

Australian Clay Target Association Ltd

Disciplinary By-Law



Date:

Disciplinary By-Law

1. AUTHORITY

- (a) Any and all By-Laws previously made by the Australian Clay Target Association Limited (**ACTA**) concerning disciplinary or judiciary tribunals are expressly withdrawn.
- (b) This by-law (**By-law**) is expressly made as a By-Law of ACTA under clause 21 (By-Laws) of the Company's Constitution (**Constitution**).
- (c) This document:
 - (i) establishes the process by which the Company may take disciplinary action against a Member;
 - (ii) is subject to the Constitution;
 - (iii) is consistent with the Constitution; and
 - (iv) when in force, is binding on all Members and has the same effect as a provision in the Constitution.
- (d) Words and phrases in the Constitution of ACTA (**Constitution**) have the same meaning in this Disciplinary By-Law and this document is to be read in conjunction with (and subject to) the Constitution.
- (e) The interpretation of this document is solely the province of the Board.

2. PURPOSE

The purpose of this By-law is to detail how the disciplinary procedures that govern the Company are to be conducted and how disciplinary action is to be taken. If this By-law is considered not sufficiently detailed for those conducting an election, those persons are to refer all questions of clarification or amplification to the Board of the Company.

3. AUTHORITY OF THE DISCIPLINARY TRIBUNAL

- (a) The Board delegates the power of investigating or determining allegations against Members to its Disciplinary Tribunal which is established by these Disciplinary By-Laws.
- (b) It is an offence under these Disciplinary By-Laws for any person to:
 - (i) breach, fail, refuse or neglect to comply with a provision of:
 - (A) the Constitution;
 - (B) any by-laws made by the Board;
 - (C) the ACTA Member Protection Policy;

- (ii) any rules made by any relevant international federation governing the sport of clay target shooting; or
- (iii) any other resolution or determination of the Board or duly authorised commission or committee
- (iv) (as such documents are from time to time amended);
- (v) act in a manner unbecoming of a Member or prejudicial to the interests of ACTA and/or Clay Target Shooting; or
- (vi) prejudice ACTA or Clay Target Shooting or bring ACTA or Clay Target Shooting into disrepute.
- (vii) The Disciplinary Tribunal may also deal with any other matter referred to it for adjudication by ACTA.
- (viii) The Disciplinary Tribunal must at all times act independently and impartially in carrying out its duties in accordance with these Disciplinary By-Laws.

4. MEMBERSHIP OF DISCIPLINARY TRIBUNAL

- (a) The Disciplinary Tribunal shall be appointed by the Board from time to time and for each hearing shall comprise the following persons:
 - (i) a chairperson who shall be a person of experience and skills suitable to the function of chairing a Disciplinary Tribunal and discharging the responsibilities set out under clause 11; and
 - (ii) two additional Disciplinary Tribunal members.
- (b) A Disciplinary Tribunal member may hold another position within ACTA, or with a Member of ACTA.
- (c) No Disciplinary Tribunal decision shall be invalidated by any irregularity in the appointment of a Disciplinary Tribunal member.
- (d) No member of the Disciplinary Tribunal shall hear any matter in which he or she has an actual or perceived conflict of interest that might reasonably call into question the impartiality of the Disciplinary Tribunal.
- (e) All decisions made by the Disciplinary Tribunal will be by majority vote.

PART 2 – INVESTIGATIONS AND NOTIFICATIONS

5. INVESTIGATIONS

- (a) Where ACTA believes an offence under these Disciplinary By-Laws may have been committed, or ACTA receives a letter of complaint about an incident, ACTA may investigate, or appoint a person to investigate, the alleged offence and establish whether a report should be filed.

- (b) Following an investigation, ACTA (or the person appointed to investigate) may make a report if he/she considers it appropriate to do so, in that person's sole discretion.
- (c) The person conducting the investigation shall have all powers reasonably required for the purposes of the investigation, including but not limited to calling and viewing any evidence, inspecting documents or questioning witnesses.

6. DUTIES OF HEARINGS OFFICER UPON RECEIVING A REPORT

- (a) ACTA shall appoint an officer to be responsible for the receipt of reports made under these Disciplinary By-Laws and to carry out the duties in connection with such reports (**Hearings Officer**). The Hearings Officer may hold another position within ACTA. Unless another person is appointed to this role, the Hearings Officer shall be the National Executive Officer/Chief Executive Officer of ACTA.
- (b) Upon receiving a report made under these Disciplinary By-Laws that necessitates convening the Disciplinary Tribunal, the Hearings Officer shall have the following duties:
 - (i) schedule the venue, time and date to be set aside for a hearing of the Disciplinary Tribunal;
 - (ii) convene hearings of the Disciplinary Tribunal to deal with matters referred to it;
 - (iii) ensure that three members of the Disciplinary Tribunal are present to deal with any matters referred to it for determination;
 - (iv) receive and refer to the Disciplinary Tribunal all material relating to any reports made under these Disciplinary By-Laws;
 - (v) provide written notice to the Member of:
 - (A) the date, time and place of the Disciplinary Tribunal hearing;
 - (B) the nature of the proceedings and the matters or alleged offences the subject of the investigation or determination;
 - (C) state that the Member concerned is required to appear and in what capacity; and
 - (D) the possible penalty or penalties;
 - (vi) notify any official or witnesses required to be in attendance, of the date, time and place of the Disciplinary Tribunal hearing;
 - (vii) notify each of the above persons of the consequences of non-attendance at the Disciplinary Tribunal hearing and the procedure to be followed in each case; and

- (viii) notify the chairperson (or his/her delegate) of the Disciplinary Tribunal that a report has been received and deliver to the chairperson (or his/her delegate) all information relevant to the hearing.

7. MEMBERSHIP OF DISCIPLINARY TRIBUNAL

- (a) The Disciplinary Tribunal shall be appointed by the Board from time to time and for each hearing shall comprise the following persons:
 - (i) a chairperson who shall be a person of experience and skills suitable to the function of chairing a Disciplinary Tribunal and discharging the responsibilities set out under clause 11; and
 - (ii) two additional Disciplinary Tribunal members.
- (b) A Disciplinary Tribunal member may hold another position within ACTA, or with a Member of ACTA.
- (c) No Disciplinary Tribunal decision shall be invalidated by any irregularity in the appointment of a Disciplinary Tribunal member.
- (d) No member of the Disciplinary Tribunal shall hear any matter in which he or she has an actual or perceived conflict of interest that might reasonably call into question the impartiality of the Disciplinary Tribunal.
- (e) All decisions made by the Disciplinary Tribunal will be by majority vote.

PART 2 – INVESTIGATIONS AND NOTIFICATIONS

8. INVESTIGATIONS

- (a) Where ACTA believes an offence under these Disciplinary By-Laws may have been committed, or ACTA receives a letter of complaint about an incident, ACTA may investigate, or appoint a person to investigate, the alleged offence and establish whether a report should be filed.
- (b) Following an investigation, ACTA (or the person appointed to investigate) may make a report if he/she considers it appropriate to do so, in that person's sole discretion.
- (c) The person conducting the investigation shall have all powers reasonably required for the purposes of the investigation, including but not limited to calling and viewing any evidence, inspecting documents or questioning witnesses.

9. DUTIES OF HEARINGS OFFICER UPON RECEIVING A REPORT

- (a) ACTA shall appoint an officer to be responsible for the receipt of reports made under these Disciplinary By-Laws and to carry out the duties in connection with such reports (**Hearings Officer**). The Hearings Officer may hold another position within ACTA. Unless another person is appointed to this role, the Hearings Officer shall be the National Executive Officer/Chief Executive Officer of ACTA.

- (b) Upon receiving a report made under these Disciplinary By-Laws that necessitates convening the Disciplinary Tribunal, the Hearings Officer shall have the following duties:
- (i) schedule the venue, time and date to be set aside for a hearing of the Disciplinary Tribunal;
 - (ii) convene hearings of the Disciplinary Tribunal to deal with matters referred to it;
 - (iii) ensure that three members of the Disciplinary Tribunal are present to deal with any matters referred to it for determination;
 - (iv) receive and refer to the Disciplinary Tribunal all material relating to any reports made under these Disciplinary By-Laws;
 - (v) provide written notice to the Member of:
 - (A) the date, time and place of the Disciplinary Tribunal hearing;
 - (B) the nature of the proceedings and the matters or alleged offences the subject of the investigation or determination;
 - (C) state that the Member concerned is required to appear and in what capacity; and
 - (D) the possible penalty or penalties;
 - (vi) notify any official or witnesses required to be in attendance, of the date, time and place of the Disciplinary Tribunal hearing;
 - (vii) notify each of the above persons of the consequences of non-attendance at the Disciplinary Tribunal hearing and the procedure to be followed in each case; and
 - (viii) notify the chairperson (or his/her delegate) of the Disciplinary Tribunal that a report has been received and deliver to the chairperson (or his/her delegate) all information relevant to the hearing.

10. CONVENING DISCIPLINARY TRIBUNAL HEARINGS

- (a) The Disciplinary Tribunal will be convened as soon as is practicable.
- (b) The Board will assess whether a Member appearing before the Disciplinary Tribunal shall be entitled to all membership benefits until such time as the Disciplinary Tribunal has heard and determined the matter.

PART 3 – CONDUCT OF TRIBUNAL HEARINGS

11. RESPONSIBILITIES OF DISCIPLINARY TRIBUNAL CHAIRPERSON

Without limiting any other duties of the Disciplinary Tribunal chairperson set out under these Disciplinary By-Laws, the person appointed as Disciplinary Tribunal chairperson shall have the following responsibilities:

- (a) to chair hearings of the Disciplinary Tribunal or to ensure that such task is delegated to a member of the Disciplinary Tribunal;
- (b) to ensure accurate records are kept of all of the Disciplinary Tribunal's proceedings and decisions using the form set out in 0;
- (c) to communicate to ACTA the results of hearings of the Disciplinary Tribunal and provide a copy of the record to ACTA as soon as reasonably practicable following the hearing; and
- (d) to raise with any proposed Disciplinary Tribunal member any potential or possible conflict of interest which may arise from time to time.

12. ATTENDANCE AT DISCIPLINARY TRIBUNAL HEARINGS

- (a) The following persons shall be required to attend the Disciplinary Tribunal hearing conducted under these Disciplinary By-Laws:
 - (i) the Member;
 - (ii) witnesses as indicated by ACTA; and
 - (iii) any other witness required by the Disciplinary Tribunal.
- (b) The following persons shall be entitled to attend a Disciplinary Tribunal hearing as required by ACTA or the Member:
 - (i) witnesses called to give evidence by a Member; and
 - (ii) witnesses called to give evidence by ACTA.
- (c) The following persons shall be entitled to attend the Disciplinary Tribunal hearing with the permission of the chairperson:
 - (i) ACTA representatives; and
 - (ii) any other person.
- (d) Legal representatives or legal advocates are not permitted to appear before the Disciplinary Tribunal.
- (e) The chairperson may invite any other person he/she believes will assist the Disciplinary Tribunal.
- (f) Each party to the Disciplinary Tribunal shall bear their own costs.

13. NON-ATTENDANCE AT DISCIPLINARY TRIBUNAL HEARINGS

- (a) If any Member fails to attend the Disciplinary Tribunal hearing without reasonable cause, the hearing may proceed and a determination may be made by the Disciplinary Tribunal in the absence of the Member, provided that the Disciplinary Tribunal is satisfied that all notification procedures under these Disciplinary By-Laws have been carried out.

- (b) A Member may apply to the Hearings Officer to have a Disciplinary Tribunal hearing:

- (i) adjourned; or
 - (ii) convened in another way (e.g. teleconference)

and if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the Member. The Hearings Officer (or the Disciplinary Tribunal if already convened) has sole discretion on whether or not to grant the application.

- (c) If any witness fails to attend a Disciplinary Tribunal hearing, the hearing may continue in his/her absence at the discretion of the Disciplinary Tribunal. However, if such witness has been notified by the Hearings Officer as being a required person at a Disciplinary Tribunal hearing, such witness may be liable to penalty by the Disciplinary Tribunal for obstructing the Disciplinary Tribunal procedures.

14. PROCEDURES OF A DISCIPLINARY TRIBUNAL

- (a) In the event that a Member (who is not being a natural person) is the subject of a Disciplinary Tribunal hearing, one person from that Member shall act as spokesperson for the Member.
- (b) At the commencement of a hearing, the chairperson shall identify the members of the Disciplinary Tribunal and determine whether the Member is present to answer the allegation(s).
- (c) The Member and the reporting official shall be notified of their right to remain in the hearing until all evidence is presented but not to be present whilst the Disciplinary Tribunal considers its findings and determines an appropriate penalty (if any).
- (d) The matter(s) the subject of proceedings shall then be read to the Member concerned. ACTA shall be given the opportunity to report the circumstances of those matter(s). The Member concerned will be given the opportunity to respond to this report and present evidence and submissions as to their view of the circumstances of those matter(s). Any witnesses called by either ACTA or the Member concerned will be given the opportunity to give evidence or make submissions. Witnesses may be questioned on their evidence. Evidence and/or submissions may be tendered in writing.
- (e) The Disciplinary Tribunal will consider the evidence presented. The Disciplinary Tribunal may adjourn the hearing if necessary to do so.
- (f) If the Disciplinary Tribunal is satisfied that an allegation has been established on the balance of probabilities (i.e. more probable than not) it shall find the allegation proved. Otherwise the allegation shall be dismissed.
- (g) If the Disciplinary Tribunal is not satisfied that the particular allegation has been proved, but is satisfied that a lesser allegation has been established, then the Disciplinary Tribunal may find such a lesser allegation established and shall apply the penalty applicable.

- (h) The decision of the Disciplinary Tribunal shall be given in the presence of all, by the Disciplinary Tribunal chairperson. The Disciplinary Tribunal shall determine the penalty to be imposed (if any) and shall advise the Member of the penalty. Every decision of a Disciplinary Tribunal shall be conveyed in writing to the parties concerned (within a reasonable period of time).
- (i) The chairperson shall also notify the Hearings Officer of the decision and any penalty imposed by the Disciplinary Tribunal.
- (j) The Disciplinary Tribunal is not obliged to give oral or written reasons for any decision made by it under these Disciplinary By-Laws.

PART 4 – OFFENCES AND PENALTIES

15. PENALTY

- (a) The Disciplinary Tribunal shall have the power to suspend, disqualify, reprimand, fine, bond, ban or otherwise deal with any person found to have committed an offence under these Disciplinary By-Laws. Penalties which may be imposed include:
 - (i) a reprimand;
 - (ii) suspension, from such activities or events held by or under the auspices of ACTA, including but not limited to competition, on such terms and for such period as the Disciplinary Tribunal thinks fit;
 - (iii) exclusion from a particular competition, activity, event or events;
 - (iv) expulsion from ACTA;
 - (v) suspension for a specified period and/or termination of any rights, privileges and benefits provided by ACTA;
 - (vi) any other such penalty as the Disciplinary Tribunal considers appropriate.
- (b) A penalty handed down under these By-Laws shall commence from the date of the Disciplinary Tribunal finding unless otherwise expressly directed by the Disciplinary Tribunal.
- (c) The Disciplinary Tribunal may take into account any penalties previously ordered against the Member when determining the penalty to be handed down in each case.

16. NO RIGHT OF APPEAL

- (a) There is no right of appeal following a decision of a Disciplinary Tribunal. Any dispute must be solely and exclusively resolved by the Disciplinary Tribunal and the decision is final and binding on the parties.
- (b) A person shall exercise his/her rights under these Disciplinary By-Laws and have any dispute heard and determined by the Disciplinary Tribunal before commencing any proceedings or becoming a party to any proceedings in a court of law or the Court of Arbitration for Sport.

PART 5 - MISCELLANEOUS

17. RELATIONSHIP WITH CRIMINAL MATTERS

- (a) If, during a Disciplinary Tribunal hearing or an investigation under these Disciplinary By-Laws, it becomes known that a criminal charge has been brought (as opposed to merely the subject of police investigation) arising out of the actions the subject of the hearing or investigation, the Disciplinary Tribunal may rule that further action be deferred until completion of the criminal matter.
- (b) In making a determination under By-Law 17(a), the relevant persons shall have regard to the need to ensure the ongoing safety of competitors, officials and other persons involved in ACTA and Clay Target Shooting.

18. NATURAL JUSTICE

To the extent that the principles of natural justice are not included in the provisions set out in these Disciplinary By-Laws they are expressly excluded.

ANNEXURE A

Minutes of meeting

Minutes of: Disciplinary Tribunal

Held on the / /

Present:

Member (subject of hearing):

Statement of the incident:

Notes:

Decision:

Chairperson's

Signature.....Date:...../...../...../

[Attach additional pages where required]