

APPEAL

RULES

13.1

1. A person subject to decision of the Tribunal may appeal to the Appeal Board in respect of a decision made by the Tribunal provided the appeal is brought no later than 2.00 p.m. on the day after which the decision of the Tribunal was made.
2. The General Manger of the Controlling Body may appeal to the Appeal Board in respect of a decision made by the Tribunal provided the appeal is brought no later than 2.00 p.m. on the day after which the decision of the Tribunal was made.
3. The appeal may relate to either the findings of the Tribunal or the penalty imposed by the Tribunal.
4. An appeal shall be brought by lodging with the Secretary of the Controlling body a duly completed Notice of Appeal and shall be accompanied by:
 - (a) payment to AFL BJ of the sum of \$500.00 for costs of the appeal, which sum shall be dealt with in accordance with Rule 23.
5. A Notice of Appeal shall be lodged by:
 - (a) delivering; or
 - (b) transmitting by facsimile,that Notice addressed to the Secretary of the Controlling Body and received by the Secretary no later than 2.00 p.m. on the day after the decision of the Tribunal was made.

6. Upon receipt of a Notice of Appeal, the Secretary shall:-
 - a) fix the date, time and place for the hearing of the appeal as soon as practicable; and
 - b) advise all parties interested in the appeal in writing of those particulars.

7. The Appeal Board may vary the date, time or place of the Appeal and upon doing so shall immediately provide all parties interested in the appeal written notice of any such variation provided that it shall endeavor to complete the appeal before the day on which the appellant's Club is next scheduled to compete.

8. An appellant shall attend and appear before the Appeal Board at the date, time and place fixed for the hearing of the appeal. Where an appellant fails to attend before the Appeal Board, the Appeal Board may still hear and determine the appeal in the appellant's absence.

9. The Appeal Board shall:-
 - (a) provide any person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard;
 - (b) hear and determine the matter before it in an unbiased manner; and
 - (c) make a decision that a reasonable body could honestly arrive at.

10. The Appeal Board may of its own motion or upon application of any party to the appeal, order:
 - (a) that an appeal be adjourned;
 - (b) a stay of the execution of the sanction imposed by the Tribunal pending the determination of the appeal.

11. The Appeal Board shall hear and determine an appeal against findings made by the Tribunal by re-hearing the matter and forming its own view of the evidence presented before the Tribunal.
12. Neither the appellant nor AFLQ may produce fresh evidence at the hearing of the appeal without the permission of the Chairperson. The Chairperson must not give permission to produce fresh evidence unless:
 - (a) the evidence could not by reasonable diligence have been obtained by the appellant prior to the conclusion of the hearing before the Tribunal; and
 - (b) the evidence is of sufficient probative value that, considered with other evidence which was before the Tribunal, the Tribunal may have reached a different decision.
13. The Appeal Board may have regard to the record of the proceeding before the Tribunal as previously constituted, including a record of any evidence taken in the Tribunal Hearing.
14. Subject to the further matters set out in these Rules, the Appeal Board may regulate any proceedings brought before it in such manner as it thinks fit.
15. The hearing before the Appeal Board shall be:
 - (a) inquisitorial in nature; and
 - (b) conducted with as little formality and technicality and with as much expedition as the proper consideration of the matters before it permits.

16. The Appeal Board is not bound by the rules of evidence or by practices and procedures applicable to Courts of record, but may inform itself as to any matter in any such manner as it thinks fit.
17. The Appeal Board may confirm, reverse or modify the decision of the Tribunal the subject of the appeal and make such orders and give such directions in such manner as it thinks fit.
18. The question on appeal before the Appeal Board must be decided according to the opinion of a majority of the members constituting the Appeal Board.
19. The Appeal Board is not obliged to give reasons for a decision under these Rules.
20. On the hearing of an appeal the appellant shall bear the onus of showing on the balance of probabilities that the Reportable Offence or matter should be dismissed or sustained or that the sanction was inappropriate, as the case may be.
21. In the hearing and determination of an appeal, the Appeal Board shall decide all questions of law and fact and without limitation shall determine the meaning of any words of a Reportable Offence.
22. For the purposes of these Rules, an appeal is successful if, and only if:
 - (a) the Appeal Board determines that a Reportable Offence has not been proven; or
 - (b) the appellant appeals on the question of sanction only and the Appeal Board imposes a lesser sanction to that imposed by the Tribunal.

23. Where an appeal is successful, the payment made under Rule 4(a) shall be refunded.
24. Subject to Rule 25, where an appeal is not successful, the payment made under Rule 4(a) shall not be refunded.
25. Where:
 - (a) an appellant appeals the Tribunal's decision that he has committed a Reportable Offence and the sanction imposed by the Tribunal; and
 - (b) the Appeal Board finds the Reportable Offence proven but imposes a smaller sanction to that imposed by the Tribunal, half of the payment made under Rule 4(a) shall be refunded.
26. Where there is any procedural irregularity in the manner in which an appeal has been brought, the Appeal Board may still hear and determine the appeal unless it is of the opinion that the irregularity has caused or may cause injustice if the appeal was heard.
27. A decision of the Appeal Board is not invalid because of any defect or irregularity in, or in connection with, the appointment of an Appeal Board member.
28. Any procedure or requirement regulating the function of the Appeal Board is directory in nature and a decision of the Appeal Board is not invalid by reason of that procedure or requirement not being fulfilled.

29. A person subject to these Rules shall not publicly comment on the contents of a Notice of Appeal prior to the determination by the Appeal Board. Where a person contravenes these Rules, the person's Club shall be liable to a sanction unless the person establishes to the reasonable satisfaction of the General Manager of the Controlling body that such public comment was not intended to influence or affect the conduct of the Appeal Board hearing.
30. No person subject to these Rules shall make any public criticism of a decision of the Appeal Board or of any Appeal Board Member or any other matter touching or concerning the Appeal Board or a determination made by it. Where a person contravenes these Rules, the person's Club shall be liable to a sanction.
31. A person shall exercise his right of appeal under these Rules and have any appeal heard and determined by the Appeal Board before commencing any proceedings or becoming a party to any proceedings in a court of law.
32. The General Manager of the controlling body shall from time to time appoint persons to a board to be known as the Appeal Board.
33. The Appeal Board shall consist of:
 - (a) a Chairperson who shall be a Legal Practitioner of no less than three years standing;
 - (b) a panel of not more than four Legal Practitioners of no less than three years standing, each of whom shall also be a Deputy Chairperson.
 - (c) a panel of not more than six members
34. For the purpose of hearing and determining an appeal against any decision of the Tribunal, the Appeal Board shall be constituted by three members, one of which must be the Chairperson or a Deputy Chairperson.

35. For the purpose of hearing and determining an appeal only against the appropriateness of the sanction imposed by the Tribunal the Appeal Board shall, at the discretion of the Chairperson:
- i) hear the matter afresh in its entirety; or
 - ii) receive a written report from the Chairperson of the Tribunal who made the original decision which discloses details as to the content of the original hearing.
36. The Chairperson of the Appeal Board may make guidelines, not inconsistent with these Rules, for the practice and procedure with respect to applications to and hearings by the Appeal Board. Any such guidelines are directory in nature and a decision of the Appeal Board is not invalid by reason of a guideline not being followed.