

# **GIBRALTAR FOOTBALL ASSOCIATION**

## **NATIONAL DISPUTE RESOLUTION CHAMBER (NDRC) REGULATIONS**



## **A. General provisions**

### **Article 1- Jurisdiction of the NDRC**

The national dispute resolution chamber (NDRC) is competent to handle disputes between clubs and players regarding employment and contractual stability as well as those concerning training compensation and solidarity contributions between clubs belonging to the same association.

### **Article 2- Applicable law**

In the exercise of its jurisdictional competence, the NDRC shall apply the association's statutes and regulations, in particular those adopted on the basis of the FIFA Statutes and regulations. Where the association has not yet fulfilled its obligations in this domain, the FIFA Statutes and regulations shall apply by analogy. The NDRC shall also take into account all agreements, laws, particularly with regard to employment law, and/or collective bargaining agreements that exist at national level, as well as the specificity of sport.

## **B. Authorities**

### **Article 3- Composition**

1. The NDRC shall be composed of the following members, who shall serve a four-year renewable mandate:
  - a) a chairperson and a deputy chairperson appointed by the GFA's board; and
  - b) such other additional persons appointed by the GFA's board as it considers expedient for the purposes of maintaining a panel of NDRC members.
2. The chairperson and deputy chairperson of the NDRC shall be qualified lawyers.

### **Article 4- Jurisdiction**

1. The NDRC shall examine ex officio whether it has jurisdiction to determine any matter referred to it.
2. Should the NDRC deem itself legally incompetent, it shall refer the case ex officio and without delay to the authority it deems competent and inform the parties immediately.

### **Article 5- Seat**

In principle, the meetings and deliberations of the NDRC shall take place in Gibraltar.

### **Article 6- Incompatibility**

The members of the NDRC may not be members of any body of the GFA, nor officially affiliated to any of its Members.

### **Article 7- Decision-making body**

The NDRC shall sit with a minimum of three members, including the chairperson and/or the deputy chairperson.

### **Article 8- Language of the proceedings**

The proceedings shall be held in English. Any party to the proceedings may make use of a translator if required.

### **Article 9- Obligation to keep confidentiality**

The members of the NDRC are bound to secrecy regarding all facts that come to their knowledge during the exercise of their duties. In particular, they shall refrain from divulging the contents of deliberations.

### **Article 10- Objections**

1. Where the circumstances give rise to legitimate doubt as to the independence of a member of the NDRC, said member shall immediately withdraw. This is particularly the case where:
  - a) he or she is an interested party to the dispute, either directly or indirectly, be it personally or as a representative of a legal entity;
  - b) there is a family tie (i.e. he or she is the spouse or direct relative or relative by marriage of a party or its representative), dependent relationship, close friendship or personal enmity with one of the parties or its representative.
2. Any member who finds himself obliged to withdraw shall immediately inform the chairperson of the NDRC.
3. An objection may be made to a member of the NDRC by the parties where there is justified doubt as to his/her impartiality and/or independence. Any party who wishes to object to a member shall submit a written statement to the NDRC within five days of it becoming aware of the grounds for the objection, failing which it shall forfeit said right. The petition shall contain a precise account of its grounds and cite the relevant evidence.

### **Article 11- Decisions on objections**

1. If a member of the NDRC disputes an objection, the NDRC shall reach a decision in his or her absence.
2. If an objection is upheld during proceedings, any stages of the proceedings in which the member who was subject of the objection has taken part, shall be deemed invalid.
3. In accordance with article 33 of these regulations, appeals may be lodged against decisions on objections at the time of the decision on the substance of the case.

## **C. Parties**

### **Article 12- Nature of parties**

The parties are the clubs and players who are members of the GFA.

### **Article 13- Fundamental procedural rights and Representation**

1. The parties' fundamental procedural rights shall be guaranteed, in particular, the right to equal treatment, and the right to be heard (especially the right to explain one's actions, examine the file, have evidence taken and participate in the taking of evidence and to obtain a substantiated decision).
2. The parties may appoint professional representatives of their choice. The decision-making body may require the representatives to establish their credentials through a written power of attorney.

### **D. Documents and time limits**

#### **Article 14- Form of proceedings**

Proceedings shall be conducted in writing. The submission of written documents by e-mail may be allowed by the NDRC.

#### **Article 15- Service of documents**

Documents shall be served at the address given by the parties. Documents may also be served on the parties' representatives. Documents shall be served in such a way as to obtain proof of receipt.

#### **Article 16- Observance of time limits**

1. The parties shall make their submissions within the time limits set by the regulations or the NDRC. The time limit shall be deemed to have been observed where the submission is made by midnight on the day of the deadline and is verified by an acknowledgement of receipt by the GFA's administration.
2. It is incumbent upon the sender to obtain proof that the time limit has been observed.
3. As a general rule, the time limits set by the NDRC may be no shorter than ten days and no longer than 20 days. In urgent cases, the time limits may be reduced to 24 hours.
4. Where these regulations do not stipulate the consequences of failure to observe a time limit, these shall be determined by the NDRC.

#### **Article 17- Calculation of time limits**

1. Mandatory time limits commence the day after the parties have received the relevant notification. Non-business days and public holidays in Gibraltar are included in the time limits.
2. The time limit shall expire at midnight on the last day. If the last day of the time limit is a non-business day or public holiday in Gibraltar, the time limit shall expire on the next working day.

#### **Article 18- Extension and resetting of time limits**

1. The mandatory time limits established in these regulations may not be extended.

2. Those time limits left to the NDRC's discretion by these regulations may be extended for valid reasons if a substantiated request is made before they expire. Requests for an extension may not be made more than once.
3. Where a party or a representative has been prevented from observing time limits for reasons beyond his or her control, the time limits may be reset upon receipt of a substantiated request within three days of the occurrence of the impediment.

#### **Article 19- Statements**

1. The parties shall draw up their statements in English and shall also indicate:
  - a) the surname, first name, capacity and address of the claimant or his representative;
  - b) a concise account of the facts;
  - c) their conclusions;
  - d) their legal basis;
  - e) any evidence they may possess (original documents relating to the dispute, the name and address of other natural or legal persons involved in the dispute in different respects, etc.) and their proposals for evidence;
  - f) the value of the dispute, particularly if the dispute concerns property.
2. The statements should be dated, signed and submitted in duplicate.
3. The NDRC shall then confirm to the claimant that it has received the statement, which is first of all entered on a register that is signed and initialed by the chairperson of the NDRC.
4. Any statements that are incomplete, not drafted in English, unsigned or signed by an unauthorised representative shall be returned to their sender. A short time limit in which to complete the file shall be set by the NDRC, failing which the claim shall not be taken into account.
5. If there are no grounds on which to deem the claim inadmissible, it shall be forwarded to the other party or interested parties, who are invited to indicate their position or respond within the time limits allowed. In the absence of a response or statement of position within these time limits, a decision shall be passed on the basis of the documents available. A second exchange of correspondence is only possible in certain cases to be decided by the NDRC.

### **E. Taking of evidence and pleadings**

#### **Article 20- Hearing for inquiry and judgment, minutes**

1. The NDRC may summon the parties to appear at a hearing for inquiry and judgment, unless it considers the dispute to be ready for judgment without the need for a hearing.
2. Once a hearing has been arranged, the chairperson shall appoint a person responsible for taking the minutes, which will be signed by the chairperson, the parties and, where appropriate, the witnesses and experts. An external secretary subject to the same obligations as the members of the decision-making body, particularly regarding the level of secrecy, may be called upon to take the minutes.

## **Article 21- Evidence**

1. The NDRC shall, at its own discretion, examine the evidence using the following methods:
  - a) questioning the parties,
  - b) hearing witnesses;
  - c) evaluating expert reports;
  - d) examining evidence produced;
  - e) any other method it deems relevant.
2. The NDRC shall assess the evidence as it sees fit. It shall reach a decision on the basis of its own private convictions.
3. The burden of proof is on the party making the allegation. The standard of proof is on the balance of probabilities.
4. The NDRC may also take into account evidence other than that submitted by the parties where it deems necessary.
5. Where the taking of evidence leads to costs incurred by testimonies or expert reports, the expense shall be borne by the claimant.
6. The NDRC may, ex officio or at the request of one of the parties, refuse to take evidence that it does not consider relevant, which bears no relation to the facts asserted or which would otherwise unnecessarily delay the proceedings.

## **Article 22- Obligation on the parties to cooperate**

1. The parties are obliged to actively cooperate in the establishment of facts.
2. Where the parties demonstrate a lack of care, the chairperson of the NDRC may, after issuing them with a warning, impose a fine on them of £50.00 in the first instance. The chairperson of the NDRC may then, after issuing a second warning, impose an additional fine on them of £70, and after every warning issued thereafter, the fine shall increase by £30.
3. Where the parties do not cooperate, the NDRC shall reach a decision based on the documents in its possession.

## **Article 23- Obligation to attend**

1. All persons subject to the statutes and regulations of the GFA are obliged to respond to summonses from the NDRC, whatever the grounds may be.
2. Only the following persons may decline a summons:
  - a) the party's spouse and any direct relative or relative by marriage or civil partnership;
  - b) any person linked to the case by professional or official or professional secrecy.

## **Article 24- Hearing of witnesses**

1. The NDRC shall firstly verify the witnesses' identity. It shall also warn them of the consequences of bearing false testimony.

2. The NDRC itself shall conduct the hearing of witnesses. It shall give the parties the option of requesting witnesses to clarify or complete their testimonies once it has decided on the admissibility of the questions proposed.
3. After their hearing, the witnesses shall read their testimonies and sign them.

#### **Article 24- Expert reports**

1. Where specialist knowledge is required to verify or assess certain facts, the NDRC may refer to an expert. The expert shall then draw up a written report within the time limit set by the NDRC. He may also give testimony at a hearing.
2. The NDRC may, ex officio or at the request of any party:
  - a) request further information from the expert;
  - b) commission a new opinion from another expert if the first report is incomplete, obscure or contradictory.
3. The provisions on objections also apply by analogy to experts.

#### **Article 25- Production of evidence**

1. Any party or third party subject to the statutes and regulations of the GFA may be compelled by the NDRC to produce any evidence in its possession that is of interest to the dispute.
2. The parties have the right to examine the evidence, unless interests in it are of such importance as to require it to be kept secret. Any evidence to which a party has been refused leave to examine may only be asserted against said party if the NDRC has informed the party of the evidence's essential contents and offered it the possibility to comment on said contents.

#### **Article 26- Closure of the inquiry**

Once the evidence has been taken, the NDRC shall pronounce the inquiry closed. From that moment forth, no new facts or evidence may be submitted by the parties.

#### **Article 27- Pleadings**

A party attending oral proceedings may plead his cause, following which the chairperson of the hearing shall pronounce the closure of the proceedings.

### **F. Judgment**

#### **Article 28- Deliberations**

The NDRC shall reach a decision in camera by simple majority. The chairperson of the meeting and the other members present have one vote each. All those present are obliged to vote. If the votes are equal, the chairperson shall have the casting vote. The decision may also be taken by 'round robin' correspondence.

### **Article 29- Form and content of decisions**

The NDRC shall deliver a decision in writing that states the following:

- a) the date on which the decision was passed;
- b) the names of the members of the chamber;
- c) the names of the parties and any representatives they may have;
- d) the parties' conclusions;
- e) the findings of fact and of law;
- f) the proposed decision, including any allocation of costs;
- g) the signature of the presiding NDRC chairperson;
- h) an indication of any legal recourse available (stating the form of the appeal, the authority and the time limit).

### **Article 30- Notification of decisions**

1. After it has reached its decision, the NDRC shall communicate it in writing to the GFA's administration, who shall immediately notify the parties or their representatives in writing.
2. In urgent cases, the NDRC may notify the parties of the conclusions of the decision only and communicate the grounds within a subsequent time limit of 20 days.
3. The parties shall be deemed to have received the decision from the moment it reaches them by post or fax. Notification of the decision to the parties' representatives shall also be deemed valid.

### **Article 31- Procedural costs**

Proceedings before the NDRC are subject to such charge as may be notified in writing to all clubs by the GFA.

### **Article 32- Publication**

Any decisions of general interest may be published by the GFA in a form to be determined by the NDRC once the identity of the parties involved has been concealed.

### **Article 33- Appeal**

1. As a last resort, the NDRC's decisions may be the subject of an appeal before any arbitration body recognised by FIFA, subject to agreement with FIFPro.
2. The 21-day time limit for appeals shall begin on the day the decision is received in full.

## **G. Final provisions**

### **Article 34- Disclaimer of responsibility**

With the exception of serious misconduct, the members of NDRC and its administration shall not be held personally responsible for their actions and omissions in connection with proceedings.

**Article 35- Adoption and entry into force**

1. These regulations have been adopted by the board of directors of the GFA, and may be amended by the board of directors of the GFA from time to time.
2. These regulations shall come into force on 1<sup>st</sup> June 2020 and shall apply to any proceedings lodged from said date.