

# **JCA PENALTY GUIDE**

**2018**

**PUBLISHED 1 AUGUST 2018**

## INTRODUCTION

Section 39(2) of the Racing Act 2003 provides the legal authority for Judicial Committees to exercise the power to impose penalties conferred by the Rules of Racing and the Rules of Harness Racing. There is no legal authority to impose any penalty not provided for under those Rules.

This guide should not be seen as either a replacement for, or an interpretation of the Rules. It does, however, seek to clarify and provide easy reference to the crucial issue of the level of penalty that is appropriate for a breach of the Rules that has been established on raceday.

The key purpose of the guidelines is to ensure consistency in the imposition of penalties but nonetheless to retain a Judicial Committee's discretion and for this discretion to be exercised within readily ascertainable and thus transparent parameters. The integrity of racing demands no less.

The guidelines as to penalties are just that. They are not intended to override the discretion that is vested by the Rules in raceday Judicial Committees. However, in the interests of consistency and fairness Committees are expected to operate within the guidelines unless the Committee has good reason to believe that the case before it has some special characteristic that justifies the imposition of a penalty greater or lesser than that suggested by the guidelines. The Judicial Committee must carefully explain any departure from the guideline.

It is important that Judicial Committees obtain information about the penalties, if any, for breaches of the Rules that have been imposed previously on the person in respect of whom they are fixing a penalty. The previous record of the person in respect of whom a breach of the Rules has been found to be proved is always a relevant factor.

The Rules of both Codes draw the attention of Judicial Committees to the following matters relevant to fixing penalties:

- the status of a race;
- the stake payable for a race;
- any consequential effects upon any person or horse as a result of the breach of the Rules;
- the need to maintain integrity and public confidence in thoroughbred and harness racing.

These factors should always be considered when determining the appropriate starting point for the imposition of penalty.

## **Thoroughbred Racing**

Although starting points are listed for those breaches of the Rules that are likely to arise on raceday, a Judicial Committee retains the ability to consider matters specific to the breach before it. For example, where the breach is in a stakes race, emphasis must be given to this fact. It might not be uncommon for a Committee to determine that the interests of denunciation, deterrence and the integrity of racing in these particular circumstances (the status of the race) warrant a substantial penalty. But this factor must not deflect the Committee from its principal task of assessing the gravity of the breach and the culpability of the respondent.

Note that although the starting point is expressed as either a fine or as a suspension, where appropriate, the penalty may be a combination of a fine and suspension. In other words, provided consideration is given to the recommended starting point, a combination of a fine and suspension is permitted.

A suspension is to be given as national riding days or occasionally weeks for more serious matters.

Aggravating and mitigating factors relating to the nature of the breach and personal aggravating and mitigating factors must be considered.

The starting point is just that and movement both above and below this point may (and will usually) occur. In other words, the Judicial Committee may impose a final penalty beyond this point where the breach is beyond the norm or where the respondent has a lengthy record of breaches of the particular Rule or below that point where the breach is at the lower end of the scale or the rider has an unblemished record.

If the impact of the breach of a rule has been the disqualification of a horse from a dividend-bearing position, this is a significant aggravating factor and must be reflected in the penalty.

For all non-serious raceday charges the normal convention is that Committees only look back at the rider's record in the previous 12 months. For exceptional or rare rule breaches a Committee may consider the rider's record over a longer period.

### **Careless riding**

The starting point for careless riding is the same for a Class A Jockey and a Class B Apprentice Jockey but there is a differential for a Class D Jumps Jockey (refer to table).

The penalty for a Class E Amateur Rider should reflect the limited opportunities available to this class of rider.

Aggravating features of a careless riding breach could include:

- Relegation resulted
- Horse(s) fell/jockey(s) injured
- Major race

This is a non exhaustive list but where more than one of these features is present, then the starting point should be adjusted upwards.

Mitigating features of the breach. A non-exhaustive list could include:

- Horse(s) contributed to the incident
- Another jockey contributed to the incident
- Minor movement and more an error of judgment

Where one or more of these features is present, then the starting point can be adjusted downwards accordingly.

A Judicial Committee should also take into account and reflect the degree of carelessness in setting a penalty.

When assessing a rider's record a Committee is able to look at previous breaches of not only the specific Rule which is the subject of the charge but also similar type offending. For example careless riding, reckless riding etc are in the same broad "family" of offences as are the various whip offences.

Personal aggravating and mitigating factors are also to be considered and the necessary adjustments made: eg poor record/good record, with regard being had to the number of rides, admission of breach.

### **Use of whip**

Refer to the following table for the starting point penalty for a first and subsequent breaches of the Rule.

With respect to excessive use of the whip where the rider is a repeat offender, a separate starting point is recommended for a 2<sup>nd</sup> breach of a \$500 fine and for a 3<sup>rd</sup> or subsequent breach the starting point is a 6-8 national riding day suspension. Note that a rider's record in relation to this rule will reset after 12 months has elapsed from the date of their last breach of the Rule.

Unnecessary and improper use of the whip are more serious breaches than excessive use of the whip and this should be reflected in the penalty imposed for charges brought under these two elements of the whip Rule. There is an expectation that a penalty imposed will be higher than the starting points unless there are substantial mitigating factors.

## Penalties

Rule	Description	Starting point
330(3)(a)	Wilfully or without cause breaks engagement	\$200 fine
330(3)(b)	Engages to ride more than one horse	\$200 fine
330(4)	Trainer breaking riding engagement	\$200 fine
330(6)(a)	Rider's agent permits rider to be engaged for more than one horse	\$200 fine
330(6)(b)	Rider's agent wilfully breaks an engagement	\$200 fine
340	Misconduct	Fact Dependent
404(2)	Wrong horse to races/trials/jump-outs	\$800 fine
423(1)	Fails to notify change of ownership	\$500 fine
433(2)	Wrong colours being worn	\$50 fine
534(2)(b)	Scratching after 7.30am deadline - no horse denied start	\$200 fine
	Scratching after 7.30am deadline - horse denied start	\$350 fine
605(1)	Rider - late arrival on course	\$100 fine
606	Rider leaving jockey's area or race course without permission	\$100 fine
609(b)	Rider using unapproved riding gear	\$400 fine
610(2)(a)	Rider not wearing a body protector	\$1000 fine
	Rider wearing non approved body protector	\$600 fine
610(4)	Rider wearing modified body protector	\$600 fine
614(2)	Neglect in saddling when there are consequences for the betting public and owners or horse or rider safety issues are apparent. Otherwise neglect in saddling offence types: <ul style="list-style-type: none"> <li>• presenting a horse with an incorrect saddlecloth</li> <li>• affixing gear incorrectly</li> <li>• omitting a towel</li> <li>• failing to attach a lead bag</li> </ul>	\$750 fine
		\$50 fine
		\$100 fine
		\$150 fine
		\$300 fine
621(b)	Failure to produce medical clearance	\$200 fine
636(1)(b)	Failure to take all reasonable and permissible measures to win or obtain best possible placing	6 week suspension
636(1)(d)	Fails to ride out to end of race. The starting point relates to the potential placing deemed to have been lost as a result of the breach. The starting points are:	1 <sup>st</sup> - 5 week suspension 2 <sup>nd</sup> - 4 week suspension 3 <sup>rd</sup> - 3 week suspension 4 <sup>th</sup> - 2 week suspension 5 <sup>th</sup> - \$300 fine Any other stakes or dividend bearing place - \$200 fine
638(1)(a)	Foul riding	Fact dependent
638(1)(b)	Reckless riding	6 week suspension
638(1)(c)	Improper riding	6 week suspension
638(1)(d)	Careless riding –Class A and Class B jockey	Low – 6 NRD suspension Mid - 8 NRD suspension High – 10 NRD suspension
	Class D - jockey	Low – 3 NRD suspension Mid - 4 NRD suspension High – 5 NRD suspension
	Class E – amateur rider	Fact dependent

638(1)(e)	Incompetent riding	4 week suspension
638(2)	Celebratory gesture	\$300 fine
638(3)(b)	Excessive, unnecessary or improper whip use <ul style="list-style-type: none"> <li>• 1st breach</li> <li>• 2<sup>nd</sup> breach</li> <li>• 3<sup>rd</sup> or subsequent breach</li> </ul>	\$300 fine \$500 fine 6-8 NRD suspension
638(3)(c)	Strikes horse forward of the shoulder	\$500 fine

**New Zealand Thoroughbred Racing Guidelines with respect to acceptable use of the whip –  
NZTR Directive effective 01 August 2017**

*Rule 638(3) A Rider shall not:*

[...]

*(b) strike a horse with a whip in a manner or to an extent which is:*

*(i) unnecessary*

*(ii) or excessive*

*(iii) or improper*

Without affecting the generality of Rule 638(3)(b), a rider may be penalised if their whip use is outside of the following guidelines:

Inside the final 600 metres of a race, official trial or jump-out a horse may be struck with the drawn whip up to five times after which the rider must cease their use of the whip for a minimum of five strides before striking the horse again with the drawn whip, with this restriction to apply prior to the final 100 metres. The whip may then be used at the rider's discretion until the winning post is reached.

Prior to the final 600 metres of a race, official trial or jump-out the use of the drawn whip is acceptable if used in moderation and not continually.

Notwithstanding the above, it will also be deemed to be unacceptable where a rider uses the drawn whip:

- when a horse is out of contention
  - when a horse is showing no response
- when a horse has no reasonable prospect of improving or losing its position  
after its chance of winning or being placed is clearly gone  
when a horse is clearly winning  
after the winning post  
using the whip with the arm above shoulder height.

A rider may at their discretion use the whip with a slapping motion down the shoulder, with the whip hand remaining on the reins, at any time

638(4)	Unreasonably slowing, reducing or checking the speed	6-8 NRD suspension
647(1)	Riders duty to weigh in - dividend bearing position	3 week suspension
647(1)	Riders duty to weigh in - non-dividend bearing position	\$300 fine
648(5)	Rider weighs in over weight	\$200 fine
649(1)(a)	Wrongful act or omission re weighing in/out	Fact dependent
649(1)(b)	Non-accidental touching another person prior to weigh-in	\$250 fine
	Non-accidental touching another person prior to weigh-in - disqualified from non dividend bearing position	\$500 fine
	Non-accidental touching another person prior to weigh-in - disqualified from dividend bearing position	\$750 fine
649(4)(a)	Trainer - wrongful act re weighing in/out	Fact dependent
650(1)(b)	Trainers duty to report any condition or occurrence	\$750 fine

801(1)(s)(ii)	Offensive, insulting, abusive language or behaviour to Racing, Integrity and Administration Officials  Where the language, behaviour or conduct complained of has racial, ethnicity, sexual orientation or intimidatory connotations, overtones or references	\$1500 fine  Fact dependent - \$3000 fine, suspension or disqualification
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## SCHEDULE OF MINOR INFRINGEMENTS – THOROUGHBRED RACING

### Breach by Trainer

Rule	Alleged Breach	Fine 1 <sup>st</sup> Offence	Fine 2 <sup>nd</sup> Offence
308	Unregistered persons	\$50	\$150
537(a)	Late rider declaration	\$50	\$100
612	Unsatisfactory or broken gear	\$150	\$300
613	Unsatisfactory racing plates	\$150	\$300
616 (2) & (3)	Notifiable gear	\$50	\$100
625 (1)	Late into birdcage	\$50	\$100

### Breach by Rider

Rule	Alleged Breach	Fine 1 <sup>st</sup> Offence	Fine 2 <sup>nd</sup> Offence
330(3)(c)	Fails to make contracted weight	\$100	\$200
619(b)	Incorrect gear while weighing out	\$100	\$200

## PROHIBITED SUBSTANCES – THOROUGHBRED – STARTING POINTS

### Administration Offences

First offence	- eighteen month disqualification
Second offence	- three year disqualification
Third offence	- five year disqualification

### Presentation Offences

First offence	- \$8,000
Second offence	- two year disqualification and fine of up to \$10,000