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PART XI – Appeals

Note: Text changes from the previous issue of this Schedule are **highlighted** such. Text changes for grammatical and/or formatting reasons are not highlighted.

123. National Court of Appeal:

- (1) MotorSport NZ shall from time to time establish and keep established a National Court of Appeal which shall be the final Court of Appeal in respect of motor sport in New Zealand in accordance with the provisions of the International Sporting Code of the FIA and which shall act as the National Court of Appeal.
- (2) The members of the National Court of Appeal shall be appointed by the Board of MotorSport NZ.
- (3) The National Court of Appeal shall comprise not more than seven(7) nor less than four(4) members one(1) of whom MotorSport NZ shall appoint as Chairman and one(1) as Deputy Chairman. Each sitting of the National Court of Appeal shall as a minimum, comprise either the Chairman or Deputy Chairman (who shall preside over the sitting) together with any two(2) other members.
- (4) The National Court of Appeal shall appoint and remove its own Secretary.
- (5) The members of the National Court of Appeal from time to time shall be:
 - (a) (In the case of Chairman and the Deputy Chairman) currently practicing barristers or barristers and solicitors of the High Court of New Zealand; and
 - (b) (Other members) persons having considerable experience in motor sport.
- (6) Each member of the National Court of Appeal shall be appointed for a period of five(5) years and thereafter for a further period or periods of five(5) years each unless and until the Board gives not less than three(3) months notice of its intention not to renew a member's appointment prior to the expiry of any such member's term or renewed term.
- (7) Notwithstanding the provisions of paragraph (8) of this Article, any vacancy in the National Court of Appeal at any time (including a casual vacancy due to a member resigning, dying or ceasing to qualify as a member) may be filled by the Board of MotorSport NZ appointing a new member in which event, such member shall be deemed to have been appointed in accordance with paragraph (6) of this Article.
- (8) If a member of the National Court of Appeal should cease for any reason to be a member during his or her five(5) year term, the Board of MotorSport NZ may in its discretion and without prejudice and as an alternative to making an appointment in accordance with paragraph (7) of this Article, fill the casual vacancy thus created for the unexpired portion of that member's five(5) year term.
- (9) The National Court of Appeal shall regulate its own procedure subject however to any procedural requirements of this Code or the International Sporting Code and with the exception of further appeals to the FIA permitted under the International Sporting Code, the decision of the National Court of Appeal shall be final and conclusive and no part thereof, shall be subject to further appeal or review of any kind.
- (10) No person who is in any way interested in or concerned with any matter, in respect of which an appeal is heard so that they have or may potentially have a conflict of interest, shall act in any judicial capacity in relation to such appeal.
- (11) If at the conclusion of the hearing the National Court of Appeal determines that there has been a breach under this Code or its Appendices or Schedules, the National Court of Appeal may inflict a Penalty under the authority of Articles 90, 91, or 92 of this Code and may order that any party to the hearing shall pay the Court's costs, the costs of any other party attending the appeal and administrative costs associated with the appeal provided that in no case shall the National Court of Appeal have the right to order that a Competition or Event shall be re-run.

(12) The lodging of an appeal does not of itself suspend the application or effect of any penalty imposed which is the subject of, or a consequence of, the appeal lodged.

124. Right of Appeal: Any Officer, Competitor, Entrant, Driver, person, firm, body corporate, Member Club, or Official upon whom or which a penalty or any other decision has been imposed under this Code by:

(1) The Stewards (including a penalty or decision imposed by another Official which is upheld by the Stewards in a protest); or

(2) The Judicial Committee of MotorSport NZ in a Judicial Hearing held in accordance with Part X of this Code;

Shall have a right of appeal to the National Court of Appeal.

125. Procedure for Appealing:

(1) Every Officer, Competitor, Entrant, Driver, person, firm, body corporate, Member Club or Official who or which intends to appeal against any penalty or decision ("the appellant") must deliver, fax, mail or email their appeal to the Secretary of the National Court of Appeal to be received within three(3) working days from the date of the decision of the Lower Court.

(2) Every appeal must:

(a) State with reasonable specificity the decision of the Lower Court against which the appeal is made, together with the grounds of appeal.

(b) Be accompanied by such fee as may be stipulated by MotorSport NZ from time to time (which fee MotorSport NZ shall return if the National Court of Appeal so directs).

(3) The National Court of Appeal may from time to time publish guidelines to assist any party called to appear before The Court. Such guidelines shall not conflict with the provisions of Article 93(4) of this Code.

(4) Save for Appeals before the National Court of Appeal audio or video recording of hearings is not permitted.

Information: *For all matters concerning the National Court of Appeal procedures and process refer to the chart at the end of Appendix One Schedule G in this Manual, or contact the Secretary of the Court (contact details are found on the MotorSport NZ website www.motorsport.org.nz).*