

**2016 FMSCT All Thailand SuperBike Championship
DISCIPLINARY AND ARBITRATION CODE**

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3. DISCIPLINARY AND ARBITRATION CODE

3.1 Principles

The obligations incumbent upon the participants, officials and organisers are set out in the Regulations published by the FMSCT/TSB.

Proven violation or non-observance of these obligations will be subject to the penalties laid down in this chapter.

The duties powers and responsibilities of the bodies and delegates of the FMSCT/TSB are set out in the FMSCT Statutes and By- Laws. In case of any provision not foreseen in FMSCT Statutes or By-Laws, FIM Codes and ByLaws are to be applied. Similarly, the obligations incumbent upon the participants, officials and organisers of sporting and touring events under FMSCT/TSB control are set out in the rules of the different sporting and touring disciplines or in any other rules and regulations which are or may be introduced and published by the FMSCT/TSB. All people involved in the activity of the FMSCT/TSB, both sporting and non-sporting, as well as the member of its organs, must adhere to its rules and keep an irreproachable behaviour in the carrying out of their respective duties, so as to avoid any possible prejudice to the honourableness of the FMSCT/TSB and of its members. Proven violation or non- observance of these obligations will be subjected to the penalties laid down in this FMSCT/TSB Disciplinary and Arbitration Code

3.2. Penalties

The penalties are:

- warnings
- penalty points
- fines
- change of position - ride through
- time penalties
- grid penalty
- disqualification
- withdrawal of Championship points - suspension
- exclusion

3.2.1 Definition and application of penalties

Warnings:

can be made privately or publicly.

Penalty points:

may be imposed by FMSCT/TSB Race Direction on a rider in any number from 1 to 10, points are cumulative and expire after a period of 365 days from the date they were imposed.

Automatic sanctions apply to a rider accumulating points as follows: 4 Points - Start the next race from last grid position. 7

Points - Start the next race from pit lane. 10 Points -

Disqualification from participation at the next event (or from the race results if this occurs at the last event of the season).

Points re-set to 0 after a rider reaches 10 points and serves a disqualification.

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A penalty of up to 3 points can be imposed without a prior hearing being necessary. However, the right of protest remains as set out in Article 3.4.1.

Fines:

cash penalty up to 2,500,000 Baht

A fine of up to 50,000 Baht can be imposed without a prior hearing being necessary. However, the right of protest remains as set out in Article 3.4.1.

Change of position:

the rider must go back the number of positions decided by the FMSCT/TSB Race Direction.

Ride through:

see Art. 1.19

Time penalties:

the imposition of time affecting the rider's actual result up to 2 minutes and the cancellation of time.

Grid penalty:

the imposition of a drop of any number of grid positions at the rider's next race.

In the case of an infraction of Art. 1.21.2, a drop of up to 3 grid positions may be imposed without a prior hearing being necessary. However, the right of protest remains as set out in Article 3.4.1.

Disqualification:

disqualification from an event, practice sessions (black flag, black flag with orange disc), race (black flag, black flag with orange disc) or from its results.

Withdrawal of championship points:

the loss of points from the Championship races already run.

Suspension:

the loss of rights to participate in the Championship may be applied to one or more races.

Exclusion:

the final and complete loss of all rights of participation in any activity under FMSCT control.

3.2.2 Plurality of penalties

Any offender may have several penalties pronounced against him according to the circumstances.

3.3 The Disciplinary and Arbitration Bodies

The disciplinary and arbitration bodies of the FMSCT, qualified to deal with disciplinary and arbitration matters, are:

- The FMSCT/TSB Race Direction
- The FMSCT Stewards
- FMSCT Disciplinary Commission
- The International Disciplinary Court (CDI) of the FIM

3.3.1 The FMSCT/TSB Race Direction

3.3.1.1 Constitution

The Constitution of the FMSCT/TSB Race Direction is in accordance with the requirements laid down in Article 1.6 - Sporting Rules FMSCT All Thailand SuperBike Championship

3.3.1.2 Authority and Competence

The FMSCT/TSB Race Direction has the authority to penalise automatically riders, teams' personnel, officials, promoters/organisers and all the persons involved in any capacity whatsoever in an event or in the Championship for :

- Infringements of the Regulations.
- any voluntary or involuntary action or deed accomplished by a person or a group of persons during a meeting, contrary to the current Regulations or instructions given by an official of the meeting.
- any corrupt or fraudulent act, or any action prejudicial to the interests of the meetings or of the sport, carried out by a person or a group of persons occurring during an event.
- having been unable to ensure the smooth and efficient running of the event or for serious breaches of the Regulations.

The FMSCT/TSB Race Direction is competent to adjudicate upon a protest relating to infringements of the Regulations.

3.3.1.3 Penalties that may be pronounced by the FMSCT/TSB Race Direction

The following penalties may be pronounced by the FMSCT/TSB Race Direction:

- a warning
- an imposition of penalty points
- a fine
- a change of position
- a ride through
- a time penalty
- a grid penalty
- a disqualification
- a withdrawal of Championship points

- a suspension

Furthermore the FMSCT/TSB Race Direction may refer the case to FMSCT Disciplinary Commission in order to impose a higher penalty that either the FMSCT/TSB Race Direction is empowered to do.

Any fines must be paid in full by the rider / team via bank transfer to the FMSCT's bank account before the next event in the Championship series and in any case within 4 weeks. If the full amount of the fine is not paid within these time limits, the rider will automatically be suspended from participation in all FMSCT activities until such time as the full payment has been received by the FMSCT.

3.3.2 The FMSCT Stewards Panel

3.3.2.1 Constitution

The Constitution of the FMSCT Stewards Panel is in accordance with the requirements laid down in Article 1.7 - Sporting Rules of FMSCT All Thailand SuperBikes Championship

3.3.2.2 Competence

The FMSCT Stewards Panel will hear any appeals against decisions taken by the FMSCT/TSB Race Direction.

3.3.2.3 Penalties that may be pronounced by the FMSCT Stewards Panel only following an appeal:

- a warning
- a fine
- a time penalty
- a grid penalty
- a disqualification
- a withdrawal of Championship points
- a suspension
- Furthermore, the FMSCT Steward Panel can refer the case to the FMSCT Disciplinary Commission in order to impose a higher penalty than the FMSCT Stewards Panel is empowered to do.

3.3.3 The International Judicial Panel

The FIM Judicial Panel shall consist of members nominated by FMNs. The appointments shall be confirmed by the General Assembly for a period of 4 years. The President and the Vice-President are appointed by the General Assembly on proposal of the members of the FIM Judicial Panel.

3.3.3.1 Constitution

The Judicial Panel shall consist of members nominated by FMNs. The appointments shall be confirmed by the General Assembly for a period of 4 years. The President and the Vice-President are appointed by the General Assembly on proposal of the members of the FIM Judicial Panel.

3.3.3.2 Qualifications

In order to qualify for appointment to the FIM Judicial Panel, a candidate must be in possession of a diploma in Law studies of University level. He must be able to express himself in at least one of the official languages of the FIM.

3.4 Protests and Appeals

3.4.1 Right of protest

Any legal entity or any individual, rider, team, manufacturer, official etc. affected by a decision taken under the authority of the FMSCT/TSB, has the right to protest against that decision.

No protest may be lodged against a decision of the FMSCT/TSB Race Direction entailing or not:

- a change of position.
- a ride through.
- a disqualification from the practice sessions or races by means of a black flag or black flag with orange disc.
- a fine for speeding in the pit lane.

No protest may be lodged against a decision of the Race Direction based on a photo finish.

3.4.2 Right of appeal

The rules concerning appeals against FMSCT disciplinary decisions are:

1. To the FMSCT Stewards against a decision of the FMSCT/TSB Race Direction

No appeal may be lodged against a decision entailing or not:

- a change of position
- a ride through
- a disqualification from the practice sessions or races by means of a black flag or black flag with orange disc.
- a fine for speeding in the pit lane

No appeal may be lodged against a decision based on a photo finish. When no appeal may be lodged the decision of the Race Direction is final.

2. To the FMSCT Disciplinary Commission against a decision of the FMSCT Stewards. The decision of the FMSCT Disciplinary Commission is final.

No appeal may be lodged if the FMSCT Stewards confirm the previous decision of the FMSCT/TSB Race Direction. In this case, the decision of the FMSCT Stewards is final.

3. To the International Disciplinary Court (CDI) of the FIM

No appeal may be lodged against a decision entailing or not:

- a change of position
- a ride through
- a disqualification from the practice sessions or races by means of a black flag or black flag with orange disc
- a fine for speeding in the pit lane

No appeal may be lodged against a decision based on a photo finish.

The provisions concerning appeals, or FMSCT disciplinary decisions incurring one of the penalties stated in clause 2 are as follows:

- Against a decision of an FMNR, to the FMSCT Disciplinary Commission.
- Against the decision of the FMSCT/TSB Race Direction to the FMSCT Steward's Panel
- Against the decision of the FMSCT Disciplinary Commission to the Court of Appeal, whose decision shall be final. The decisions of the FMSCT Disciplinary Commission / the Court of Appeal, shall be final unless one of the parties involved in the case can bring to light new documents or proof which could not have been taken into consideration at the time of the original hearing and which might have a bearing on the verdict. In such cases, the Court of Appeal itself shall decide whether a new hearing is necessary. If so, it shall forward all the documents to the FMSCT General Secretary with a view to appointing a new hearing and pursuing the matter further.

3.4.3 Procedure and time limit for protests

All protests must be submitted and signed only by the person directly concerned. Each protest must refer to a single subject only and the intention to protest must be notified to FMSCT/TSB Race Direction within 30 minutes of the publication of the results in the case of Sporting Regulation protests, and before the chequered flag of the session in the case of Technical Regulation protests. The protest must then be confirmed in writing or withdrawn within 1 hour at the latest after the publication of the results. Protests must be handed to a responsible official (Clerk of the Course, FMSCT/TSB Race Director or Secretary of the Meeting) together with the security deposit of 20,000 Baht or equivalent.

A protest against the eligibility of a rider, team or a motorcycle to enter a class or event must be made before the start of the official practice. A protest against a machine on technical control compliance grounds (eg. weight, noise, materials, etc.) may be made after the start of official practice, and must be informed to Race Direction before the chequered flag of the practice session or race concerned.

3.4.4 Hearing of a protest

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After a hearing, the FMSCT/TSB Race Direction must make a decision on any protest presented. The protest has to be judged according to the provisions of the Regulations.

After a hearing, FMSCT/TSB Race Direction must make a decision on any protest presented during a meeting. The protest has to be judged according to the provisions of the FMSCT Sporting Code and its Annexes and Supplementary Regulation of the meeting.

3.4.5 Effect of the decision upon a protest

The decision of the Race Direction of determination of penalty is immediate.

3.4.6 Time limits for the lodging of an appeal

The time limit for lodging a statement of appeal is:

against a decision of the Race Direction	- 30 Minutes
against a decision of the FMSCT Stewards	- 5 Days
statement of appeal before the FMSCT Disciplinary Commission	

The time limits shall be taken from the date and time of receipt of the decision by the appellant.

3.4.7 Lodging of an appeal

To be admissible, the statement of appeal must be submitted by letter (appeal before the FMSCT Stewards) or sent by registered letter or special courier to the FMSCT General Secretariat and postmarked (appeal before the FMSCT Disciplinary Commission).

The correct security deposit for appeal must be handed to the FMSCT Chief Steward (appeal before the FMSCT Stewards) or paid in to the FMSCT General Secretariat (appeal before the FMSCT Disciplinary Commission), as the case may be.

Within 10 days following the statement of appeal before the FMSCT Disciplinary Commission, the appellant assigns to the FMSCT Secretariat a brief of appeal stating the facts.

If the appeal was not lodged and/or the security deposit for appeal not paid within the dead line specified in article 3.4.6, the appeal will be declared inadmissible without hearing.

3.4.7.1 Security deposit for appeals

The amount of the security deposit is 50,000 Baht

3.4.7.2 Security deposit payable upon an adjournment

If an adjournment to call further witnesses is ordered upon the request of one of the parties involved, this party must provide an additional financial guarantee within a time limit to be fixed by the disciplinary body. The hearing will not be continued until this guarantee has been paid. In case of no provision of the guarantee within the time limit, the disciplinary body will

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make a determination on the appeal based on the evidence of the original witness.

3.4.7.3 Time limits to be observed for appeal hearings

The FMSCT Stewards must be convened to examine an appeal immediately after the brief of appeal is received.

The FMSCT Disciplinary Commission must be convened to examine an appeal not later than 2 months after the brief of appeal is received.

The FMSCT Stewards and the FMSCT Disciplinary Commission must in all cases pronounce a decision.

3.4.8 Effect of an appeal

On request of the appellant, the FMSCT Stewards Panel may decide a stay of the provisional execution adjudicated by the Race Direction by injunction or in its decision.

On request of the appellant, the FMSCT Disciplinary Commission may decide a stay of the provisional execution adjudicated by the FMSCT Stewards Panel by injunction or in its decision.

3.5 Procedure before all the Disciplinary and Arbitration Bodies

3.5.1 Right to a hearing

It shall be the unquestionable right of any person or body charged with any offence under the Regulations to defend themselves, either in person or by proxy.

Any party convened before a disciplinary or arbitration body has the right to be represented by one defense counsel of its own choice and at its own expense. Adequate notice of this intention must be given in order that this may also be notified to all other parties in the case. Failure to do so may result in the disciplinary or arbitration body upholding an objection to such representation.

If any of the parties duly convened do not appear, judgment can be rendered by default.

The disciplinary or arbitration bodies may decide that the hearing take place by means of a telephone conference call or through any other means of communication using a telephone or electronic device. Such a method of conducting a hearing shall only take place with the consent of all parties involved.

3.5.2 The hearing

The hearing shall be public unless the disciplinary or arbitration body itself decides otherwise in exceptional circumstances.

The hearing shall be conducted in one of the official languages of the FIM or FMSCT. Should one of the parties wish to use another language, it shall provide the necessary interpreters at its own costs.

The appellant must be present or duly represented, failing which, the protest will not be admissible and the costs shall be borne by the appellant.

Once the President has opened the proceedings, he will invite the parties involved to state their respective cases without the witnesses being present.

After statements of the parties concerned, the disciplinary or arbitration body shall hear the various witnesses and experts in order to complete the evidence. The parties involved in the case shall have the right to question all witnesses and experts on their evidence.

Any member of the disciplinary or arbitration body may, at any time during the hearing and with the President's approval, question any of the parties involved, the witnesses and experts.

3.5.3 Witnesses and Experts

Each party is responsible for the convening and appearance of its own witnesses, as well as their expenses unless decided otherwise by the Court.

The disciplinary or arbitration body has no authority to oblige the witnesses to swear on oath; therefore, testimony shall be given freely. The witnesses may only testify to the facts they know and shall not be allowed to express an opinion, unless the disciplinary or arbitration body should regard them as experts on a particular subject and should ask them to do so.

After having made their statements, the witnesses may not leave the Courtroom and shall not be allowed to speak to any other witness who has still to give evidence.

The Disciplinary Commission may request expert's or any witness' opinion as it considers useful. This opinion may be communicated orally or in written. may summon experts.

3.5.4 Judgement

Decisions of all disciplinary or arbitration bodies will be reached in camera by a simple majority of votes. All members will have equal voting rights which must be exercised when a decision is required. Abstention is not permitted. Each member of the disciplinary or arbitration body binds himself to keep all deliberations secret.

3.5.5 Notification of judgements

The decisions of the FMSCT/TSB Race Direction or of the FMSCT Stewards must be notified directly at the event venue, or failing that, addressed by registered letter with acknowledgement of receipt.

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All judgements of the FMSCT Disciplinary Commission must be notified, in writing, by registered letter with acknowledgement of receipt in order to inform all the parties concerned.

All judgements of every disciplinary body must be notified, in writing, by registered letter with acknowledgement of receipt in order to inform all the parties concerned. The decisions of the Disciplinary Commission and Court of Appeal must also be communicated to all FMNs of the parties involved.

3.5.6 Publication of judgements

The disciplinary or arbitration body imposing a penalty or adjudicating a protest or an appeal must have its findings published and quote the names of all parties concerned. The persons or bodies quoted in these statements have no right of action against the FMSCT nor against any person having published the statement.

Furthermore, final decisions will be published in the Media Centre and in the FMSCT Website unless the Court itself decides otherwise.

The disciplinary body adjudicating a protest or an appeal has the right to publish or to have its findings published and to quote the names of all parties concerned. The persons or bodies quoted in these statements have no action against the FMSCT or the FMN concerned, nor against any person having published the statement. Furthermore, final decisions will be published in the FMSCT/TSB Bulletin unless the disciplinary body itself decides otherwise.

3.6 Costs of procedure

The costs of a disciplinary or arbitration decision will be assessed by the FMSCT Secretariat and will be awarded against the losing party, unless the Court decides otherwise.

3.6.1 Payment of fines and costs

If the penalty is definitive, all fines must be paid into the Benevolent Fund before the beginning of the first practice of the second event following the final decision. The costs must be paid to the FMSCT Executive Secretariat within 30 days of notification of the judgement decision according to Article 3.5.5.

The person or body affected by the decision shall be automatically suspended from participation in all FMSCT activities, until such time as full payment has been received.

If the penalty is definitive and either the fine and/or costs are not paid within 30 days of notification of the judgement decision according to Article 5.5, the person or body affected by the decision shall be automatically suspended from participation in all FMSCT activities, until such time as full payment has been received by the FMSCT General Secretariat.

3.7 Arbitration Clause

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Final decisions handed down by the jurisdictional organs or the General Assembly of the FMSCT shall not be subjected to appeal in the ordinary courts.