

## Amendments to GDT July 2018

### Guide to colouring and formatting

Note that:

- a) text coloured in red with a single underline or single strikethrough has been added or deleted respectively (i.e. addition and ~~deletion~~); and
- b) text coloured in green with a double strikethrough or double underline has been moved unchanged, not added or deleted (e.g. text moved from ~~here~~ to here); and
- c) text coloured in green with a single strikethrough has been moved and then deleted (e.g. like ~~this~~ to thisthat.)

Only the eight pages with changes are shown.

- 2.25. **Misconduct** shall mean any act or omission by a Club Associate or a Match Official (subject to clause 3.4(e) below) that constitutes:
- (a) a breach of the FIFA Statutes and Regulations;
  - (b) a breach of the FFA Statutes, Regulations, By-Law, policy or code of conduct which may be in place from time to time;
  - (c) a breach of the Laws of the Game;
  - (d) a breach of an FFV By-Law, regulation, code of conduct or policy unless such By-Law, regulation, code of conduct or policy contains a provision or provisions for dealing with any breach thereof;
  - (e) a breach of FFV's Rules of Competition or this GDT;
  - (f) participating, assisting or arranging the participation or assistance of others in any Match fixing, gambling or betting activities in relation to a Match;
  - (g) in the opinion of FFV, conduct which is or may be or has a result that is or may be prejudicial to the interests or reputation of either the game of Football in Victoria, FFV or of any of its sponsors or associates.
- 2.26. **Misconduct Penalty** means a penalty determined by FFV in accordance with Schedule 2 of this By-law.
- 2.27. **Misconduct Penalty Offence** means any one of the offences set out in Schedule 2.Part C of this By-Law.
- 2.28. **Penalty Offence** means anyone of the offences set out in Schedule 1 or Schedule 2.Part C of this By-Law as the case may be.
- 2.29. **Penalty Unit** shall mean the amount set out in Schedule 2.Part A.2 of this By-Law.
- 2.30. **Play off** means a Match or Matches other than a Finals Series to determine final ladder positions, promotion opportunity or relegation and unless otherwise specified in this By-Law is part of a Competition Season.
- 2.31. **Protest** means a formal protest against a Match result arising from an allegation that a Club has fielded an Unregistered or Ineligible Player.
- 2.32. **Recommended Penalty** means the relevant recommended sanction for Misconduct Penalty Offences as per Schedule 2.Part C of this By-Law.
- 2.33. **Red Card Appeal** means a review by the Tribunal at first instance of an Additional Suspension received as a result of a Red Card.
- 2.34. **Season** means the Regular Season as defined in the Rules of Competition, and includes any finals or play-off fixtures, and any Cup fixtures held in the same calendar year.
- 2.35. **Serious Offence** means the charges as set out as a "serious offence" in Schedule 2.Part C of this By-law and each of them.
- 2.36. **Suspension** shall have the meaning set out in Clause 6.1(a) below and includes an Automatic Suspension and an Additional Suspension.
- 2.37. **Team** means a group of players fielded by a Club to participate in a Match.

### **3. INVESTIGATION AND CHARGES**

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#### **3.1. Charge of Misconduct**

- (a) Subject to this By-Law only the FFV or the FFV's Chief Executive Officer (CEO), or a member of FFV staff designated by the CEO, may bring a charge of Misconduct on behalf of FFV against **(subject to clause 3.4(e) below)** a Club Associate or a Match Official. The CEO has delegated this function to the Executive Manager - Legal, Regulatory and Finance, but may delegate to another member of staff as required.
- (b) This GDT applies to any and all Matches, and to any Club, Team, player, coach, official or Club Associate, whether in relation to a Match or otherwise.
- (c) FFV may investigate any matter that is relevant in its opinion to whether a charge of Misconduct ought to be brought in accordance with Clause 3.1(a) above.
- (d) Such investigation may be carried out by FFV as it sees fit and Club Associates and Match Officials are required to cooperate fully with FFV in the conduct of an investigation.
- (e) At any time FFV may determine whether any charge(s) of Misconduct will be made against a Club Associate and whether it will be dealt with by:
  - (i) the Tribunal;
  - (ii) a Red Card penalty or Misconduct Penalty Offence;
  - (iii) mediation under this By-Law;
  - (iv) any combination of the above; or
  - (v) in any other manner that FFV deems appropriateand such determination shall be at the absolute discretion of FFV and not subject to review by any party.
- (f) FFV may in its unfettered discretion choose to dismiss or not investigate any matter that it determines to be a claim or complaint instituted without sufficient grounds and serving or designed only to cause harm or annoyance to another party, or determine at any time whether no action is to be taken in relation to any matter.

#### **3.2. Strict Liability of Clubs**

- (a) All Clubs are responsible and liable for the conduct of their Club Associate(s) at or in the vicinity of any Match.
- (b) The strict liability obligations of a Club within Clause 3.2(a) above apply regardless of the responsibilities attached to any other person or entity in respect of a Match or event.
- (c) Notwithstanding Clause 3.2(a) above FFV may, in its absolute discretion, elect not to proceed against a Club for the Misconduct of a Club Associate where:
  - (i) the Club is (for the relevant Match or event) compliant with Match day security standards and/or protocols as published by FFV from time to time (for example, the Match Day Risk & Security Policy);
  - (ii) the Club cooperates with any investigation by FFV into the alleged Misconduct, including without limitation naming or identifying, upon request by FFV, those individuals or Club Associates known to the Club in relation to the alleged Misconduct; and
  - (iii) FFV, on review of the information available to it, forms the view that to proceed against the Club for the actions of the Club Associates is unduly harsh or unfair in the circumstances.

- (d) Matters that FFV may consider in forming its view under Clause 3.2(c)(iii) above include but are not limited to:
  - (i) the tribunal and misconduct history of the Club or individuals;
  - (ii) the cooperation of the Club; the significance of the nature of the Misconduct;
  - (iii) whether the Club acted swiftly to counter the Misconduct and denounce the incident at the relevant times; and
  - (iv) whether the Club has taken any relevant action of its own regarding the Misconduct.
- (e) Where a Club complies with all the matters in Clause 3.2(c) above, FFV nevertheless retains a discretion to proceed against the Club for the Misconduct where FFV is of the view that the relevant Misconduct is of a particularly egregious or significant nature. Where FFV does so proceed against the Club, the Tribunal may consider these factors in penalty mitigation in circumstances where the Club is found guilty of Misconduct at a subsequent hearing.

*By way of example: where a Club Associate of a Club releases flares at a Match, FFV may decide to not proceed against the Club in its absolute discretion where the Club: acts swiftly to deal with the flare at the time; identifies the Club Associate to FFV; and provides such cooperation to FFV as otherwise requested. Any such decision will not preclude the FFV from proceeding against the Club Associate(s) in question for the conduct described.*

### 3.3. Recognition of Bans

- (a) FFV may recognise and apply any validly imposed suspension under the terms of the FFA National Banning Regulations (or other FFA Misconduct or Code of Conduct rules or regulations) upon a Club Associate, as well as any validly imposed suspension upon a Club Associate by another Member Federation, in its absolute discretion.
- (b) Where such suspension is significantly greater in penalty or effect for a given offence than an equivalent Suspension in this GDT, the relevant Club Associate may apply to FFV for the matter to be referred to the independent Tribunal for consideration of the Suspension penalty only for FFV's purposes (but not for consideration of the facts of the matter or the finding).

*Additional note on Clause 3.3 above: stakeholders should be aware that the FFA National Banning Regulations have been revised to include football matches that are sanctioned by a State Member Body (such as FFV) and in which an A-League club is participating. Persons banned by the FFA in connection with Hyundai A-League clubs may be prohibited from attending relevant NPL games.*

### 3.4. Independence of Tribunal and Appeals Board and transparency of Tribunal and Appeals Board process

- (a) A decision of the Tribunal shall be final and binding on the parties and no party may take any action in any court of tribunal or other forum other than via clause 8 below to challenge such decision or seek to have it varied in any way.
- (b) A decision of the Appeals Board shall be final and binding on the parties and no party may take any action in any court or tribunal or other forum other than via Clause 8.6(b) above 3.4(c) below to challenge such decision or seek to have it varied in any way.
- (c) Only where a party has exhausted all avenues of appeal within FFV, may that party Appeal the Appeals Board's decision via and subject to Football Federation Australia's National Disciplinary Regulations and Grievance Resolution Regulations.

- (d) Neither the FFV nor any employee, Member (as defined in the FFV Constitution), nor director of FFV may:
  - (i) overturn, annul, or amend, or otherwise interfere after the fact with any determination of the Tribunal (however, the Discipline Department of FFV will not be breaching this clause when clarifying the meaning of a determination with a member of the Tribunal that made the determination); and/or
  - (ii) attempt to exert any direct or indirect pressure upon, or attempt to influence, the Discipline Department of FFV as it carries out its duties under this GDT.
- (e) Any breach of this clause 3.4 shall result in Misconduct MP10 being charged against the person or people committing the breach (which for this purpose is not limited to a Club Associate or Match Official such that this clause has jurisdiction over any person whomsoever) and a Tribunal hearing scheduled as soon as possible to hear that charge of Misconduct. The results and/or consequences of that breach are null and void ab initio.

- (b) FFV may record a Tribunal hearing (which shall stand as the official recording):
  - (i) at the request of a party to a Tribunal hearing; or
  - (ii) of its own volition.
- (c) No party may record a Tribunal hearing without prior written permission from FFV.
- (d) Where FFV records a hearing, FFV may store that recording for the purposes of an Appeal. FFV may transcribe the recording at the request of a party or of its own volition. The transcript as transcribed by FFV shall serve as the official record of the Tribunal hearing.
- (e) The costs of transcribing a recording (if available) for the purposes of an Appeal shall be borne by the party requesting the transcription.

~~7.12. Independence of Tribunal and transparency of Tribunal process~~

~~Neither the FFV nor any employee, Member (as defined in the FFV Constitution), nor director of FFV may:~~

- ~~(a) overturn, annul, or amend, or otherwise interfere after the fact with any determination of the Tribunal (however, the Discipline Department of FFV will not be breaching this clause when clarifying the meaning of a determination with a member of the Tribunal that made the determination); and/or~~
- ~~(b) attempt to exert any direct or indirect pressure upon, or attempt to influence, the Discipline Department of FFV as it carries out its duties under this GDT.~~

## 8. APPEALS

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### 8.1. Appeals Board

- (a) FFV shall establish an **independent** Appeals Board comprised of senior, legally experienced members of the pool of Tribunal Members to hear Appeals under this By-Law or Appeals allowed under any other FFV Regulation, By-Law or Policy (**Appeals Board**).
- (b) The Appeals Board shall be constituted by such persons as FFV sees fit, save that any member of a Tribunal panel that hears a matter at first instance shall not be eligible to constitute part of an Appeals Board to hear that matter on Appeal.
- (c) One of the Appeals Board members shall be appointed by FFV as the Appeals Chairperson. The Appeals Chairperson herein delegates the administration and appointment of individual appeals board hearing panels to the FFV Discipline Department.

### 8.2. Who Can Appeal?

- (a) Subject to this By-Law a party subject to a determination of the independent Tribunal may appeal such to the Appeals Board on the following grounds only:
  - (i) Denial of natural justice;
  - (ii) Error of fact or law; or
  - (iii) In any other case with leave of the Appeals Board.
- (b) A party subject to a determination of the independent Tribunal that did not participate in the first instance Tribunal hearing, shall ordinarily have no right to appeal unless leave is granted by the Appeals Board, which shall be heard as a preliminary matter to any appeal hearing as the Appeals Board sees fit.
- (c) If the Appeals Board is satisfied that grounds of appeal are made out it may then proceed to:
  - (i) where a transcript of the Tribunal hearing is available, review the matter in order to remedy any erroneous determinations; or
  - (ii) where no transcript of the Tribunal hearing is available, or in its absolute discretion, rehear the matter on the merits as a new hearing (hearing *de novo*).

### 8.3. Time Limit to Appeal

- (a) An appeal may be brought:
  - (i) no later than 5:00pm, 5 business days after the day on which the decision of the Tribunal was notified by FFV; and
  - (ii) by lodging with FFV a duly completed and signed Notice of Appeal in the form set out in Schedule 3.Part D and payment of the appeal fee set out in Schedule 2.Part A (**Appeal Fee**).
- (b) Where 8.3(a) above has not been satisfied, no appeal may be commenced without leave of the Appeals Board, or in FFV's absolute discretion.
- (c) FFV may waive, upon application, the Appeal Fee in cases of hardship in its absolute discretion. However, where FFV waives the Appeal Fee, and the appeal is ultimately unsuccessful, the Appeals Board may order that all or part of the Appeal Fee be paid to FFV.

### 8.4. Notice of Appeal

- (a) The Notice of Appeal shall specify:
  - (i) the grounds of Appeal against the findings made by the independent Tribunal; and

- (ii) whether the Appeal is against the findings of the Tribunal, or the severity of the penalty or outcome imposed by the Tribunal; and
  - (iii) such other details as set out in the relevant Form or as reasonably requested by FFV.
- (b) The Notice of Appeal may be lodged with FFV by:
- (i) hand delivering it during regular business hours;
  - (ii) e-mail; or
  - (iii) post mail.
- (c) Upon receipt of the Notice of Appeal FFV shall:
- (i) fix a date, time and place for the hearing of the Appeal as soon as practicable; and
  - (ii) advise all parties interested in the Appeal in writing of these particulars and any amendment to these particulars.

#### 8.5. Appeal Hearing

- (a) The provisions of Clause 7 above shall apply to the appointment, composition, procedures, independence, and adjournments of the Appeals Board with such modifications as are necessary as though a reference to 'Tribunal' therein was a reference to 'Appeals Board', with the exceptions that:
- (i) parties always have the right to be represented by a person with legal qualifications; and
  - (ii) Appeals ~~Tribunal-Board~~ hearings will not be recorded.
- (b) Where an Appeal is in relation to a Suspension, such Suspension shall remain in place pending the determination of the Appeal. The Appeals Board may on application by a party to the Appeal or of its own motion:
- (i) order that the Appeal be adjourned; and/or
  - (ii) stay the execution of any sanction imposed on the appellant pending the determination of the Appeal.
- (c) The Appeals Board may only make an order pursuant to Clause 8.5(b) above where it is satisfied that there are exceptional and compelling circumstances that make it harsh or unconscionable if an order was not made.
- (d) At the hearing the Appeals Board may make a finding that:
- (i) the Offence(s) have not been proven in which case:
    - it may order that all, or a portion of, the Appeal Fee be refunded; and/or
    - it may remove any Additional Suspension that may have been imposed (but may not remove or alter any applicable Automatic Suspension);or
  - (ii) the Offence has been proven as charged; or
  - (iii) the Offence has been proven on a different level or grading; or
  - (iv) a different Offence has been proven.
- (e) Where the Appeals Board makes a finding that a different Offence has been proven, it may impose or confirm the imposition of the relevant Penalty for that Offence, and may in its absolute discretion, increase or decrease the Penalty or impose or remove any additional sanctions as it sees fit (but may not remove or alter any applicable Automatic Suspension).
- (f) In the case of all other offences, conduct or omissions, the Appeals Board may impose such penalty or sanction as it sees fit.

- (g) If the Appeals Board considers a different Offence may have been committed it must give the party charged an opportunity to put any evidence and/or submissions in relation to that different Offence.

8.6. Publication of Appeals Board Decisions

~~(a)~~ Appeals Board decisions shall be public and shall be disclosed on the FFV website, unless ordered otherwise by the Appeals Board.

~~(b)~~ Only where a party has exhausted all avenues of appeal within FFV, may that party Appeal the Appeals Board's decision via and subject to Football Federation Australia's National Disciplinary Regulations and Grievance Resolution Regulations.

~~(c)~~ A decision of the Appeals Board shall be final and binding on the parties and no party may take any action in any court or tribunal or other forum other than via Clause 8.6(b) above to challenge such decision or seek to have it varied in anyway.

8.7. Associations, Regional Areas, and Other Competition Administrators

(a) Subject to the applicable constitution, rules, regulations, by-laws or any other relevant document of a Competition Administrator within Victoria, the FFV Appeals Board may be constituted to hear an Appeal from the Tribunal, or equivalent judiciary or disciplinary panel, of a FFV recognised Association, Regional Area or Competition Administrator.

(b) For the purposes of any Appeal brought in accordance with Clause 8.7(a) above, the applicable governing document for the Appeal shall be this By-Law.