



## **GUIDELINES FOR PENALTIES FOR PROHIBITED SUBSTANCES**

### **Penalties for Prohibited Substances – Rule 73.2 Contraventions**

This classification document is intended as a guideline to assist in understanding the severity and implications of alleged prohibited substance (drug) offences and it can serve as a guide to assist in respect of associated penalties. In this regard there is a Prohibited Substance List provided, with a classification for each substance in relation to the severity of such a finding, with additional sections in clarification of specific prohibited substances.

It is important to stress that other aspects (than classification) can significantly contribute to the severity of the offence and the associated penalty. These below, which require careful consideration, include:

- the class of substance involved,
- if it is Forbidden Substance, and if it is an anabolic steroid, or not,
- the route of administration of the drug preparation,
- the concentration of the substance detected in the specimen,
- whether there was adequate compliance with the Veterinary Treatment Register (VTR),
- evidence that the substance(s) may have been used improperly,
- a prohibited practice which could be involved,
- possible illegal sourcing of this preparation,
- the legality / illegality of the preparation itself,  
(Note that a product is considered as “illegal and illegally sourced” if it is preparation which contains (or claims to contain) a prohibited or forbidden substance(s) which is obtained via electronic payment via mail / courier delivery, from either a local or overseas dispatch location, without a local veterinary prescription being in place from a local veterinarian).
- the intent to manipulate the race result,
- the status of the race,
- the likelihood of risk to the rider,
- the welfare of the horse,
- the outcome of the investigation into all of the above,
- the Trainer’s record of prior prohibited substance contraventions within the past five years.

During such investigation (which could be a discussion, as consultation or a formal inquiry) there may be an investigation into aspects surrounding the administration of a drug to the horse as well as the veterinary and pharmacological aspects of the finding. It is important to note that for a particular substance, different findings may present very different facts and aspects to consider. There may also be mitigating circumstances which must be investigated and considered. These could affect the outcome of the inquiry (or an associated Admission of



Guilt / AOG being decided on) and the penalty, irrespective of the particular substance and the associated classification. Previous prohibited substances offences (considering the classification of the prohibited substances and the number of such involved) could certainly affect the penalty of a finding.

### **Prohibited substances which are Forbidden Substances**

If a specimen taken from that horse contains a Forbidden Substance, or exceeds the threshold for this substance, the horse shall with immediate effect be

- banned from racing for a period of 365 DAYS if is an anabolic steroid, or
- banned from racing for a period of 180 DAYS if is NOT of the anabolic steroid type, but another anabolic agent, or any other NHA Rules listed Forbidden Substance (Appendix M).

### **Prohibited substances which are observed during Out of Competition stable collections**

The classification and penalties associated with Class 1 and Class 2 and Forbidden Substances apply equally during out of competition and on race day.

For therapeutic substances in Classes 3, 4 and 5 which are prosecuted to be present during Out of Competition collection and subsequent testing (or exceeding an International Threshold) the guide is a penalty of 20% either side of the lowest scale on the table of the penalties corresponding to race day findings.

Note that some veterinary and human therapeutic substances may be Out of Competition prescribed and supplied to the horse by a veterinarian to treat a diagnosed condition or illness. Note that is not a positive finding if such a therapeutic substance is confirmed while it was formally prescribed and supplied by a veterinarian in the treatment of a condition or illness, with the condition that this is additionally formally and correctly recorded in the relevant Veterinary Treatment Register (VTR) for this horse.

**Class 1: Substances which have no place in horseracing, including illegal or Forbidden Substances.**

**Class 2: Substances which have an obvious effect on the performance of the horse.**

**Class 3: Substances which have the potential to affect the performance of the horse with the potential to be abused.**

**Class 4: Substances which have a generally accepted veterinary (therapeutic) use in the racehorse but which have the potential to affect performance.**

**Class 5: Substances which have an accepted veterinary use in horses but which may have performance modifying ability.**



**Suspended and Banned horses during periods of race suspension / race banning.**

In the interests of the horses within the trainer's care and subject to the approval of the Inquiry Board,

- the Trainer is free to stable and train horse the relevant horse(s),
- but then Trainer may not enter the relevant horse(s) to race for the entire suspension / banned periods.

CLASS OF SUBSTANCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
1	One year suspension + Minimum fine of R500 000	Warning Off	N/A	N/A
2	Six months suspension + Minimum fine of R250 000	Warning Off	N/A	N/A
3	Minimum fine of R35 000	Minimum fine of R69 000	R172 000 to a Warning Off	Warning Off
4	Minimum fine of R23 000	Minimum fine of R34 000	Minimum fine of R92 000	Warning Off
5	Minimum fine of R17 000	Minimum fine of R25 000	Minimum fine of R34 000	Minimum fine of R80 000

**The following guidelines must be applied by Inquiry Boards when dealing with Prohibited Substance offences:**

**1. The nature of Rule 73.2 contraventions**

- 1.1 It must be appreciated that Rule 73.2 will apply to all classes of prohibited substance contraventions. A contravention of Rule 73.2, under any of the five classifications Class 1 to 5, remains a contravention of Rule 73.2.
- 1.2 This considering, by virtue of the different classes of contraventions, some contraventions of this Rule may be viewed in a more serious light than others. For example, a Class 2 substance should not be equated to a contravention involving a Class 5 substance. Inquiry Boards are thus advised that, in considering prior offences, an Inquiry Board must be guided and influenced by the category in which any prior offence was classified. A prior offence in a lessor category should not be slavishly regarded as the equivalent of a prior offence in a more serious category (class of substance).



## 2. **Warning off**

2.1 Inquiry Boards are advised to bear in mind that the schedule of penalties reflected on the proposed penalty guideline document are nothing more than that (that being guidelines), and these should not be applied mechanically. Inquiry Boards must apply their minds to the facts relevant to any particular matter (as well as the nature of any prior contraventions), so as to ensure that disqualifications are only imposed in circumstances which properly justify the disqualification or warning off of a trainer.

2.2 In applying the guidelines, an Inquiry Board should always be mindful that where the guidelines make reference to a "warning off", this is not the only option to adopt. There may well be other factors, such as the nature of the prior offences, which should be considered in arriving at a suitable penalty. A number of factors which should be considered are referred to in this document.

## 3. **The time period applicable to prior offences**

It is accepted that a prior Prohibited Substance offence, which occurred more than 5 years prior to the contravention being inquired into, will be disregarded for the purpose of applying the guidelines.

## 4. **Rule 73.1 contraventions**

It is emphasised that a contravention of Rule 73.1 ("Administration") will not necessarily be dealt with in accordance with these guidelines. In general, administration is considered in a more serious light than a contravention of the "Strict Liability" rule, Rule 73.2.