

SHOOTING AUSTRALIA

APPEAL PROCESS

1. INTRODUCTION

- (a) Australian International Shooting Limited, trading as Shooting Australia (**SA**) selects athletes to participate, and represent SA, in competitions from time to time. Any selection decision (**Decision**) is subject to this Appeal Process (**Process**).
- (b) The Process is binding on SA and on each athlete who is seeking selection to any SA team or squad (**Team**).
- (c) The Process shall be read in conjunction with the selection policy of the relevant Team in which the athlete is seeking selection (the **Selection Policy**).
- (d) This Process is the only applicable appeals procedure to Decisions. The parties agree that they will not commence, continue or maintain any legal challenge to any matter falling under the jurisdiction of the Process, or any decision made under the Process, before any court of law or other dispute resolution body. The parties will treat all decisions under the Process as final and binding upon each of them.

2. RIGHT OF APPEAL

- (a) Any athlete is entitled to appeal against their non-selection to a Team as set out in this Process.
- (b) For the avoidance of any doubt, where an appeal arises under the Olympic Nomination Process (as set out in the relevant Olympic Team selection or nomination criteria), appeals will be governed by the provisions of the relevant Olympic Team Selection By-Law.

3. GROUND OF APPEAL

- (a) The sole available ground of appeal to a Decision is that the applicable Selection Policy has not been properly followed and/or implemented in the selection of the Team.
- (b) For the avoidance of doubt, the basis of the appeal can only address procedural matters under the Selection Policy and not matters of merit.

4. NOTICE OF APPEAL

- (a) To commence an appeal under this Process an athlete affected by a Decision must submit a formal request for reasons for that Decision (**Request For Reasons**) to SA's General Manager, High Performance (**GM, HP**). If the athlete fails to submit the Request for Reasons within the time limit set out in Rule 4(b) below, the athlete will automatically lose their right of appeal under this Process, unless in the opinion of the GM, HP (acting reasonably) it was not practical for submission to be made within the time limit.
- (b) Any athlete who wishes to receive reasons for a Decision affecting that athlete must submit their Request for Reasons within five business days of

the athlete receiving notification of the Decision against which the appeal is made (the **Notification**). Announcement of the Team (by any format, including online publication) by SA constitutes Notification, and Notification does not require a personal communication to an athlete who was not selected in the Team. For the avoidance of doubt, the time the athlete is deemed to have received the Notification is the time at which the Notification is first publicly announced, for example the time at which it is published online by SA.

- (c) Upon receipt, the GM, HP shall provide the appealing athlete with the reasons for the Decision (**Reasons for the Decision**). If the athlete is unsatisfied with the Reasons for the Decision he/she may then serve the SA Chief Executive Officer with a formal written appeal (the **Notice of Appeal**) together with a deposit of \$1000 within a further 5 business days from the date on which the Reasons for the Decision were communicated to him/her (or such other time period as SA may have indicated in the Notification or GM, HP's Decision).
- (d) The \$1000 deposit shall be returned to the athlete only in the event that the athlete's appeal is successful (in whole or in part). Costs incurred by an athlete in relation to the appeal are to be met by the athlete in all cases.
- (e) The Notice of Appeal must set out the grounds of the athlete's appeal and include full details of the basis of each appeal, with reference to the Reasons for the Decision. The Notice of Appeal should be as full as possible as it will form the basis of the remainder of the Process.
- (f) If a Notice of Appeal is not served within the time period set out in Rule 4(c) above or if the \$1000 deposit is not included with the Notice of Appeal, the appeal will lapse unless in the sole opinion of SA it was not reasonably practical for submission within the time limit.
- (g) Following receipt of a Notice of Appeal, SA shall forthwith at its sole discretion appoint an Appeals Panel in accordance with Rule 5 below and shall notify the athlete of the composition of the Appeals Panel.

5. INDEPENDENT REVIEW PANEL COMPOSITION

- (a) The Appeals Panel shall comprise three independent people, one of whom shall be designated by SA as Chairman. The Appeals Panel shall have the powers set out in Rules 6 and 7 below.
- (b) In determining the composition of the Appeals Panel, SA undertakes to ensure that the appeal will be conducted fairly and impartially. The Appeals Panel shall not include individuals with any connection to the athlete or the matters being considered and, for the avoidance of doubt, the Appeals Panel may not comprise employees or office bearers of SA.
- (c) Should a member of the Appeals Panel become unable to hear the appeal following the appointment of the Appeals Panel for whatever reason, SA shall appoint a replacement member.

6. APPEALS PANEL PROCESS

- (a) The Appeals Panel will proceed by way of a hearing at which the athlete and SA may present written evidence and may make oral submissions. As soon as reasonably practicable, and having regard to the timing of selection and

proximity of relevant events, the Chairman of the Appeals Panel shall give such directions (to both the athlete and SA) as are appropriate for consideration of the appeal, namely the date, time and place at which the Appeals Panel will hear the appeal and the timetable for the exchange of written evidence and details of any witnesses that will be called.

- (b) Hearings are to be conducted with as little formality and technicality, and with as much expedition, as proper consideration of the matter before the Appeals Tribunal permits. The Appeals Tribunal is not bound by the rules of evidence (and may inform itself as to any matter in such manner as it thinks fit) but must observe the principles of procedural fairness. Hearings may be heard by way of teleconference or other electronic means as determined by the Appeals Tribunal.
- (c) The athlete is entitled to attend the hearing, physically or by phone, and present his/her case and be accompanied by one other person who may act as the athlete's representative
- (d) The Chairman of the Appeal Tribunal shall ensure that the athlete:
 - (i) shall have every reasonable opportunity of being fully heard. The parties to an appeal may be represented at a hearing;
 - (ii) shall have every reasonable opportunity of calling witnesses and producing documents; and
 - (iii) shall have every reasonable opportunity of putting questions to any witnesses called.
- (e) The Appeals Panel shall meet on the date notified to the athlete and SA under Rule 6(a) (or, where this becomes impracticable, such other date as the Appeals Panel may notify to the athlete and SA) and shall no later than five working days after hearing the appeal inform the athlete and SA of its decision together with written reasons for its decision.
- (f) The decision of the Appeals Panel shall be final and binding.

7. POWERS OF THE APPEALS PANEL

- (a) The Appeals Panel may at its sole discretion disregard any failure by a party to adhere to this Process and may give such further directions as may be appropriate.
- (b) The Chairman may make such directions whether or not made at the request of the parties, for the proper conduct of the review as he or she deems may be reasonably necessary for the fair conduct of the review, including changes to the procedure set out in this Process.
- (c) The Appeals Panel may decide as follows:
 - (i) That the Decision be set aside as it was procedurally flawed and the matter of the athlete's inclusion be remitted to SA for fresh consideration; or
 - (ii) That the Decision be upheld and the athlete's appeal be dismissed.

- (d) The Appeals Panel may also make recommendations for the future revision and/or smoother execution of the selection process for the Team, which should be considered by SA.
- (e) Where the Appeals Panel remits the Decision to SA for fresh consideration under 7(c)(i) above, the decision of SA shall be final and binding and there shall be no further right of review or appeal.
- (f) Any further selection decision of the relevant Selection Panel under the direction of the Appeal Tribunal shall be final, and no further appeal shall be available to the Appellant in respect of that selection.
- (g) The discussions and deliberations of the Appeal Tribunal shall remain confidential.
- (h) The decision of the Appeal Tribunal is final and there is no further right or avenue of appeal. The parties agree that the Appeal Tribunal will resolve any dispute solely and exclusively and it is further agreed that neither party will institute or maintain proceedings in any court or tribunal other than the said Appeal Tribunal.

8. AMENDMENT

The Board of SA reserves the right to amend this Process at its sole discretion.