

Policy: 627.1
Effective: March 2011
Subject: Process for Appeals
Reference: *Harness Racing Act 2009*
Board Meeting – 29 January 2010
Regulatory Review Committee – March 2011

PROCESS FOR APPEALS BY PARTICIPANTS

1. BACKGROUND

- 1.1 Formally a participant who decided to appeal a fine or disqualification could do so as long as they paid the appropriate fee.
- 1.2 However that same participant may have accumulated other fines or debts which are outstanding but which are not old enough to have the debts recorded on the Unpaid Forfeits List and thereby stopping that participant from racing horses, driving or training.
- 1.3 When an appeal is lodged HRNSW is likely to incur considerable expenditure in conducting the appeal. For example costs will be incurred in the following areas;
 - a) Engaging an appointed judge to hear the appeal
 - b) Engaging a suitably qualified legal person to represent HRNSW;
 - c) Having transcripts typed;;
 - d) Other related expenses including HRNSW staff costs.
- 1.4 If debts remain outstanding and the participant loses the appeal the outstanding debts may remain unpaid for the duration of the disqualification as there is no incentive for the participant to pay the debt until just prior to the disqualification being lifted.
- 1.5 Although it may appear that HRNSW is 'forcing' those who are appealing to have all their debts paid before a hearing commences whereas it allows other participants up to 90 days to clear their debts. HRNSW will be incurring significant costs for the appealing participant which it does not incur for other participants who may have outstanding debts.

2. PROCEDURE FOR INITIATING AND HEARING APPEALS

- 2.1 An appeal is to be initiated by the lodging of a written notice of appeal with the Secretary of the Tribunal within 7 days of the date on which the appellant is notified of the decision to be appealed against. An appeal fee of \$250 must accompany this Notice.
- 2.2 The Secretary of the Tribunal is, on receiving a notice of appeal:
- a) to forward notice of it to the Tribunal, and
 - b) if the placing of any horse may be affected by the result of the appeal, to give a copy of the notice of the appeal to the owner of the horse (if the owner is not the appellant) and to the harness racing club concerned, and
 - c) to serve on the appellant a transcript of the evidence taken at the hearing in respect of the decision appealed against.
- 2.3 Within 7 days of receiving the transcript of evidence, the appellant is to lodge with the Secretary of the Tribunal a written notice of the grounds of appeal. The appeal is limited to those grounds, except by leave of the Tribunal.
- 2.4 On receiving notice of the grounds of appeal, the Secretary of the Tribunal is to forward 3 copies of the notice to the Tribunal along with a transcript of the evidence taken at the hearing in respect of the decision appealed against.
- 2.5 The date, time and place for the hearing of an appeal is to be fixed by the Tribunal. The Secretary of the Tribunal is to give at least 7 days' written notice of such date, time and place to the appellant and to such other persons as the Tribunal thinks fit.
- 2.6 The Tribunal is to commence the hearing of an appeal as soon as reasonably practicable after the lodging of the notice of the grounds of appeal.
- 2.7 The Tribunal may, in a particular case, extend any period of time specified in this clause if in its opinion the circumstances of the case so require.