



BOARD OF APPEAL
(TERMS OF REFERENCE AND PROCEDURE)

13TH FEBRUARY 2017

BA01 PANEL OF MEMBERS

The Aquatic Sports Association of Malta (hereinafter referred to as “ASA”), through the Council, shall from time to time approve a panel of persons to serve on the Board of Appeal (hereinafter referred to as “the Board”).

BA02 COMPETENCE

- i. The Board shall be empowered to hear and decide upon appeals from disciplinary decisions taken by the Council and from decisions taken by the Disciplinary Commissioner. Provided that, in the case of appeals filed in connection with decisions taken on uncontested reports, the appeal shall be based solely on technical issues relating to the decision and not on the guilt or innocence of the appellant.
- ii. The Board shall be empowered to hear and decide upon appeals filed by persons directly involved in the decision under appeal, that is to say the accused or guilty party, the person or club filing the report, or the Executive Committee (*approved 13th February 2017*).
- iii. The Board shall also be empowered to hear and decide upon appeals from disciplinary decisions taken by club committees concerning their athletes.

BA03 COMPOSITION

- i. The Board shall be composed of 3 members chosen by the General Secretary from the approved panel as specified in BA01. If for any reason not enough members are found from such panel, the members of the Executive may sit in their stead.
- ii. Anybody involved in the decision under appeal shall not be eligible to sit on the Board.
- iii. The quorum of the Board shall be of 2 members.
- iv. The members of the Board are to elect a Chairman from amongst themselves.
- v. Each member shall have 1 vote, save for the Chairman, who apart from his vote, shall also have the right to a casting vote in case of a tie.

BA04 SECRETARY TO THE BOARD

The Board shall be assisted by the General Secretary and/or by an assistant secretary or other person appointed for this purpose. Such person shall act as secretary to the Board and shall inform the Board of any records concerning the party/parties involved, as well as any past decisions that may be relevant to the case. The secretary may be asked to explain the facts of the case, yet shall otherwise refrain from interfering in the deliberation and decision of the report. The secretary shall not be entitled to vote.

BA05 PROCEDURE

- i. Appeals shall be submitted to the General Secretary within 18 hours from the time that the appellant is informed of the decision being appealed provided that the President and the General Secretary shall not be bound by this time limit. The General Secretary may shorten this time period such that there will be sufficient time to organize and hold a hearing of the Board before the appellant (team, athlete or team official) is reasonably expected to participate. The revised time period shall preferably be communicated with the decision (*approved 13th February 2017*).
- ii. Appeals shall
 - a. be in writing and be signed by the appellant, provided that, in the case that the appellant is a club, the appeal shall be signed by the President or Secretary of the club;
 - b. include the grounds of the appeal;
 - c. include a list of witnesses, if any;
 - d. A deposit of €200 is to be submitted to the General Secretary or a member of the Executive Committee, or to the Adjudicating person/board, at the start of the hearing of the case in question. Clubs may choose to deposit an amount in the ASA Bank account and any deposits, fines or other amounts relevant to disciplinary matters will be deducted from such amount (*approved 13th February 2017*).
- iii. It shall be the sole responsibility of the General Secretary and/or the Executive Committee to ensure that the basic requirements set out in BA05(ii) for filing an appeal are fulfilled, and, if in default, not to accept the appeal.
- iv. The General Secretary shall
 - a. appoint a Board as specified in BA03 to hear the appeal, and, in consultation with the appointed members, determine a date, time and place for the hearing. If the appeal involves teams, athletes and/or team officials, such date and time shall be selected such that there will be sufficient time to hold the hearing before such team, athlete or team official is reasonably expected to participate;
 - b. send a copy of the appeal to all parties directly involved in the decision under appeal;
 - c. if the decision under appeal concerns a report filed by an ASA Official, appoint a person to assist the said ASA Official during the hearing;
 - d. inform all parties who have the right to attend the hearing with the date, time and place of the hearing as specified in DC03.
- v. Only the persons listed below have the right to attend a hearing of the Board of Appeal, provided that the Chairman, may, after consultation with the rest of the Board, exclude or dismiss any person from the hearing.
 - a. The Board members and the appointed secretary.
 - b. All the parties directly involved in the decision, including the person or club that filed the report, accompanied by an advisor and, where applicable the club's delegate who shall all be entitled to call witnesses and produce evidence.
 - c. if the decision under appeal concerns a report filed by an ASA Official, the person nominated by the General Secretary to assist the said ASA Official. This person shall be entitled to call witnesses and produce evidence during the hearing.
 - d. Members of the Executive Committee who shall be entitled to clarify relevant parts of the Statute or Competition Rules.

- e. The Disciplinary Commissioner who took the decision under appeal who shall be entitled to explain the reasons behind his decision.
- vi. During the hearing the Board shall
 - a. regulate the procedure;
 - b. proceed with the hearing even in the absence of the appellant.
 - c. interrogate witnesses and any other persons;
 - d. hear witnesses and consider evidence at its sole discretion, provided that in considering such evidence, the Board shall ensure that equity and fairness shall prevail;
 - e. admit video and audio evidence by all parties so authorized to produce evidence.

BA06 DECISIONS

- i. The Board shall deliberate and decide the appeal during the same sitting. In exceptional circumstances the Board may postpone its deliberation and/or decision but, in any case, the decision shall be taken before the appellant (team, athlete or team official) is reasonably expected to participate.
- ii. The Chairman may request the assistance of any member of the Executive during the deliberation stage.
- iii. The Board shall only decide upon the grievance/s raised in the appeal.
- iv. In its decision the Board may
 - a. reject the appeal and confirm the decision under appeal, or
 - b. uphold the appeal and annul the decision under appeal, or
 - c. modify the decision under appeal by reducing, increasing, suspending or otherwise changing the sanction/s imposed.
- v. If, in the course of the hearing, it results to the Board that further action should be taken on any matter brought to its attention, it shall recommend to the ASA President and General Secretary to initiate disciplinary procedures.
- vi. In its decision, the Board may make any recommendations it may deem fit for the consideration of the Executive Committee.
- vii. In the event that the Board finds the appeal to be frivolous or vexatious, the Board shall impose a fine of not less than €200 and not more than €500 on the party that submitted the appeal.
- viii. Unless prior notice of absence is given by the appellant to the General Secretary, the Board may fine the appellant up to €100.
- ix. In the case that the Board upholds the appeal in full, the Board shall order the ASA to refund the deposit paid by the appellant.
- x. The decision shall be in writing and shall be signed by the Chairman.
- xi. It shall be the duty of all parties concerned to enquire with the General Secretary as to the outcome of the appeal, and in default they shall be deemed to have been notified with a copy of the decision.

BA07 APPEALS

All decisions of the Board shall be final and no further appeal may be submitted to any organ of the ASA.

BA08 DEFINITIONS

Unless explicitly negated, the definitions given in DC-A2 also apply to these Terms of Reference and Procedure.

BA09 AMENDMENTS

These Terms of Reference and Procedure may be amended at any time by the Council of the ASA.