

# **TRIBUNAL PROCEDURE**

Interpretation Of Tribunal Procedure & General Assistance  
In This Section Can Be Obtained From:

Executive Officer  
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## **Part 1 Jurisdiction and Establishment of Tribunals**

### **1. Adoption of By-law**

- 1.1 This By-law is made under the Constitution of the SA Country Basketball Council Inc. and comes into operation on 21 August 2004 and is binding on all members of affiliated Associations and other persons or organisations which submit themselves to the jurisdiction of the affiliated Association and SA Country Basketball Council.
- 1.2 Any and all By-laws of the affiliated Association previously made concerning Tribunals are expressly rescinded. For the avoidance of doubt, all penalties handed down under previous disciplinary by-laws shall continue to be recognised by the Association and SA Country Basketball Council Inc.

### **2. Authority of Tribunal**

- 2.1 The SA Country Basketball Council (the Council) has the power under its constitution to hear and determine charges made against persons, affiliated associations, teams or clubs arising from or related to basketball activities, matches and competitions conducted by:
  - (a) the Council itself; or
  - (b) its Affiliated Associations  
(referred to in this By-law as "Organising Bodies").

- 2.2 The Council and each affiliated association has the right to delegate the power of hearing and determining charges to the Council or affiliated association tribunal ("Tribunal") in accordance with the provisions of this By-law.
- 2.3 Where a matter arises for determination by a Tribunal it shall be dealt with at first instance by the Tribunal of the relevant affiliated association. Where an affiliated association has not convened a Tribunal in accordance with these By-law matters may be referred to the Council Tribunal through the Executive Officer of the Council.
- 2.4 The Tribunal shall have power to suspend, disqualify, reprimand, fine, bond, ban or otherwise deal with any person involved with basketball and / or the Organising Body (including, but not limited to players, coaches, teams, clubs, officials or spectators) in accordance with this By-law, regarding any incident arising from an activity conducted by the Organising Body. The incident may have occurred before, during or after the conduct of the activity, within the confines of the stadium, activity venue or its immediate surrounds or elsewhere if directly related to a basketball activity of any sort.
- 2.5 The Tribunal may also deal with any other disciplinary matter delegated to it for adjudication by the Organising Body, including behaviour that is basketball related and occurs or utilises a technological medium such as:
- a. Mobile phones;
  - b. Email or Instant Messaging services (including SMS);
  - c. Internet forums;
  - d. Internet social networking sites (such as, but not limited to, Facebook, Twitter);
  - e. Other technologies that are a means of communication.
- 2.6 The Tribunal must at all times act independently and impartially in carrying out its duties in accordance with this By-law.
- 3. Membership of Tribunal**
- 3.1 The Tribunal panel shall be appointed by the Organising Body each year immediately after their AGM or as required and shall comprise of the following persons:
- (a) a Tribunal chairperson who shall be a person of experience and skills suitable to the function of chairing the Tribunal and discharging the responsibilities set out under Clause 4.1;
  - (b) no fewer than two Tribunal members in addition to the chairperson.
- 3.2 Where a Tribunal chairperson or Tribunal member resigns or is dismissed such that a vacancy exists on the Tribunal, the management committee of the Organising Body shall act to fill such vacancy by appointing a replacement for that position as soon as is reasonably practical to do so.
- 3.3 No Tribunal decision shall be invalidated by any irregularity in the appointment of a Tribunal member.

**4. Responsibilities of Tribunal chairperson**

- 4.1 Without limiting the duties of the Tribunal chairperson as set out under the various clauses of this By-law, a person appointed to the position of Tribunal chairperson is to ensure that the following tasks are carried out:
- (a) chair hearings of the Tribunal or to ensure that such task is delegated to a member of the Tribunal;
  - (b) raise with any proposed Tribunal member any potential or possible conflict of interest which may arise from time to time.
  - (c) that accurate records are kept of all of the Tribunal's proceedings and decisions;
  - (d) communicate to the Organising Body the results of hearings of the Tribunal.

**5. Records of Tribunals Findings**

- 5.1 A "Notice Of Findings Of Tribunal" Form (**Appendix A**) is to be used by Tribunals for the purpose of recording their findings and decisions.

**6. Convening Tribunal hearings**

- 6.1 The Tribunal will be convened to hear charges arising from a report as soon as is practicable, preferably prior to the next round of matches in which the reported person/team is participating.
- 6.2 Notification of persons charged under this By-law shall include details of the day, time and place of the Tribunal hearing at which the charge will be heard in accordance with Part 3 of this By-law and must be provided a reasonable period prior to such hearing.

**Part 2 Reports and Notifications****7. Reports by officials**

- 7.1 Game officials and any Organising Body official who has been so empowered by the Organising Body, shall be entitled to report any person, team or club which, in the opinion of the official has committed an offence under this By-law.

**8. Investigations**

- 8.1 Where an Organising Body or an official of an Organising Body believes an offence may have been committed or the Organising Body receives a letter of complaint, but no report has been made, the Organising Body may investigate, or appoint a person to investigate, the alleged offence and if after the investigation it or the person appointed to investigate recommends that a report should be made, the Organising Body or the person appointed by it may make a report.

**9. Duties of officials making a report**

- 9.1 An official who makes a report under clauses 7.1 or 8.1 shall enter the details of the alleged offence(s) on the report form (**Appendix B**) as soon as possible (but in any case

within 4 days) after the match or investigation, noting all the particulars in connection with the report so that a clear account can be given to the Tribunal when the report is dealt with.

- 9.2 An official who makes a report under clauses 7.1 or 8.1 shall lodge the report form with the person nominated by the Organising Body to take charge of reports at the venue on the day of competition as soon as possible after the game/incident and on the same day if the report resulted from a game. If that is not possible, to leave the report at the stadium or Association office, marked to the attention of that person, as soon as possible (but in any case within 4 days) after the activity.
- 9.3 The Organising Body official receiving the report under clauses 7.1 or 8.1 shall ensure that the charged person, team or club as well as any other person involved in the report and all other match officials receives a copy of the report form after the report is made.
- 9.4 If the Organising Body official is not able to give the report form to the reported person, team or club after the game as they have left the particular venue the report shall be passed on to the Organising Body Hearings Officer or their appointee (see clause 10.1) so that, within 24 hours, the report can be sent by the next available mail or handed to the player/team/club subject to the report and a copy sent to the nominated representative of the team/club concerned. In the case of a report resulting from an investigation or charge laid by a Tribunal the report form shall be passed on within 24 hours of being raised.

## **10. Duties of Organising Body receiving a report**

- 10.1 The Organising Body shall nominate officer(s) as mention under clause 9.2. The Organising Body shall also appoint a Hearings Officer to handle all administration of reports for the Organising Body. The officer to whom this responsibility is delegated under this clause may hold another position within the Organising Body.
- 10.2 The Organising Body shall require each team entered in competitions to designate on the entry form the telephone number of the team secretary, or manager, to be used for notification of reports.
- 10.3 The Organising Body shall maintain lists of names, addresses and telephone numbers of all officials registered with the Organising Body.
- 10.4 The Hearings Officer designated under clause 10.1 shall have the following duties:
- (a) to recommend to the Organising Body the venue, time and day of the week to be set aside for hearings of the Tribunal;
  - (b) to convene hearings of the Tribunal to deal with matters referred to it;
  - (c) to receive and refer to the Tribunal all material relating to any reports made under this By-law;
  - (d) to ensure the availability of all forms required to be used in any proceedings of the Tribunal;

- (e) to notify the charged person, team or club, direct or through their team secretary or manager, of the date, time and place of the Tribunal hearing; (if the charged person is under 18 a parent or guardian is also to be notified)  
The "Notice To Reported Person Or Team" form (Appendix C) is to be used for this purpose.
- (f) if the notification under clause 10.4(e) is made by telephone, the officer giving the notification shall immediately make a written record of the time and details of the telephone conversation;
- (g) if the charged person is under the age of 18 years, or otherwise unable to represent him or herself, then they are to be advised that they have the right to have an adult with them at the Tribunal hearing, as an adviser, and that the adviser shall be allowed to ask questions;
- (h) to provide the charged person, team or club with additional copies of the report form if requested.
- (i) to notify the reporting official and any other officials or witnesses required to be in attendance, of the date, time and place of the Tribunal hearing. Where such reporting official is under 18 years of age, they are to be advised that they have the right to have an adult with them at the Tribunal hearing, as an adviser, and that the adviser shall be allowed to ask questions;
- (j) to notify each of the above persons of the consequences of non-attendance at a Tribunal hearing and the procedure to be followed in each case;
- (k) to notify the chairperson (or his/her delegate) of the Tribunal that a report has been received, and to deliver to the chairperson (or his/her delegate) of the Tribunal the report form and any other information relevant to the case; and
- (l) to ensure sufficient report forms are available to officials at competitions conducted by the Organising Body and that officials are aware of the availability of such forms.
- (m) to act as minute Secretary to record Tribunal proceedings and decisions.
- (n) to report details of all charges which have been established including details of the penalty imposed to the SA Country Basketball Council Executive Officer within 48 hours of the hearing.

### **11. Period between report & Tribunal hearing**

11.1 A charged person, team or club shall be entitled to participate in basketball competitions conducted by the Organising Body until such time as the Tribunal has heard and determined the report.

### **Part3 Conduct of Tribunal hearing**

### **12. Attendance at Tribunal hearings**

12.1 The following persons shall be required to attend a Tribunal hearing conducted under this By-law:

- (a) the charged person or the president, secretary or other delegate representing a charged team or club;
- (b) the reporting official(s);
- (c) any other person involved in the report;

- (d) witnesses as indicated by the reporting official or charged person to be notified by the officer designated under clause 10.1.
- (e) any witness required by the Tribunal
- (f) the Hearings Officer ( or their delegate) to act as minute Secretary.

12.2 The following persons shall be entitled to attend a Tribunal hearing as appropriate:

- (a) any player of a charged team or club;
- (b) any witnesses called to give evidence by a charged person, team or club;
- (c) any witnesses called to give evidence by the reporting official(s);
- (d) in the case of a charged person or reporting official under the age of 18 years, an adult advisor to that person.
- (e) a person to assist the charged person.

12.3 The following persons may be able to attend a Tribunal hearing with the permission of the Tribunal:

- (a) Organising Body representatives;
- (b) approved representatives of the media.
- (c) any other person.

12.4 Legal representatives or advocates are not permitted to appear before the Tribunal unless in exceptional circumstances and where leave to appear has been granted by the Tribunal chairperson.

### **13. Non-attendance at Tribunal hearings**

13.1 If any charged person (or representative of a charged team or club) fails to attend a Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Tribunal in the absence of the charged person, team or club, provided that the Tribunal is satisfied that all notification procedures under this Bylaw have been carried out.

13.2 A charged person, team or club or reporting official may apply to the Hearings Officer to have a Tribunal hearing adjourned if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team or club. This will be at the discretion of the Hearings Officer (or the Tribunal if already convened) and if the application is granted a new date shall be fixed.

13.3 A charged person who is unable to attend a Tribunal hearing shall be entitled to appoint a representative (who is not a legal practitioner) to appear in his/her place if that charged person intends pleading guilty, subject to the Tribunal receiving a letter of consent from the charged person containing the person's guilty plea to the charges contained in the report and any statement that person would have given to the Tribunal had he or she attended the hearing.

- 13.4 If any witness fails to attend a Tribunal hearing, the hearing may continue in their absence.
- 13.5 If a reporting official fails to attend a Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Tribunal in the absence of the reporting official, provided that the Tribunal is satisfied that all notification procedures under this By-law have been carried out.
- 13.6 If a reporting official or Organising Body official inadvertently fails to carry out any duties listed in Clause 10, the charges shall not be dismissed for this reason, but may be adjourned to allow the omission to be rectified. Where appropriate, the Tribunal shall take the failure into account and make suitable allowance.
- 14. Tribunal hearing Conducted Via Teleconference**
- 14.1 A charged person, team or club may apply to the Tribunal chairperson to have a Tribunal hearing conducted by telephone conference call if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team or club.
- 14.2 If the Tribunal grants a request of a charged person, team or club under Clause 14.1, the Tribunal shall organise for the presence of a neutral official at the offsite location to assist the Tribunal in the conduct of the hearing. In all other respects the procedure of the Tribunal hearing shall be conducted in accordance with this By-law.
- 15. Procedures of the Tribunal**
- 15.1 For the purpose of this Clause 15, a reference to a charged person includes a reference to the representative(s) of a charged team or club.
- 15.2 In the event of a team or club being reported, one (1) member of the team or club shall act as spokesperson for the team or club provided that an individual member of that team or club may elect to speak on their own behalf.
- 15.3 At the commencement of a hearing, the chairperson shall identify the members of the Tribunal and determine if the charged person is present to answer the charge(s) set out in the report.
- 15.4 The charged person shall be asked whether he/she accepts the members of the Tribunal as impartial and independent, or whether he/she wishes to raise any objection in relation to any member. If the objection is found by the Tribunal to be valid, then the Tribunal member shall stand down for the duration of the hearing.
- 15.5 The charged person and the reporting official(s) shall be notified of their right to remain in the hearing until all evidence is presented but not to be present whilst the Tribunal considers its findings and determines an appropriate penalty (if any).
- 15.6 The chairperson shall advise all those present of the method of recording the hearing.



- 15.7 The charge(s) as contained in the report shall be read out in the presence of all persons eligible to be present.
- 15.8 The charged person shall be asked whether the charge is understood and the reporting official asked whether the charge correctly represents their intention.
- 15.9 The charged person shall be asked to plead.
- 15.10 If the charged person pleads guilty to the charge(s), the chairperson may read a short summary of the facts, admit the reporting official's evidence (written/verbal) and no witnesses need be called to give evidence unless the Tribunal requests it.
- 15.11 If the charged person pleads not guilty then the chairperson shall ask all witnesses except the reporting official(s) and the charged person (and their advisers in accordance with this by-law) to leave the room and to wait to be called to give their evidence.
- 15.12 The reporting official (or the adviser to a reporting official who is a minor) shall proceed to give evidence and the witnesses of the reporting official(s) may be called upon to give his/her evidence in turn, subject to the approval of the number of witnesses to be called by the Tribunal in its discretion. The charged person or his/her adviser (in the case of minors) may ask questions of the reporting official or any witness called.
- 15.13 Each witness shall be entitled to leave the Tribunal hearing after giving evidence unless otherwise directed by the Tribunal. Witnesses may be entitled to remain in the hearing room after giving evidence with the permission of the Tribunal.
- 15.14 The charged person shall then be entitled to present their defence. Witnesses may be called subject to the approval of the number of witnesses to be called by the Tribunal in its discretion. Reporting officials or the adviser to a reporting official who is a minor may ask questions of the charged person or any witness called.
- 15.15 The Tribunal is empowered to question any person giving evidence.
- 15.16 Where a person exercises their right to have an adult observer or adviser present in accordance with this by-law, an opportunity for consultation shall be provided.
- 15.17 Video evidence may be presented at the discretion of the Tribunal.
- 15.18 At the conclusion of all of the evidence and submissions the chairperson shall ask the charged person, the reporting official and all other persons present to leave the hearing room while the Tribunal considers its findings.
- 15.19 If the Tribunal is not satisfied that the particular charge has been proved, but is satisfied that a lesser charge has been established, then the Tribunal may find such lesser charge established and shall apply the penalty applicable to the lesser charge.



- 15.20 Where it appears to the Tribunal that the reporting official has made an error in laying the wrong charge or omitted charges that should have been laid, the Tribunal may amend the charges and proceed to make a finding. Further, the Tribunal has the right to direct that a person other than the charged person be charged with an offence under this by-law on the basis of evidence presented before it during the course of conducting a hearing.
- 15.21 Where charges have been amended under Clause 15.19, the Tribunal shall adjourn the hearing unless the charged person consents to it proceeding at that time.
- 15.22 The decision of the Tribunal shall be given in the presence of all, by the Tribunal chairperson.
- 15.23 Subject to clause 15.19, if the Tribunal is satisfied that a charge has been established on the balance of probabilities (ie more probable than not) it shall find the charge proved. Otherwise the charge shall be dismissed.
- 15.24 If a charge has been found proven by the Tribunal the charged person shall be informed of the finding. Any previous convictions against the charged person should then be laid before the Tribunal.
- 15.25 The charged person should then be given the right to make a final statement in relation to previous convictions or other mitigating circumstances before being asked to leave the room a second time.
- 15.26 The Tribunal shall then determine the penalty to be imposed (if any) and shall recall the charged person and reporting official to advise of the penalty.
- 15.27 After a penalty has been imposed the tribunal Chairman shall inform the Offender of their right of appeal including;
- (a) the time and date by which the appeal must be lodged
  - (b) the place of lodgement of the appeal.
- 15.28 The Tribunal is not obliged to give oral or written reasons for any decision made by it under this By-law.
- 15.29 A charged person who has been convicted of an offence and received a penalty under this By-law shall not play, coach, referee or otherwise take part in Organising Body activities as directed by the Tribunal until the penalty has been served to the satisfaction of the Organising Body.

#### **Part 4 Offences and Penalties**

##### **16. Offences and penalties**

- 16.1 Clause 16.3 sets out the standard offences and maximum penalties to be applied where a charge has been established by a Tribunal

16.2 For the purposes of this By-law, penalties for many offences which are established by a Tribunal shall be divided into two separate categories:

- (a) penalties for offences involving persons other than officials ("Group A offence"); and
- (b) penalties for offences involving an official ("Group B offence")

16.3 Offences and penalties

- (a) Disputing the decision(s) of a referee  
Maximum penalty: 6 weeks suspension
- (b) Unsportsmanlike behaviour  
Maximum penalty: 6 weeks suspension
- (c) Breach of Code of Conduct  
Maximum penalty: 6 weeks suspension
- (d) Attempting to trip
  - A – Maximum penalty: 10 weeks suspension
  - B – Maximum penalty: 20 weeks suspension
- (e) Tripping
  - A – Maximum penalty: 10 weeks suspension
  - B – Maximum penalty: 52 weeks suspension
- (f) Obscene gestures
  - A – Maximum penalty: 10 weeks suspension
  - B – Maximum penalty: 20 weeks suspension
- (g) Offensive language (which may include abusive, obscene or insulting language)
  - A – Maximum penalty: 10 weeks suspension
  - B – Maximum penalty: 20 weeks suspension
- (h) Attempting to strike
  - A – Maximum penalty: 10 weeks suspension
  - B – Maximum penalty: 52 weeks suspension
- (i) Striking (fist, hand, object, head)
  - A – Maximum penalty: 52 weeks suspension
  - B – Maximum penalty: life-time suspension
- (j) Attempting to elbowing
  - A – Maximum penalty: 10 weeks suspension
  - B – Maximum penalty: 52 weeks suspension (k) Elbowing
- A – Maximum penalty: 20 weeks suspension
- B – Maximum penalty: life-time suspension
- (l) Fighting
  - A - More than 2 players: Maximum penalty 20 weeks suspension (m)
- Attempting to kick
  - A – Maximum penalty: 10 weeks suspension
  - B – Maximum penalty: 52 weeks suspension
- (n) Kicking
  - A – Maximum penalty: 104 weeks suspension
  - B – Maximum penalty: life-time suspension

(o) Spitting

A – Maximum penalty: 20 weeks suspension

B – Maximum penalty: 52 weeks suspension

(p) Moving under an airborne player (tunnelling)

A - Maximum penalty: 104 weeks suspension

(q) Putting a person in fear of impending violence

A – Maximum penalty: 52 weeks suspension

B – Maximum penalty: 104 weeks suspension

(r) Coaching, refereeing, playing, score bench duties while under suspension

A - Minimum penalty: 2 weeks per game plus the suspension period

B - Maximum penalty: 5 weeks per game plus the suspension period

(s) Deliberately endangering the safety, health, of the players, spectators, officials (incidents involving blood/bodyfluids)

A: Maximum penalty: life-time suspension

(t) Conduct which brings the game of Basketball into disrepute

Maximum penalty: 19 weeks suspension

(u) Failure to attend Tribunal without proper cause when notified

Maximum penalty: 20 weeks suspension

(v) Failure to co-operate in, or hindering an investigation or hearing under these by-laws.

Maximum penalty: 20 weeks suspension

(w) Intimidating or bullying a person or attempting to do so

Maximum penalty: 52 weeks suspension

(x) Public criticism of officials, coaches or players related to basketball activities

Maximum penalty: 20 weeks suspension

16.4 Where charges arising from one particular incident are heard together and the Tribunal finds the person or team guilty of more than one offence, it may impose a single penalty, being not more than the maximum penalty for the most serious of the offences, or it may impose individual penalties for each offence.

16.5 A penalty handed down under this clause shall commence from the date of the Tribunal finding unless otherwise expressly directed by the Tribunal. Penalties are expressed to be calendar weeks as opposed to number of matches. The Tribunal has discretion to rule that a penalty will be suspended for the number of weeks, which fall between seasons or during any season break or for other reason such as intended absence of the person overseas or interstate.

16.6 Where a Tribunal imposes more than one period of suspension, it may impose them to be served concurrently or cumulatively or partly concurrently and partly cumulatively.

16.7 Persons on a first offence shall have this taken into account when assessing the penalty to be handed down.

16.8 A Tribunal may take into account a charged person's prior convictions in determining a penalty to be handed down provided the penalty does not exceed the maximum penalties assigned to offences under clause 16.3.

- 16.9 The Tribunal has the discretion to rule that a penalty apply only in relation to a particular competition, however this shall only be done in exceptional circumstances.
- The Tribunal has the discretion to apply suspended sentences as part of a penalty provided that they do not exceed the maximum penalties assigned to offences under clause 16.3. It is recommended that suspended sentences remain in place for a period of 12 months.
  - If a charged person faces another Tribunal in the period in which the suspended sentence is in place (i.e. 12 months) and is found guilty the suspended sentence will be added to whatever penalty is handed down.

### **17. Administrative Tribunal (optional)**

*[This clause provides for the handing down of penalties without the need for a Tribunal hearing and may be implemented by Organising Body's which wish to provide such an option for charged persons, teams and clubs]*

- 17.1 If a person is charged with an offence carrying a maximum penalty of ten weeks or less, and
- (a) is not a minor; and
  - (b) has not been charged previously within the last 12 months the matter will be dealt with by an administrative tribunal.
- 17.2 Where
- (a) a charged person is not a minor;
  - (b) and is charged with an offence carrying a maximum penalty of twenty weeks or less; and
  - (c) the Organising Body believes that circumstances exist that mean the matter can appropriately be dealt without proceeding to a Tribunal
- the matter may be dealt with by an administrative tribunal.
- 17.3 A person:
- (a) charged with an offence that has not been dealt with by an administrative tribunal under clause 17.1 or 17.2; or
  - (b) who has rejects a penalty of the administrative tribunal under clause 17.6 must be dealt with by the Tribunal.
- 17.4 An administrative tribunal shall consist of:
- (a) The Tribunal Chairman for the relevant competition; and
  - (b) The secretary or administrator for the relevant competition.
- 17.5 When a report is received that is dealt with under clauses 17.1 or 17.2 the administrative tribunal shall meet and determine a penalty. The charged person shall be notified of the penalty as soon as is practicable following the meeting of the administrative tribunal.
- (a) a reason/s why the charges have been dealt with by administrative tribunal; (b) the penalty;
  - (c) their right to accept or reject the penalty proposed by the administrative tribunal.

- 17.6 The charged person shall be required to notify the Organising Body of his / her acceptance or rejection of the penalty within three working days of notification. If the penalty is acceptable to the charged person the penalty shall be enforced with no right of appeal.
- 17.7 If the penalty is not acceptable to the charged person the matter shall be referred to the Tribunal and be treated in the same manner as any other charge.
- 17.8 If the charged person fails to indicate acceptance or rejection of the administrative penalty in writing to the Organising Body within three working days of notification, the administrative penalty will automatically be invoked.

## **Part 5 Appeals**

### **18. Right of Appeal**

- 18.1 The decision of an administrative tribunal that is invoked under clause 17.8 can only be appealed if the charged person ("Appellant") satisfies the SACBA Executive Officer, or their nominee, in that person's sole discretion, that the Appellant did not receive the notice issued under clause 17.5.
- 18.2 There shall be no appeal from a decision of the normal Tribunal hearing unless the charged person ("Appellant") satisfies the Appeals Officer of the Association, or their nominee, in that person's sole discretion, that one or more of the following grounds of appeal is satisfied:
- (a) that significant new or additional evidence has become available, which is likely to make a material difference to the decision of the Tribunal;
  - (b) that the penalty imposed by the Tribunal is not in accordance with the provisions of this By-law; or
  - (c) that the Tribunal failed to follow procedures or requirements of this By-law to the significant detriment of the person seeking the appeal.
- 18.3 The Organising Body may appeal a decision of the Tribunal on the grounds that the penalty imposed by the Tribunal is inadequate.

### **19 Notice of Appeal**

- 19.1 A person seeking to appeal a decision of the Organising Body Tribunal to the SACBC Appeal Tribunal must:
- (a) lodge a notice stating in full the grounds of appeal with the Executive Officer of SA Country Basketball Council within fourteen (14) days of the notification of a determination of a Organising Body Tribunal hearing ("Notice of Appeal" form **Appendix D**).
  - (b) pay the appeal fee to the SACBC Executive Officer when lodging the Notice of Appeal, which shall be \$110.00 (including GST) (the appeal fee does not apply in the case of appeals by minors and may be waived in the discretion of the SACBC Executive Officer).

19.2 An Appellant shall be notified as soon as is reasonably possible after receipt of the Notice of Appeal as to whether an appeal hearing is to be granted and the time, date and place of the Appeal hearing, in the event that it is granted.

19.3 An Organising Body wishing to appeal under clause 18.3 must:

- (a) provide the charged person with details of why they consider the penalty to be inadequate and setting out what penalty the Organising Body believes would have been adequate
- (b) provide an undertaking to pay the charged person's reasonable costs of the Appeal Tribunal if the Organising Body's appeal is not upheld.

## **20. Appeal Tribunal**

20.1 On receipt of appeal form the SACBC Executive Officer shall convene a SACBC Appeal Tribunal to hear and determine the appeal in accordance with this By-law.

20.2 An Appeal Tribunal shall consist of no fewer than three (3) persons appointed by the SACBC Executive from time to time to hear appeals.

20.3 No person is eligible to sit on an Appeal Tribunal whilst that person is a member of the management committee of the Organising Body from whence the Appeal has originated.

## **21. Serving of Tribunal Penalties**

21.1 Subject to Clause 21.2, where the Organising Body Tribunal imposes a penalty that prevents the Appellant from participating in a match, the appellant shall serve that penalty pending the determination of the appeal.

21.2 Subject to Clause 21.3, the Appeal Tribunal may of its own motion or upon application of any party to the appeal, order a stay of the execution of the penalty imposed by the Tribunal pending the determination of the appeal.

21.3 The Appeal Tribunal shall make an order under Clause 21.2 only where it is satisfied that there are exceptional and compelling circumstances that make it harsh and unconscionable if such an order was not made. In determining that question, the Appeals Tribunal shall without limitation have regard to:

- (a) the merits of the appeal and the Appellant's prospects of success;
- (b) the interests of other teams, clubs and players; and
- (c) the effect on the results of the competition; and
- (d) the nature and seriousness of the charges

## **22. Proceedings of Appeal Tribunal**

22.1 Upon receipt of any appeal the SACBC Executive Officer on behalf of the Appeal tribunal shall;

- 1) check that the appeal complies with the rules concerning time of lodgement and completeness of information provided.
- 2) arrange for a copy of the transcript of the Organising Body tribunal to be obtained.

- 22.2 The Appeal Tribunal shall check the transcript of evidence and any other documents filed with it to determine whether in its view there are grounds to warrant a full hearing of the appeal. The relevant tribunal shall have absolute discretion to make determinations with regard to the appeal without a full hearing and is not be obliged to assign any reasons for such course of action.
- 22.3 In considering the evidence before it the Appeal Tribunal shall not set aside a determination of an Organising Body tribunal, which is the subject of the appeal, on technical or procedural grounds but shall do so only if there has been a substantive error made.
- 22.4 If the Appeal Tribunal decides to hear an appeal then the SACBC Executive Officer shall;
- i. make arrangements for the hearing of the appeal
  - ii. notify all parties concerned of the time, date and place of the hearing.
- 22.5 The Appeal Tribunal and persons appearing before it are bound by the same procedures under this By-law as if the Appeal Tribunal was a Tribunal hearing a matter at first instance.
- 22.6 The Appeal Tribunal shall have the discretion to conduct the hearing as a complete rehearing or to limit the hearing to consideration of the ground(s) of appeal relied upon by the Appellant under clause 19.1.
- 22.7 An Appeal Tribunal shall have the power (with or without a full hearing) to:
- (a) adjourn a full hearing of the appeal;
  - (b) dismiss the appeal;
  - (b) uphold the appeal;
  - (c) impose any of the penalties set out in Part 4 of this By-law.
  - (d) reduce, increase or otherwise vary any penalty imposed by the initial Organising Body Tribunal
- in such manner as it thinks fit.
- 22.8 The Appeal Tribunal is not obliged to give oral or written reasons for a decision under clause 22.7.
- 22.9 At the conclusion of the appeal, the SACBC Executive on behalf of the Appeal Tribunal shall ensure that the Appellant and the reporting official are correctly informed of the determinations of the Appeal Tribunal. The Organising Body Secretary shall also be notified of the decision of the Appeal Tribunal.
- 23. Refund of Appeal Fee**
- 23.1 The Appeal Tribunal shall have the discretion to refund the appeal fee payable under clause 19.1(b).



**24. Costs**

- 24.1 Each party to an appeal shall bear their own costs. The Appeal Tribunal has the power to award that the reasonable costs of the Appeal Tribunal be borne by either party in its absolute discretion.

**25. Single Right of Appeal**

- 25.1 There is only one right of appeal following the decision of the initial Organising Body Tribunal. Any appeal must be solely and exclusively resolved by the Appeal Tribunal and the decision of the Appeal Tribunal is final and binding on the parties.

**26. Exhaust Internal Appeal**

- 26.1 A person shall exercise his right of appeal under this By-law and have any appeal heard and determined by the Appeal Tribunal before commencing any proceedings or becoming a party to any proceedings in a court of law.

**Part 6 Miscellaneous****27. Relationship with criminal matters**

- 27.1 If during a Organising Body Tribunal hearing or investigation under this By-law it becomes known that criminal charges have been brought (as opposed to merely the subject of police investigation) arising out of the actions the subject of the hearing or investigation, the Tribunal and / or the Organising Body may rule that further action be deferred until completion of the criminal charges, unless the police or other prosecuting authority advise they have no objection to the matter proceeding.
- 27.2 In making a determination under **clause 27.1**, the Organising Body Tribunal and / or Organising Body shall have regard to the need to ensure the ongoing safety of players, referees and other persons involved in the Organising Body.

**28. Natural Justice**

- 28.1 To the extent that the principles of natural justice are not included in the provisions set out in this By-law they are expressly included.

**29. Recognition of Penalties across Associations**

- 29.1 Each Organising Body acknowledges and agrees that it is required to recognise and enforce penalties handed down against individual persons, teams or clubs by the disciplinary tribunals of all other Organising Bodies, basketball associations, leagues and competitions which are affiliated with Basketball Australia and or its Constituent Associations.
- 29.2 A charged person/team or anyone representing a charged person/team is not permitted to contact a reporting official or other parties involved in the reported incident, excluding their own witnesses from the time in which they are informed that a report will be submitted and the tribunal hearing.

**APPENDIX A****NOTICE OF FINDINGS OF TRIBUNAL**

Name : \_\_\_\_\_

Association : \_\_\_\_\_

Date of Tribunal : \_\_\_/\_\_\_/\_\_\_

You are hereby notified that the Tribunal has considered all the facts in connection with the report made against you on ...../...../ .....in the match between \_\_\_\_\_ and \_\_\_\_\_, and have reached the following decision:

The findings are as follows:

Charge No. 1	_____	_____	Guilty / Not Guilty
Charge No. 2	_____	_____	Guilty / Not Guilty
Charge No. 3	_____	_____	Guilty / Not Guilty
Charge No. 4	_____	_____	Guilty / Not Guilty
Charge No. 5	_____	_____	Guilty / Not Guilty

The Tribunal has decided to impose the following penalty: \_\_\_\_\_

\_\_\_\_\_

If suspension it shall be completed at midnight on ...../...../..... , and will you will remain suspended from all basketball game activities during this period.

Under By-Laws you have the right to appeal to the SA Country Basketball Appeals Tribunal.

\_\_\_\_\_  
(Tribunal Chairman)

Tribunal Members: \_\_\_\_\_



# ADMINISTRATION MANUAL

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## APPENDIX B

### REPORT FORM

This form is to be used by the game official or Association Official when Tribunal Action is to be taken against a player, team or any registered member.

DATE OF GAME: \_\_\_\_/\_\_\_\_/\_\_\_\_ VENUE: \_\_\_\_\_ TIME: \_\_\_\_\_

TEAMS PARTICIPATING: \_\_\_\_\_ v \_\_\_\_\_ MEN / WOMEN

NAME AND PLAYING NUMBER  
OF REPORTED PERSON: \_\_\_\_\_

TEAM: \_\_\_\_\_

OFFICIAL MAKING REPORT: \_\_\_\_\_

SUPPORTING OFFICIAL: \_\_\_\_\_

CHARGE (S): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DETAILS RELATING TO CHARGE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (Please use back of form if insufficient space)

THE REPORTED PERSON/TEAM HAS / HAS NOT BEEN VERBALLY NOTIFIED THAT HE/SHE/THEY HAVE BEEN REPORTED.

Signature of Reporting Official \_\_\_\_\_

**This form must be completed in FULL and given to the person nominated by the Association as soon as possible after the game/incident and within 4 days of the incident if the report resulted from a game.**

**Action relating to the report will then be administered as set out in the Tribunal and Disciplinary By-Laws.**

**APPENDIX C****NOTICE TO REPORTED PERSON OR TEAM**

You have been reported to appear before the ..... Association Tribunal

Location:

On:                 /         / 200 at                                 pm/am

The charges for which you have been reported are as follows:

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A copy of the by-laws under which the Tribunal operates may be obtained from the Association. You should familiarise yourself with those By-laws.

You may bring with you a witness/witnesses. Witness statements may be tendered by you. You may also bring a person to assist you. If you are under 18 you may bring with you an adult representative who will be given an opportunity to advise you and to ask questions of witnesses, through the Chairman, at appropriate times during the hearing.

If you cannot attend the hearing, you may give your evidence in writing and appoint a representative in writing to appear at the hearing on your behalf. Whether or not you attend, the hearing will proceed and if the Tribunal is not aware of any good reason for your nonattendance, it may impose a penalty for your non-attendance, without further notice and in addition to any other penalty it may impose.

At the hearing you will be asked whether you plead guilty or not guilty to the charges and whether you have any objection to the Tribunal members on the basis that they may not be impartial.

You will be given ample opportunity during the hearing to ask questions of the reporting official and any witnesses called and to make submissions on your own behalf. All this must be directed to and through the Chairman.

The Tribunal has the power to find you guilty of an alternative lesser charge if it is not satisfied of your guilt of the charges laid against you. It may also allow the charges to be amended during the hearing but then must give you the option of having the hearing postponed to another date.

If you are found guilty, you have a limited right of appeal. You will be given notification of those rights. If you have any questions before the hearing about the Tribunal procedures you should contact your local Association or the offices of SA Country Basketball Council Inc.



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**APPENDIX D**

**NOTICE OF APPEAL**

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_

PHONE: (Work) ( ) \_\_\_\_\_

(Home) ( ) \_\_\_\_\_

(Fax) ( ) \_\_\_\_\_

ASSOCIATION \_\_\_\_\_

TRIBUNAL HEARING AT \_\_\_\_\_

DATE \_\_\_\_\_

GROUNDSON APPEAL \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (Pease use back of form if insufficient space)

\_\_\_\_\_ (Appellant's Signature)

This form must have detailed grounds of appeal as set out in of the By-Laws.