TRIBUNALS AND JUDICIAL PROCEDURES

1. THE MACHINERY OF JUSTICE

In the course of normal competition, whether it affects an organiser, an official or a participant, occasions arise from time to time which require adjudication of disputes, or the just settlement of conflicting interests. Moreover, the discipline necessary in all organised activity, and vital in motor sport, is maintained by a system of law which involves the enacting of Rules and Regulations, the appointment of officials to administer them, and the provision of machinery to impose penalties for breaches of them.

Provision has been made by CAMS for the discharge of all these functions.

In accordance with the Code, general laws applicable in Australia have been enacted and published, and form the National Competition Rules, Appendices and Schedules embodied in this Manual. Further restrictions, in more particular detail, are published from time to time in Supplementary Regulations of individual events – so called because they are "supplementary" to the NCR.

To police these rules and regulations, CAMS appoints from time to time individual officials such as stewards (see Part X of the NCR) and requires organisers to appoint others such as clerks of course, scrutineers, secretaries, timekeepers and so on, each with their duties and responsibilities. The Stewards of a Meeting have by right (and others may have by special delegation) certain powers to impose penalties (see Part XI of the NCR); and it follows that there should exist avenues of appeal which may be followed by any persons penalised by them. Similarly, persons against whom any action has been taken, though not of a punitive nature, should have the opportunity to protest, except in certain special cases.

Lastly, those who commit offences against the Rules in circumstances unrelated to a meeting, or of a kind which appears to merit penalties beyond the power of stewards to inflict, are liable to be charged with those offences. In such cases, they are entitled as of right to be confronted by their accusers, to hear the evidence against them, to test that evidence and call their own, and to be assured of impartial justice.

All these requirements, and the need to provide the avenues of appeal, referred to above, have resulted in the appointment by CAMS, and from time to time, of what are known as Tribunals.

2. THE PLURALITY OF TRIBUNALS

Tribunals are of three kinds:

(i) **Disciplinary Tribunals** which are essentially minor courts, are set up to try cases brought before them by CAMS by way of charges against persons or groups subject to CAMS (see NCR 57).

Disciplinary Tribunals have two primary duties:

(a) to determine whether or not a charge heard is proved; and

(b) if so, to impose the appropriate penalty.

To these may be added the right to make any recommendation to CAMS that may seem fitting and relevant.

(ii) **Appellate Tribunals** which are appointed to hear pleas arising from decisions by:

(a) Officials of a Meeting, or

(b) Disciplinary Tribunals.

Appellate Tribunals are obliged to confine their decisions to matters actually appealed, though they are free also to make recommendations to CAMS arising out of their deliberations.

(iii) **Investigatory Tribunals** which are appointed to enquire into matters nominated by CAMS. Investigatory Tribunals are free to receive evidence and hear witnesses. The Tribunal shall make recommendations to CAMS, make any necessary amendment to results of a competition, and/or if a breach of the Rules has occurred, impose an appropriate penalty.

3. CONSTITUTION OF TRIBUNALS

Certain basic qualifications are required of any person acting in a judicial capacity. They must not, for instance, be involved personally or have any interest in any matter at issue; they must have had no connection, other than as a spectator, with any meeting where the matters arose; they must have had no prior contact with, or made any decision affecting, the matter at issue; they must be impartial and must take into account only the evidence brought before them and they must act only in accordance with the body of law under which they are appointed.

In Australian motor sport, it is not always easy to find such persons.

It is not desirable (in general terms) for those who enact the laws to also interpret them. Hence, while it may be acceptable and even desirable for voting Board Members of CAMS to serve as Stewards at selected events,

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

they are precluded from acting as members of Tribunals and of the AMSAC; and it is undesirable to appoint active organisers and competitors to such positions, primarily because of their potential or actual interests in events or persons.

CAMS therefore has appointed a Panel of Tribunes comprising persons whose experience of life, impartiality, ability to evaluate evidence, and knowledge of the Rules and procedure fit them for the discharge of judicial duties. One or more of such Tribunes is required (save under exceptional circumstances as determined by CAMS) to sit on each and every Tribunal.

4. CONDUCT OF TRIBUNALS

Location and Arrangement

A suitable room, with adequate space for the Tribunal, the parties and witnesses, and preferably in a neutral venue should be selected. The bench should be at one end flanked at right angles by tables for each party, with a chair at least for witnesses in front of the bench. Provision may be made for the media, if the Tribunal permits media reporting, and arrangements must be made to record the hearing in full.

Procedure

(i) **Disciplinary Tribunals**

(a) The chairman should announce the opening of the Tribunal, stating its authority, its composition, and the purpose of its sitting. Appearances are then taken.

(b) The accused is to be asked whether they object to any member sitting; if so, on what grounds. If no objection is received the case proceeds.

If an objection is received, it must be examined and may involve one or more members being declared ineligible to sit (if more than one member steps down as ineligible the hearing must be adjourned, two being the minimum number acceptable on the bench).

If the objections are not considered valid they may be overruled by the Tribunal and the case will then proceed (in which case the objections must be noted and included in the summary of proceedings).

(c) The charge or charges shall then be read to the accused, either by the clerk of the Tribunal (if there is one) or by the chairman; and the accused will plead to each charge.

If a plea of "guilty" is received, the proceedings in such a case may be shortened.

If a plea of "not guilty" is received, the case proceeds as below.

(d) The prosecution proceeds first, and is normally required to produce evidence of the existence of a rule or regulation allegedly breached, and evidence of the breach. It may call witnesses, in which case the defence will be given the opportunity to cross-examine those witnesses.

(e) The defence may then lead evidence in rebuttal of the prosecution's case. The defence may call witnesses to give evidence on its behalf, in which case the prosecution will be given the opportunity to cross examine those witnesses.

(f) The defence will then address the Tribunal, summarising the case for the accused. No new evidence may be presented during this summary or address.

(g) The prosecution will then address the Tribunal, summarising the case for the prosecution. No new evidence may be presented during this summary or address.

(h) The Tribunal will then determine the guilt or otherwise of the accused, adjourning the hearing if necessary to do so. No other persons shall be present or partake in any discussion with the Tribunal at this stage, unless the Tribunal has both parties before it together.

(i) If the Tribunal finds the charges not proved it shall dismiss the charges.

(j) If the Tribunal finds the charges or any of them proved, it shall announce a finding of "guilty" and then hear argument on the question of penalty. Such argument shall be advanced by the prosecution and/or by CAMS, followed by representations by the defendant.

(k) The Tribunal shall determine and announce whether a penalty is imposed, and if so its nature (and extent, if relevant, as eg, duration of a term of suspension).

(l) The Tribunal, in giving judgement for or against the accused, shall do so by writing down its judgement and reading it aloud to the parties appearing. Such judgement shall include the Tribunal's reasons for its finding, and shall also include a statutory reminder to the parties of their rights of appeal under Part XIII of the National Competition Rules.

Such judgement may, moreover, include any recommendation which the Tribunal deems fitting in respect of the matter and the effects of its judgement.

The judgement of the Tribunal shall include the time and date at which the judgement was given.

(m) The Tribunal shall provide a copy of its judgement to each party so that they may make an informed judgement as to an appeal.

(n) The Chairman will then declare the proceedings closed.

(ii) **Appeal Tribunals**

(a) The Chairman will announce the Tribunal's authority, its composition and its purpose. Appearances are then taken.

The parties are then to be asked whether they object to any member sitting and, if so, on what grounds. If no objections are received, the hearing will proceed.

If an objection is received, it is to be handled in the same manner as prescribed for Disciplinary Tribunals above.

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

(b) To shorten proceedings, the parties may at this stage stipulate certain facts or the admissibility of certain documents (eg, if a transcript or summary, or both, has been made available to the Tribunal and to both parties, of earlier proceedings giving rise to the Appeal, such may be stipulated as accurate on appeal).

(c) The appellant goes first, addressing the Tribunal. They should start by briefly summarising the points they are going to make, what evidence they will lead and what, if any, witnesses they will call.

They will then lead evidence, calling witnesses if they wish, and/or they may give evidence themselves. The respondent will be given the opportunity to ask questions in cross-examination of each witness.

Even should the Court or Tribunal decide to proceed by way of partial or complete re-hearing, the appellant shall open; a re-hearing in such circumstances is not to be taken as proceeding ab initio; it is merely a convenient way of clarifying the issue and evidence.

The hearing must be restricted to the grounds of appeal which are stated in the appeal proper (see NCR 225) and to the evidence presented in the earlier proceedings.

(d) The respondent follows similarly; also addressing the Tribunal and/or calling evidence. The respondent may also call witnesses to give evidence, in which case the appellant will be given the opportunity to cross-examine these witnesses.

(e) The respondent then makes their final address if they desire to do so. No new evidence may be presented during this summary or address.

(f) The appellant then makes their final address if they desire to do so. No new evidence may be presented during this summary or address.

(g) The Tribunal then determines whether, and if so, to what extent, the Appeal shall succeed, adjourning the hearing if necessary in order to do so.

(h) The Tribunal shall then deliver its judgement by writing it down and reading it aloud to the parties concerned. Such judgement shall include the reasons for the findings, a statutory reminder to the parties of their rights of appeal under Part XIII of the National Competition Rules, and also a direction as to the disposition of the Appeal fee, either by way of its return to the appellant (if the appeal has succeeded) or its forfeiture to CAMS (if the appeal has failed).

The judgement of the Tribunal shall include the time and date at which the judgement was given.

(i) The Tribunal shall then hear argument, if any, on the question of costs; and shall make or withhold award of costs as may seem fitting.

(j) The Tribunal shall provide a copy of its judgement to each party so that they make informed judgements as to an appeal.

(k) The Chairman will then declare the proceedings closed.

(iii) **Investigatory Tribunals**

(a) The Chairman will announce the Tribunal's authority, its composition and its terms of reference.

(b) The Tribunal will determine the form of the hearing, including the manner of receiving evidence consistent with terms of reference from CAMS.

(c) The Tribunal will determine whether, and if so, to what extent, any rule or regulation has been breached, adjourning the hearing if necessary in order to require parties concerned to be charged and summoned before it (refer NCR 185). The Tribunal will act as if it is a Disciplinary Tribunal.

(d) The Tribunal may, if it is determined that the results of a competition have been incorrectly or improperly made out, make such order as it deems appropriate.

(e) Where there are orders made or penalties to be imposed, the Tribunal shall deliver its judgement by writing it down and reading it aloud to the parties concerned. Such judgement shall include the reason for the findings and a statutory reminder to the parties of their rights of appeal under Part XIII of the National Competition Rules.

Such judgements may moreover include any recommendations which the Tribunal deems fitting.

The judgement of the Tribunal shall include the time and date at which the judgement was given.

(f) The Tribunal shall provide a copy of its judgement to each party concerned so that they may make informed judgements as to an appeal.

(g) The Chairman will then declare the proceedings closed.

5. WITNESSES AND EXAMINATION

Witnesses are presumed to be speaking the truth. They may be examined by the party calling them, and shall give evidence directly and/or by answers to questions. They may not be "led" on examination by the advocate calling them, that is to say they may not be asked questions generally which put words into their mouths, although this is relaxed somewhat for formal identification etc.

On cross-examination this does not apply. Questioning may take the form of "leading" or suggestions, and opposing counsel is entitled to test the credibility of the other side's witnesses.

Re-examination, ie, questioning by the witnesses' own side, is usually confined to clarification of matters raised in cross-examination.

6. THE NATURE OF EVIDENCE

(i) **Direct evidence** is usually the oral evidence of a witness (though it may include documentary evidence, as below), and is given by some person who himself saw or heard or otherwise perceived the fact or facts to which he testifies.

(ii) **Hearsay evidence** (ie, evidence that the witness was told something) is not valid evidence of the thing itself,

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

and is usually inadmissible as such. A witness may have been told that a car went over a fence. All he can certify to as a witness is that he was told this; it is no evidence that the car did go over the fence.

(iii) **Opinion** is not in itself generally admissible. An exception is when a person is accepted by the Tribunal as an "expert" in respect of the particular matter at issue. For example, an engineer, or a doctor, or even a noted racing driver may qualify or be stipulated as an expert in his particular field, and hence give expert opinion as evidence. He will, however, be subject to cross-examination in such areas of evidence and his evidence will be evaluated, not by other experts in this field necessarily, but by the Tribunal.

Opinions expressed by witnesses other than experts are valueless as evidence of the matter at issue, though they may be illuminating as to the credibility of the witness. They are inadmissible.

(iv) **Documents** may be tabled in evidence: in such case, they must be proved as to their source, validity, relevance etc, and to do so it may be necessary to call direct evidence (eg, an official letter from a company, a parts manual etc).

(v) **Things** may be put in as evidence, to speak for themselves, as for instance a cylinder head in question. Other evidence is usually required to prove the authenticity or relevance of such "real" evidence.

(vi) **Circumstantial evidence,** the fact of the existence of a number of situations or occurrences or circumstances, may be put in. It may be cogent (a man seen running from the otherwise deserted scene of an offence at the time it was committed) or it may be valueless; but it is admissible.

It is not permitted to introduce, prior to conviction, any evidence relating to other convictions. However, should a person be found guilty of a charge, the fact of his earlier breaches of the Rules may relevantly be pressed in pleas as to penalty. They must be established; mere suspicion only of these is inadmissible, unless of course admissions have been made by the accused person. Similarly, it is forbidden to introduce material in addresses that could have been and should have been produced in evidence. Failure to give evidence is not in itself an admission of guilt but it may give rise to certain conclusions by reasonable men; the innocent usually, in human experience, assert their innocence, and failure to do so while subject to examination is rightly capable of being interpreted as an admission of guilt.

As a private tribunal operating within a sport and administered by laymen, the strict laws of evidence which apply in most of the courts of the land do not necessarily apply. The criteria for the acceptance of evidence should be that the evidence does have a bearing on the matters for determination, and its nature and acceptance would not offend natural justice and fairness, and that it is open to be tested by the opposing party.

(vii) **Judicial Notice.** Certain facts need not be proved by evidence in respect of CAMS Tribunals. The general authority of the Tribunal to sit is assumed, if stated (subject to objections as to its individual members); CAMS is agreed to be the authority over motor sport in Australia; the booklet entitled "CAMS Manual of Motor Sport" is taken to be an official CAMS publication, and the rules and regulations included therein to be the National Competition Rules and CAMS Regulations applying to the hearing. Persons acting as officials of a meeting are assumed to have been properly appointed, though if called as witnesses they usually assert the same to be so; CAMS is by statute entitled to intervene in any of its Tribunals, whether or not an opposing party; the meaning of the English language is presumed to be as understood by ordinary men, and so on. There would be no end to litigation if everything had to be proved.

(viii) **Video tape,** photographic or other film evidence of an occurrence may be admitted as evidence.

Before such evidence can be admitted, it must be clearly identifiable and established that it relates to any occurrence under consideration.

The stewards or the Tribunal should decide what weight can be given to such evidence bearing in mind other evidence given before the hearing.

The video tape or film may be shown on as many occasions as are considered necessary by the stewards or the Tribunal.

It may be shown at any speed considered necessary by the stewards or the Tribunal.

The stewards or Tribunal shall, at their or its discretion, determine when and how the video tape or film shall be played or replayed.

The audio component of the video tape or film may be muted if considered appropriate by the Tribunal.

The video tape or film shall be viewed initially in total silence but the stewards or Tribunal may in their or its discretion decide whether at any subsequent playing it shall be accompanied by any comment by any person present whether as a witness or as a party to the proceedings when it was shown.

Tribunals also take judicial notice of decisions handed down by AMSAC.

7. DEGREE OF PROOF

In civil cases (such as CAMS affairs usually are), the degree of proof is usually required only to be by the preponderance of evidence – they are settled on the balance of probability, ie, what seems most likely from the evidence. Although some social or sporting stigma may accrue to persons found guilty of a charge under the Rules of a sporting body, it is not usually sufficient to justify the necessity of proof "beyond reasonable doubt", though such a case could arise, eg, under NCR 183(i), (iii) or (iv).

8. GENERAL CONDUCT

Though CAMS Tribunals do not have either the status or the authority of courts of law, though witnesses can neither be compelled to attend nor give evidence, though penalties inflicted cannot be forcibly put into effect, and though many of the parties and the Tribunal members are known to each other more or less well, there can be no justification for informality prevailing at hearings of Tribunals (other than in isolated instances of

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

natural humour).

Formality, the maintenance of form, is a means of ensuring that (a) all the things that ought to be done are in fact done in an orderly manner; and (b) nothing that should not be done is done. An added effect is that of natural gravity, the ceremony associated with formality always lending to proceedings the appropriate air of seriousness.

Informal proceedings may achieve a just end, but they seldom appear to do so. The Tribunal in such case loses stature and authority and the law itself becomes, or may become, an object of contempt. The use of first names, the relaxing of basic rules of evidence, lapses from decorum, the permissibility granted to interjectors, the acceptance of casual or intemperate behaviour – these add nothing to the Tribunal's stature and take much away from its purposes.

In the event, the conduct of any Tribunal is a question for the Chairman himself, and it is to the advantage of all if he insists upon the above guidelines being followed.

9. GENERAL

It is important to note that the task of judicial bodies is to administer fairly the laws or Regulations which it is their task to interpret and apply. In doing so the following points should be borne in mind:

(i) "Justice must not only be done but must be seen to be done." This maxim is often quoted and indeed it is a very clear way of pointing out the duty of a Tribunal to consider the outward appearances of the manner in which it carries out its duty. It must not however, be allowed to obscure the fact that the prime function of the Tribunal is to do justice. Justice in this sense, of course, means the application of the NCR to a particular set of circumstances and the task of any judicial body, whether constituted by the State or by a private body, is the administration of these laws and Regulations which may often not coincide with what may be seen as justice.

(ii) Arising from the above, Tribunals and stewards must avoid the temptation to apply or interpret rules in a technical or convoluted manner so as to obtain a result which they see as "justice". It is not the task of a Judicial body to form opinions as to the wisdom or otherwise of a Rule which they may be called upon to apply.

(iii) Caution should be taken in placing over-reliance on fine print and compliance with technicalities, although of course a certain degree of formality is required. When one considers the length of the NCR and the matters covered, and compares these with the sheer volume of paperwork which governs the administration of the laws of the land, it can be seen that the NCR are in many cases a guide, and attention should be paid to substance rather than to form unless there is of course some obvious and overwhelming defect in form.

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

CAMS TRIBUNES

To discharge the functions of CAMS Tribunals a panel has been approved by the Board of CAMS of persons who have agreed to act as CAMS Tribunes.

Mr	GR Adams	(NSW)
Mr	R Anderson	(Vic)
Mr	D Barkley	(Qld)
Mr	C Barnes	(Qld)
Mr	Justice GR Bell	(Qld)
Mr	R Brown	(SA)
Mr	B Cockayne	(NSW)
Mr	G Darge	(WA)
Mr	PB de Plater	(Qld)
Mr	R Doig	(WA)
Mr	P Drew	(SA)
Mr	R Dyer	(Vic)
Mr	D Ellem	(NSW)
Mr	P Fallu	(Qld)
Mr	R Fraser	(Vic)
Mr	L George	(SA)
Mr	GJ Gibson QC	(Qld)
Mr	J Given	(Qld)
Mr	W Gracie	(NSW)
Mr	WM Griffiths	(Tas)
Mr	J Hamon	(Qld)
Mr	J Hardy	(Vic)
Mr	R Hardy	(SA)
Mr	R Hawley	(Qld)
Mr	B Hones	(NSW)
Mr	E Jones	(NSW)
Mr	D Kelly	(Vic)
Mr	WTV Kendall	(Vic)
Mr	P Lander	(NSW)
Mr	ND Ledingham	(NSW)
Mr	K Luckins	(Vic)
Mr	JRA Macmillan	(Vic)
Mr	C McCracken	(Qld)
Mr	K McKay	(Vic)
Mr	RA Mulholland QC	(Qld)
Senior Judge	LK Newman	(SA)
Mr	M Nicholls	(NSW)
Mr	RM Parkes	(Qld)
Mr	C Parry	(NSW)
Mr	I Percy	(Vic)
Mr	J Picton-Warlow	(WA)
Ms	C Power	(WA)
Mr	LG Priddle	(Qld)
Mr	AC Rae	(Tas)
Mr	R Roberts	(WA)
Mr	P Rose	(Vic)
Mr	GR Stephenson	(Tas)
Mr	LD Stewart	(NSW)
Dr	L Stubber	(WA)
Mr	P Svensson	(Qld)
Mr	D Tait SC	(Qld)
Mr	B Thomas	(NSW)
Mr	DJC Tippetts	(WA)
Mr	JM Urquhart	(WA)
Mr	R Valentine	(Tas)
Mr	A Vaughan	(NSW)
Mr	R Watson	(Vic)
Mr	S Watson	(WA)
Mr	AJ Williams	(Qld)
Dr	JB Williams	(WA)
Mr	DG Wing	(Tas)

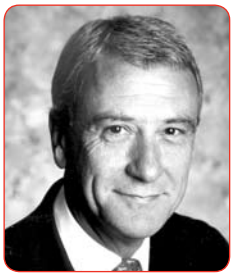
Many of the above Tribunes are legally qualified, and it is desirable that at least one such qualified person be a member of each Tribunal.

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

AUSTRALIAN MOTOR SPORT APPEAL COURT (AMSAC)

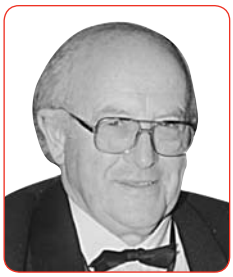
The highest motor sport court of appeal in Australia.

The present panel of the Court comprises:



Chairman

Mr David Miles



Mr Maurice Monk

Mr Desmond Ryan

The Hon Peter Rae

Secretary

Mr Ross Jackson

The Court's powers and functions are delineated in Appendix G to these Rules.

Since its inception in 1956, the Court has sat on more than 50 occasions, either in Melbourne or Sydney.

The address for communication with the Court is:

Mr R Jackson
The Secretary
Australian Motor Sport Appeal Court
PO Box 147
Caulfield East Vic 3145

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

APPENDIX G

Australian Motor Sport Appeal Court

1. ESTABLISHMENT AND TITLE

In accordance with the provisions of NCR 220, a final motor sport Court of Appeal in Australia is established by CAMS, and shall be known as the "Australian Motor Sport Appeal Court" (see NCR 6 (vi)), hereinafter referred to as "the Court".

2. COMPOSITION

The Court shall comprise a Chairman, a Deputy Chairman and five other members (together with a Secretary who shall not exercise the judicial functions of a member of the Court).

If in any event the Chairman through absence, illness or otherwise shall be unable to act as Chairman within a reasonable time after an appeal or application for leave is lodged, the Deputy Chairman shall be entitled to exercise the powers and duties of the Chairman including the power to grant or refuse leave of appeal.

If in any case both the Chairman and Deputy Chairman shall be unable to act as aforesaid, the Chairman or failing him the Deputy Chairman or failing him the President of CAMS shall have power to appoint an Acting Chairman for the purposes of an appeal or matter, and such Acting Chairman shall be entitled to exercise the powers and carry out the duties of the Chairman in respect of such appeal or matter.

3. APPOINTMENT

The members of the Court shall be appointed by CAMS upon nomination by the Chairman, the Chairman being nominated as such by CAMS. The Deputy Chairman shall be nominated by the Chairman, and the Secretary shall be appointed by and removable by the Court.

4. TENURE OF OFFICE

Members constituting the Court shall hold office as such for the remainder of their lifetimes, unless:

(i) they or any of them resign, or

(ii) their appointment to the Court is terminated by written notice given pursuant to a majority vote of members of the Board of CAMS, assembled in meeting and so resolving.

5. FILLING OF VACANCIES, IF ANY

Vacancies occurring on the list of members of the Court shall be filled by persons nominated by the Chairman.

6. EXPENSES

All expenses properly incurred in respect of the sittings and administration of the Court shall be borne by CAMS (see NCR 190).

7. FUNCTIONS

(i) to act as a final motor sport Court of Appeal for Australian nationals after the earlier avenues of:

  (a) charge or protest; and

  (b) appeal to a National Appeal Tribunal have been exhausted;

(ii) to act as a second and final motor sport Court of Appeal for Australian nationals upon whom a CAMS Disciplinary Tribunal has imposed penalty and who have, subsequent to each action, exhausted their right of appeal to a CAMS Appeal Tribunal;

(iii) to act as a first and final motor sport Court of Appeal for Australian nationals against whom the Board of CAMS has taken disciplinary action in the first instance;

(iv) to act as a second and penultimate motor sport Court of Appeal for nationals of countries other than Australia competing in international events in Australia who have exhausted their right of appeal to a National Appeal Tribunal and to whom there may remain a right of appeal to the FIA;

(v) to act as a first and final motor sport Court of Appeal for Australian nationals who claim that any ruling, direction or decision by CAMS is ultra vires or unconstitutional;

(vi) to act as a court of arbitration between any dissident parties in respect of a matter related to motor sport in Australia, subject to the provisions of Article 8 (Right of Appeal) here following;

(vii) to determine whether the hearing of any protest by any stewards of a meeting or of an appeal by a National Appeal Tribunal has been properly held in accordance with these Rules and if thought fit to refer the subject

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

matter back for re-hearing by the stewards or National Appeal Tribunal (as the case may be). Provided that the Court's power so to determine and/or order shall be exercisable by the Chairman (or, in the event of his un-availability for whatever reason, by the Deputy Chairman) in his sole discretion; and

(viii) to hear and determine appeals instituted by CAMS pursuant to the provisions of NCR 219.

8. RIGHT OF APPEAL

(i) In respect of paragraphs (iii), (iv) and (v) of Article 7, above, the right of appeal shall lie without hindrance.

(ii) In respect of paragraphs (i), (ii) and (viii) in the said Article 7 above, right of appeal to the Court shall be dependent upon Leave to Appeal being granted by the Chairman of the Court in his absolute discretion, and there shall be no right of appeal against the decision of the Chairman in respect of granting or refusing such Leave to Appeal.

The Secretary of the Court shall forward notification to the appellant, all other proposed parties to the appeal and CAMS of the Chairman's decision within 21 days after the receipt of the appeal unless the Chairman extends that time in his absolute discretion.

(iii) In respect of paragraph (vi) of the said Article 7 above, the right of appeal shall be dependent on agreement between the parties to be bound by the Court's decision in such matter, and the consent of the Chairman to act in such matter, and the consent of CAMS that such matter may be submitted to the Court, whether or not CAMS is principally concerned in the matter at issue.

(iv) Where the Chairman of the Court determines that Leave to Appeal is not granted he shall direct whether any portion of the Appeal Fee, not exceeding 50%, shall be returned.

9. TIME LIMITS FOR HEARINGS

All appeals shall be heard within 60 days of the expiration of the period during which such appeals could have been lodged under the provisions of Part XIII of the NCR unless the Court extends this period.

10. SUBMISSION OF APPEALS

Where there is a wish to appeal to AMSAC notice of intention to appeal is not required.

The appeal proper must be lodged:

1. within seven days of the day on which the decision appealed against was given;
2. in the form prescribed by these rules;
3. accompanied by the prescribed appeal fee; and
4. at the address of the Secretary of the Court.

The written submission shall accord with the format of the form "Appeal" (refer CAMS website, *www.cams.com.au/go/forms*), and shall be submitted in duplicate. The Secretary of the Court shall send the duplicate copy of each appeal to the Chief Executive Officer of CAMS within seven days of the receipt by him of such appeal.

The appellant must provide to other parties who participate in the proceedings the subject of the appeal notice that an appeal has been lodged.

When the appeal is one made under the provisions of Article 7 (iii), (iv) and (v), a copy of the appeal papers must be provided at the same time.

Where the appeal is one in which leave is required, then the appeal papers should be provided to the other parties only when leave to appeal is granted.

A list showing the names and addresses of those who have been so advised must be submitted to the Secretary of the Court at the time of lodging the application for leave to appeal, or the appeal, as the case may be.

The Court or CAMS may entertain an appeal lodged out of time if, in its absolute discretion, it considers that the appellant has sufficient and proper reason for the delay in lodgement.

The appeal fee will not be refunded if the appeal is not proceeded with by default on the part of the appellant.

11. PROCEDURE AT HEARINGS

The order of business and mode of conduct of any hearing shall be as determined by the Court. The Court shall be addressed standing, unless the Chairman directs otherwise. Except in the examination of witnesses, the Court only shall be addressed.

12. QUORUM

A quorum for the sittings of the Court shall comprise the Chairman and two other members. In any case where a quorum is not obtained within a reasonable time, having regard to the circumstances, the Chairman shall have the right to co-opt any person as a temporary member of the Court for such case only. In the unavoidable and indefinite absence of the Chairman, the Deputy Chairman shall act as Chairman.

13. REPRESENTATION

CAMS shall have the right to be represented at the hearing of any matter before the Court either as advocate for CAMS, or in any case to which CAMS is not a party, to assist the Court, if requested.

All parties to any appeal before the Court shall have the right either to present their case in person or to representation by an advocate.

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*

14. POWERS OF THE COURT

The Court shall be empowered to:

(i) Hold any hearing or part of a hearing in camera.

(ii) Admit accredited representatives of the media at the Court's discretion.

(iii) Clear the court room for purposes of deliberation.

(iv) Order from the court room any person who is in the Court's opinion guilty of behaviour insulting to or contemptuous of the Court or any person present, or prejudicial to the proper hearing of any matter.

(v) Summarily fine any person or party subject to CAMS (as defined in NCR 57) for non-compliance with any such order as is specified in paragraph (iv) above or for any such behaviour as is specified in the said paragraph. PROVIDED THAT no fine so imposed shall exceed $200 in respect of any one offence by any one person or party. The provisions of NCR 189 shall apply to such fines if imposed, and no appeal shall lie in respect of such summary imposition.

(vi) Remit all or part of any fine imposed in accordance with the provisions of paragraph (v) above upon such grounds as it may deem fit.

(vii) Make such order as to appeal fees as seems fitting to the Court and in accordance with these rules, subject to NCR 232.

(viii) Summon before the Court any person, or the representative of any party, subject to CAMS or any real or documentary evidence it may require.

(ix) Award costs against an unsuccessful appellant, but only in its absolute discretion and upon the application for costs by CAMS, provided always no costs shall be awarded against CAMS unless CAMS itself is an unsuccessful appellant.

(x) Direct that evidence taken before it be given upon oath or affirmation.

(xi) Make such order as to amendment of the results of a competition as may seem to it, in the circumstances, desirable and fitting.

15. RATIFICATION

Decisions made by the Court shall (except in the case of appeals to the FIA as provided in NCR 226) be final and not subject to ratification (see NCR 224). However, nothing shall diminish the right of CAMS to exercise clemency by way of reduction or remission of any penalty (see NCR 204).

© Confederation of Australian Motor Sport Ltd. All use subject to Conditions of Use at *www.camsmanual.com.au*