARTMENT

### 1. SCOPE

These rules and regulation apply to all ordinary members, its affiliates, associated members, and its affiliates.

### 2. PURPOSE

2.1. The South African Rugby Referees Association undertakes to uphold disciplinary procedures that are fair, just, and equitable for all its members.

2.2. The main purpose of these regulations are to provide guidelines in addressing unacceptable behaviour and or conduct.

### 3. TERMONOLOGY APPLICATION

**SARU:** Means the South African Rugby Union.

**SARRA:** Means the South African Rugby Referee Association consisting of ordinary members and associate members.

**Person (s):** Means an affiliate to an ordinary member or an associate member who is the subject of the hearing.

**The Office:** Refers to the SARU Referees Department who administrates SARRA disciplinary processes.

**Inquiry:** The process of investigating any alleged or apparent breach or contravention of an alleged offence referred to in 4.1 below.

**Disciplinary Hearing:** A formal hearing conducted by SARRA.

**Disciplinary Committee:** Means a committee established in accordance with 6 below.

**Hearing co-ordinator:** Is an appointed person who co-ordinates Disciplinary Hearing proceedings.

Unless the context otherwise requires, words used in this document implying the singular shall include the plural and vice versa, and words implying the masculine gender shall include the feminine gender and vice versa.

## **4. BREACH OF THE BYE-LAWS OR REGULATIONS**

- 4.1. A Person (s) shall be guilty of an offence and subject to sanction by a Disciplinary Committee if he is found to have:
- 4.1.1. breached, failed to comply with or contravened the Constitution of SARU and/or SARRA;
  - 4.1.2. breached, failed to comply with or contravened the regulations of World Rugby, SARU and/or SARRA;
  - 4.1.3. breached, failed to comply with or contravened the By-Laws, Regulations Relating to the Game of the World Rugby; the Constitution, Code of Conduct, Rules and Regulations and decisions of SARU and/or SANZAAR and/or SARRA and/or any other organization that SARU is affiliated to;
  - 4.1.4. breached, failed to comply with or contravened any contract entered into by SARU to which SARRA is a party.

## **5. JURISDICTION TO ADJUDICATE**

- 5.1. An alleged breach, contravention or offence mentioned in 4.1 above must be made in writing setting out full details of the alleged breach, contravention or offence, and must be received by the Referee Manager not later than thirty (30) days following the notifying party having knowledge of the alleged breach, contravention or offence.
- 5.2. After receipt of the complaint the referee Manager or his nominee will conduct an Inquiry.
- 5.3. At the completion of the Inquiry the Referee Manager in consultation with SARU shall, depending on the seriousness of the offence, decide whether to have the matter adjudicated in accordance with these regulations or in accordance with the SARU Disciplinary and Judicial Matters Regulations. SARU will have the final say in this regard.

## **6. THE APPOINTMENT OF THE DISCIPLINARY COMMITTEE**

- 6.1. The Disciplinary Committee will consist of three (3) members appointed by the Executive Committee from affiliates of ordinary members or associate members.
- 6.2. The Chairperson of the Disciplinary Committee shall have appropriate experience in disciplinary matters.
- 6.3. The Chairman of the Disciplinary Committee shall have the power exercisable in his discretion, to co-opt onto the Disciplinary Committee from time to time additional persons with specialist skills and experience as required, whether such persons are affiliated to SARRA or not.
- 6.4. By serving as a member of the Disciplinary Committee he shall not have a conflict of interest.

## **7. EVIDENCE**

- 7.1. The Disciplinary Committee shall be entitled to receive evidence in such form as it thinks fit (including evidence in writing), notwithstanding the evidence may not be legally admissible and shall be entitled to attach such weight to that evidence as it/he sees fit.
- 7.2. First-hand accounts from persons present at the hearing as to their observations of the incident in question are to be preferred.
- 7.3. Hearsay evidence may be accepted. However, caution will be exercised before hearsay evidence is accepted in preference to first hand evidence and generally less weight is likely to be given to hearsay evidence.
- 7.4. The Disciplinary Committee should not permit the introduction of opinion evidence other than expert opinion evidence. Expert opinion evidence is only likely to be permitted when the evidence falls outside the everyday knowledge of members of the Disciplinary Committee.

## **8. THE HEARING CO-ORDINATOR**

The Hearing co-ordinator performs all the logistical requirements pertaining to the hearing including but not limited to:

- 8.1. Arrange a time, date and venue for the hearing suitable to every party;
- 8.2. Identify and arrange attendance at the hearing of all witnesses on behalf of SARRA;
- 8.3. Arrange an interpreter if required;
- 8.4. Record the Hearing; and
- 8.5. Circulate the finding of the Disciplinary Committee to the Person and relevant parties.

## **9. COURSE OF THE DISCIPLINARY PROCEDURE INCLUDING THE HEARING**

### **9.1. GENERAL:**

- 9.1.1. Disciplinary Committee shall be fully autonomous and, in particular, any decision they make shall be binding on the Person, his/their Provincial Referee Society/Union, SARU and SARRA, none of whom shall have the power to revoke or alter any decision.
- 9.1.2. The rules of nature justice shall apply at all times which will include but not limited to advising the Person timeously of the charge in writing, sufficient time to prepare his defence, to be allowed a formal hearing and to be present at a formal hearing.

## **Referees Policy – SARRA Disciplinary and Judicial Rules & Regulations**

9.1.3.A Person shall be allowed to be represented at a formal hearing by a colleague of his choice or a legal representation at his own costs.

9.1.4.All cost related to witness (es) called by a Person shall be the responsibility of the Person.

9.1.5.If required, an interpreter, who shall be a member of SARRA or any employee of SARU, shall be appointed.

9.1.6.All hearings shall take place in private.

9.1.7.Hearings by The Disciplinary Committee (save for private deliberations) may be fully audio or audio-visually recorded. The record of proceedings and all papers associated with the proceedings shall be held for a suitable period by The Office under whose jurisdiction the hearing took place and who shall promptly make same available to SARRA or SARU on request.

9.1.8.The standard of proof for all matters shall be on the balance of probabilities.

9.1.9.All questions to a witness (es) shall be directed via the Chairperson.

9.1.10. Any procedures, findings or decisions of the Disciplinary Committee pursuant to disciplinary processes under these regulations shall not be quashed or invalidated by reason only of any departure from the procedural Regulations, defect, irregularity, omission or other 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.

9.1.11. A decision of a Disciplinary Committee shall be valid if taken by at least a simple majority of the members of the Disciplinary Committee. No member of the Disciplinary Committee may abstain from any decision. Where a Committee has an even number of members and they are unable to reach an unanimous or majority decision, then the Chairman of the Disciplinary Committee shall have a casting vote.

### **9.2. PRE HEARING PROCEDURES**

9.2.1.The Disciplinary Committee shall be entitled to conduct a pre-hearing for the purpose of:

9.2.1.1. Determining procedures.

9.2.1.2. The requirement for any person to attend the hearing as a witness.

9.2.1.3. Confining the matters in dispute.

## Referees Policy – SARRA Disciplinary and Judicial Rules & Regulations

9.2.2. Where a disciplinary hearing is pending, a Person (s) may, prior to the hearing, be required by the Disciplinary Committee to:

9.2.2.1. supply it / him with full particulars of the case that will be presented on the Person's behalf at the hearing

9.2.2.2. supply it / him with full particulars of all witnesses intended to be called by the Person (s);

9.2.2.3. provide it / him with copies of any documents or reports that may be relied on by the Person (s) at the hearing; and

9.2.2.4. comply with such reasonable directions as shall be considered appropriate by the Disciplinary Committee.

### 9.3. DISCIPLINARY HEARING WHEN A PERSON ATTENDS:

9.3.1. At the start of the hearing the Disciplinary Committee shall ask the Person whether he has any objections to the appointment of the members to the Disciplinary Committee.

9.3.2. The charge(s) will be read to the Person.

9.3.3. The Person will be given the opportunity to enter a plea of guilty or not guilty to the charge(s).

9.3.4. The Person may admit the offence at any time in which case The Disciplinary Committee should accept and record same and proceed to hear submissions in relation to sanction.

9.3.5. If the Person pleads not guilty, SARRA's case will be put to the Person, evidence will be led and witness (es) called (if applicable).

9.3.6. The Person will have the opportunity to ask questions to the witness (es) via the chairperson.

9.3.7. The Person will then have the opportunity to call witness (es) and to lead evidence.

9.3.8. The Disciplinary Committee may question the Person's witness (es).

9.3.9. After all the evidence has been heard, the Chairperson gives the Person the opportunity to summarise his case.

9.3.10. The Chairperson may now adjourn the hearing for the Disciplinary Committee to reach a decision.

9.3.11. The Chairperson now makes the finding known and gives reasons for the decision.

9.3.12. The Person is given the opportunity to give evidence in mitigation and submissions regarding an appropriate sanction.

## Referees Policy – SARRA Disciplinary and Judicial Rules & Regulations

9.3.13. The Chairperson adjourns the disciplinary hearing for the Disciplinary Committee to decide on an appropriate sanction.

9.3.14. The Chairperson conveys the sanction to the Person and gives reasons for the decision.

9.3.15. The Chairperson informs the Person of his right to appeal.

9.3.16. The Chairperson will send the written report to the office, preferable within seven (7) days from date off the Disciplinary Hearing where after a copy will be sent to the Person.

9.3.17. The written report will be kept on the Person's personal file.

### 9.4. DISCIPLINARY HEARING WHEN THE PERSON DOES NOT ATTEND:

9.4.1. The Disciplinary Committee shall endeavour to ensure that disciplinary proceedings are heard in the presence of the Person who is the subject of the proceedings.

9.4.2. Nothing in the Regulations, or otherwise, shall prevent a Disciplinary Committee to conduct a hearing in the absence of a Person. Hearings may only be held in the absence of a Person if that Person have been given the opportunity to attend and he subsequently declined the opportunity without a reasonable excuse or if he consented to a hearing in absentia. In such circumstances, the Disciplinary Committee may consider any written representations in making its decision.

9.4.3. The Hearing co-ordinator of the Disciplinary Hearing will provide all written records as proof that the Person was informed to attend the Disciplinary Hearing and such records will be kept on the Person's personal file.

9.4.4. At the hearing, the Chairman may consider all evidence whether submitted prior to or during the hearing.

9.4.5. The following steps will take place during a Disciplinary Hearing in absentia of the Person:

9.4.5.1. The charge(s) will be read out.

9.4.5.2. The Hearing co-ordinator will provide evidence substantiating SARRA's case.

9.4.5.3. The Disciplinary Committee evaluates the evidence.

9.4.5.4. The Chairman may adjourn the hearing to reach a decision regarding the Person's guilt or innocence.

9.4.5.5. In the event of a guilty finding, the Disciplinary Committee will consider all aggravating and mitigating evidence prior to imposing a sanction.

9.4.5.6. The Chairman may adjourn the hearing to decide on a sanction if applicable.

9.4.5.7. The Chairman makes the sanction known and gives a reason for the decision.



## Referees Policy – SARRA Disciplinary and Judicial Rules & Regulations

9.4.6. The Chairperson will send the written report to the office, preferable within seven (7) days from date of the Hearing where after a copy will be sent to the Person.

9.4.7. The written report will be kept on the Person personal file at The Office.

## 10. PENALTIES

- 10.1. In event of a breach of the Bye-Laws and the Regulations Relating to the Game of World Rugby; the Constitution, Codes of Conduct, Rules and Regulations and decisions of SARU and/or SARRA and or SANZAAR and or other entity to which SARU is affiliated, the Disciplinary Committee shall be entitled to impose such penalties as they think fit. Such penalties may include, but shall not be limited to:
- 10.1.1. a caution, warning as to future conduct, reprimand and/or a fine;
  - 10.1.2. a suspension for a specified number of Matches and/or a specified period;
  - 10.1.3. cancellation or refusal of the membership of SARRA or any Member (s) registered to SARRA;
  - 10.1.4. a recommendation to the Provincial Referee Society Committee that a Person (s) be expelled or suspended from an affiliated body of SARRA;
  - 10.1.5. an order that any Person (s) or Member (s) registered to SARRA pay compensation and/or restitution;
  - 10.1.6. the withdrawal of other benefits of SARRA; and
  - 10.1.7. Any combination of the penalties set out above.
- 10.2. Disciplinary Committees shall be entitled to make such order in relation to cost as it deems appropriate, including but not limited to the cost of holding the hearings, interpretation and legal costs, travel and accommodation costs of the members of the Disciplinary Committee and/or any other expenses necessary for the proper conduct of the hearing.
- 10.3. In determining the appropriate penalty under this policy, the Disciplinary Committee shall be entitled to take account of mitigating and/or aggravating circumstances.

## 11. APPEALS

- 11.1. The Person (s) may appeal against the decision of a Disciplinary Committee and/or the penalty imposed and/or any costs order.
- 11.2. To be valid, any such appeal, together with the written grounds of appeal, must be lodged with the Chairman of SARRA (or his designee) within three (3) days of receipt of the written decision of the Disciplinary Committee.

## **Referees Policy – SARRA Disciplinary and Judicial Rules & Regulations**

- 11.3. On receipt of a notice of appeal and the grounds for appeal as in 11.2 above , an Appeal Committee shall be appointed by the Chairman of the National Judicial Committee (or his designee) of SARU.
- 11.4. The Appeal hearing will be conducted and concluded by SARU in accordance with the procedures of the SARU Disciplinary and Judicial Matters Regulations.

## **12. AMENDMENTS TO THIS DISCIPLINARY AND JUDICIAL RULES & REGULATION**

- 12.1 The SARRA Disciplinary and Judicial Rules & Regulations may only be amended at the SARRA Annual General Meeting.