

**NEW ZEALAND RUGBY UNION**  
**ANTI-DOPING REGULATIONS**  
**6 August 2009**

**1. The Rules**

Subject to regulations 4 and 5, the regulations of New Zealand Rugby Union Incorporated (“NZRU”) for anti-doping shall be the Sports Anti-Doping Rules made by Drug Free Sport New Zealand (“DFS”) under the Sports Anti-Doping Act 2006, as amended from time to time (“the Rules”).

**2. Persons Affected**

All Persons, including minors, who are participants in the game of Rugby in New Zealand are, by virtue of such participation, and/or membership of an affiliated Provincial Union and/or Club and/or who are otherwise bound by the Regulations of the NZRU, are deemed to have agreed to be subject to these Regulations, and will, on request, provide written acknowledgement to that effect.

**3. Existing Regulations**

For the avoidance of doubt, subject to regulation 5, the Rules shall replace all existing anti-doping rules, policies, by-laws or regulations of the NZRU, and to the extent of any inconsistency between the Rules and any rule, policy, regulation or by-law of the NZRU, the Rules shall apply.

**4. IRB Regulations**

Where there is an inconsistency between the Rules and the International Rugby Board (“IRB”) regulations that apply with respect to anti-doping matters, the applicable IRB regulation/s will apply provided it is, or they are, consistent in all respects with the World Anti-Doping Code (“the Code”).

**5. Additional Regulations**

The following regulations apply in addition to the Rules:

## **5.1 Judicial Committee**

The NZRU will establish a Judicial Committee to act as a National Sporting Organisation Anti-Doping Tribunal in terms of rule 13.1.2 of the Rules, and all references in the Rules to the Sports Tribunal, and all references to the Sports Tribunal or the NSO Anti-Doping Tribunal, will be deemed to be to references to that Judicial Committee.

- 5.1.1 The Judicial Committee established in terms of Regulation 5.1 (“Judicial Committee”) shall:
- (a) comply with the all the requirements of the Rules (including all the requirements relating to the Sports Tribunal) and the Code in all aspects of its consideration of an alleged violation;
  - (b) accept the authority of DFS to notify and bring violation proceedings, and to appear before it to present evidence in support of such violation proceedings.
- 5.1.2 A Judicial Committee shall ordinarily comprise three (3) members:
- (a) a senior legal practitioner who shall act as Chairman; and
  - (b) an experienced medical practitioner with knowledge of doping in sport and the Code; and
  - (c) either a second person from category (a) or (b) above or an ex-Player or Rugby administrator with relevant knowledge and experience.
- 5.1.3 If a member of the Judicial Committee is unable or unwilling, for whatever reason, to hear the case, then the NZRU may, at its absolute discretion:
- (a) appoint a replacement;
  - (b) appoint a new Judicial Committee; or
  - (c) allow the remaining members of the Judicial Committee to hear the case.
- 5.1.4 Judicial Committees shall be entitled to call on experts to provide specialist advice, including legal advice.
- 5.1.5 Without limitation to the role of DFS, Judicial Committees may request that an NZRU representative or any other person attend and present information in relation to the anti-doping rule violation or any other matter arising under these Regulations.

- 5.1.6 Subject to compliance with the requirements of the Rules, including particularly the core requirements regarding proof set out at Rule 4, a Judicial Committee shall have the power to regulate its own procedure in each case, provided it shall conform generally with the procedural guidelines set out in schedule 1.
- 5.1.7 The decision of the Judicial Committee shall be advised to all parties as soon as practicable after the conclusion of the hearing. When it considers it appropriate, the Judicial Committee may deliver a short oral decision at the conclusion of the hearing with its reasons to be put in writing and communicated to the parties at a later date, or it may reserve its decision. The decision of the Judicial Committee shall be binding upon notification to the person in relation to whom the allegation was made (“the Person”) and/or the rugby body to which he or she belongs.
- 5.1.8 In the event that the Judicial Committee establishes that an anti-doping rule violation has been committed, the Judicial Committee that heard the evidence shall impose sanctions on the Person in accordance with the Rules. The Judicial Committee may also impose sanctions on the Person’s team, such as loss of points or disqualification, in certain circumstances.
- 5.1.9 A Person’s costs associated with any proceedings before a Judicial Committee dealing with an anti-doping rule violation shall ordinarily be borne by the Person, including travel/accommodation costs of the Person, his or her representative and his or her witnesses, as well as his or her legal costs.
- 5.1.10 A Judicial Committee dealing with an anti-doping rule violation may, in its discretion, make an award of costs against the Person in respect of costs incurred by the Judicial Committee or other costs in relation to the investigation and/or proceedings where a sanction is imposed on the Person by the Judicial Committee.
- 5.1.11 Notwithstanding the provisions of Regulations 5.1.9 and 5.1.10 above, the Judicial Committee shall retain absolute discretion in relation to the awarding of costs associated with the case and may make such order as to costs as it sees fit.
- 5.1.12 Decisions made by a Judicial Committee may be reviewed by a Post Hearing Review Body established under Regulation 5.2, and a Person adversely affected by a decision of a Judicial Committee in relation to an anti-doping rule violation shall have and be advised by the Judicial Committee of his or her right to request a review of the decision to the Post Hearing Review Body.

## **5.2 Post Hearing Review Body**

The NZRU will establish a Post Hearing Review Body, to review decisions made by the Judicial Committee.

- 5.2.1 The Post-Hearing Review Body appointed by the NZRU, shall be made up of three (3) members and shall ordinarily comprise:
- (a) a legal practitioner with more than 10 years experience in legal practice who shall act as Chairman; and
  - (b) an experienced medical practitioner with knowledge of doping in sport and the Code; and
  - (c) either a second person from category (a) or (b) above or an ex-Player or Rugby Football administrator with relevant knowledge and experience.
- 5.2.2 If a Member of the Post-Hearing Review Body is unable or unwilling, for whatever reason, to conduct the review, then the NZRU may:
- (a) appoint a replacement;
  - (b) appoint a new Post-Hearing Review Body; or
  - (c) allow the remaining members of the Post-Hearing Review Body to conduct the review.
- 5.2.3 A Person who has been found by a Judicial Committee to have committed an anti-doping rule violation shall be entitled to have the finding and/or sanction referred to a Post-Hearing Review Body. In circumstances where the Person has been subject to a period of Ineligibility then, pending the decision of the Post-Hearing Review Body, the Person shall not be entitled to participate in the game of Rugby or in any activities associated with the game of Rugby. Such participation includes but is not limited to coaching, officiating, selection, team management, administration or promotion of Rugby, playing, training as part of a team or squad, or involvement in Rugby in any other capacity in any Union in membership of the IRB or the NZRU.
- 5.2.4 The NZRU, DFS, the IRB and WADA shall also be entitled to refer a case dealt with by a Judicial Committee to the Post-Hearing Review Body whether a Person in the case concerned has been found to have committed an anti-doping rule violation or otherwise.
- 5.2.5 A written notice of review signed by the party seeking review must be lodged with the CEO of the NZRU within seven (7) days from the date of notification of the decision of the Judicial Committee and shall specify:

- (a) the name of the party seeking the review;
- (b) the decision to be the subject of the review;
- (c) the date of the decision; and
- (d) the specific grounds for the review request.

Except as provided, no specific form of a notice of review is required.

- 5.2.5 The Post-Hearing Review Body shall hear DFS on any review, but otherwise shall determine the basis upon which any review will proceed. It may, in its discretion, rehear the whole or any part of the evidence given before the Judicial Committee as it considers appropriate. Pending the decision of the Post-Hearing Review Body the decision of the Judicial Committee shall remain in full force and effect.
- 5.2.6 Where any question of fact arises on a review before the Post-Hearing Review Body it may be determined by reference to the record of proceedings before the Judicial Committee. The Post-Hearing Review Body may however, in its discretion, rehear or receive written evidence in respect of the whole or any part of the evidence given before the Judicial Committee as it considers appropriate.
- 5.2.7 Subject to compliance with the requirements of the Rules, including particularly the core requirements regarding proof set out at Rule 4, the Post-Hearing Review Body shall have the power to conduct and regulate the review proceedings as it sees fit having regard to the circumstances of the case. Although the Post-Hearing Review Body is entitled to regulate its own procedure it shall generally conform to the guidelines set out below:
- (a) the review will be conducted in a timely fashion;
  - (b) parties will be entitled to be represented by counsel at their own expense; and
  - (c) timely, written, reasoned, decisions will be provided to all those having the right to appeal to the Court of Arbitration for Sport (CAS).
- 5.2.8 The Post-Hearing Review Body shall be entitled to call on experts to provide specialist advice, including legal advice.
- 5.2.9 The Post-Hearing Review Body will have full discretionary power to hear and receive such further evidence as it thinks fit, provided it is established by the appellant that such evidence was not, on reasonable enquiry, available at the time of the original hearing.

- 5.2.10 In any case where a witness required by the Post-Hearing Review Body refuses or fails to attend before the Post-Hearing Review Body, the Post Hearing Review Body may decide whether or not to allow the evidence of that witness to be given in any other form.
- 5.2.11 Save where the Post-Hearing Review Body decides to hear the entire case de novo (in which circumstances the applicable first instance standards and burdens shall apply), the party seeking review shall have the burden of proving that the decision being challenged should be overturned or varied.
- 5.2.12 The Post-Hearing Review Body may request that a representative of the NZRU attend the Post-Hearing Review.
- 5.2.13 The decision of the Post-Hearing Review Body shall be advised to the parties as soon as practicable after the conclusion of the hearing and to the IRB within 72 hours of the decision being communicated to the parties. When it considers it appropriate, the Post-Hearing Review Body may deliver a short oral decision at the conclusion of the hearing with its reasons to be put in writing and communicated to the parties at a later date, or it may reserve its decision.
- 5.2.14 Costs associated with any proceedings before the Post-Hearing Review Body shall ordinarily be borne by the party seeking review. The Post-Hearing Review Body shall, however, have full discretion in relation to the costs of Post-Hearing Review Body proceedings and may order any party or parties to pay some or all of the costs of proceedings under this Regulation including the cost of holding the review, the cost of any interpreters and/or the legal and/or travel/accommodation costs of the members of the Post-Hearing Review Body, and/or the parties.
- 5.2.15 In exercising its jurisdiction, the Post-Hearing Review Body shall have power to confirm, quash, suspend, vary, increase or decrease the decisions and/or sanction reviewed, subject always to the provisions in the Rules regarding sanctions.

### **5.3 Appeal**

- 5.3.1 The rights of appeal to the Court of Arbitration for Sport (CAS) are as set out in the Rules. For the avoidance of doubt the decision that may be the subject of an appeal is the decision of the Judicial Committee, as confirmed, quashed, suspended, varied, increased or decreased by the Post Hearing Review Body, provided however that WADA is not required to refer a matter to the Post Hearing Review Body before exercising its right of Appeal to CAS.

- 5.3.2 As the IRB will be a participant in any appeal to CAS originating under these regulations, the NZRU will nominate English law as the governing law for such proceedings where it is able to do so.

#### **5.4 Transfer of Proceedings**

- 5.4.1 Where any matter is referred to a Judicial Committee in respect of a Person who is not under the jurisdiction of the NZRU or a rugby body affiliated to the NZRU, the NZRU shall report the matter to the Union or National Anti-Doping Organisation that normally exercises jurisdiction over such Person.

- 5.4.2 A Person referred to in Regulation 5.4.1 may elect to have his or her own Union conduct the appropriate investigation and hearing procedures and, where an anti-doping rule violation is found to have been committed, impose the applicable sanctions, provided that Union's processes are consistent with the Code. Such an election may only be made in a case where there has been an *Adverse Analytical Finding*, if the person acknowledges in writing that at the hearing no issue will be taken as to the:

- (a) qualifications or authority of any official of any *Doping Control*/collection agency or WADA accredited laboratory;
- (b) sample collection procedures;
- (c) custody or transmission of any *Sample*; and
- (d) analysis of any *Sample* by a testing agency or WADA accredited laboratory.

- 5.4.3 Where a Person elects to have his or her own Union conduct the appropriate investigation and hearing pursuant to Regulation 5.4.2, such election must be confirmed to his or her Union or *National Anti-Doping Organisation* within 14 days of being notified of the *Adverse Analytical Finding* and/or the alleged *Anti-Doping Rule Violation*. The Person's own Union must notify the NZRU of such election. If a Person does not elect to have the hearing procedures carried out by his or her own Union, then the investigation and hearing procedures will be conducted and (where an *Anti-Doping Rule Violation* is found to have been committed) the applicable sanctions will be imposed, in accordance with these Regulations.

#### **5.5 Registered Testing Pool**

The IRB may identify players for inclusion in the *Registered Testing Pool*.

## **5.6 IRB Testing Pool**

- 5.6.1 In addition to the *Registered Testing Pool* and any other testing pool established under the Rules, the IRB shall identify a testing pool of players not in the *Registered Testing Pool* who will be required to provide up to date whereabouts information to the Board for each quarter period (via DFS where the necessary arrangement is made between IRB and DFS) for the purpose of *No Advance Notice Out of Competition Testing* (the IRB testing pool).
- 5.6.2 Players in the IRB testing pool are subject to the same requirements to provide whereabouts information as players in the *Registered Testing Pool*, except that they are not obliged to provide a specific 60 minute daily time slot.
- 5.6.3 Players in the IRB testing pool are not subject to the same consequences for a missed test or for a failure to file information as a player in the *Registered Testing Pool* however:
- (a) a player in the IRB testing pool who fails to submit required whereabouts information or has submitted inadequate whereabouts information commits a submission failure; and
  - (b) a player in the IRB testing pool who cannot be located for testing in circumstances where, had he been in the *Registered Testing Pool*, it would constitute a missed test, commits a location failure.
- 5.6.4 Any player in the IRB testing pool who, within an 18 month period, twice commits either a submission failure or a location failure shall be automatically transferred from the IRB testing pool to the *Registered Testing Pool*. Upon such transfer any location failure incurred in the IRB testing pool will not be carried forward into the *Registered Testing Pool* as a missed test but any submission failure will follow the player into the *Registered Testing Pool* as a filing failure.

## **5.7 Requirement to report to IRB**

In addition to the reporting requirements set out in the Rules, the NZRU shall submit to the IRB's CEO a full report of the proceedings and conclusions of all hearings regarding alleged anti-doping rule violations arising out of or within its jurisdiction within 72 hours of the final decision having been made. Such cases shall be considered by the IRB Anti-Doping Manager who, on behalf of the IRB, shall be entitled to:

- (a) accept the result and decision; or
- (b) refer the matter to the representatives of the Board's Anti-Doping Advisory Committee who on behalf of the IRB may accept the

result and decision or, subject to these Regulations, refer the matter to the Post Hearing Review Body if it has not already been considered by that body, or appeal the matter to CAS. The IRB Anti-Doping Manager and/or representatives of the Board's Anti-Doping Advisory Committee may take such other steps and/or make such other recommendations to the IRB as they deem appropriate, subject to such steps or recommendations not being inconsistent with the Code.

## **5.8 Exceptional Circumstances**

In exceptional circumstances, where the IRB has grounds to believe that there has been a misapplication of the applicable anti-doping regulations, and acting on the advice of the IRB Anti-Doping Committee, the IRB shall be entitled to require as it deems fit, that the NZRU provisionally suspend relevant persons from any involvement in Rugby pending final determination of the relevant matter, and the NZRU will be entitled to impose such suspension.

## **5.9 Definitions**

Capitalised terms in italics are defined in the Rules.

## **Schedule 1**

### **Procedural Guidelines for Judicial Committees**

- (1) As soon as reasonably practicable following the referral of the matter the Judicial Committee Chairman, or his or her designee, shall notify the person who is alleged to have committed an anti-doping rule violation (“the Person”) of the date, place and time of the hearing. The Person shall be informed that he or she is required to attend the hearing.
- (2) The Person shall be entitled to be represented by an official of his or her Union, rugby body, or by legal counsel at the hearing. Where necessary an independent interpreter shall be present at a hearing of the Judicial Committee.
- (3) In the interests of time and minimising inconvenience, a Person whose hearing is pending can be required by the Judicial Committee, prior to the hearing, to supply it with full particulars of the case that will be presented on his or her behalf at the hearing.
- (4) A Judicial Committee shall have the power to postpone or adjourn proceedings.
- (5) A Judicial Committee shall be entitled to receive such evidence 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 sees fit.
- (6) Generally the Judicial Committee shall apply the Best Evidence Rule. This means that first-hand accounts from persons present at the hearing as to their observations/knowledge of the alleged anti-doping rule violation in question should be preferred. 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. Further, as a general rule, Judicial Committees 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 Committee.
- (7) A Judicial Committee shall be entitled to determine whether witnesses that give evidence are able to remain in the room in which the hearing is being heard after their evidence has been given.
- (8) A Judicial Committee shall endeavour to ensure that proceedings are not heard in the absence of the Person, however, the non-attendance of the Person or his or her representative, after notice of the hearing has been provided, will not prevent the Judicial Committee from proceeding with the hearing in his or her absence. In arriving at its

decision, the Judicial Committee may, however, take into account any written statement submitted by the Person or his or her representatives.

- (9) At any hearing a Judicial Committee will not be bound by rules governing the procedure or the admissibility of evidence other than those set out in the Rules, provided that the hearing is conducted in a fair manner with a reasonable opportunity for the Person to submit evidence, address the Judicial Committee and present his or her case.
- (10) In respect of any hearing in relation to an anti-doping violation before a Judicial Committee the following will apply:
  - (a) the hearing shall be held in private;
  - (b) decisions may be made by majority; and
  - (c) the Judicial Committee's deliberations on its decision shall take place in private.