



Athletics New Zealand (Incorporated)

Incorporated Society No. 216839

JUDICIAL REGULATION

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Athletics New Zealand (Incorporated)

Judicial Regulation

1. Purpose of this Regulation

- 1.1 The purpose of this Regulation is to set out the processes and Hearing Bodies to resolve Disputes within Athletics in New Zealand (except for those specified in other Athletics NZ Regulations) including defining the scope of “Misconduct” and the imposition of sanctions.

2. Status and Application of Regulation

- 2.1 This Regulation was approved by the Board under Rule 31 of the Constitution.
- 2.2 This Regulation is binding on all Members, Athletes, Athlete Support Personnel, persons under the jurisdiction of Athletics NZ and other persons who agree to be bound by it.
- 2.3 This Regulation supersedes By-Law A10 – Disciplinary Action of the Athletics NZ By-Laws (Administration), and upon the commencement of this Regulation, that By-Law is revoked with immediate effect.

3. Commencement

- 3.1 This Regulation shall come into force with effect from 12 September 2018.
- 3.2 This Regulation shall apply to:
- a. Misconduct committed after the Commencement Date; and,
 - b. any Appeal filed under this Regulation on or after the Commencement Date. For avoidance of doubt, an Appeal may include conduct or other matters which occurred prior to the Commencement Date.

4. Disputes

- 4.1 Disputes to which this Regulation applies
- Subject to clause 4.2, this Regulation applies to any “Dispute” as defined in the Athletics NZ Constitution, that being a dispute or difference involving an Athlete, Athlete Support Personnel, a Member, the Board and/or any other person under the jurisdiction of Athletics NZ that involves:

- a. The application or interpretation of any rule, Regulation, policy, or decision of Athletics NZ, the Board, or any sub-committee or person appointed by Athletics NZ; and/or,
- b. An allegation of Misconduct (as defined at clause 7) involving any person under the jurisdiction of Athletics NZ; and/or,
- c. An alleged breach of any rule, Regulation, policy or decision of Athletics NZ, the Board, or any sub-committee or person appointed by Athletics NZ; and/or,
- d. An alleged breach of the IAAF Constitution, the IAAF Rules or any IAAF Regulations; and/or,
- e. An Appeal of a decision of Athletics NZ including a decision of a Hearing Body.

4.2 Disputes excluded from application

There are a number of other Athletics NZ Regulations and policies which contain processes and Hearing Bodies for resolving certain Disputes, and which are excluded from application under this Regulation, including, but not limited to:

- a. Protests and disputes arising in competition, which are covered by the Competition Regulation;
- b. Anti-Doping Violations, which are covered by the Integrity Regulation – Part 3: Anti-Doping;
- c. Match Fixing, Betting, Corruption and other Integrity Violations, which are covered by the Integrity Regulation – Part 4: Anti-Match Fixing;
- d. Code of Ethics Violations, which are covered by the Integrity Regulation – Part 2: Code of Ethics; and,
- e. Disputes about selection or otherwise to represent New Zealand in competitions, which are covered by the applicable Athletics NZ selection policy.

5. Overview of Judicial System

- 5.1 Appendix 1 to this Regulation sets out an overview of the Athletics NZ judicial system in summary table form.
- 5.2 To the extent of any inconsistency between Appendix 1 and other parts of this Regulation, the latter shall apply.

6. Member Clubs' and Associate Members' Judicial & Disciplinary Process

6.1 Judicial Rules

Member Clubs and Associate Members shall have rules and regulations which comply with this Regulation which set out the jurisdiction and procedure for hearing and deciding Disputes described in clauses 6.3 and 6.4 respectively, including the applicable hearing bodies.

6.2 Natural Justice

Each Member Club and Associate Member shall ensure its rules and regulations provide that the hearing bodies must resolve the Disputes described in clause 6.3 and 6.4 in accordance with the principles of natural justice and procedural fairness. As a minimum this shall include, but is not limited to, the hearing body:

- a. conducting the hearing in a manner that is fair and appropriate to the circumstances;
- b. providing the parties with adequate notification of the date, time and place of the hearing;
- c. ensuring adequate notification of the specific charges and allegations that are made against the Defendant;
- d. ensuring the Defendant is provided with and given proper opportunity to consider, challenge or contradict any evidence that is relied upon to support allegations against them;
- e. not being biased;
- f. not acting outside its powers or jurisdiction;
- g. making a decision supported by the evidence; and,
- h. not imposing a sanction that is either excessive or inappropriate.

6.3 Member Clubs' Jurisdiction

Subject to clauses 6.5 and 6.6, each Member Club shall be responsible for resolving the following Disputes about a member of the Member Club or other person under the jurisdiction of the Member Club:

- a. protests and other Disputes arising in competition where such competition is held by or under the authority of the Member Club;
- b. allegations of misconduct (as defined by the Member Club), whether in competition or out of competition;

- c. allegations of breach of the Member Club's constitution or any rule, regulation, policy or decision of the Member Club or its committee or any sub-committee or person appointed by the Member Club;
- d. any other Dispute not otherwise specified by any applicable rule or regulation of an Associate Member, or in this Regulation, any other Athletics NZ Regulation, the Athletics NZ Constitution, the IAAF Constitution, the IAAF Rules or the IAAF Regulations; and
- e. allegations of Harassment that (despite falling within the definition of Misconduct) have been referred back to the Member Club for determination after the Chief Executive has followed the process set out in clause 8.3.

6.4 Associate Member Jurisdiction

Subject to clauses 6.5 and 6.6, each Associate Member shall be responsible for resolving the following Disputes about a member of the Associate Member (including a Member Club) or other person under the jurisdiction of the Associate Member as follows:

- a. protests and Disputes arising in competition, where such competition is held by or under the authority of the Associate Member;
- b. allegations of misconduct (as defined by the Associate Member), whether in competition or out of competition;
- c. allegations of breach of the Associate Member's constitution or any rule, regulation, policy or decision of the Associate Member or its committee or any sub-committee or person appointed by the Associate Member;
- d. any other Dispute not otherwise specified in this Regulation, any other Athletics NZ Regulation, the Athletics NZ Constitution, the IAAF Constitution, the IAAF Rules or the IAAF Regulations; and
- e. allegations of Harassment that (despite falling within the definition of Misconduct) have been referred back to the Associate Member for determination after the Chief Executive has followed the process set out in clause 8.3.

6.5 Jurisdiction Excluded

Member Clubs and Associate Members shall not have jurisdiction to resolve the following Disputes:

- a. where the procedure for resolution of the Dispute is specified in this Regulation or another Athletics NZ Regulation;
- b. where the Dispute is Misconduct as defined at clause 7;

- c. where the person is a member of a Member Club or an Associate Member or is otherwise under the jurisdiction of the Member Club or an Associate Member, and is also an Athlete who is a National Representative, or an Athlete Support Personnel of a National Representative (whether or not the Dispute occurred while they were acting in that capacity or otherwise);

“National Representative” means an Athlete or Athlete Support Personnel who is selected or appointed by Athletics NZ to represent New Zealand at an International Competition (as defined in the IAAF Rules).

- d. where the person is a member of a Member Club or an Associate Member or is otherwise under the jurisdiction of the Member Club or an Associate Member, and is also an Athletics NZ Official:

“Athletics NZ Officials” means all members of the Athletics NZ’s Board, committees and commissions and any person who acts or is entitled to act for or on behalf of Athletics NZ, including without limitation Athletics NZ’s staff, consultants, agents and advisors.

- e. where the person is a member of a Member Club or an Associate Member or is otherwise under the jurisdiction of the Member Club or an Associate Member, and is also a Participant in a Competition Held By or Under the Auspices of Athletics NZ:

“Participant” means all Athletes, Athlete Support Personnel, competition officials, officials, managers or other members of any Athletics delegation, referees, jury members and any other person who is or has been accredited to attend or participate in a Competition Held By or Under the Auspices of Athletics NZ.

- f. where the procedure for resolution of the Dispute is specified in the IAAF Constitution, the IAAF Rules or the IAAF Regulations;
- g. where the person appeals a decision of a Member Club or an Associate Member on the grounds specified, and in accordance with, clause 10.

6.6 Athletics NZ Intervention

Notwithstanding clauses 6.3 and 6.4, Athletics NZ may intervene in the resolution of a Dispute and assume jurisdiction of the Member Club or the Associate Member under either clause 6.3 or 6.4, if the Board considers (after reasonable enquiry and acting reasonably) that:

- a. the Member Club or Associate Member has not attempted to resolve, or has not adequately resolved, the Dispute in accordance with the Member Club’s or Associate Member’s rules or regulations;

- b. the Dispute has, or could have, significant implications for Athletics in New Zealand, or Athletics NZ; or,
- c. the sanction imposed is disproportionate to the Dispute.

6.7 If Athletics NZ decides to intervene under clause 6.6, the Board may refer the Dispute to the Judicial Tribunal for resolution, which shall resolve the Dispute in accordance with these Regulations.

7. Misconduct Defined

7.1 Misconduct

Subject to clause 7.2, “Misconduct” under this Regulation means any conduct by an Athletics NZ Official, a National Representative, a Participant, an Individual Member, Life Member, Member Club or an Associate Member which:

- a. breaches or is contrary to any Athletics NZ Code of Conduct (included as Appendix 2);
- b. is Harassment;
- c. breaches the Constitution, any Regulation, or any rule, reasonable determination, resolution or policy of Athletics NZ, and which conduct is not covered by any other Regulation (including engaging in Harassment in breach of the Member Protection and Anti-Harassment Regulation);
- d. breaches the IAAF Constitution, IAAF Rule, or any IAAF Regulation;
- e. is unbecoming of that person or organisation or is detrimental to the objects or interests of Athletics NZ or to the reputation of Athletics NZ or Athletics in New Zealand;
- f. has brought, or is likely to bring Athletics NZ or Athletics into disrepute;
- g. occurs where the person knowingly assists, or is otherwise complicit in any act or omission that constitutes, or culminates in the commission of, Misconduct by another person to whom this Regulation applies.

7.2 What “Misconduct” does not include

For the purposes of this Regulation, “Misconduct” does not include conduct that may otherwise constitute “Misconduct” but is specified in another Athletics NZ Regulation, or any IAAF Rules, IAAF Regulation, including but not limited to:

- a. conduct prohibited in competition as specified in the Competition Regulation;

- b. Anti-Doping Violations as specified in the Integrity Regulation – Part 3: Anti-Doping;
- c. Match Fixing, Betting, Corruption and other Integrity Violations as specified in the Integrity Regulation – Part 4: Anti-Match Fixing; and,
- d. violations of the Code of Ethics as specified in the Integrity Regulation – Part 2: Code of Ethics.

8. Process for handling Misconduct Offences

8.1 Overview of Process

The process for dealing with alleged Misconduct is set out in this Regulation and is summarised below:

- a. an initial complaint is made to the Chief Executive or Athletics NZ obtains or receives information which it considers may constitute Misconduct;
- b. the Chief Executive makes such enquiries as he or she considers fit to determine if:
 - i. there may be an alleged offence of Misconduct; and
 - ii. if so, whether it is appropriate for the matter to be referred to mediation in which case the Chief Executive refers the matter to mediation in accordance with clause 8.3h; or
 - iii. in the case of allegations of Misconduct that could amount to Harassment, if after following the process set out in clauses 8.3a to 8.3c the Chief Executive considers that the matter is appropriate to be referred back to the Member Club or Associate Member for determination, the Chief Executive does so in accordance with clause 8.3g.
- c. if the Chief Executive considers there may be an alleged offence of Misconduct that is not referred back to a Member Club or Associate Member in accordance with clause 8.3g, he or she shall give notice of the alleged offence to the Defendant. If mediation is either not appropriate or it is, but mediation fails to resolve the matter the Chief Executive shall refer the notice of the alleged offence to the Chairperson of the Judicial Tribunal;
- d. the Chairperson of the Judicial Tribunal decides if the Judicial Tribunal has jurisdiction to hear and decide the charges of the alleged offence, and if it does,
- e. the Judicial Tribunal hears and decides whether an offence has been committed and any sanction; and

- f. there is a right of Appeal to the Sports Tribunal against the decision of the Judicial Tribunal in limited circumstances as specified in clause 14.

8.2 Initial Complaint or Information Obtained

- a. **Who may make a complaint:** Any person (“Complainant”) may make a complaint of alleged Misconduct.
- b. **Form and substance:** There are no mandatory requirements for the form or substance of a complaint.
- c. **Who may a complaint be made to:** Complaints may be made directly to the Chief Executive, unless the Chief Executive is the subject of the complaint or involved in the matters giving rise to the complaint. In this case the complaint is to be made to the Chairperson of the Board, unless the Chief Executive and the Chairperson of the Board are the subject of the complaint or involved in the matters giving rise to the complaint. In this case the complaint is to be made to the Deputy Chairperson of the Board, unless the Chief Executive and the Chairperson of the Board and the Deputy Chairperson of the Board are the subject of the complaint or involved in the matters giving rise to the complaint. In this case the complaint is to be made to the Chief Executive of Sport New Zealand and, every reference in this Regulation to the Chief Executive shall mean the Chairperson of the Board or the Deputy Chairperson of the Board or the Chief Executive of Sport New Zealand.
- d. **Timeframe for making a complaint:** A complaint must be received by the Chief Executive as soon as practicable after the alleged Misconduct occurred, and generally within 30 days of it allegedly occurring. The Chief Executive may accept a complaint after this period if the nature of the allegations are such that disclosure of the facts giving rise to the complaint or the information obtained by Athletics NZ had not been known within that period.
- e. **No complaint necessary if information obtained:** In addition, if Athletics NZ obtains or receives information which it considers may be Misconduct, no complaint is necessary to progress the matter under this Regulation.

8.3 Chief Executive Enquiries

- a. **Initial steps of receipt of complaint:** On receipt of a complaint or information under clause 8.2 , the Chief Executive shall:
 - i. advise the alleged Defendant, of the fact that a complaint has been made, and give them the details of the complaint; and
 - ii. make such enquiries as he or she considers fit to determine if:

- (a) there may be an alleged offence of Misconduct; and
 - (b) if so, whether it is appropriate for the allegations to be referred to mediation; or
 - (c) in the case of Harassment, whether the matter should be referred to the relevant Member Club or Associate Member for determination.
- b. **Enquires:** Such enquiries may include, but are not limited to, obtaining information from the alleged Defendant, the Complainant and other witnesses to the alleged offence; and seeking documentation or recordings or any other thing or information which may assist the Chief Executive.
- c. **Timing of enquiries:** The Chief Executive shall undertake the enquiries as soon as practicable upon receiving the complaint or information under clause 8.2.
- d. **Rights not surrendered:** Nothing in this Regulation shall require an alleged Defendant to surrender any rights under New Zealand law that they have not otherwise agreed to surrender pursuant to this Regulation.
- e. **Alleged Defendant to cooperate:** Subject to clause 8.3d, the alleged Defendant shall cooperate fully with, and shall provide all reasonable help to, the Chief Executive in their enquiries. A failure to co-operate may, depending on the circumstances, constitute Misconduct, in and of itself, under this Regulation. It may also be taken into account in deciding any sanction or penalty under clause 8.11.
- f. **Insufficient evidence:** If after making enquiries, the Chief Executive considers there is not sufficient evidence upon which to pursue charges of an offence of Misconduct, the Chief Executive shall inform the Complainant and, in their discretion, any of the other persons of whom the Chief Executive made enquiries, that the complaint or matter arising from the information obtained by Athletics NZ, will not be Proceeding any further at this stage. If new evidence becomes available after the decision not to proceed is made, the Chief Executive may re-open enquiries in accordance with clause 8.3a to 8.3e.
- g. **Allegations of Harassment:** In Misconduct complaints concerning Harassment, the Chief Executive after making enquiries under clause 8.3b may refer the complaint to the relevant Member Club or Associate Member for determination if the Chief Executive reasonably considers that the alleged Harassment is more appropriately dealt with at a local level rather than a national level bearing in mind;
 - i. the seriousness and subject matter of the allegations;
 - ii. the impact of the alleged conduct on the Complainant;
 - iii. confidentiality requirements;

- iv. that fairness and impartiality in decision making would be upheld; and
 - v. any special circumstances notified to the Chief Executive relating to the allegations.
- h. **Mediation to be considered:** If after making enquiries under clauses 8.3b and 8.3c , the Chief Executive considers there may be an alleged offence of Misconduct, or the Board directs the Chief Executive to proceed under clause 8.4, the Chief Executive must consider whether the allegations might reasonably be resolved by referral to mediation.
 - i. **Mediation process:** If the Chief Executive decides to refer the allegations to mediation, he or she shall do so in accordance with the process set out in clause 12.
 - j. **Mediation not successful:** Except where the Chief Executive refers a complaint of Harassment to a Member Club or Associate Member for determination in accordance with clause 8.3g, if the Chief Executive decides not to refer the matter to mediation, or the mediation is held but is unsuccessful in resolving the matter, the Chief Executive shall proceed with the Notice of Charge in accordance with clause 8.5.

8.4 Review of Chief Executive's decision by Board:

- a. **Review of decision:** The Complainant or any person directly affected by the alleged Misconduct may seek a review of the decision of the Chief Executive's decision not to proceed with charges of an offence of Misconduct.
- b. **Application for review:** Such review shall be undertaken by the Board (or a sub-committee of the Board appointed for that purpose), if an application for review is submitted in writing to the Chairperson of the Board within 10 days of the Chief Executive's decision.
- c. **Grounds for application:** An application for review can only be made on one or more of the following grounds:
 - i. the Chief Executive was biased or had a conflict of interest in the matter; or
 - ii. the process undertaken by the Chief Executive in making their decision was inadequate, unreasonable or unfair.
- d. **Decision of Board:** The Board shall undertake the review as soon as practicable and either:
 - i. confirm the Chief Executive's decision not to proceed with a charge/s of Misconduct; or

- ii. refer the matter back to the Chief Executive with directions to proceed with a charge/s of Misconduct in accordance with clauses 8.3g to 8.3j.
- e. **Decision final:** The Board's decision on such review is final.

8.5 Notice of Charge

- a. **Notice of Charge:** If the circumstances described in clause 8.3j or 8.4 apply, the Chief Executive shall as soon as practicable:
 - i. give written notice to the alleged Defendant of the charge(s) of alleged Misconduct including:
 - (a) the nature of the charge (together with copies of the specific rule or Regulation which is relied upon);
 - (b) the particular facts of the charge;
 - (c) their right to be heard and to be represented and to bring witnesses or call evidence at the hearing of the charges, (the time and date will be decided by the Judicial Tribunal);
 - (d) the next steps in the process (as described in these Regulations);

(referred to as the "Notice of Charge")
 - ii. give a copy of the Notice of Charge and the next steps to the Complainant, if applicable; and,
 - iii. refer the Notice of Charge (and all the information obtained in the Chief Executive's enquiries) to the Chairperson of the Judicial Tribunal.
- b. **Obligations of Chairperson upon receipt of Notice:** Upon receipt by the Chairperson of the Judicial Tribunal of any Notice of Charge(s), the Chairperson shall as soon as practicable:
 - i. decide on the members of the Judicial Tribunal who will hear and decide the charges (in accordance with clause 9.1c);
 - ii. notify the alleged Defendant, the Complainant (if applicable) and the Chief Executive of Athletics NZ of the Proceedings and of the proposed date and time at which a pre-hearing conference (if applicable) will be convened, under clause 8.6.

8.6 Pre-Hearing Conference

- a. **Pre-hearing Conference:** The Chairperson of the Judicial Tribunal shall normally convene a pre-hearing conference (usually held by telephone) as soon as practicable after he or she receives the Notice of Charge as set out in clause 8.5.
- b. **Purpose of pre-hearing conference:** The purpose of the pre-hearing conference is for the Chairperson of the Judicial Tribunal to decide the necessary directions to bring the matter to prompt hearing. Those directions will usually include:
 - i. directions for deciding any challenges to the jurisdiction of the Judicial Tribunal to hear and decide the Proceeding;
 - ii. directions as to the statements of evidence and submissions to be filed by the parties and the sequence and timing of such statements, along with any other relevant documents decided by the Tribunal and the manner in which evidence if any and documents are to be brought before the Tribunal;
 - iii. the date, time and place of any hearing;
 - iv. whether there are any other Interested Parties that should be notified of the Proceeding;
 - v. such other directions as may be necessary to bring the matter to an expeditious hearing.
- c. **Minute of decision to be issued:** The Chairperson of the Judicial Tribunal will issue a minute to all the parties of the decisions and directions made at the pre-hearing conference including, if applicable, the date, time and place for the hearing.

8.7 Provisional Suspension

- a. **Application:** Where a Notice of Charge has been issued, Athletics NZ may apply to the Chairperson of the Judicial Tribunal to impose a Provisional Suspension on the Defendant pending the determination of charge.
- b. **Imposition:** Upon an application made under clause 8.7a, the Chairperson of the Judicial Tribunal may impose a Provisional Suspension if he or she considers that the integrity of the sport could otherwise be seriously undermined.
- c. **Notification:** Any Provisional Suspension imposed under clause 8.7a will take effect from the date the Chairperson's decision is notified to the Defendant. At the same time as such notification, a copy of the decision to impose a Provisional Suspension on the Defendant shall be:
 - i. notified to Athletics NZ, the Defendant's Club and Associate Member (if applicable) and,

- ii. published on the Athletics NZ website, unless the Chairperson of the Judicial Tribunal decides otherwise.

8.8 Hearing

- a. **Hearing details:** The Judicial Tribunal will convene the hearing (if one is to be held in person) at the date, time, and place notified to the parties at or following the pre-hearing conference (as described in clause 8.6) to hear the charge(s).
- b. **Postponement:** The Judicial Tribunal may in its absolute discretion postpone any hearing by giving notice to the parties of the new hearing details.
- c. **Procedure:** The Judicial Tribunal shall determine its own procedure for the hearing and the Proceeding generally, in accordance with the principles of natural justice and the procedures as set out in this Regulation.
- d. **Power to inquire:** The Judicial Tribunal shall have the power to inquire into the subject matter of any Proceeding in accordance with this Regulation. For the purposes of any inquiry, the Tribunal, or any person authorised by it, may:
 - i. inspect and examine papers, documents, records or items;
 - ii. require any party or person bound by this regulation, and request any other person, to produce for examination any papers, documents, records or things in that persons possession or under that persons control and to allow copies of or extracts from any such papers, documents or records to be made;
 - iii. require any party or person bound by this Regulation, and request any other person, to furnish, in a form approved by or acceptable to it, any information or particulars that may be required by it, and any copies of or extracts from any such papers, documents or records;
 - iv. in respect of any Proceeding, hear evidence either of its own motion or upon application by any party, whether or not such evidence is new to the Proceeding;
 - v. make such inferences and draw such conclusions as it considers appropriate from the failure by any person or party to comply with any requirement or direction made by the Tribunal.
- e. **Proof of Facts:** Facts related to any Proceeding may be established by any reliable means including admissions.
- f. **Onus:** The onus of proof shall be on Athletics NZ to prove a charge of Misconduct.

- g. **Standard of Proof:** The standard of proof will be whether the commission of the charge(s) is proven to the comfortable satisfaction of the Tribunal. This standard of proof is greater than a balance of probability but less than proof beyond a reasonable doubt.

8.9 Proceedings May Be Joined

- a. **Joint hearing:** The Tribunal may, upon the application by Athletics NZ, where the facts relied upon are similar or arise out of the same circumstances, hear Proceedings under this Regulation jointly with proceedings before any other Athletics NZ Hearing Body specified under any other Regulation.
- b. **Modified procedure:** In such circumstances the procedure for the Proceedings under this Regulation may be modified to the extent necessary to enable the two proceedings to be heard together.
- c. **Decision making:** Notwithstanding any such joint proceeding, the decisions shall be made by the specified Hearing Body.

8.10 Decision

- a. **Charges proven or not proven:** Following the hearing, the Judicial Tribunal shall decide whether the charges are proven or not proven.
- b. **Not proven:** If the Judicial Tribunal decides that the charge is not proven, it will be dismissed.
- c. **Proven:** If the Judicial Tribunal decides that a charge is proven, or the Defendant admits the offence, then a sanction or penalty shall be decided in accordance with clause 8.11.
- d. **Decision made by majority:** The decision of the Tribunal shall be made by a majority decision of the members of the Tribunal hearing the Proceeding.
- e. **Issuing of decisions:**
 - i. The Tribunal may issue an oral decision at the completion of the hearing or reserve its decision.
 - ii. All decisions with reasons shall be issued in writing by the Tribunal to the parties to the Proceeding, as soon as practicable after the hearing, and no later than 14 days after the hearing, unless there are exceptional circumstances.
 - iii. Only after the relevant time limit for appeal (as set out at clause 10.3b) has expired and an appeal has not been made will the decision be published on

the Athletics NZ website. The parties shall be notified not less than 24 hours before the decision is published on the Athletics NZ website.

8.11 Sanctions and Penalties

- a. **Timing of decisions and sanctions:** The decision about the charge(s), and the imposition of any sanction or penalty, will normally be made at the same time, unless the Judicial Tribunal considers that there are circumstances that require that question of any sanction or penalty to be delayed until a later date.
- b. **Submissions:** All parties to the Proceeding, shall be provided with an opportunity to make submissions on any sanction or penalties.
- c. **Sanctions and penalties:** The Judicial Tribunal may impose any sanction or penalty on the Defendant as it sees fit, including without limitation:
 - i. an order that a sum of money, whether by way of fine, compensation or reparation, be paid to any person;
 - ii. suspension or ban from participation in all, or specified, Athletics activities for a period of time;
 - iii. suspension or termination of the person's membership of a Club, Associate Member and/or Athletics NZ;
 - iv. an order that the Defendant undertake, or refrain from undertaking, any particular activity in respect of Athletics, Athletics NZ or any competitions;
 - v. the requirement for the Defendant to attend any kind of corrective training or course, and for a report to be received back regarding the successful completion of the same;
 - vi. a written warning;
 - vii. a requirement for an apology or acknowledgement to be given in stipulated terms;
 - viii. fines, imposed in such manner and in such amount as the Judicial Tribunal thinks fit;
 - ix. such other penalty as the Judicial Tribunal considers commensurate with the offence; and/or,
 - x. such combination of any of the above penalties as the Judicial Tribunal thinks fit.

- d. **Recommendations:** In addition to imposing any sanction or penalty under clause 8.11c, the Judicial Tribunal may make recommendations to the Board regarding:
 - i. the suspension or end of membership of the Defendant (under Rule 13.4a of the Constitution); or,
 - ii. any rule, policy or practice of Athletics NZ arising out of a Proceeding under this Regulation.

9. Athletics NZ Judicial Tribunal

9.1 Appointment of Tribunal Members

- a. **Members appointed:** There shall be a Tribunal comprising at least 5 members appointed by the Board, from which a panel (as specified in clause 9.1c) shall be convened for each Proceeding (in accordance with clause 9.1c).
- b. **Experience/competencies:** At least three of the Tribunal members must have at least 10 years legal experience ("Legal Members") and the others should, if possible, have one or more of the following competencies:
 - i. prior experience as a member of a disciplinary or judicial tribunal, preferably in relation to Athletics or another sport; or,
 - ii. extensive knowledge of the sport of Athletics.
- c. **Ineligibility:** No person who holds any of the following positions may be a member of the Tribunal governed by this Regulation, unless otherwise agreed by the Board:
 - i. a Board Member;
 - ii. a board member of an Associate Member or a Member Club; or,
 - iii. an employee of Athletics NZ, an Associate Member, or a Member Club.
- d. **Term:** Subject to clause 9.2, a member of the Tribunal shall hold office for the term specified by the Board, which may not exceed four years. A member of the Tribunal may be reappointed for successive terms of office by the Board.
- e. **Concurrent roles:** A member of the Tribunal may hold that office concurrently with any other role in Athletics, subject to clause 9.1c.
- f. **Other appointments:** Members of the Tribunal may also be appointed as members of the Athletics NZ Integrity Tribunal (under the Athletics NZ Anti-Match Fixing Regulation), or to the Athletics NZ Ethics Commission (under the Athletics NZ Code of Ethics Regulation) or to any other Hearing Body appointed by Athletics NZ.

- g. **Decline to participate:** A member of the Tribunal shall decline to participate in a Proceeding or withdraw from any matter to which he or she has been appointed in any of the following circumstances:
 - i. if he or she has a direct or indirect interest in the matter;
 - ii. if he or she has already dealt with the case in a different function or capacity;
 - iii. if he or she has previously expressed an opinion about the matter or its outcome;
 - iv. if there are any other serious grounds for questioning his or her independence or impartiality in the matter.
- h. **Notification:** Members of the Tribunal who decline to participate in or who are required to withdraw from a matter shall notify the Chairperson of the Tribunal immediately.

9.2 Termination

- a. **Notice:** A member of the Tribunal may, at any time, resign his or her office by giving not less than 14 days' notice in writing to the Chief Executive.
- b. **Vacation:** A member of the Tribunal is deemed to have vacated his or her office if he or she dies, is adjudged bankrupt or is convicted of an offence punishable by a term of imprisonment of two or more years (whether or not that term of imprisonment was imposed), unless he or she has obtained a pardon.
- c. **Removal:** A member of the Tribunal may, at any time, be removed from office by the Board for inability to perform the duties of office, neglect of duty or misconduct proved to the satisfaction of the Board. Such member shall be given a reasonable opportunity to be heard before the Board makes a decision to remove them from the Tribunal.
- d. **Powers not affected:** The powers of the Tribunal are not affected by any vacancies in the membership of the Tribunal.

9.3 Expenses

Athletics NZ will pay for, or reimburse Members of the Tribunal for reasonable travelling and other expenses incurred in the course of performing its duties as a member of the Tribunal, provided that such expenses have been approved in advance. The Board may in its discretion remunerate a member of the Tribunal for services provided.

9.4 No personal liability

No member of the Tribunal will be personally liable for any act done or omitted to be done by the Tribunal or any member of it, if done in good faith in pursuance or intended pursuance of the functions, duties, powers or authorities as specified in this Regulation.

9.5 Functions of the Athletics NZ Judicial Tribunal

The functions of the Judicial Tribunal are to:

- a. hear and decide charges of Misconduct under this Regulation;
- b. hear and decide Appeals from decisions of Member Clubs and Associate Members in accordance with clause 10;
- c. hear and decide any other Disputes involving members of Athletics NZ:
 - i. that are not within the jurisdiction of a Member Club, Associate Member or any other Hearing Body; and,
 - ii. where the parties agree in writing.
- d. hear and decide any Dispute referred to it by Athletics NZ following intervention by it under clause 6.6;
- e. hear and decide any jurisdictional or other procedural issues related to any Proceeding or Appeal; and,
- f. do all other things necessary to comply with and implement this Regulation.

9.6 Administration of the Athletics NZ Judicial Tribunal

- a. **Chairperson:** The Board will appoint one of the Legal Members of the Judicial Tribunal as the Chairperson of the Tribunal for a period of 12 months. Such position may be renewed by the Board during the Member's term of office on the Tribunal.
- b. **Deputy Chairperson:** The Board may also appoint one of the Legal Members of the Judicial Tribunal as Deputy Chairperson for a period of 12 months. Such position may be renewed by the Board during the Member's term of office on the Tribunal.
- c. **Panel:** For each Proceeding or Appeal, a Panel of no less than one, and no more than three, members from the Judicial Tribunal shall be allocated by the Chairperson (or in their absence, the Deputy Chairperson). At least one of the panel (including where only one member is allocated to a Proceeding) shall be a Legal Member and shall chair the panel in the Proceeding or the Appeal.
- d. **Registrar:** Athletics NZ shall appoint a Registrar of the Judicial Tribunal to support the administration of the Tribunal. The Registrar shall act under the authority of the Chairperson of the Judicial Tribunal. The Registrar may be an employee of Athletics

NZ however all information and documents related to all Proceedings or Appeals shall be held separately and confidentially from the any other employee or person acting for or on behalf of Athletics NZ, except to the extent permitted by the Chairperson and the decisions of the Tribunal.

- e. **Budget:** Athletics NZ shall allocate a reasonable budget to the Judicial Tribunal to enable it to adequately carry out its functions. The Chairperson shall be authorised to approve all expenditure within the approved allocation of budget to the Tribunal.

10. Appeals to Athletics NZ Judicial Tribunal

10.1 Right of Appeal

- a. **Requirements:** The Judicial Tribunal may hear and decide Appeals against any decision of an Associate Member or a Member Club involving misconduct (however defined) by a person if:
 - i. the constitution, rules or regulation of the Associate Member or Member Club expressly provide for a right of Appeal to Athletics NZ;
 - ii. there is no right of Appeal to a Hearing Body expressly provided for in any other Regulation of Athletics NZ;
 - iii. all avenues for resolving the Appeal under the constitution, rules or regulations of the Associate Member or Member Club have been exhausted;
 - iv. the Appeal is made on one or more of the grounds listed in clause 10.2; and,
 - v. the procedure for notifying the Appeal under clause 10.3 is complied with.

10.2 Grounds of Appeal

- a. **Accepted grounds:** The grounds for an Appeal to the Judicial Tribunal shall be those set out in the constitution, rules or regulations of the applicable Associate Member or Member Club. In the absence of any such grounds, the grounds shall only be one or more of the following:
 - i. that natural justice was denied;
 - ii. that the decision maker or decision making body acted outside of its powers and or jurisdiction i.e. acted ultra vires;
 - iii. that substantial new evidence became available after the decision which is being Appealed was made;

- iv. that in the case of a decision relating to misconduct, the sanction or penalty was excessive or inappropriate.

10.3 Notice of Appeal

- a. **File and serve:** A person who has the right to Appeal a decision of an Associate Member or a Member Club under clause 10.1, and who wishes to Appeal that decision ("Appellant") shall file and serve on Athletics NZ a notice of Appeal in the form prescribed by Athletics NZ ("Notice of Appeal") and pay the filing fee (set out in clause 11.2).
- b. **Time limit:** The Notice of Appeal shall be filed with the Chief Executive within the time limit set out in the applicable constitution, rules or regulations of the Associate Member or Club. In the absence of such time limit, it shall be filed no later than 30 days after the day on which the Appellant was notified of the decision against which the Appeal is made.
- c. **Referral:** The Chief Executive shall refer the Notice of Appeal to the Chairperson of the Tribunal as soon as practicable after receiving it.
- d. **Serving the original decision maker:** A copy of the Notice of Appeal must also be served on the Associate Member or Club that made the original decision ("Respondent"), and the Appellant must provide the Chief Executive with confirmation of such service.

10.4 Appeal Brief

Within 10 days of filing the Notice of Appeal, the Appellant must then file and serve on the Respondent, a detailed statement of the grounds and facts supporting the Appeal ("Appeal Brief") in the form prescribed by Athletics NZ.

10.5 Statement of Defence

- a. **Process:** Within 14 days of receiving the Appeal Brief, the Respondent shall file with the Chief Executive and serve on the Appellant, a statement of defence in the form prescribed by Athletics NZ.
- b. **Failure to file:** If the Respondent fails to file such statement of defence within the prescribed time, or such extended time as given by the Tribunal, the Tribunal may proceed with the Appeal and issue its decision.

10.6 Pre-hearing Conference

- a. **Timing:** The Chairperson of the Tribunal shall normally convene a pre-hearing conference for each Appeal (usually held by telephone) as soon as practicable after he or she receives the Notice of Appeal as set out in clause 10.3.
- b. **Purpose:** The pre-hearing conference will be held for the same purposes as set out in clause 8.5 with such modifications as the Chairperson considers necessary for an Appeal. For example, additional documents may be directed to be filed such as the transcript, if available, of the hearing at which the original decision being appealed from was made, along with copies of witness statements produced to that hearing and any other relevant documents which were before the hearing body which made the decision being appealed.

10.7 Appeal Hearing

- a. **Hearing details:** If a hearing of the Appeal is to be held, it shall be held in the same manner as set out in clause 8.8, with any such modifications as the Chairperson considers necessary for an Appeal.
- b. **Evidence:** The Judicial Tribunal has discretion to admit new evidence and may also rehear the evidence by way of an Appeal de novo.
- c. **Information from previous hearing:** If directed, the parties may be required to place before the Judicial Tribunal the transcript (if any) of the hearing at which the decision appealed from was made, copies of any witness statements produced to that hearing, and all other relevant documents which were before the body which made the decision being appealed.
- d. **Onus of proof:** The onus of proof in an Appeal, shall be on the Appellant.

10.8 Decision

- a. **Decision guidance:** The decision of the Judicial Tribunal in an Appeal shall be given in accordance with the applicable constitution, rules or regulations of the Associate Member or Club as applicable.
- b. **Tribunal powers:** Unless such constitution, rules or regulations expressly or impliedly provide otherwise, the Judicial Tribunal may make any decisions that the body of the Associate Member or Club being appealed from, was capable of making in the original matter, or may, if it considers appropriate, refer the matter back to the Associate Member or Club, for further consideration, with such directions, if any, which the Judicial Tribunal decides to give.
- c. **Other orders:** If the Appeal is allowed, the Judicial Tribunal, in addition to making its decision may make such other orders as it considers appropriate to give effect to its decision, including imposing any one or more of the orders set out in clause 8.11.

- d. **Recommendations:** The Judicial Tribunal, whether or not it allows or dismisses an Appeal, may make recommendations to Athletics NZ and or the Associate Member or Club concerned on changes to any applicable rule, policy or procedure, arising out of an Appeal.

10.9 Stay of Execution

Pending the determination of an Appeal before it, the Judicial Tribunal may, after hearing from the parties, grant a stay of execution of the decision which is being appealed.

10.10 No Further Right of Appeal

- a. **No right:** There shall be no further right of appeal from a decision of the Judicial Tribunal in relation to an Appeal.
- b. **Final and binding:** A decision in an Appeal shall be final and binding and shall not be questioned in any court or tribunal, except where the Judicial Tribunal and the parties expressly agree to do so in writing.

11. Other Procedures

11.1 Interested Parties

- a. **Interested Party:** The Judicial Tribunal may, either on its own motion or on the application of a person to whom the Tribunal determines has sufficient interest in the matter, add a further person or persons ("Interested Party") as parties to a Proceeding or an Appeal, or allow a person or persons to make submissions or provide evidence in any Proceeding or Appeal.
- b. **Regulations binding on Interested Party:** If this occurs, that person will be bound by these Regulations as if that person was a party to the Proceeding or Appeal.

11.2 Filing Fees

- a. **Fee for Proceeding:** The filing fee for a Proceeding is \$250 (incl GST), which amount may be adjusted from time to time by the Board. The Judicial Tribunal may, in its discretion, waive all or part of any fee if it considers it appropriate to do so in the circumstances.
- b. **Fee for Appeal:** The filing fee for an Appeal is \$500 (incl GST), which amount may be adjusted from time to time by the Board. The Judicial Tribunal may, in its discretion, waive all or part of any fee if it considers it appropriate to do so in the circumstances.

11.3 Evidence

In any Proceeding or an Appeal, the Tribunal may:

- a. **Form:** receive as evidence any statement, document, information or matter that may, in its opinion, assist it to deal effectively with matters before it, whether or not the same would be admissible in a court of law;
- b. **Witness:** permit a person appearing as a witness before it to give evidence by tendering a written statement.

11.4 Representation

The parties, including any Interested Party, may be represented or assisted in any Proceeding or an Appeal by a person of their choice. The name, address, email address, and telephone numbers of the person representing a party shall be communicated to the Chief Executive in advance of any hearing in which the representative is to act for the party.

11.5 Minors

- a. **Party:** A person who has not attained the age of 18 years (referred to as a "Minor") may be a party to, and shall be bound by, a Proceeding or Appeal before the Judicial Tribunal as if the Minor were a person of full age and capacity.
- b. **Representative:** Where a Minor is a party to any Proceedings or an Appeal, the Minor may appoint a representative or the Judicial Tribunal may, if the Minor agrees and the Tribunal considers it would be in the interests of the Minor to do so, appoint a person at any time to represent the Minor.

11.6 Confidentiality

A Proceeding or Appeal brought under this Regulation shall usually be private and confidential but the Judicial Tribunal shall have the discretion to hold a hearing in public if it considers there are exceptional circumstances which warrant it doing so, or, if the parties so agree. Unless the Tribunal directs otherwise, only the decision in any Proceeding or Appeal will be published, including on the Athletics NZ website.

11.7 Media

The media shall not be permitted to be present at or attend any hearing.

11.8 Applicable Law

All Proceedings and Appeals shall be determined according to the laws of New Zealand.

11.9 Time rules

- a. **Fixture:** Where this Regulation fixes a day within a time period for doing any act or taking any step in a Proceeding or an Appeal then such act or steps shall be taken by 5:00pm (New Zealand time) on that day, unless determined otherwise by the Judicial Tribunal before or after the time stipulated.
- b. **Extension:** The Chairperson or Deputy Chairperson, in their discretion, may extend or in urgent situations, abridge, the time period for doing any act or taking any step in a Proceeding or Appeal on such terms (if any) as that person thinks just. This discretion may be exercised even if the application for an extension is made after the expiration of the time appointed or fixed.
- c. **Specified time periods:** The power to extend or abridge time limits shall not allow the Chairperson or Deputy Chairperson to alter a time period specified in the constitution, rules or regulations of an Associate Member or Club unless there is a provision in the constitution, rules or regulations permitting the Judicial Tribunal to grant such alteration or unless the parties agree to such extension or abridgement.

11.10 Service of Document

- a. **Service:** Every document which is filed with the Judicial Tribunal shall also be served on all other parties in the Proceeding or Appeal (including Interested Parties) at the address for service notified by that party in its documents filed in the Proceeding or Appeal. If an Interested Party has not notified such an address, service shall be at the last known address of that party.
- b. **Method:** Documents to be filed with the Judicial Tribunal, or served on a party, shall be sent by email, courier, post or delivered in person.
- c. **Effect:** Where a document is served on a party or person, the document shall be deemed to have been served as follows:
 - i. If delivered in person between the hours of 9:00am and 5:00pm, then on that day, and if such delivery is outside of these hours, then delivery is deemed to be the next day;
 - ii. If posted then on the earlier of the 5th day after the day on which it was posted or the day on which it was received;
 - iii. If transmitted by email, then on the day on which it was transmitted, unless such transmission occurred after 5:00pm in which case it shall be deemed to be the next day.

11.11 Costs

- a. **Orders:** The Judicial Tribunal may order costs against any party to a Proceeding or an Appeal to pay to any other party such costs and expenses (including filing fees) that the Judicial Tribunal thinks fit.
- b. **Enforcement:** Unless the Judicial Tribunal directs otherwise, any costs awarded shall be paid within 21 days of the Tribunal's decision as to costs. The party in whose favour the costs have been ordered or Athletics NZ (as the case may be), may enforce payment of the costs as a contractual debt in the District Court.

11.12 Decisions

- a. **Majority:** A decision of the Judicial Tribunal in any Proceeding or Appeal shall be made by majority decision of the Tribunal members allocated to hearing the Proceeding or Appeal. In the event there is only one Tribunal member hearing a Proceeding or Appeal, or there is no majority decision in any Proceeding or Appeal, the Chairperson of the Proceeding or Appeal shall decide the matter.
- b. **Written decision:** The Judicial Tribunal may, in its discretion, given an oral decision but shall also issue a written decisions with reasons as soon as practicable.
- c. **Recommendations:** The Judicial Tribunal may also make non-binding recommendations to Athletics NZ an Associate Member, a Member Club or any other party to any Proceeding or Appeal.
- d. **Enforceable:** Any decision of the Judicial Tribunal made under this regulation, shall be enforceable by any party to the Proceeding or Appeal in which the order is made, in the courts of New Zealand under the law of contract.

11.13 Correction

If any decision of the Judicial Tribunal contains a clerical mistake or an error arising from any accidental slip or omission, the decision may be corrected by the Tribunal.

11.14 Rehearing

The Judicial Tribunal may order a rehearing of any Proceeding or Appeal, if in its opinion, there has been a miscarriage of justice that justifies a rehearing.

11.15 General

Where any matter is not otherwise provided for in this Regulation, the Judicial Tribunal shall have the jurisdiction to make such orders or give such directions as it considers to be consistent with the just, speedy and inexpensive determination of the Proceeding or the Appeal.

12. Mediation

12.1 Negotiate in good faith

As a general principle, before any person with a grievance, concern or dispute commences any Proceeding or an Appeal under this Regulation, the persons concerned are encouraged to attempt to resolve the grievance, concern or dispute, by negotiating in good faith with each other.

12.2 Mediation encouraged

If such negotiation does not result in an agreed resolution, then, subject to clause 12.3, the persons concerned are encouraged to attend mediation to assist the resolution of the grievance, concern or dispute.

12.3 Allegations may be referred to mediation:

The Chief Executive may refer an allegation of Misconduct arising out of a complaint or other information received under clause 8.3 to mediation if:

- a. **Enquiries:** having undertaken enquiries in accordance with clause 8.3b and 8.3c, the Chief Executive considers there may be an alleged offence of Misconduct and reasonably considers the allegations might reasonably be resolved by mediation; or
- b. **Board directive:** the Board directs the Chief Executive, under clause 8.4, to proceed with charges of Misconduct and the Chief Executive reasonably considers the allegations might reasonably be resolved by mediation

12.4 Parties required to attend mediation

If the Chief Executive decides to refer the allegation of Misconduct to mediation under clause 12.3, the parties concerned will be required to attend mediation before the matter proceeds any further.

12.5 Order parties to mediate

In addition to any referral to mediation described in clauses 12.2 or 12.3, the Judicial Tribunal may, if requested by the parties, or of its own volition, order that the parties attend mediation to attempt to resolve a matter or matters(s) in any Proceeding or Appeal.

12.6 In any mediation:

- a. **Mediator:** It shall be held before a suitably qualified independent mediator (who shall not be a member of the Judicial Tribunal), appointed by the parties by agreement, or failing agreement, by the Chief Executive;

- b. **Timeframe:** It shall be held as soon as practicable, usually within 10 days of the agreement or referral to mediation, unless agreed by the parties; and,
- c. **Costs:** The costs of the mediator and venue costs shall be shared equally between the parties.

12.7 Parties to bear own costs

The parties shall bear their own legal and other costs (such as travel and accommodation) associated with attending a mediation.

13. Other Disciplinary Rules

13.1 Nothing in this Regulation waives, limits or varies:

- a. **Rights under regulations:** the rights under any other Regulation where there is a procedure for hearing and deciding offences that are not offences of Misconduct;
- b. **Rights to terminate membership:** the rights of the Board to terminate membership of Athletics NZ under the constitution;
- c. **Rights under agreements:** any rights that Athletics NZ has under any agreement it has with Members, employees, Athletes, Athlete Support Personnel, Athletics NZ Officials and other persons appointed by Athletics NZ (such as agreements it has with athletes representing New Zealand);
- d. **Employment law entitlements:** any entitlements at law or under any employment agreement or contracts, to investigate, suspend or terminate an employee's employment or contractors agreement;
- e. **Rights to determine process:** the rights of an Associate Member or a Member Club to determine their own judicial and disciplinary processes, provided such procedures comply with and are not inconsistent with the Constitution and the Regulations.

14. Appeals of Decisions of the Athletics NZ Judicial Tribunal

14.1 Appeal of Proceeding decision

A decision of the Judicial Tribunal in any Proceeding (but not in any Appeal) may be appealed by any party to the Sports Tribunal.

14.2 Appeal to the Sports Tribunal

An appeal to the Sports Tribunal must be made within 5 days of the party appealing receiving the decision of the Judicial Tribunal.

14.3 Grounds for appeal

An appeal under this clause may only be made on the following grounds:

- a. that natural justice was denied;
- b. that the Judicial Tribunal acted outside of its powers and or jurisdiction i.e. acted ultra vires;
- c. that the sanction or penalty was excessive or inappropriate.

14.4 Rules of Appeal

The rules for any such appeal shall be as set out in the rules of the Sports Tribunal.

14.5 No further right of appeal

There is no further right of appeal beyond the decision of the Sports Tribunal.

15. Interpretation and Definitions

15.1 Inconsistency

- a. To the extent of any inconsistency between this Judicial Regulation and the Athletics NZ's Constitution, the applicable provisions of the Athletics NZ's Constitution shall prevail.
- b. Athletics NZ has other rules, policies and Regulations covering judicial and disciplinary matters including those referred to in clause 4.2. To the extent of any inconsistency between this Regulation and those other rules, policies and Regulations, the applicable provisions of this Regulation shall prevail.

15.2 Same meaning as Constitution

The words and phrases used in this Regulation shall have the same meaning as defined in the Constitution, unless specified otherwise.

15.3 Definitions

The additional words and phrases used in this Judicial Regulation shall have the meanings given to them in this Judicial Regulation and as follows:

Appeal has the meaning described in clause 10.

Appeal Brief has the meaning described in clause 10.4.

Appellant has the meaning described in clause 10.3a.

Athletics NZ Official has the meaning described in clause 6.5d.

Competition Held By or Under the Auspices of Athletics NZ means an Athletics competition arranged, hosted or controlled by Athletics NZ, including, but not limited to, the following seniors and age group events:

New Zealand Combined Events Championships;
New Zealand Cross Country Championships;
New Zealand Half Marathon Championships;
New Zealand Long Distance Championships;
New Zealand Marathon Championships;
New Zealand Mountain Running Championships;
New Zealand Road Championships;
New Zealand Road Relay Championships;
New Zealand Track & Field Championships;
New Zealand 10,000m Championships;
New Zealand 100km Championships;
New Zealand 24 Hour Championships;
New Zealand 3000m Championships; and,
New Zealand Trail Running Championships.

Complainant has the meaning described in clause 8.2a.

Commencement Date means the date this Regulation commences as described in clause 3.1.

Defendant means the person against whom the allegation of Misconduct is made.

Harassment has the meaning set out in clause 6 of the Member Protection and Anti-Harassment Regulation.

Interested Party has the meaning given to it in clause 11.1.

Judicial Tribunal and **Tribunal** mean the tribunal described in clause 9.

Legal Members means the members of the Judicial Tribunal with the requisite legal experience described in clause 9.1b.

Minor has the meaning described in clause 10.5.

Misconduct has the meaning described in clause 6.1.

National Representative has the meaning described in clause 5.5c.

Notice of Appeal has the meaning described in clause 10.3a.

Notice of Charge has the meaning described in clause 8.5a.

Participant has the meaning described in clause 6.5e.

Proceeding means proceedings to hear and determine a charge of Misconduct which shall commence upon the issue of a Notice of Charge (under clause 8.5) and end upon the decision of the Tribunal (under clause 8.10).

Provisional Suspension means the person is barred temporarily from participating in any competition or activity prior to the final decision at a hearing conducted under these Regulations.

Regulation means this regulation, unless specified otherwise.

Respondent has the meaning described in clause 10.3d.

Sports Tribunal means the Sports Tribunal of New Zealand established under the Sports Anti-Doping Act 2006 (www.sportstribunal.govt.nz).

APPENDIX 1 – OVERVIEW OF ATHLETICS NZ JUDICIAL SYSTEM

Matter	Applicable Regulation	Hearing Body/ies	Appeal Body
In Competition - Protests /Disputes re Conduct of Championship	Competition Regulation (eg C3.9)	Committee (Technical Delegate as Chairperson and 2 Board Members)	Athletics NZ Board
In-Competition - Protests /Disputes re Technical Rules	Competition Regulation and IAAF Competition Rules (CR)	If athlete eligibility, Technical Delegate (CR 146.1) If results/conduct of event, Referee (CR 146.2)	Jury of Appeal Jury of Appeal
Anti-doping violations	Integrity Regulation – Part 3 – Anti-Doping	Sports Tribunal If International Level Athlete then IAAF Doping Review Board	CAS CAS
Match Fixing, Betting, Corruption and other Integrity Violations	Integrity Regulation – Part 4 – Anti-Match Fixing	Athletics NZ Integrity Tribunal	Sports Tribunal
Code of Ethics Violations	Integrity Regulation – Part 2 Code of Ethics	Athletics NZ Ethics Commission	IAAF Ethics Commission
Misconduct	Judicial Regulation Member Protection and Anti-Harassment Regulation	Chief Executive Judicial Tribunal	Sports Tribunal
Other Disputes	Judicial Regulation	Judicial Tribunal	Sports Tribunal
Appeals from Decisions of Clubs/Centres	Judicial Regulation	Judicial Tribunal	No appeal

APPENDIX 2 – ATHLETICS NZ CODE OF CONDUCT

Athletics NZ will approve from time to time specific codes of conduct relating to the roles of various individuals and organisations that are subject to this Regulation. Such current Codes of Conduct shall be posted on the Athletics NZ website or in the case of NZ athletics teams issued to the athletes directly, from time to time and shall be deemed to be incorporated within this Regulation.

In addition to any specific code of conduct all Athletics NZ representatives and Members are expected to:

- Demonstrate through words and actions the spirit of sportsmanship, sports leadership and ethical conduct.
- Treat others with respect and refrain from negative or disparaging remarks or conduct.
- Not knowingly place themselves in a situation that could give rise to a conflict between personal interests and the interests of Athletics NZ.
- Comply at all times with the bylaws, policies, rules and regulations of Athletics NZ as adopted and amended from time to time, including the Athletics NZ Safe Sport for Children Regulation, the Member Protection and Anti- Harassment Regulation and the Integrity Regulation (including Anti-Doping and Anti Match-fixing), as well as complying with any contracts or agreements executed with or by Athletics NZ (collectively, the “Rules”).
- Respect basic human rights; that is, the equal rights of every person involved in athletics, including the athletes, with no discrimination, whether on the grounds of gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, birth or other status
- Refrain from the use or consumption of any illegal products while a member of an Athletics NZ team or representative, where illegal is defined as prohibited by the Rules or by the laws of New Zealand and prohibited by the laws of all countries to which officials may travel as part of an Athletics NZ team or as an Athletics NZ representative.
- Refrain from consuming alcohol and not publicly use tobacco products when involved in Athletics NZ competitive events, and consume these products responsibly in association with Athletics NZ social events.
- Conduct all events according to the rules of the IAAF and Athletics NZ with the integrity of the sport and each athlete’s performance in mind.
- Work in a spirit of cooperation with others, assisting less experienced colleagues, and refraining from public criticism of others.
- Refrain from, and refuse to tolerate in others, any form of harassment or abuse be it physical, verbal, mental or sexual of athletes, officials and other people involved in athletics.
- Not act in any way that brings the sport of athletics, Athletics NZ, the IAAF or any other member organisation into disrepute.
- Acknowledge and respect the IAAF and Athletics NZ Rules of Competition. This respect should extend to the spirit as well as to the letter of the rules to ensure fairness of competitive opportunity between all athletes.
- At all times, be honest and act in the best interests of athletics.
- Follow any specific codes of conduct as outlined for example for a member of a NZ Team where an event specific Code of Conduct will be in force.
- Commit to ongoing development and maintaining currency of membership. Seeking a standard of excellence, constantly improving and incorporating the best knowledge and research in your field in order to get better at what you do every single day.

- Undertake a positive and active leadership role to prevent any use of prohibited drugs or other disallowed performance enhancing substances or practices. This includes education of the athletes of the harmful effects of prohibited substances and practices.
- Work collaboratively with and show respect of all individuals and agencies that could play a role in the development of the athletes and athletics in general.
- Always consider the physical and emotional well-being of an athlete (including age and stage appropriate training and competition) and place these needs ahead of any other concerns, such as competition or training.

Any breach of this Code will be dealt with in accordance with the disciplinary procedures of Athletics NZ under its constitution and regulations which may include suspension or expulsion from membership.