



## REGULATIONS

### PART XI

#### INQUIRIES, INVESTIGATIONS & APPEALS

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## PART XI - INQUIRIES, INVESTIGATIONS AND APPEALS

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## REGULATIONS

### PART XI - INQUIRIES, INVESTIGATIONS AND APPEALS

#### SECTION 1

##### 1. PRELIMINARY

1.1 For the purpose of this part of the regulations, except insofar as the context or subject matter otherwise indicates or requires:

'Committee' means the committee conducting the inquiry;

'inquiry' includes an investigation and an appeal.

1.2 Subject to regulation 1.3, all inquiries, investigations and appeals pursuant to article 22 shall be conducted in accordance with these regulations. **(06/12)**

1.3 Any member who is or whose actions are the subject of an inquiry or who is otherwise concerned therewith, may agree to the procedures provided for herein being varied in any respect and any such agreement shall be binding on the member for all purposes connected with the inquiry or arising therefrom:

## SECTION 2

### 2. BODIES THAT MAY CONDUCT INQUIRIES

- 2.1 There shall be a Judicial Panel, from the members of which shall be selected, subject to regulations 3.2 and 9, persons to constitute the Committee.
- 2.2 Members of the Judicial Panel shall be appointed by the Board of Directors for such periods as the Board of Directors may from time to time decide. **10/03**
- 2.3 There shall be no less than 14 members of the Judicial Panel.
- 2.4 (a) (i) The Board of Directors shall appoint three Members of the Judicial Panel to be an Disputes Assessment Panel “the Disputes Assessment Panel” for such period as the Board of Directors may decide. **(11/13)**
- (ii) The Board of Directors shall appoint one of the members of the Disputes Assessment Panel to be its Chairman.
- (b) The functions of the Disputes Assessment Panel shall be to:
- (i) select members of the Judicial Panel to constitute a Committee;
- (ii) report and make recommendations to the Judicial Panel Co-ordinator in relation to persons who might be appointed to the Judicial Panel, the operation of the Judicial Panel and Committees thereof;
- (iii) generally be responsible for the efficient disposition of all Inquiries pursuant to this part of the Regulations;
- (iv) do such other things as are the responsibility of the Disputes Assessment Panel pursuant to this part of the Regulations. **(12/09)**
- 2.4A (a) Subject to (c) below, a quorum for meetings of the Disputes Assessment Panel shall be 2 members present in person.
- (b) Decisions of the Disputes Assessment Panel shall be by majority vote with each member present at a meeting, thereof, having one vote. In a tied vote, the Chairman shall have a casting vote.
- (c) A unanimous resolution of the Disputes Assessment Panel, evidenced by electronic means or in writing, shall be effective as a resolution or decision of the Disputes Assessment Panel.
- (d) Where these Regulations require notice to be given to the Disputes Assessment Panel, such notice shall be deemed to be given if it is in writing and served on the Chairman of the Disputes Assessment Panel. **(12/09)**

- 2.5 The Board of Directors shall appoint a member, other than a Junior Member, to be the Judicial Panel Co-ordinator whose functions shall be to: **(2/98)**
- (a) recommend to the Board of Directors persons for appointment to the Judicial Panel;
  - (b) recommend to the Board of Directors the person who should be appointed Disputes Assessment Panel; **(12/09)**
  - (c) recommend to the Board of Directors any changes to the membership, constitution or operation of the Judicial Panel and Committees thereof;
  - (d) act as the point of contact between the Disputes Assessment Panel and the Board of Directors; **(12/09)**
  - (e) generally to report to the Board of Directors on all matters relating to this part of the regulations.
- 2.6 Upon the initiation of any inquiry, the Disputes Assessment Panel shall: **(12/09)**
- (a) select no less than 3 members of the Judicial Panel (of whom no less than two thirds shall be a member of DOGS NSW and at least one of whom shall be a registered legal practitioner) to constitute the Committee for the purpose of the inquiry. **(2/08)**
  - (b) appoint one of the persons so selected as Chairman of that Committee (provided that the Chairman shall be a registered legal practitioner). **(2/08)**
  - (c) generally give all such directions as are necessary to ensure the efficient disposition of the inquiry.
- 2.7 In the event that a member of the Committee dies or becomes otherwise unable or unwilling to participate in the inquiry, then
- (a) if this occurs prior to the commencement of the hearing in relation to the matter, the Disputes Assessment Panel shall, subject to continued compliance with regulation 2.6(a), appoint a replacement to the Committee; **(5/95), (12/09)**
  - (b) if this occurs after the commencement of the hearing in relation to the matter, then notwithstanding regulation 2.6 (a) the remaining member(s) of the Committee shall constitute the Committee for the purpose of concluding the inquiry.
- 2.8 Deleted. **(10/03)**

## SECTION 3

### 3. HOW INQUIRIES ARE INITIATED

- 3.1 An inquiry may be initiated by the Disputes Assessment Panel: **(12/09)**
- (a) upon receipt of a request to do so from the Board of Directors;
  - (b) upon receipt by the DOGS NSW Secretary of a written complaint that a member may have breached the rules or regulations or may have committed misconduct;
  - (c) in any other circumstance contemplated by article 22. **(06/12)**
- 3.2 Excepting as provided in Section 9, Clause 9.1(d), and, subject to Regulation 3.3, the initiation of an Inquiry shall otherwise be at the absolute discretion of the Disputes Assessment Panel. **(09/13)**
- (a) Notwithstanding 3.2 above, the Disputes Assessment Panel shall not initiate an Inquiry against the Chairman of DOGS NSW without first referring the complaint to the Board of Directors for consideration. **(09/13)**
- 3.3 Except in special circumstances as the Disputes Assessment Panel may from time to time decide, no inquiry shall be initiated pursuant to regulation 3.1 in respect of any matter that is of a domestic nature relating only to the internal affairs of an affiliate or its members and not relating to the objects of DOGS NSW or to the rules or regulations. **(12/09)**
- 3.4 (a) Until the Board of Directors otherwise determines, a lodgement fee of \$250.00 is payable upon the lodgement of a complaint with the DOGS NSW Secretary. **(02/05, 05/11, 03/23)**
- (b) The DOGS NSW Secretary may determine that, in particular circumstances, the fee referred to in (a) shall be waived. **(05/11)**
- 3.5 Any complaint which alleges a breach of Regulations or misconduct at a Show shall be lodged in accordance with the provisions of Regulations Part II – Show, Clauses 16.4 – 16.6, and will not be accepted by the DOGS NSW Secretary if lodged more than 14 days after that Show. **(05/11)**

## **SECTION 3A (6/97)**

### **3A. MEDIATION**

- 3A.1 In respect of a suitable matter, the Disputes Assessment Panel may, in his absolute discretion, decide that it might be suitable for mediation. **(12/09)**
- 3A.2 For the purpose of this section 3A, a suitable matter is a matter that has been referred to the Disputes Assessment Panel for inquiry (subject to the discretion of the Disputes Assessment Panel referred to in regulation 3.2) and in which the Disputes Assessment Panel considers the following characteristics to be present: **(12/09)**
- (a) the matter concerns only a minor disagreement or argument at a Show or at a meeting of an affiliate,
  - (b) there was no physical contact, or threat of physical contact, between the relevant parties, and
  - (c) there is no question of financial loss sustained by any of the relevant parties.
- 3A.3 In respect of a suitable matter, the Disputes Assessment Panel may invite the relevant parties to consent to participate in a mediation process. **(12/09)**
- 3A.4 If the relevant parties provide their written consent to participate in a mediation process, the Disputes Assessment Panel shall then nominate a member of the Judicial Panel to act as mediator ('mediator'). **(12/09)**
- 3A.5 The mediator's role is to assist the parties to resolve the dispute between them. The mediator does not impose a solution and it is not his function to attempt to persuade a party into agreement or to make any substantive decisions for the parties.
- 3A.6 Within 7 days of his nomination as mediator, the mediator must arrange a meeting between the mediator and the relevant parties and that meeting must take place within a further 14 days. At that and any subsequent meeting, the mediator is free to conduct the mediation in such manner as he considers appropriate in the circumstances but as a guide, the procedure might be as follows:
- (a) a brief opening statement by the mediator explaining the nature of the process,
  - (b) an opening statement or explanation by each party of their position in relation to the dispute,
  - (c) to the extent necessary, clarification by the mediator of the issues and the needs and interests of the parties,
  - (d) discussion of possible solutions, and
  - (e) recording in writing of any resolution or settlement that has been agreed.

- 3A.7 A settlement agreement that emanates from a mediation pursuant to this section 3A of the regulations shall, subject to its terms, be regarded as finalising for all time the matter that was referred for inquiry.
- 3A.8 If, within 45 days of the date upon which the mediator was nominated as such, the matter in dispute has not been resolved pursuant to the mediation process, the Disputes Assessment Panel must then decide whether or not an inquiry should be initiated pursuant to regulation 3.1. **(12/09)**
- 3A.9 If a settlement agreement emanating from a mediation does not resolve all matters that were referred for inquiry, the Disputes Assessment Panel must then decide whether or not an inquiry should be initiated pursuant to regulation 3.1 in respect of the unresolved matters. **(12/09)**
- 3A.10 The fact that a mediation has not resolved, or fully resolved, a matter in dispute between the relevant parties is not relevant to and shall not be taken into account by a Committee conducting an inquiry.



## SECTION 4

### 4. MATTERS THAT MUST BE REFERRED FOR POSSIBLE INQUIRY

- 4.1 An affiliate must notify the DOGS NSW Secretary of a dispute between the affiliate and a member or any other person as soon as the committee of the affiliate is aware of the dispute, but no dispute shall be so notified that is of a domestic nature relating only to the internal affairs of an affiliate or its members and not relating to the objects of DOGS NSW or to the rules or regulations.
- 4.2 Upon receipt of notification pursuant to regulation 4.1, the Board of Directors may, before considering or deciding whether or not to request the Disputes Assessment Panel to initiate an inquiry, appoint any person (other than a member of the Judicial Panel) to advise the parties and to endeavour to resolve the dispute. **(12/09)**
- 4.3 If in the opinion of any member at a Show a member within the precincts of the Show wilfully ill treats a dog, such conduct must be referred to the Board of Directors for consideration whether or not it should be referred to the Disputes Assessment Panel for possible inquiry. **(12/09)**

## SECTION 5

### 5. CONDUCT OF INQUIRIES AND INVESTIGATIONS CONCERNING MISCONDUCT OR BREACHES OF THE RULES OR THE REGULATIONS BY MEMBERS

- 5.1 The Committee may require that any matter the subject of the inquiry or investigation be, so far as possible, reduced to writing.
- 5.2 The member concerned shall be informed in writing of any complaint and be provided with a copy of all documents in the possession of the Committee necessary to enable the member to understand the nature of the complaint and of any case that he may have to answer.
- 5.3 (a) The Committee shall conduct a hearing at such time and place as it considers appropriate, provided that at least 21 days' written notice thereof is given to the person or persons against whom the complaint is made and to the person or persons (if any) who lodged the complaint upon which the inquiry is based and to any witnesses to the events in question and all such persons shall be entitled to appear and be heard at the inquiry and to give such evidence as shall be relevant in the circumstances. **6/97**
- (b) Where any person in relation to a matter the subject of an inquiry is more than 100 kilometres by road from the place at which the inquiry hearing is to be conducted, or has a valid commitment which restricts them from attending the hearing in person and that person has presented a written statement to the inquiry, the Committee may permit the person to give evidence and be cross examined by means of a telephonic conference facility. **09/21**
- (c) In respect of written submissions made following the notification of an Inquiry, such written submissions must be made no less than ten (10) working days prior to the Hearing date and any written submissions received after that time will not be accepted. **(09/23)**
- (d) All persons who constitute the Committee for the purpose of an inquiry must be present at any hearing conducted by the Committee.
- 5.4 The Committee may conduct the inquiry notwithstanding that any person (including a person directly affected) who has been given notice fails to appear at the inquiry.
- 5.5 (a) The Committee may from time to time on its own motion adjourn the conduct of the inquiry to such time and place as it considers fit but notice of such adjournment shall not be required to be given to persons not present at the inquiry when the adjournment is announced.
- (b) the Committee shall only grant an application for an adjournment by a person directly affected in circumstances where to fail to do so would in the Committee's opinion constitute a denial of natural justice.

- 5.6 The Committee shall not be bound by any rules of evidence and shall conduct the inquiry with the minimum of formality and in such manner as it sees fit.
- 5.7 (a) The Disputes Assessment Panel or the Chairman of the Committee may require any member to attend at a hearing before the Committee and to furnish such information and evidence and to produce such documents relevant to the matter the subject of the inquiry as to the Committee seems fit. **(6/97), (12/09)**
- (b) The Committee may of its own motion call evidence from experts.
- 5.8 No person shall be legally represented before the Committee.
- 5.9 In respect of an inquiry where it is necessary or appropriate for evidence or submissions to be given or made for or on behalf of the Board of Directors, the Board of Directors may nominate one of their number (who is not a legal practitioner) to collate and present the evidence and make submissions to the Committee.**6/97**

## SECTION 6

### 6. DECISIONS OF THE COMMITTEE AND CERTAIN PENALTIES (04/16)

- 6.1 (a) The Committee shall publish a written report on the facts as found by the inquiry and the penalty (if any) the Committee considers appropriate to impose in the circumstances.
- (b) If the opinion of the members of the Committee is not unanimous, the decision of the majority shall prevail. If the members of the Committee are equally divided on any question concerning the guilt or innocence of a member who is or whose actions are the subject of the inquiry, the question shall be resolved in that member's favour.
- (c) The Chairman of the Committee shall cause the report to be delivered to the DOGS NSW Secretary.
- 6.2 (a) If the Committee considers that the imposition of a penalty is appropriate, it may either
- (i) reprimand the member;
  - (ii) impose upon the member such fine as it may think appropriate in the circumstances;
  - (iii) disqualify the member from exhibiting or handling an exhibit, or from acting as a Show official, or from admission to a Show;
  - (iv) suspend the member from membership of DOGS NSW for a specific period;
  - (v) require the member to tender his resignation from DOGS NSW;
  - (vi) terminate the member's membership of DOGS NSW; or
  - (vii) impose upon the member any combination of the above.
- (b) In considering an appropriate penalty, the Committee:
- (i) shall have regard to any submissions on penalty that the member concerned may wish to make;
  - (ii) may have regard to any previous instances in which the member concerned has been found guilty of any conduct referred to in Article 22, provided that the Committee shall not be made aware of any such previous instances until after the Committee has reached the decision that the member concerned is guilty in respect of the matter then before the Committee. **(06/12)**

- (c) It shall be the duty of the DOGS NSW Secretary to cause to be provided to the Chairman of the Committee, prior to the Committee's consideration of the question of penalty, an envelope in which shall be contained a paper on which shall be written either information concerning any such previous instances or a statement to the effect that there have been no such previous instances. The information shall not make reference to any occasion when the complaint was dismissed or found not proved.
- 6.3 (a) Where a penalty comprises or includes the payment of a monetary penalty, that amount must be paid no later than the date nominated in the Committee's report as the date for payment (or if no such date is nominated, within 14 days of the date of that report). If the monetary penalty is not paid within the applicable time, the member's membership of DOGS NSW shall ipso facto be suspended until payment is made.
- (b) Where a payment due under (a) above remains unpaid for 6 months from the applicable date for payment, the member's membership of DOGS NSW shall ipso facto terminate on the expiration of that 6 months period.
- (c) Where a penalty imposed by a Committee includes suspension of membership, the period of suspension will take effect immediately the member is advised of the penalty by the Committee pursuant to Regulation 6.8 or is deemed to have received the Report of the Committee pursuant to Clause 6.6. **(06/14)**
- (d) In any case where a Member considers that, as a result of suspension, they are being unfairly deprived of a particular right of membership due to exceptional personal circumstances, they may apply to the Board of Directors, within five (5) working days of the commencement of the suspension, for dispensation from suspension of such specific right. **(06/14)**
- 6.4 Regulation 6.5 provides penalties (in cases where a monetary penalty and/or suspension from membership are considered appropriate) and in particular kinds of cases or circumstances. Notwithstanding these penalties, the question of penalty shall always be within the discretion of the Committee or the Appeal Committee (as appropriate) and the imposition of a penalty that is outside these penalties (whether above or below) shall not be a basis for challenging the decision in question. The reference in Regulation 6.5 to only a monetary penalty or a suspension from membership is not intended to exclude the imposition of the other penalties referred to in Regulation 6.2(a) if considered to be appropriate in the circumstances. Furthermore, in a case where the member concerned has not previously been found guilty of a complaint, the Committee or the Appeal Committee may decide only to counsel, warn or reprimand the member concerned. **(04/16)**

**Extraordinary circumstances should prevail on any occasion where a penalty of less than the minimum guideline set out in 6.5 is imposed, and the reason/s for imposing such lesser penalty will be set out in the report of the Committee or Appeal Committee. (04/11)**

## 6.5 Penalties (04/16)

In this part, one (1) Penalty Unit is equal to \$50.00.

<b>1. DISORDERLY CONDUCT</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
1.1 Physical assault /or threat thereof to a Judge or exhibitor at an event	12 mths/20 Units	Life suspension
1.2 Abusive or foul language to a Judge or exhibitor at an event	3mths/10 Units	12mths/20 Units
1.3 Disparage a Judge's decision	3mths/10 Units	12mths/20 Units
1.4 Denigrate an exhibitor or exhibit	3mths/10 Units	12mths/20 Units
1.5 Property damage	3mths/ + cost of damage	12mths/ + cost of damage
<b>2. ABUSE OF AN ANIMAL</b>		
2.1 Conviction for aggravated cruelty to animals under Prevention of Cruelty to Animals Legislation.		
Maximum penalty: termination of membership and life ban against renewal of membership.		
	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
2.2 Physical abuse of a dog/causing Injury to a dog at an event	12mths/20 Units	Life suspension
2.3 Neglect which endangers the wellbeing of a dog at an event	6mths/10 Units	60mths/60 Units
2.4 Whelping a bitch at an event	12mths/10 Units	24mths/20 Units
2.5 Excessive discipline of a dog	3mths/5 Units	24mths/20 Units
<b>3. REGISTRATION VIOLATIONS</b>		
	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
3.1 Submission of an application containing a false certification (not signature forgery)	24mths/20 Units	60mths/60 Units
3.2 Submission of an application containing a false certification as to the signature of the owners	12mths/20 Units	60mths/40 Units

	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
3.2 Signing DOGS NSW documents on behalf of another without proper authority	12mths/20 Units	36mths/40 Units
3.3 Selling, buying, or falsifying DOGS NSW documents	24mths/20 Units	60mths/60 Units
3.4 Refuse to produce dogs or records to DOGS NSW authority	12mths/20 Units	60mths/60 Units
<b>4. RULES/REGULATIONS VIOLATIONS</b>		
	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
4.1 Substitution of one dog for another	12mths/20 Units	36mths/40 Units
4.2 Exhibiting an altered dog		
Temporary alteration	12mths/20 Units	36mths/40 Units
Permanent alteration	36mths/40 Units	60mths/60 Units
4.3 Non compliance with DOGS NSW Guidelines for the Care and Management of Keeping and Breeding Dogs and/or the Code of Ethics	3mths/5 Units	Life suspension/40 Units

Only in a case where the member concerned has not previously been found by a Committee to be guilty of a complaint, will a sitting Committee, or an Appeal Committee, consider:

- (i) whether any penalty imposed should be suspended subject to the member entering into a bond of good behaviour for such period as is deemed by the relevant Committee to be appropriate, or
- (ii) whether or not a reprimand is an appropriate penalty.

In any case where a member is found guilty of a further offence whilst serving a suspended sentence, the suspension of that sentence shall be lifted forthwith and the balance of any original term of suspension still to be served, together with any monetary penalty originally imposed for the first offence, shall be reinstated in addition to any penalty imposed by the Committee for the further offence.

In any such case, no two periods of suspension will be allowed to be served concurrently. **(6/97), (04/11)**

Where a matter has been heard in a Court of Law and a penalty handed down by that authority, a penalty imposed by a DOGS NSW appointed Committee of Inquiry should be not less than that imposed by the Court. **(04/16)**

- 6.6 Within 7 days of receipt by the DOGS NSW Secretary of the report of the Committee pursuant to Regulation 6.1, the DOGS NSW Secretary shall send to the person who lodged the complaint in respect of which the inquiry was initiated and to the member concerned a copy of the report and shall at the same time advise the defendant and complainant concerned of the right of appeal provided for herein. The members concerned shall be deemed to have received the report no later than the fifth business day after posting. **(04/15)**
- 6.7 The decision of the Committee as contained in the report shall be binding on all members and shall have effect, unless the member concerned appeals to an Appeal Committee pursuant to regulation 7.1, in which event the Committee's decision shall be stayed (subject to Regulations Part I, Section 13, Regulation 13.5) pending the outcome of the appeal. **(12/97)**
- 6.8 (a) Notwithstanding Regulation 6.1 the Committee may, at the conclusion of a hearing, orally announce its decision on the facts as found by the inquiry and the penalty (if any) the Committee considers appropriate to impose in the circumstances and, in that event, paragraphs (a) and (c) of Regulation 6.1 and Regulations 6.6 and 6.7 shall not apply.
- (b) The decision of the Committee orally announced pursuant to paragraph (a) shall be binding on all members and shall have effect in accordance with its terms. **(5/97)**



## SECTION 7

### 7. APPEALS

7.1 A defendant or complainant may appeal to an Appeal Committee appointed by the Disputes Assessment Panel against the decision of the Committee pursuant to Section 6 of this Part of the Regulations within 7 days after a copy of the report is received by the member (as provided in Regulation 6.6 by lodging with the DOGS NSW Secretary a notice to that effect, provided that an appeal shall lie only on the grounds that:- **(12/22)**

- (a) there is fresh evidence that could not have been placed before the Committee;
- (b) the member has been denied natural justice by the Committee;
- (c) the penalty imposed by the Committee was inadequate or excessive.

PROVIDED FURTHER THAT save in respect of any such fresh evidence, the Appeal Committee shall not re-open any factual issue determined by the Committee. **(12/14)**

7.2 (a) The Board of Directors may appeal to an Appeal Committee appointed by the Disputes Assessment Panel against the decision of the Committee pursuant to Section 6 of this Part of the Regulations within 7 days after the receipt by the Secretary of the Minutes of next meeting of the Board of Directors held after the report is published by the Committee. **(12/17)**

(b) An appeal shall be commenced by the issue of a notice to that effect by the DOGS NSW Secretary and a copy of the Notice of Appeal shall be sent to the defendant and complainant concerned within 7 days of its issue. **(12/22)**

7.3 An appeal as to penalty shall only be on the grounds that the penalty issued by the Committee was either inadequate or excessive having regard to **(11/22)**:-

- (i) the penalties set out in Regulation 6.5; **(04/16)**
- (ii) the evidence submitted to the Committee;
- (iii) fresh evidence that could not have been placed before the Committee.

PROVIDED FURTHER THAT save in respect of any such fresh evidence, the Appeal Committee shall not re-open any factual issue determined by the Committee. **(02/05)**

7.4 In the case of a decision of the Committee orally announced pursuant to paragraph (a) of Regulation 6.8, a defendant and complainant may appeal to an Appeal Committee appointed by the Disputes Assessment Panel against the decision of the Committee within 7 days of the date upon which the decision was announced by lodging with the DOGS NSW Secretary a notice to that effect, and subject also to the proviso set out in Regulation 7.1. **(12/22)**

- 7.5 The Appeal Committee shall afford the member the opportunity of appearing before the Appeal Committee to make submissions (either orally or in writing or both) and to adduce any such fresh evidence but shall otherwise hear the appeal in the manner it considers appropriate and shall publish a written report thereon. **(02/05)**
- 7.6 No person shall be legally represented before the Appeal Committee. **(02/05)**
- 7.7 The Appeal Committee may make such decision in relation to the appeal as it considers appropriate in the circumstances, including:
- (a) allowing the appeal;
  - (b) dismissing the appeal;
  - (c) amending or varying the decision of the Committee;
  - (d) remitting the matter for re-hearing by a Committee comprised of persons other than those who comprised the Committee from whose decision the appeal was brought;
  - (e) granting, on an interim basis, such relief against the Committee's decision as is considered to be appropriate;
- and that decision shall be binding on all members. **(02/05)**
- 7.8 (a) An Appeal Committee appointed pursuant to Regulation 7.1 shall comprise 3 members of the Judicial Panel who are not members of any currently constituted Committee or of the Committee from which the appeal is brought and who the Disputes Assessment Panel considers most appropriate to deal with the appeal, having regard to the subject matter thereof. **(02/05), (12/09)**
- (b) Deleted **(12/09)**
- 7.9 Regulation 2.7 shall apply, mutatis mutandis, in relation to an appeal. **(02/05)**
- 7.10 A copy of the report of the Appeal Committee shall be sent to the defendant and complainant concerned by the DOGS NSW Secretary. **(12/22)**

## **SECTION 8**

### **8. CONDUCT OF INQUIRIES CONCERNING MATTERS OTHER THAN MISCONDUCT OR BREACHES OF THE RULES OR REGULATIONS BY THE MEMBERS**

- 8.1 Subject to the following provisions of this regulation, inquiries concerning matters other than misconduct or breaches of the rules or regulations by members shall be conducted in such manner as the Committee may in its absolute discretion decide.
- 8.2 The Committee shall in its absolute discretion determine to whom notice of the inquiry is to be given, to the intent that only persons directly affected by the inquiry shall be given notice thereof.
- 8.3 Subject to regulation 8.2, regulations 5.1 and 5.4 to 5.8 and regulation 6.1 and 6.2(a) shall apply to an inquiry to which this regulation applies.
- 8.4 Unless the Committee otherwise decides, there shall be no appeal from a decision of the Committee pursuant to regulation 8.3.

## SECTION 9

### 9. INQUIRIES BY THE BOARD OF DIRECTORS

- 9.1 Notwithstanding the forgoing provisions of this part of the regulations, the Board of Directors may:
- (a) give directions as to the conduct of any Inquiry that may be under way, including a direction that the Inquiry shall terminate;
  - (b) remove any matter, the subject of an inquiry, from the jurisdiction of the Committee and the Judicial Panel and, if considered appropriate, complete the Inquiry itself;
  - (c) itself conduct any Inquiry
  - (d) itself determine that an Inquiry be initiated in regard to any matter it considers appropriate. **(09/13)**
- 9.2 Any inquiry by the Board of Directors as contemplated by regulation 9.1 (b) and (c) shall be conducted as closely as possible in accordance with regulations 5 and 6, mutatis mutandis.
- 9.3 Upon completion of the inquiry, the Board of Directors shall take such action as it considers appropriate in the circumstances.
- 9.4 There shall be no appeal from a decision of the Board of Directors following an inquiry completed or conducted pursuant to this regulation.

## **SECTION 10**

### **10. FRIVOLOUS COMPLAINTS**

10.1 If the Committee, having conducted the inquiry, is of the opinion that the complaint which led to the initiation of the inquiry was made:

- (a) frivolously;
- (b) without sufficient evidence to justify the making of the complaint, or
- (c) out of ill will, spite or in bad faith;

the Committee may decide that

- (d) financial compensation be provided to the person the subject of the complaint in respect of expenses actually incurred in dealing with the matter;
- (e) there be a penalty imposed on the person considered by the Committee to have acted in any manner described in (a)-(c),

and the Board of Directors shall take all such action as may be necessary to give effect to such a decision of the Committee.

## SECTION 11

### 11. ACCESS TO AND PUBLICATION OF REPORTS

- 11.1 (a) Within 7 days of receipt by the DOGS NSW Secretary of the report of the Committee pursuant to regulation 6.1, or the report of the Appeal Committee, the DOGS NSW Secretary shall provide a copy of the report to the Disputes Assessment Panel and to the Judicial Panel Co-ordinator. **(11/95), (12/09)**
- (b) At the next meeting of the Board of Directors following receipt by the Judicial Panel Co-ordinator of a copy of a report, the Judicial Panel Co-ordinator shall report to the Board of Directors the findings of the Committee or of the Appeal Committee as contained in the report. **(11/95)**
- (c) The DOGS NSW Secretary shall, within fourteen days of receiving a report of a Committee or of an Appeal Committee, provide to each member of the Board of Directors a copy of that report. **(11/95)**
- (d) The Board of Directors may by resolution direct that a copy of any such report be provided to such other person (including another canine controlling body) as the Board of Directors considers to have a legitimate interest in the matter. **8/95**
- 11.2 In the case of the report of an inquiry falling (in whole or in part) within article 22 (a) (i), (iii), or (iv), and in such other appropriate case as the Board of Directors may decide, the DOGS NSW Secretary shall send a copy of the report to the Secretary of the affiliate of which the member concerned was a member at the time of the events the subject of the inquiry. **(06/12)**
- 11.3 In the case of a report of the kind referred to in regulation 11.2 and in which the member concerned has been found guilty of the complaint, or of some other conduct the subject of the inquiry, the DOGS NSW Secretary shall cause the finding of the Committee (and, in the event of an appeal, of the Appeal Committee) (including any penalty) to be published in the Journal.

## SECTION 12 (8/95)

### 12. INTERIM SUSPENSION OF MEMBERSHIP IN CERTAIN CIRCUMSTANCES

12.1 This section only applies in respect of a written complaint received by the DOGS NSW Secretary that a member may have committed misconduct and that complaint includes at least one of the following allegations:

- (a) that a member deliberately struck, or attempted to strike, another person
- (b) that a member deliberately injured, or attempted to injure, a dog
- (c) that a member loudly, seriously and in the hearing of other persons abused a judge at a show

and the allegation in question in that complaint is directly corroborated by at least 3 additional written statements provided to the DOGS NSW Secretary.

12.2 In respect of a complaint to which this section applies, the DOGS NSW Secretary must, during the period of 24 hours following receipt by the DOGS NSW Secretary of the complaint and the additional statements, attempt to communicate (either personally or by telephone) with the member about whom the complaint has been made so as to:

- (a) advise that member of the nature of the complaint and the evidence that has been received in respect of it
- (b) advise that member that it is a complaint of the kind that could result in the interim suspension of the member's membership
- (c) invite that member to submit, within no more than 48 hours, submissions (either orally or in writing or both) why interim suspension of membership should not be imposed.

A failure by the DOGS NSW Secretary to actually communicate with the member concerned during the period of 24 hours referred to in regulation 12.2 does not vitiate the following provision of this section 12.

12.3 Upon the expiration of the period of 24 hours referred to in regulation 12.2, and whether or not the DOGS NSW Secretary has actually communicated with the member concerned, the DOGS NSW Secretary must provide to the Disputes Assessment Panel a copy of the complaint and of the additional written statements and must advise the Disputes Assessment Panel (either orally or in writing as the Disputes Assessment Panel may direct) of any submissions from the member concerned. **(12/09)**

If the Chairman forms the opinion that an inquiry is to be initiated in respect of the complaint, and so informs the DOGS NSW Secretary, the DOGS NSW Secretary must by notice in writing to the member concerned advise that an inquiry has been initiated and may by that notice suspend that member's membership of DOGS NSW with effect from such date and lasting for such period not exceeding 35 days as to the DOGS NSW Secretary seems appropriate.

- 12.4 In a case where the DOGS NSW Secretary has suspended a member's membership pursuant to regulation 12.3:
- (a) the information required to be provided to the member concerned pursuant to regulation 5.1 must be provided to the member no later than within 5 days of the date upon which the member's suspension of membership came into effect
  - (b) the reference in regulation 5.3(a) to 21 days may, with the written consent of the member concerned, be reduced to no less than 7 days
  - (c) the inquiry is to be conducted as expeditiously as reasonably possible but if it appears to the Committee conducting the inquiry that the Committee will not have published a report as required by regulation 6.1(a) before the expiration of the period of suspension of the member's membership, the Committee may, in the presence of the member concerned but only after hearing submissions from that member on the question, resolve to extend the period of suspension for such further period as to the Committee seems reasonably necessary in the circumstances
  - (d) if the Committee concludes in its report that the imposition of a penalty is appropriate, the Committee shall, in addition to complying with regulation 6.2(b), have regard to the fact that the membership of the member concerned has been suspended for a period of time.
- 12.5 In a case where the DOGS NSW Secretary has suspended a member's membership pursuant to regulation 12.3 and the Committee is of the opinion that the complaint was of a kind referred to in regulation 10.2(a)-(c), the Committee must decide that there be a penalty imposed on the person considered by the Committee to have acted in any manner described in regulation 10.1(a)-(c) and that penalty:
- (a) if it is a monetary penalty, must be for an amount of not less than \$1,000, and
  - (b) if it is to be a suspension of membership, the period of suspension must be for at least 12 months



## **SECTION 13 (6/97)**

### **13. WAIVER OF FINANCIAL PENALTY**

#### **13.1 If:**

- (a) a monetary penalty in excess of \$500.00 has been imposed on a member,
- (b) the penalty has not been paid in full within a period of 2 years from the date of the report pursuant to which the penalty was imposed, and
- (c) the Board of Directors is satisfied that the only reason the penalty has not been paid in full is financial hardship suffered by the person concerned,

the Board of Directors may resolve to waive payment of the penalty or of any outstanding balance.

- 13.2 A waiver by the Board of Directors pursuant to regulation 13.1 is not to be taken as affecting in any respect the decision of the Committee of an Appeal Committee concerning the matter.

## SECTION 14 (9/97)

### 14. MISCONDUCT GENERALLY

14.1 The descriptions of misconduct set out in regulation 14.2 do not derogate from any description of misconduct elsewhere in the regulations or in the articles. **(2/04)**

14.2 The following conduct is deemed to be misconduct:

- (a) any threat, promise or inducement by a member to any person in relation to that person being:
  - (i) a witness or a potential witness in respect of any matter that is or may be the subject of an inquiry;
  - (ii) a member of a Committee of Inquiry or of an Appeal Committee;
- (b) any act of retribution or discrimination, or any omission to similar effect, by a member towards a person in relation to that person being or having been:
  - (i) a witness or a potential witness in respect of any matter that is or may be the subject of an inquiry;
  - (ii) a member of a Committee of Inquiry or of an Appeal Committee.

14.3 A breach of Regulations Part XIII-Code of Ethics shall be deemed to be misconduct for the purpose of this Part of the Regulations. **(09/19)**

14.4.1 Upon receipt by DOGS NSW Secretary of a written complaint that a member may have breached Regulations Part XIII-Code of Ethics, an Inquiry may be initiated at the request of the Board of Directors made of the Disputes Assessment Panel. The Board of Directors may, in respect of breaches determined in the absolute discretion of the Board of Directors to be minor, invite the member who is the subject of complaint to accept the charge or charges by written acceptance of the complaint and breach of the Code of Ethics by way of penalty prescribed in the Schedule below which such penalties may be varied by the Board from time to time **(09/19)**:-

#### **Schedule of Penalties (06/22)**

1 <sup>st</sup> Offence	\$200.00
2 <sup>nd</sup> Offence	\$500.00
3 <sup>rd</sup> Offence	\$1,000.00
4 <sup>th</sup> Offence	Member to Inquiry

14.4.2 The member will be given twenty eight (28) days from the date of notice of the invitation referred to in 14.4.1, above, to consider the complaint made against the member to either accept or reject an early guilty plea and acceptance of penalty. **(09/19)**

- 14.4.3 Failure to accept the offer of an early guilty plea by way of a written acceptance within twenty eight (28) days from the date of the service of the complaint and offer of an early guilty plea in lieu of an Inquiry shall be deemed to be a plea of not guilty to the complaint and the matter shall thereafter be referred to the Disputes Assessment Panel for the initiation of an Inquiry pursuant to Regulations Part XI-Inquiries, Investigations & Appeals. **(09/19)**
- 14.4.4 A member who is the subject of a complaint which alleges a breach of the Regulations Part XIII-Code of Ethics may reject the offer of an early guilty plea and acceptance of penalty within twenty eight (28) days of the service of the complaint by written notification to the DOGS NSW Secretary advising that the member elects to have the matter determined by an Inquiry pursuant to Regulations Part XI-Inquiries, Investigations & Appeals. **(09/19)**