



BASKETBALL New Zealand

REGULATIONS

BOOK 5

**ENFORCEMENT OF ADMINISTRATIVE
REGULATIONS**

26 September 2018

TABLE OF CONTENTS

| | |
|---|---|
| PART 1 - Purpose | 3 |
| PART 2 - Provisions Relating to Breaches of these Regulations | 3 |
| PART 3 - Complaints or Disputes between Members | 3 |
| PART 4 - Appeal..... | 4 |
| PART 5 - Appeals Against a Decision of the Appeal Officer | 4 |
| | |
| BOOK 5 APPENDICES..... | 6 |
| Appendix A – BBNZ Complaints/Disputes Form | 6 |
| Appendix B – Mandatory Sanctions | 7 |

BOOK FIVE – ENFORCEMENT OF ADMINISTRATIVE REGULATIONS

PART 1 - PURPOSE

- 1.1 The purpose of this book is to set out the process for enforcement and sanction of the regulations contained in Books 1, 2, 3 and 4.

PART 2 - PROVISIONS RELATING TO BREACHES OF THESE REGULATIONS

- 2.1 Any alleged breach of the Regulations contained in Books 1, 2, 3, or 4 must be made in writing on the BBNZ Complaint/Dispute Form (**Appendix A**) to BBNZ.
- 2.2 Any Member, and BBNZ, may allege a breach of the Regulations.
- 2.3 A BBNZ Complaint/Dispute Form is only valid if received by BBNZ not later than 7 days following the alleged breach of the Regulations (or latest breach of the Regulations). For the avoidance of doubt, for BBNZ to validly allege a breach of the Regulations, it must fill out a Complaint/Dispute Form within 7 days following the alleged breach.
- 2.4 BBNZ, or its appointed decision maker, shall regulate its own process and must allow the parties involved a reasonable opportunity, depending on the urgency of any issue to be determined, to provide an explanation for the alleged breach. This explanation may be given in such form as determined by BBNZ or the appointed decision maker or committee and in accordance with any time frame set by it. Unless there is no discretion in sanction to be applied (see **Appendix B**), the parties involved must be given the opportunity to make comment on any potential sanction.
- 2.5 The decision maker must decide if there has been a breach. The test is one of “comfortable satisfaction” (i.e. the decision maker must be comfortably satisfied a breach has occurred).
- 2.6 If the decision maker determines that a breach has occurred, it must impose sanctions as required in these Regulations (**Appendix B**), and may impose any other sanction that it sees fit.
- 2.7 The decision-maker referred to in this Book 5 is BBNZ or such committee or person appointed by BBNZ to be the decision maker.
- 2.8 If substantial new evidence becomes available after the decision was made, the decision-maker may, in their discretion, revisit their decision in its entirety, provided that affected parties are given the chance to view and make submissions on the new evidence. Regulations 2.4-2.7 will apply.
 - a. The decision to revisit the initial decision may not be appealed, however any decision made by the decision maker as a result of revisiting the initial decision may be appealed as per Part 4 below.

PART 3 - COMPLAINTS OR DISPUTES BETWEEN MEMBERS

- 3.1 A complaint or dispute as between Members or other bodies in relation to these Regulations and not otherwise covered by these Regulations may be initiated as follows: a written statement on the BBNZ Complaint/Dispute Form (**Appendix A**) prepared by the Member or body which wishes to initiate this complaint/dispute process and which clearly sets out the points on which the complaint/dispute is based, must, not later than 7 days following the incident (or latest incident) or the matter on which the complaint/dispute is based be forwarded by that Member or body to BBNZ and to an official of the other Members or bodies involved.
- 3.2 The decision maker will determine its own process and will hold a hearing at which any of the Members or bodies involved have the right to appear to give evidence and/or make submissions. The submissions may be made in person, in teleconference with the other parties, in written form, or any combination. The parties involved must have the opportunity to make submissions on any potential sanction.
- 3.3 The decision maker shall make its decision and may impose any sanction as it sees fit.

PART 4 - APPEAL

- 4.1 A Member or other body who or which is a party to the dispute or is the complainant or subject of the complaint and is affected by the exercise of a power by BBNZ or its decision maker under Parts 2 or 3 of this Book 5 (and including Regulation 3.1(c) of Book 4) may by notice to the C.E.O. of BBNZ appeal the decision to a BBNZ Appeal Officer.
- 4.2 An appeal under Regulation 4.1 of this Book 5 is not valid until payment of a \$500 deposit is received by BBNZ. This deposit may be returned if the Member or body is successful with its appeal or if the Appeal Officer decides it is appropriate to do so.
- 4.3 An appeal under Regulation 4.1 of this Book 5 is not valid unless the \$500 deposit and notice of appeal is received by BBNZ within 7 days of the appellant being notified of the decision being reviewed.
- 4.4 **Appeal Officer:**
- a. When an appeal is made under Regulation 4.1 of this Book, BBNZ will appoint, from the Judicial Panel (as set out in Regulation 3.1 of Book 6), an Appeal Officer who shall have power to hear and decide that appeal.
 - b. The Appeal Officer must not have been the decision maker whose decision is being appealed.
 - c. The Appeal Officer should, where possible, have a legal background (i.e. someone as described in Regulation 3.1(a)(i) or (ii) of Book 6.
- 4.5 The grounds for an appeal to the Appeals Officer shall only be one or more of the following:
- a. that natural justice was denied;
 - b. that the decision-maker or decision-making body acted outside of its powers and/or jurisdiction (i.e. acted ultra vires);
 - c. the sanction (if applicable) was either excessive or inappropriate.
- 4.6 Subject to the rules of natural justice, a hearing will be held as soon as practicable. The Appeal Officer shall determine the procedure of the hearing. In appropriate cases and by agreement of the parties and the Appeal Officer, the appeal may be determined by the Appeal Officer by reference only to relevant documents, without hearing from the parties or others in person.
- 4.7 Unless directed otherwise, the parties will be required to place before the Appeal Officer, the transcript (if available) of the hearing at which the decision appealed from was made, copies of any witness statements produced to that hearing, and all other relevant documents which were before the body which made the decision appealed from.
- 4.8 The onus of proof shall be upon the Appellant. The standard of proof is 'comfortable satisfaction' (i.e. the Appeal Officer is comfortably satisfied that at least one of the grounds in Regulation 4.5 of this Book is met).
- 4.9 The Appeal Officer may make any decision that the initial BBNZ decision maker appealed from was capable of making on the original application or may, if it considers it necessary, refer the matter back to the BBNZ decision maker for further consideration, with such directions (if any) which the Appeal Officer decides to give. If the appeal is allowed, the Appeal Officer, in addition to making its decision, may make such orders it considers appropriate to give effect to its decision.
- 4.10 The Appeal Officer, whether or not it allows or dismisses an appeal, may make recommendations to BBNZ on changes to any applicable rule, policy or procedure.
- 4.11 **Costs:** The Appeal Officer may, in its discretion, award costs against any party or parties to the appeal, on such basis as it thinks fit.
- 4.12 **Procedures:** Except as otherwise provided in this Part, the Appeal Officer will regulate his/her own procedure in relation to appeals.

PART 5 - APPEALS AGAINST A DECISION OF THE APPEAL OFFICER

- 5.1 The following persons may appeal a decision of the Appeal Officer:
- a. A member or other body who or which is a party to a dispute or is the complainant or is the subject of the complaint which has been decided and then determined by the Appeal Officer under Part 4;

- b. A member whose membership has been terminated under Rule 15 of the Constitution (as referred to in Part 9 of Book 2).
- c. An appeal under Regulation 5.1 of this Book is to the Sports Tribunal of New Zealand and may only proceed on the grounds set out in Regulations 4.5(a),(b), or (c) of this Book 5.
- d. The rules of the Sports Tribunal shall apply to the Appeal.
- e. Except as set out in Regulation 5.1 of this Book there is no right of Appeal.

BOOK 5 APPENDICES

Appendix A – BBNZ Complaints/Disputes Form

I, _____ am hereby lodging a complaint/dispute on behalf of, _____ against, _____

The incident occurred on ____/____/____ at _____

The complaint is based on BBNZ Regulations:

Description of complaint/dispute:

Were any Referees or Association Representatives present who may have witnessed these events? If, so, who?

Signed: _____

Date: _____

Position/Title: _____

Phone: _____

Appendix B – Mandatory Sanctions

| Reference | Rule | Sanction |
|------------------------------------|-------------------------|---|
| Book 3, Part 2, Regulation 2.12(d) | Obligation to take part | <p>Teams will be fined \$500 (or \$100 in any 3x3 Competition) for each game they forfeit. The fee must be paid within 7 days of BBNZ invoicing the team's Affiliated Association or School otherwise no teams from the forfeiting Affiliated Association or School will be permitted to participate in any further BBNZ Competitions until it is paid.</p> <p>BBNZ may direct some or all of the fine to be paid to the host of the Competition in which the team forfeited.</p> |
| Book 4 | Eligibility | <p>If a person plays in a team in a Competition in which that person is ineligible that team shall, unless BBNZ decides otherwise, lose all competition points earned in the games in which that person participated for that team while ineligible and the player shall be ineligible to participate any further in the competition.</p> |