

Judicial Notes – Appendix 2

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Introduction

The following advisory notes are intended to assist MSA and Event Stewards in performing their duties. The section on Judicial Procedures covers the procedures applicable to Clerks of the Course, Stewards and Tribunals. A précis of the relevant parts of these notes intended to assist competitors is contained in the appendix to the Breach of Regulations C(d). While every effort has been taken to make these notes comprehensive they are only advisory and it must be stressed that all Events are governed by the General Regulations of the MSA, the Technical Regulations, the Regulations applicable to a particular formula or championship, the Supplementary Regulations as published by the

Note: Throughout these sections an asterisk (*) indicates a requirement for additional information to be printed in the Supplementary Regulations (SRs).

Text shown in Italics indicates a Regulation which may be amended in the SRs.

Organising Club(s) and any written Final Instructions. It follows therefore that these notes should be read in conjunction with not only C(d) and its appendix but also all of the above regulations.

International events are governed by the International Sporting Code of the FIA as well as the Regulations of the MSA and the Regulations for the event.

Duties and Powers of a Steward

1. These are dealt with comprehensively in Section B of this book. Ideally Stewards should adopt a standard procedure in respect of every meeting which they attend, and the following is intended as a guide to such a procedure.

- Study all documents issued by the club to ensure that they are clear, that they provide all appropriate information, and are not likely to give rise to any problems of interpretation.
- Consult the appropriate sections of the Regulations dealing with the organisation of that type of event to ensure acquaintance with any special requirements.
- Ensure that you have with you at the event this book, the current Motor Sports Yearbook, the MSA Report Forms, (and for International events, FIA Yearbook), and all paperwork issued by the organisers. Also take spare paper and pen, and forms for the non-production of Licences. It is sometimes useful to have some spare signing-on sheets in case the organiser has not got the correct indemnity printed on their sheets.
- Immediately upon arrival at the event introduce yourself to the Secretary of the Meeting and the Clerk of the Course. Also introduce yourself to the Event Steward(s), the Chief Scrutineer and Chief Timekeeper, bearing in mind that all these people are likely to be very busy prior to the start of the event. If required, arrange a schedule of Stewards' meetings.
- **DO NOT BE LATE.** A Steward's duties commence from the moment that documentation starts [B 13], and many clubs will wish the Stewards to inspect the course before they start practice. It should be noted that Stewards have the right to postpone a competition for reasons of safety.
- Ensure that either the Secretary of the Meeting or Clerk of the Course is aware of your whereabouts throughout the meeting and is able to contact you, for example, by mobile phone.
- **DO NOT ATTEMPT TO INTERFERE WITH THE RUNNING OF THE EVENT** except in extreme cases where safety is involved. If necessary a quiet word with the Clerk of the Course should be adequate. The Steward should under no circumstances give direct orders to competitors or officials.

The ideal Steward is a quiet figure in the background, present when the organisers require his advice or assistance. His duty is to ensure that the rules are upheld, and if necessary to act as a Judge or Magistrate. Nothing he does should in any way be the cause of bias at subsequent judicial proceedings.

• In addition to his specific duties, a Steward, from his own experience and knowledge of motor sport, may give advice and encouragement, provided it is understood that this is not done in an official capacity, but he should avoid dealing with a request for advice which, if the request comes from a competitor is really a concealed protest, or which, if the request comes from an official, may give rise to such protests.

Thus, Stewards should do all in their power to preserve a friendly atmosphere among competitors, organisers and all concerned in the competition, especially avoiding what may seem to be entirely autocratic action, inexplicable to those concerned.

• Stewards should not listen to event communications, other than on equipment authorised by the Clerk of the Course.

General

2. If for any reason the organisers are unable to produce the Permit for the event, check copies of the correspondence to confirm that MSA requirements have been complied with. You have the right to stop, exceptionally, the event if you are not satisfied.

(a) For race and speed events, check that the minimum requirements are met, as specified in the Track Licence.

(b) Stewards at Autocross Events, may agree to change the layout of a course as submitted to the MSA if the weather or other conditions dictate, and provided that such changes are made prior to the commencement of timed runs and that competitors are allowed to see the changes. If a change is made details must be stated on the Report Form. Change of the course must not affect the Safety Requirements.

(c) The Track Plan at permanent race circuits shows the position of all marshal's posts and fire points. Under no circumstances may the positioning or manning of those posts be varied.

(d) C(a)-62 specifies that competitors must produce a valid Competition Licence and Membership Card to the organisers of a meeting.

(e) G 31 specifies that at Race meetings a Licence/Medical Certificate should be produced, and K 110 specifies that they should be produced at Kart Race meetings. The Medical Certificate is incorporated in the licence.

(f) B 27 gives you the authority to permit a competitor to compete if he is unable to produce his competition licence providing he pays a non-refundable fine. Before giving permission, however, you should make certain that the person concerned actually possesses a valid licence. Be especially careful at events where a Medical Certificate is required, as the absence of a licence may be because the competitor has had an accident and the licence/medical certificate has been withdrawn.

(g) Also check that he holds a valid RTA licence (if applicable). It is a very dangerous practice to permit anyone to compete who cannot prove that he holds a valid licence as the MSA check all applications to ensure that the applicant is not black-listed, etc. Do

not accept as an excuse 'delay in issuing the licence by the MSA'. The maximum possible delay is 21 days but normally even at the peak season it is only 5-6 days, and there is a priority payment system which enables a licence to be returned in three days. If the competitor has left applying for his licence until virtually the closing date for entries he does not warrant too much sympathy.

(h) If you permit a competitor this dispensation, ensure that he completes and signs the correct Competition Licence Record Form and pays the appropriate fine. Do not accept an ordinary licence application form and fee, and state that you will forward it to the MSA for him. The Secretary of certain National 'B' or Clubman's events is permitted to accept a completed licence application form [B 20], and it is the Secretary who is responsible for forwarding the form and fee to the MSA.

(i) At events where competitors are likely to require upgrading signatures on Upgrade Cards, this will normally be done by the Clerk of the Course (except at Kart races, where it will remain a duty of the MSA Steward), using the guidelines contained in B 27. Should the Clerk of the Course refuse to sign any Upgrade Cards, the competitor concerned may lodge an Appeal which will be heard, and adjudicated on, by the Stewards of the Meeting. No further Appeal is permitted in this respect.

Penalty Recording

3. Whenever the Clerk of the Course, the Stewards of the Meeting, or the MSC, impose a penalty on a competitor, details and the points incurred must be recorded on the Competitor's Licence Record. Should a competitor receive twelve points in respect of his driving behaviour or any other form of penalty point incurring breach of regulations within a period of 12 months the Stewards should immediately impound the licence and thus in effect suspend the competitor. The Stewards must lodge the competitor's licence with the MSA who will deal with the matter in accordance with C(d)-11.

Steward's Report Form

4. The Steward's Report Form is of importance to the MSA and is designed to enable the MSA to speedily check on the organisation of an event. Please take care in answering the questions. Please forward the completed report form to the MSA within 24 hours of the event taking place, whether or not some matters are still provisional. Items of particular importance should be written in red if possible. Please indicate on the front if there are any Accident Reports or Appeals requiring urgent attention.

Dealing with Accidents and Incidents

5. Complete an accident report form when:

(a) Any person suffers a fatality.

(b) Any person who is not a competitor suffers an injury.

(c) Any competitor suffers a serious injury.

(d) Any competitor suffers an injury resulting in a medical official advising that off-venue medical attention is required.

(e) In such other circumstances as the Stewards/Clerk of the Course shall deem fit.

- If possible, obtain separate detailed reports from any witnesses and officials. These should be in writing, with addresses, phone numbers and signed by the witness.

- Advise the person responsible for the venue of their obligations to report to the relevant Environmental Health Officer any accident involving injury.

Dealing with a Fatality or a Serious Accident which may Later Result in Death

6. These notes are mainly intended as guidance if the accident occurs at any event which has taken place at a single venue. Notes in respect of the similar procedures for an accident at other events are set out in (b) below.

(a) It should always be remembered that enquiries made by the Police on behalf of HM Coroners always take priority over any MSA activities. It is important that enquiries made by Stewards should proceed in parallel with and assist but never impede those undertaken on behalf of the Coroner. The investigating Police Officer may not have any experience of motor sport and is likely to appreciate your assistance, advice and co-operation.

- The first step is to ensure that the Police have been informed of the accident and that a Police Officer is attending. If it is known that there is a Police Officer on duty at or near the venue he should immediately be requested to meet the organisers and the Stewards at a suitable location, e.g. Race Control at a Race Meeting. On arrival he should be asked whether he will be acting as Coroner's Officer or Coroner's Officer's Representative, or whether a specialist Coroner's Officer should be sent for. This is because in many forces there is a full time Coroner's Officer, but in others the first Police Officer on the scene automatically assumes these duties. In the latter case the Stewards may be able to advise the Officer but, if there is a full time Coroner's Officer, the Stewards should ask for his advice as he will know better than anyone the sort of points the Coroner will require to be covered in statements.

- If practical, the scene of the accident should be preserved until the Coroner's Officer or his representative permits otherwise. If there is no Police Officer on the circuit it may be some time before one arrives. In this case the Steward should meanwhile obtain the names, addresses, occupation and telephone numbers (both business and home) of all witnesses to the accident, together with similar particulars from the Scrutineers who checked the vehicle before the race and the Scrutineer who will examine it later.

The Scrutineer's technical qualifications, e.g. M.I.Mech.E., should be ascertained and noted. Similar particulars should be obtained of the Doctor or Paramedic who examines the driver or any other person injured in the accident. If the driver or injured persons are removed by ambulance, the names, addresses, etc., of the attendants should be obtained and the ambulance driver asked to which hospital casualties are being taken (this is very important because the scene of the accident may not be in the same Coroner's jurisdiction as the hospital). All these particulars should then be handed to the Coroner's Officer or his representative when he arrives and copies retained by the Steward for onward transmission to the MSA at the earliest opportunity.

- It should be explained by the MSA Steward to the Coroner's Officer or his representative that as he is responsible for gathering information for the MSA he will therefore require statements from the same persons as those making statements for the purpose of the Coroner's Inquest. It should be suggested that, in order to inconvenience witnesses as little as possible, it would be helpful if he could take statements at the same time as the Coroner's Officer or his representative.

- Photographs of the crashed vehicle and the scene of the accident, together with detailed measurements should be taken before the vehicle is removed.

- It should be always remembered that it is far preferable to obtain witnesses' statements shortly after an accident has happened when details are still fresh in the memory than several days afterwards.

- The Coroner's Officer or his representative should be asked whether the Coroner will wish the crashed vehicle to be held for evidence, but also it should be remembered that the MSA Steward has the power to hold a vehicle for the same purpose. The owner of the vehicle or his representative should always be kept fully informed of what is to happen and, if the vehicle is impounded, where it will be stored until it is returned to him. If a vehicle is to be impounded under the direction of the Steward then a secure venue must be found for this purpose.

- Before possible witnesses leave the circuit the Steward should carefully review the situation and consider whether there is any point which he may have left uncovered. It is important that all relevant documentation should be retained.

- In the event of a foreign driver being involved it would be of assistance to the local Coroner's Officer if a note could be made of the person able to positively identify the deceased. This need not necessarily be a member of the family, but could be someone who has known him for a length of time. Arrangements should be made to notify the Driver's Embassy or Consulate.

- In general the aim of the Stewards should be to assist the Coroner's Officer, his representative, or the Police, to gain all relevant information (whether or not it may seem relevant at the time) and to gather similar information on behalf of the MSA.

Note. It should be remembered that the above procedure applies to England and Wales, but may be different in other parts of the British Isles or abroad. Local guidance should be obtained in these circumstances.

- The Stewards should at no time make any comment or statement, whether written or verbal. The Steward's job is to research and report.
- (b) The principles set out in (a) also apply in general to accidents during Rallies or other events which may use a variety of venues during the competition, but the following additional points are applicable.
 - It should be remembered that an accident may take place in a remote location and that the MSA Steward may be many miles from the scene. Therefore he should establish before the start that the Clerk of the Course and the Event Safety Officer are fully conversant with the procedures for dealing with a serious accident. Also, the MSA Steward, if not provided with a radio on the MSA Safety Frequency, should arrange to be contactable by the Clerk of the Course at pre-determined times during the event, e.g. at the lunch halt or at a service area.
 - The very nature of Special Stage Rallies and other off-road events means that important evidence at the scene of an accident may disappear rapidly after completion of the stage. Names, addresses and telephone numbers of witnesses should be obtained before they leave the scene. Stage arrows, control entry signs, warning notices, 'box' areas, barriers, ropes, tapes, brushwood etc., as appropriate, should be left in position until photographs and/or measurements can be taken by a Senior Official and/or a Steward and/or the Coroner's Officer or his representative and/or the Police if they are in attendance.
 - When accidents involve spectators, it is particularly important to establish whether or not casualties were in 'safe' or 'prohibited' areas, and whether any verbal warnings had been given by officials if in the latter.
 - Witnesses cannot and will not wait indefinitely to make a statement. It will therefore often be necessary to delegate to Club Stewards (and in exceptional circumstances to other responsible persons) the taking of some statements. The Chief Steward must remember that he is responsible for seeing everything is done – he cannot do it all himself.
- (c) Please contact the MSA as early as possible with outline details of the accident.

Judicial Procedure at Events and Tribunals

The following notes are intended as guidelines to Competitors, Officials, Stewards etc. as to the suggested procedures to be followed in any judicial matter. It should be stressed that they do not, in any way, amend or supplement the appropriate Regulations.

The Machinery of Justice

7. The rules of Motor Sport have established procedures designed to preserve a balance between justice and the proper conduct of the sport.
- (a) In accordance with the International Sporting Code of the FIA, General Regulations contained in the MSA Yearbook have been enacted and published. Further rules are published from time to time in the Supplementary Regulations of individual events – so called because they are 'supplementary' to the General Regulations.
 - To administer these rules and regulations, the MSA can appoint individual officials known as MSA Stewards, and requires organisers to appoint other officials, such as Clerks of the Course, Scrutineers, Secretaries, Timekeepers, Event Stewards and so on, each with their duties and responsibilities. The Clerk of the Course and Stewards of the Meeting (i.e. the MSA Steward (where required) and the Event Stewards) have certain powers to impose penalties, and it follows therefore that there should exist avenues of appeal, which may be followed by any person penalised by them. Similarly, persons against whom any action has been taken, even though not of a punitive nature, should have opportunity to protest or appeal, except in certain special cases.
 - Lastly, those who commit breaches of the Regulations in circumstances unrelated to an event, or of a kind which appears to merit penalties beyond the powers of the Stewards, are liable to be charged with those offences before the National Court.
 - (b) It is expected that all officials and competitors will be familiar with the MSA General Regulations and with the Supplementary Regulations for any event. No person can expect adequately to present his case, and no official can expect adequately to hear such a case without being in possession of these documents.
 - (c) The three main Judicial Bodies, in order of progression, are, the Clerk of the Course, the Stewards of the Meeting and the National Court. The Clerk of the Course will make the initial decision. That decision may be appealed against, and the Appeal will be heard by the Stewards of the Meeting. Their decision will normally be final, but may be appealed against. Such an Appeal will be heard by the National Court. In addition, the National Court may deal with some matters as a first Judicial Body.
 - At most events there should be three Stewards of the Meeting. The club organising an event is responsible for appointing the Stewards, although at all Race, Speed, Kart and some other events, the MSA appoints the Chief Steward. The MSA list of Stewards is composed of people who have considerable experience of Motor Sport, and who usually have acted as Club appointed Stewards for a number of years. They are, however, independent, and are not employed by the MSA.
 - Tribunals are appointed by the MSC and the members are usually either senior MSA Stewards, members of one of the specialist Committees or other experienced people who are independent of the MSA.

o The Stewards of the Royal Automobile Club are appointed by the Royal Automobile Club. They are senior Judges, lawyers or eminent drivers plus some senior Royal Automobile Club Officials.

(d) In order to ensure the correct atmosphere of impartiality and integrity, there must be no impression to any of the parties to a Hearing that there is a beneficial or prejudicial relationship between any of the Stewards and any of the parties.

If a Steward discovers that he has an involvement, connection or commercial interest with a party to the hearing, then he must declare, in front of all the parties, that there is a possible conflict of interest. Unless all parties state their agreement for the hearing to continue with the same Stewards, then that Steward must withdraw.

The Clerk of the Course

8. The first judicial authority in connection with any competition is the Clerk of the Course. He must deal with any protests from competitors or adverse reports from Observers, Scrutineers or Technical Commissioners, Judges of Fact, etc. He should, whenever possible, give the competitor(s) concerned the opportunity of explaining his/their side of the matter, and after considering all the relevant reports, the Clerk of the Course will then make his decision.

- The various time limits for lodging Protests are given in C(d). No attempt should be made to prevent a competitor lodging a Protest within the time limit. Joint Protests should not be accepted, but more than one individual Protest may be accepted on the same grounds. Protests must be in writing, signed, and accompanied by the appropriate fee.
- These time limits may be extended if it can be shown that there were special circumstances making observation of them impracticable.
- The Clerk of the Course's decision should always be communicated in writing, and if he feels an offence has been committed, he should make out a report which must detail which rules have been breached, what actions or penalties have been applied, and the time that the written decision was notified to the competitor concerned.
- The competitor concerned has 30 minutes to Appeal against that decision. The Appeal must be in writing, and accompanied by the appropriate fee. This Appeal will be heard as soon as practicable by the Stewards of the Meeting.

Stewards of the Meeting

9. The Stewards of the Meeting are the second judicial body at any competition.

(a) They will hear any Appeals arising out of a decision of the Clerk of the Course or of any other Official of the meeting. The decision of the Stewards of the Meeting will normally be final, and can only be appealed against if it is considered that their decision was a gross miscarriage of justice, or the penalty was wholly inappropriate for the offence.

(b) No Appeal is valid unless it is in writing, signed, accompanied by the appropriate fee, and submitted in accordance with the Regulations. They should always be dated and the time of acceptance noted.

(c) The Stewards of the Meeting will convene a hearing, at which all concerned will have the opportunity of giving evidence. Having heard all the arguments the Stewards will retire to consider their decision. Their decision will be announced verbally, and should be confirmed in writing. Wherever possible the written findings will be posted on the official notice board(s).

(d) The Stewards should consider only the Regulations as published, and at no time should consider a claim as to what it was intended that a rule should mean. In the event of a definite ambiguity, only that intention which may be inferred from studying the published Regulations as a whole may be taken into account.

(e) As a matter of convenience, the Stewards will normally request the organisers of an event to make the physical arrangements for a meeting of the Stewards, but there should not be any prior consultation on matters upon which the Stewards will be giving judgement. At all times the Stewards should bear in mind the maxim that not only must justice be done, but it must be seen to be done.

- o If Stewards have to deal with an Appeal, or hold a Stewards' Enquiry, they should ensure that they have a properly convened Stewards' Meeting and they should try, as far as is possible, to observe the formalities, protocol and procedures that they would expect to find in a court or tribunal, in order to avoid any later criticism.

Advocates may not be present at any Hearing of the Stewards.

(f) If a decision of the Stewards is to be Appealed against, the Secretary of the Meeting must be notified of the Intent to Appeal and the Appeal Fee paid, within 30 minutes of the verbal announcement of their decision (providing the person concerned is present). Confirmation of the Appeal, together with details of the Appellant's case, must be sent by the Appellant direct to the MSA within ten days.

Steward's Check List

10. The following 'Check List' may help Stewards before, during, and after an Appeal or Hearing.

- (a) Before the meeting, and in conjunction with the Clerk of the Course or the Secretary of the Meeting, designate a quiet room or area that can be used in case of any Hearing.
- (b) Ensure that the appellant, witnesses, and the person being appealed against, are all aware of when and where the Hearing is going to be held, and of the nature of the Appeal, or of any breaches of the rules, or of the reason for a Stewards' Enquiry. The Hearing may proceed in the absence of any party or witness, and judgement may be given by default. Before giving judgement in default, the Stewards

must satisfy themselves that the party concerned was properly advised of the time and place of the Hearing but have failed to attend, or that he/they have left the Meeting in contravention of C(a)-62.

(c) Notes of the evidence should be taken during the Hearing, and forwarded to the MSA with the Findings, to be available for production at any subsequent Appeal Hearing.

(d) The MSA Steward, if one is appointed, will be the Chairman of the Hearing.

(e) Although the Clerk of the Course and the Secretary of the Meeting may be present they may take no part in the Hearing unless they are required to give evidence.

(f) Both the parties should be present throughout the hearing [unless the Hearing is proceeding in the absence of one party – see C(d)-52]. The Entrant (or his representative) may be present as an observer if he wishes. Naturally, in the case of a foreign competitor, he may be accompanied by an interpreter.

(g) Witnesses for either side should remain out of the Hearing until they are called on to give their evidence, after that they may remain at the discretion of the Stewards. However, if they are permitted to leave, they should be warned not to discuss the case with any of the other parties.

(h) Evidence should be called in the following order; as appropriate:

- Appellant.
- Witnesses for the Appellant.
- Any independent evidence that the Stewards may wish to hear (such as flag marshals etc.).
- The other party.
- Witnesses.

(i) Make sure that ample time is allowed for both parties to cross-examine the other witnesses.

(j) Keep a 'tight rein' on the proceedings in order to avoid acrimonious argument between the parties, bearing in mind that the Steward's duty is to analyse all the facts and to make what is, for all concerned, a very important decision.

11. After hearing all sides, the Stewards should ask everyone (including the organisers) to leave the Hearing while they discuss the evidence and reach their Findings.

(a) The Findings should be written out, timed, dated and signed by all the Stewards present.

(b) Call back the parties and read out the Findings.

(c) Do not enter into any further discussion with any of the parties or their witnesses after reading out the Findings.

(d) The Secretary of the Meeting should, where possible, arrange for the Findings to be posted up at a place where they can be conveniently read by all (e.g. outside Race Control) and will also arrange for typed copies of the Findings to be available for the parties.

(e) Forward all unreturned fees, fines or Appeal fees, together with the MSA Stewards' Report Form, notes or transcript of evidence and the written Findings to the MSA as soon as possible.

12. Dealing with Eligibility Protests or Problems [C(d)-33-43].

(a) Clerks of the Course dealing with Eligibility matters, particularly at race, and at other meetings, should bear the following points in mind:

(b) Throughout this section, the title 'Scrutineer' is taken to mean Scrutineer, Eligibility Scrutineer, or Technical Commissioner, unless one of the latter expressions is used. All three can report on Eligibility matters, but they have different powers of action.

(c) Where a vehicle is found by the Scrutineers at pre-event examination to be contrary to the Regulations it must not be allowed in practice until the matter has been rectified. It is unfair to other competitors to allow an ineligible vehicle to practice, or indeed take part in the event. No vehicle should be allowed to compete on a 'Not for points or awards' basis.

(d) Where a protest is lodged in accordance with C(d)-48 or 49, arrangements should be made for an Eligibility Scrutineer or Technical Commissioner (if present) to examine the vehicle. If it is not possible for it to be examined immediately, the appropriate part(s) should be sealed by a Scrutineer, who should furnish the Clerk of the Course and Stewards with a detailed description of how the sealing is carried out, and a sample of the seal used showing identification marks [C(d)-53].

(e) Results of any event in which the vehicle has competed should be declared 'Provisional, subject to a scrutineering check on car No . . .'

(f) Both parties should be advised that if the Protest is upheld, the expenses of the Scrutineer who carries out the inspection, plus the costs of stripping and rebuilding as necessary, will be the responsibility of the Entrant/Competitor protested against [A 60(k), C(d)-54]. If the vehicle/component is found to be legal, the expenses of the Scrutineer plus reasonable costs of stripping/rebuilding will be the responsibility of the person lodging the Protest. It is important to get both parties together when the protest is lodged to agree a realistic maximum figure for the stripping and rebuilding, so that a major rebuild is not carried out. This amount must be deposited by the protestor with the MSA within 7 days, failing which the protest will lapse. If the final costs cannot be agreed, make it clear that the

MSA will appoint an arbitrator, who will seek independent advice. A printed liability form is available for this purpose from the MSA.

(g) Any further action, such as exclusion from the event or fine will be decided upon by the Clerk of the Course when he has received the Scrutineer's report. Normally, the report will be made in accordance with the Judge of Fact regulations, in which case the Clerk of the Course must accept it and adjudicate accordingly in accordance with 8 and after having given the competitor concerned the right to make any representation in respect of 'exceptional circumstances' [C(d)-34]. The competitor concerned may appeal to the Stewards of the Meeting solely in relation to the penalty, otherwise there is a special procedure laid down for Eligibility Appeals [see C(d)-76] which go direct to an MSC Eligibility Appeal Panel. The Stewards of the Meeting, however, must be notified if such an appeal is lodged.

(h) If a vehicle is sealed for subsequent examination as a result of an organiser's request under A 60(h) to (k), the entrant is liable to pay costs of any work involved, whether the vehicle is legal or not.

(i) He is also liable for the Scrutineer's expenses if the vehicle is 'illegal'. A time limit should be stipulated for subsequent examination. This should normally be a maximum of 30 days, although it can be extended by mutual agreement to 50 days. At the end of the season, series or championship it should never exceed 30 days.

(j) The Protestor should be advised that the Technical Commission will carry out the examination as soon as possible, but that for reasons of commercial confidence it is not permissible for any outside person to attend that inspection. The Protestor should, however, have the opportunity of seeing the Technical Commissioner's report.

(k) If fuel samples are taken the Clerk of the Course should ensure that the competitor concerned has also been offered a sample, and the Stewards should be notified of the method of sealing the sample cans. Note A 82 for details of procedure.

(l) Clerks of the Course should fully realise that where a subsequent examination of a vehicle is necessary, their responsibilities do not end until after the Scrutineer's report has been received and any appropriate action taken by them. Any correspondence to the competitors concerned should always be sent through the Secretary of the Meeting.

(m) As a general guide, contravening Safety Regulations (e.g. Empty Fire Extinguisher) should not be considered as an Eligibility offence but should normally be subject to a fine or other penalty.

(n) Special Regulations may apply in respect of eligibility matters in certain racing classes or championships.

Stewards' Inquiry

12. The Stewards of a Meeting may hold an Inquiry into any matter reported to them by the Clerk of the Course, or which is the subject of an Official's report.

The Nature of the National Court and its Tribunals

Location and Arrangement

13. Tribunals normally sit at the MSA offices, but can meet at other venues at the MSC's discretion. The press and other observers are not permitted to attend. The Tribunals may, where in the circumstances they consider it proper to do so, proceed in the absence of any party or witness, provided that the Tribunal is satisfied that notice of the time and place of the Hearing has been given, and the absent party or witness has not provided acceptable reasons for his absence.

(a) In order to facilitate the operation of Tribunals and Appeal hearings by the MSC, the following procedure will be adopted in all cases other than Appeals against Technical decisions.

- The written notice of confirmation of Appeal, together with skeleton arguments in support of that appeal, must be lodged with the Clerk to the National Court within ten days of the decision being appealed against. He will then notify the appellant whether Leave to Appeal has been granted.
- Where appropriate, the Appellant will be given sight of any reports or documentary evidence which will be produced at the hearing.
- Witnesses preparing written reports need not be called to attend if they were present at the event and were available at the Stewards of the Meeting's hearing.

(b) The Tribunal, in giving judgement for or against the accused, shall do so by writing down its findings, and reading it aloud to the parties appearing. Such judgements may also include any recommendation which the Tribunal deems fit, together with an allocation of costs if appropriate.

(c) A copy of the findings, in writing, will be sent to all parties as soon as practicable.

(d) At Tribunals the MSA may be legally represented. Not applicable to Eligibility Appeal Panels.

(e) At Tribunals the appellant is entitled to be represented by an advocate who should be nominated in advance of the hearing. Not applicable to Eligibility Appeal Panels.

Tribunals of the National Court are of six kinds:

14. **Disciplinary Tribunals** are appointed to try cases brought before them by the MSA for breaches of rules carried out by persons or groups subject to the General Regulations. Disciplinary Tribunals have two primary duties:

- (a) to determine whether or not the breach is proved (unless the matter has been referred to them for the application of an additional penalty); and
- (b) if so, to impose the appropriate penalty.

To these may be added the right to make any recommendation to the MSC that might seem relevant.

Procedure at Disciplinary Tribunals

15. The Clerk to the Tribunal will bring in the main parties, and briefly state the purpose of the Hearing. The alleged breach shall then be read to the party, either by the Clerk of the Tribunal, or by the Chairman; and the party will plead to each charge.

- If the party accepts the charge, the proceedings may be shortened and will generally be in respect of mitigation.
- The prosecution proceeds first, summarising its case, and is normally required to adduce evidence of the existence of a rule or regulation allegedly breached, and evidence of the breach.
- Prosecution witnesses may be cross-examined by the defence, and re-examined by the prosecution.

- The defence will then present its evidence in rebuttal of the prosecution's case, defence witnesses being cross-examined and re-examined in turn.

- All witnesses may, of course, be questioned by members of the Tribunal.
- The prosecution may then address the Tribunal, summarising the evidence presented.
- The defence may also address the Tribunal, summarising the accused's defence.
- The Tribunal will then adjourn to determine if the charge is proved. No person, other than the Clerk to the Tribunal, if required, will be present or partake in the discussion with the Tribunal at this stage.
- If the Tribunal finds the charge(s) have not been proved, it shall dismiss the case.
- If the Tribunal finds the charge(s), or any of them, proved, it shall announce its findings.
- The Tribunal shall determine and announce whether a penalty is imposed, and if so its nature (and extent, if relevant, as e.g. duration of suspension).

16. Appeal Tribunals are appointed to hear pleas arising from decisions made by Stewards of a Meeting. Appeal Tribunals are obliged to confine their decisions to matters actually appealed, though they are free also to make recommendations to the MSC arising out of their deliberations. They have the power to review and amend any penalty previously applied.

Procedure at Appeal Tribunals

17. Immediately prior to the start of the Hearing, the members of the Tribunal, and all parties, will be handed a dossier consisting of the original Protest or complaint, any reports or sketches etc., which were produced at the original Hearing, the notes or transcript of the Stewards' Hearing, the Stewards' report and the findings as appropriate.

- The Appellant normally presents his case first, addressing the Tribunal and/or calling witnesses who may be cross-examined. However, if the Tribunal decide to proceed by way of a partial or complete re-hearing, the Tribunal will then decide the order in which they wish to hear the evidence.
- The respondent follows similarly, also addressing the Tribunal and/or calling witnesses who may also be cross-examined.
- The respondent then may make a final address if he so desires.
- The appellant may make a final address if he so desires.
- The Tribunal then adjourns in order to decide whether, and if so to what extent, the Appeal shall succeed.
- The Tribunal shall then deliver its judgement by writing it down, and reading it aloud to the parties concerned but exceptionally the judgement can be reserved A direction as to the disposition of the Appeal Fee, either by way of its return to the Appellant (if the Appeal has succeeded) or its forfeiture (if the Appeal has failed) should be made. An allocation of costs may be made if appropriate.

18. Investigatory Tribunals are appointed under

regulation Background to the Regulations 26. to enquire into matters referred to them by the MSA. Investigatory Tribunals are free to receive evidence and to hear witnesses as they wish. The tribunal may make recommendations to the MSC, make any necessary amendment to the results of a competition, and/or if a breach of the Regulations has occurred, either impose an appropriate penalty or refer the matter to a subsequent Disciplinary Tribunal.

19. Procedure at Investigatory Tribunals

- The Tribunal will determine the form of the Hearing, including the manner of receiving evidence, consistent with its terms of reference.
- The Tribunal will determine whether, and if so to what extent, any rule or regulation has been breached.
- Providing the party concerned is present, and has been warned in advance that a possible breach of the regulations is being investigated, he may be charged with an offence, and the Tribunal may proceed as a Disciplinary Tribunal, or the matter may be adjourned for a subsequent hearing. If the person concerned is not present, and the Investigatory Tribunal decides he has a case to answer, he can be charged and summoned to attend before a subsequent Disciplinary Tribunal, who will hear the matter afresh.
- The Tribunal may, if it determines that the results of a competition have been incorrectly or improperly made out, make such order as it deems appropriate.
- Where there are orders made, or penalties to be imposed, the Tribunal shall deliver its judgement by writing it down and reading it aloud to the parties concerned. Such judgements may moreover include any recommendations which the Tribunal deems fitting, together with an allocation of costs if appropriate.

20. Eligibility Appeal Panels are appointed to hear any Eligibility Appeals in accordance with the procedure laid down in C(d)-76.

21. Procedure at Eligibility Appeals

- Eligibility Appeals are dealt with in writing.
- If a competitor wishes to Appeal in respect of an eligibility ruling, or penalty under C(d)-39(c), he must submit to the MSA in writing within ten days, full details of his grounds of Appeal.
- Within the same period, the Technical Commissioners concerned must also submit their reasons for coming to their decision, quoting the relevant regulation numbers, dimensions etc., as appropriate.
- Copies of these submissions will be sent to the opposing parties, who will then be allowed a further ten days for written comments.
- The Eligibility Appeal Panel will then consider all these submissions, plus any appropriate exhibits and will adjudicate on the matter.
- The Decision will be notified to all parties in writing. The Panel will decide whether the Appeal fee in respect of its hearing should be returned or forfeited, and may also allocate costs if it thinks it appropriate.
- In giving a decision on any matters brought before

them, the National Court may decide, according to the decision, to award costs which shall be calculated to the level of the expenses occasioned by the preparation of the case and the meeting of the National Court. The costs shall be constituted by these expenses alone, to the exclusion of the expenses or defence fees incurred by the parties. That is to say any costs incurred in bringing or responding to an appeal or other matter before the National Court shall be borne by the party incurring the cost, and an order for costs shall not be made against a party unless they are considered to have acted without foundation.

22. Anti-Doping Tribunals are appointed to determine whether a doping offence has been committed and, if so, (or where the offence is admitted but the exercise of a discretion is required) what the consequences (if any) shall be. Alternatively where the offence is admitted but the exercise of any discretion is either not applicable or is not sought the matter shall be referred to the Chairman of the Anti-Doping Tribunal alone.

23. Anti-Doping Appeal Tribunals. In certain instances matters may be appealed to the Anti-Doping Appeal Tribunal. All relevant procedures and requirements will be available from the MSA.

Witnesses and Examination

24. Witnesses are not required to give evidence on oath. They may be examined by the party calling them, and shall give evidence directly and/or by answering questions. They may not be 'led' on examination by the party that has called them; that is to say they may not be asked questions generally which put words into their mouths, although this is relaxed somewhat for formal identification etc.

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

26. Re-examination, i.e. further questioning by the witness's own side, is always confined to clarification of matters raised in cross-examination.

The Nature of Evidence

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

28. Hearsay Evidence. Evidence given by a witness who has heard something said by someone else is not admissible to prove the truth of the statement, but is admissible to prove the statement was made, e.g. a witness may have been told that a car went over the fence. All that he can testify to as a witness is that he was told this; it is no evidence that the car did go over the fence.

29. Opinion. The opinion of a witness is generally inadmissible: he is there to relate observed facts.

30. An Expert Witness may however be called to state

his opinion on a matter within his special knowledge or skill where the Tribunal itself cannot form an opinion because special study, skill or experience is required. For example, an engineer, doctor, designated Observer, or racing driver may qualify, or be stipulated as an expert in his particular field, and hence give expert opinion in evidence. He will, however, be subject to cross-examination in such areas of evidence and his evidence will be evaluated, not by other experts in this field necessarily, but by the Tribunal.

31. Documents may be produced in evidence: in such case the Hearing must be satisfied as to their source, validity, relevance etc., and to do so it may be necessary to call direct evidence in this respect. It should be remembered that documents on their own should not be accepted without corroboration.

- A report from any official that has been produced, and has later been open to challenge at the original Stewards' Hearing is acceptable, but should not be amplified later unless that official is attending as a Witness.
- Data logged evidence, video and other photographic evidence may be considered by Clerks of the Course, Stewards or Tribunals, providing they are satisfied as to its authenticity, and in all circumstances at their sole discretion [A 25].
- Prior to the hearing of an Appeal each party is required to specify to all other parties, details of all reports, documents, objects, photographs or recordings which are to be used at the hearing. All parties must have the opportunity of inspecting any or all of the items detailed in the list.

32. Objects may be put in evidence, as for instance, the cylinder head in question.

33. Circumstantial Evidence. The fact of the existence of a number of situations or occurrences, or circumstances, may be submitted. It may be cogent (e.g. a man seen running from the otherwise deserted scene of an alleged offence at the time that it was committed) or it may be valueless, but it is admissible.

34. It is not permitted to introduce, before any decision is given, evidence relating to previous breaches. Similarly it is forbidden to introduce material in addresses that could have been and should have been produced in evidence. Failure to give evidence is not in itself an admission, but it may give rise to certain conclusions by reasonable men: the innocent usually, in human experience, assert their innocence, and failure to do so while subject to examination is rightly capable of being interpreted as an admission.

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

Degree of Proof

36. The degree of proof required is what is more probable i.e. the balance of probability. Although some

sporting or social stigma may accrue to persons found to have been in breach of the Regulations of a sporting body, it is not sufficient to justify the necessity of proof beyond reasonable doubt.

General Conduct

37. Though MSC Tribunals and Stewards' Hearings do not have either the status or the authority of Courts of Law, though witnesses can neither be compelled to attend, nor to give evidence, and though many of the parties and Tribunal members may be known to each other more or less well, there can be no justification for informality prevailing at Hearings of Stewards or Tribunals (other than isolated instances of natural humour).

- Formality is a means of ensuring that, (a) all the things that ought to be done are in fact done in an orderly manner, and, (b) that nothing that should not be done is done. An added effect is that of natural gravity, the ceremony associated with formality always lending to the proceedings the appropriate air of seriousness.
- Informal proceedings may achieve a just end, but they seldom appear to do so. The hearing in such cases loses stature and authority and may become, an object of contempt. The use of first names, the relaxing of the basic rules of evidence, lapses from decorum, the permissibility granted to interjectors, the acceptance of casual or intemperate behaviour – these add nothing to a hearing's stature and take much away from its purposes. In the event, the conduct of any hearing is a question for the Chairman himself, and it is to the advantage of all if he insists on the above guidelines being followed.

Penalties

38. It is only after having decided that the case has been found proved, that consideration should be given to the penalty to be imposed. The first step is to

examine any direct evidence of the defendant's previous record – normally this will be limited to checking to see if there are any endorsements and penalty points on his competition licence.

39. The Clerk of the Course, Stewards or Tribunal should review the facts and gravity of the offence when deciding which of the available penalty options will be used, and the level of severity, e.g. amount of fine. An adverse past record may result in a more punitive sentence.

General

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

- 'Justice must not only be done but it must be seen to be done'. This maxim is often quoted and indeed it is a very clear way of pointing out the duty of the Clerk of the Course, Stewards or Tribunal to consider the outward appearances of the manner in which they carry out their duty. It must not, however, be allowed to obscure the fact that the prime function of a Tribunal or Stewards' Hearing is to do justice within Motor Sport.
- However, Tribunals and Stewards must avoid the temptation to apply or interpret rules in a technical or convoluted manner so as to obtain a result which they see as 'justice'. It is not the task of a judicial body to form opinions as to the wisdom or otherwise of a rule which they may be called upon to apply.
- Care should be taken in placing over-reliance on the fine print and compliance with technicalities, although of course formality is required. When one considers the length of the General Regulations and the matters covered, and compares these with the sheer volume of paperwork which governs the administration of the laws of the land, it can be seen that the GRs are in many cases a guide, and attention should be paid to the substance rather than to form.