

fmsci

The Federation of Motor Sports Clubs of India

Member of



National Sports Federation recognized by the Government of India

**2021 Disciplinary and
Arbitration Code
2W Racing**

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The Federation of Motor Sports Clubs of India

3. DISCIPLINARY AND ARBITRATION CODE

3.1 Principles

The obligations incumbent upon the participants, officials and organisers are set out in the Regulations published by the FMSCI. Proven violation or non-observance of these obligations will be subject to the penalties laid down in this chapter.

3.2 Penalties

The penalties are:

- Warnings
- Fines
- Time and / or point penalties
- Disqualification
- Withdrawal of Championship points
- Suspension
- exclusion

3.2.1 Definition and application of penalties

Warnings:

can be made privately or publicly

Fines:

cash penalty

Time and / or point penalty or suppression of time :

The imposition of time or points affecting the rider's actual result or suppression of time

Disqualification:

Entails automatically and independently or any other penalty, the invalidation of the results obtained in a meeting, event, practice, race or ranking.

Withdrawal of Championship Points

Entails the loss of Championship points

Suspension:

Entails the loss of all the rights granted to FMSCI license holders or members, or prohibition from taking part in any of the activities under FMSCI control for a specified period of time. The application of this penalty may be conditionally deferred for a period of up to a maximum of two years.

Exclusion:

Entails the final and complete loss of all rights of participation in any activity under FMSCI control.

3.2.2 Plurality of penalties

Any offender may have several penalties pronounced against him according to the circumstances.

3.3 The Disciplinary and Arbitration Bodies

The disciplinary and arbitration bodies of the FMSCI, qualified to deal with disciplinary and arbitration matters, are:

- The Race Direction
- The FMSCI Stewards
- The Indian Motor Sports Appeal Court (IMSAC)

3.3.1 The Race Direction

3.3.1.1 Constitution

The Constitution of the Race Direction is in accordance with the requirements laid down in Article 1.6. of **FMSCI Road Racing Championship Regulations 2020**

3.3.1.2 Authority and Competence

The Race Direction has the authority to penalise automatically riders, teams' personnel, officials involved in any capacity whatsoever in an event or in the Championship for:

- Infringements of the Regulations.
- any voluntary or involuntary action or deed accomplished by a person or a group of persons during a meeting, contrary to the current Regulations or instructions given by an official of the meeting.
- any corrupt or fraudulent act, or any action prejudicial to the interests of the meetings or of the sport, carried out by a person or a group of persons occurring during an event.
- The Race Direction is competent to adjudicate upon a protest relating to infringements of the Regulations.

3.3.1.3 Penalties that may be pronounced by the Race Direction / the FMSCI Stewards Panel

The following penalties may be pronounced by the Race Direction / the FMSCI Stewards Panel:

- a warning
- a fine, subject to a maximum of INR 100,000
- a time and / or point penalty
- a disqualification
- a suspension for a period not exceeding 30 days starting from the date of the offence

Furthermore, the Race Direction / the FMSCI Stewards Panel can refer the case to the Disciplinary Commission of the FMSCI in order to impose a higher penalty than the Race Direction / the FMSCI Stewards Panel is empowered to do.

3.3.2 The FMSCI Stewards Panel

3.3.2.1 Constitution

The Constitution of the FMSCI Stewards Panel is in accordance with the requirements laid down in Article 1.7 of **FMSCI Road Racing Championship Regulations 2020**.

3.3.2.2 Competence

The FMSCI Stewards Panel will hear any appeals against decisions taken by the Race Direction.

3.3.3 The Indian Motor Sports Appeal Court

3.3.3.1 Procedures

The names of the members appointed must be communicated to all interested parties in the case, who have the right to make a duly documented objection to the composition of the Court, either in total or in part, within three days after having received the information. If the Executive Board of the FMSCI considers that a reasonable objection is made, he must appoint the necessary replacements. Otherwise he rejects the objection and fixes the date for the hearing.

The court may request the opinion of an expert or summon a witness who it considers useful.

3.3.3.2 Authority and Competences

The Indian Motor Sports Appeal Court will hear any appeals against decisions taken by the FMSCI Stewards.

The Indian Motor Sports Appeal Court adjudicates upon request of the Race Direction or the FMSCI Steward Panel.

3.3.4 The FMSCI as a Party in the Legal Proceedings

3.3.4.1 Function

For all the appeals to the Indian Motor Sports Appeal Court, the FMSCI is entitled to assert its interests or to explain its position by means of a prosecution address.

3.3.4.2 Appointment

The Executive Board shall appoint in each case, the person who will represent the FMSCI.

3.3.5.3 Procedure

The intervention of the FMSCI is optional and is left to the appreciation of the Executive Board. As a party, the FMSCI enjoys the same rights and obligations as the other parties.

The FMSCI may be present in person at a hearing or may present its claims in writing.

3.4 Protests and Appeals

3.4.1 Right of protest

Any legal entity or any individual, rider, team, manufacturer, official etc. affected by a decision taken under the authority of the FMSCI, has the right to protest against that decision.

No protest may be lodged against a decision of the Race Direction entailing or not:

- a disqualification from the practice sessions or races by means of a black flag or black flag with orange disc.
- a fine for speeding in the pit lane.

No protest may be lodged against a decision of the Race Direction based on a photo finish.

3.4.2 Right of appeal

The rules concerning appeals against FMSCI disciplinary decisions are:

Against a decision of the Race Direction, to the FMSCI Stewards.

No appeal may be lodged against a decision of the Race Direction entailing or not:

- a disqualification from the practice sessions or races by means of a black flag or black flag with orange disc.
- a fine for speeding in the pit lane.
-

No appeal may be lodged against a decision of the Race Direction based on a photo finish.

The decision of the FMSCI Court of Appeal shall be final.

3.4.3 Procedure and time limit for protests

All protests must be submitted and signed only by the person directly concerned. Each protest must refer to a single subject only and must be presented within half hour at the latest after the publication of the results. Protests must be handed to a responsible official (Clerk of the Course, Race Director or Secretary of the Meeting) together with the security deposit of INR 7080 (including GST). No protest will be entertained unless a fee of Rs. 7080/- in cash accompanies it. For a protest involving a clearly defined part of the Motorcycle Rs.5000/= or if multiple parts are protested, Rs.5000/- per clearly defined part. These fees shall be returned to the Protestor if the protest is founded or given to the Protestee if the protest is unfounded.

A protest against the eligibility of a rider, team or a motorcycle entered, must be made before the start of the official practice.

3.4.4 Hearing of a protest

After a hearing, the Race Direction must make a decision on any protest presented. The protest has to be judged according to the provisions of the Regulations.

3.4.5 Effect of the decision upon a protest

The decision of the Race Direction of determination of penalty is immediate.

3.4.6 Time limits for the lodging of an appeal

The time limit for lodging a statement of appeal is:

- against a decision of the Race Direction *to the Stewards* – 30 Minutes. Fees: Rs.7,080/= upto open status, Rs.14,160/= for Challenge, Cups, Series etc. and Rs.21,240/=for National and above status events.
- against a decision of the FMSCI Stewards

APPEALS

- Appeal Fees: Rs.96,000/= + 18% GST. Total Rs.113,280/=

Competitors may appeal against decisions, in accordance with the stipulations set out in Articles 15.1 of the Code.

Competitors have the right to appeal against a sentence or other decision pronounced on them by the Stewards of the meeting. They must however, under pain of forfeiture of their right to appeal, notify the Stewards of the meeting in writing within one hour of the publication of the decision, of their intention to appeal.

The right to bring an appeal to the FMSCI expires 96 hours from the moment the stewards are notified of the intention to appeal on condition that the intention of appealing has been notified in writing to the stewards within one hour of the publication of the decision.

This appeal may be brought by fax or by any other electronic means of communication with confirmation of receipt. Confirmation by a letter of the same date accompanied by the necessary fee is required. The FMSCI will give its decision within a maximum of 30 days.

All parties concerned shall be given adequate notice of the hearing of any appeal. They shall be entitled to call witnesses, but their failure to attend the hearing shall not interrupt the course of the proceedings.

The confirmation of an appeal to the FMSCI must be accompanied by a fee of Rs.96,000/- +18% GST. Total Rs.113,280/=.

This fee becomes due from the moment the appellant notifies the Stewards of the intention of appealing, and remains payable even if the appellant does not follow up the declared intention to appeal.

If the appeal is rejected or it is withdrawn after being brought, no part of the fee shall be returned.

If judged partially founded, the fee may be returned in part, and its entirety if the appeal is upheld.

If it is proved that the author of the appeal has acted in bad faith, the FMSCI may inflict upon them one of the penalties laid down in the Code.

3.5 Procedure before all the Disciplinary and Arbitration Bodies

3.5.1 Right to a hearing

It shall be the unquestionable right of any person or body charged with any offence under the Regulations to defend themselves, either in person or by proxy. Any party convened before a disciplinary or arbitration body has the right to be represented by one defense counsel of its own choice and at its own expense. Adequate notice of this intention must be given in order that this may also be notified to all other parties in the case. Failure to do so may result in the disciplinary or arbitration body upholding an objection to such representation. If any of the parties duly convened do not appear, judgment can be rendered by default. The disciplinary or arbitration bodies may decide that the hearing take place by means of a telephone conference call or through any other means of communication using a telephone or electronic device. Such a method of conducting a hearing shall only take place with the consent of all parties involved.

3.5.2 The hearing

The hearing shall be public unless the disciplinary or arbitration body itself decides otherwise in exceptional circumstances. The hearing shall be conducted in English. Should one of the parties wish to use another language, it shall provide the necessary interpreters at its own costs. The appellant must be present or duly represented, failing which, the protest will not be admissible and the costs shall be borne by the appellant.

Once the President has opened the proceedings, he will invite the parties involved to state their respective cases without the witnesses being present. After statements of the parties concerned, the disciplinary or arbitration body shall hear the various witnesses and experts in order to complete the evidence. The parties involved in the case shall have the right to question all witnesses and experts on their evidence.

Any Member of the disciplinary or arbitration body may, at any time during the hearing and with the President's approval, question any of the parties involved, the witnesses and experts.

3.5.3 Witnesses and Experts

Each party is responsible for the convening and appearance of its own witnesses, as well as their expenses unless decided otherwise by the Court.

The disciplinary or arbitration body has no authority to oblige the witnesses to swear on oath; therefore, testimony shall be given freely.

The witnesses may only testify to the facts they know and shall not be allowed to express an opinion, unless the disciplinary or arbitration body should regard them as experts on a particular subject and should ask them to do so.

After having made their statements, the witnesses may not leave the Courtroom and shall not be allowed to speak to any other witness who has still to give evidence.

The Court may summon experts.

3.5.4 Judgement

Decisions of all disciplinary or arbitration bodies will be reached by a simple majority of votes (exception: See Art. 1.6.4 "Race Direction"). All members will have equal voting rights which must be exercised when a decision is required. Abstention is not permitted.

Each member of the disciplinary or arbitration body binds himself to keep all deliberations secret.

3.5.5 Notification of judgements

The decisions of the Race Direction or of the FMSCI Stewards must be notified directly at the event venue, or failing that, addressed by registered letter with acknowledgement of receipt.

All judgements of the Indian Motor Sports Appeal Court must be notified, in writing, by registered letter with acknowledgement of receipt in order to inform all the parties concerned.

3.5.6 Publication of judgements

The disciplinary or arbitration body imposing a penalty or adjudicating a protest or an appeal must have its findings published and quote the names of all parties concerned. The persons or bodies quoted in these statements have no right of action against the FMSCI nor against any person having published the statement.

Furthermore, final decisions will be published in the Media Centre and in the FMSCI Magazine/ Circular / website unless the Court itself decides otherwise.

3.6 Costs of procedure

The costs of a disciplinary or arbitration decision will be assessed by the FMSCI Executive Secretariat and will be awarded against the losing party, unless the Court decides otherwise.

3.6.1 Payment of fines and costs

If the penalty is definitive, all fines must be paid into the FMSCI before the beginning of the first practice of the event following the final decision. The costs must be paid to the FMSCI Executive Secretariat within 30 days of notification of the judgement decision according to Article 3.5.5.

The person or body affected by the decision shall be automatically suspended from participation in all FMSCI activities, until such time as full payment has been received.

3.7 Reciprocity of penalties (Applicable only for international events)

As a consequence of the agreement of reciprocity concluded on April 30th, 1949 between the 4 organisations controlling motorised sports internationally, i.e. in addition to the FIM, namely:

- the Fédération Internationale de l'Automobile (FIA)
- the Fédération Aéronautique Internationale (FAI)
- the Union Internationale Motonautique (UIM)

penalties of suspension or exclusion may also be applied to one or another of the sports represented by the above organisations, upon request of the FIM.

3.8 Law of Mercy

The Management Council of FMSCI, after consultation with the Indian Motor Sports Appeal Court, may mitigate or completely forgive the penalty of a person or group of persons after having exhausted all the appeal procedures.

3.9. Arbitration Clause

Final decisions made by the race direction or the stewards of the FMSCI may be submitted exclusively to the Court of Arbitration for Sport (IMSAC) by way of appeal within the time limit as laid down in article 3.4.6, which shall have exclusive authority to impose a definitive settlement in accordance with the Code of Arbitration applicable to sport.

**** END****

