

Racing Integrity Board

Thoroughbred Racing

Penalty Guide

February 2023



THOROUGHBRED RACING PENALTY GUIDE 2023

INTRODUCTION

This Penalty Guide updates and replaces the 2018 version which was issued for Judicial Committees under the now disestablished Judicial Control Authority (JCA).

The update reflects changes arising from the introduction of the Racing Industry Act 2020; the disestablishment of the JCA and the establishment of the Racing Integrity Board (RIB) which now provides both compliance and adjudicative functions and services, albeit independently. Accordingly, this update ensures that penalties imposed by Adjudicative Committees not only meet the requirements of the Racing Industry Act 2020, but also ensures that penalties imposed are in conformity with the New Zealand Thoroughbred Racing (NZTR) Rules of Racing.

Notable changes

The update of the Penalty Guide provides an opportunity to assess the viability of adding more minor infringement breaches to the Minor Infringement Schedule. As a result, a number of breaches / penalties have been transferred to the MIS. This will assist in streamlining the conduct of racedays by providing for a more expedient delivery of adjudication services. Moreover, it will reduce the need for stakeholders to appear before an Adjudicative Committee on minor charges. This will lead to freeing up the time of Stewards, Riders, Trainers, and other Officials who might otherwise be required to attend hearings relating to minor infringements during the course of a raceday.

OBJECTIVES

The overall objectives of this Penalty Guide are:

1. To provide Adjudicative Committees with a starting point for imposing penalties.
2. To ensure that penalties imposed are consistent and align with contemporary precedent case results. Albeit, Adjudicative Committees have a discretion which is to be exercised within transparent parameters after weighing up the circumstances of a breach, aggravating and mitigating factors, and personal circumstances of a Respondent.
3. To ensure transparency so stakeholders are aware of the penalty starting points and potential consequences of breaching any of the rules covered by this Penalty Guide.
4. To ensure penalties imposed uphold the integrity of racing and protect the racing industry, participants, and the public.
5. To ensure that penalties reflect the focus on animal welfare focus and health and safety standards.
6. To ensure that penalties reflect NZTR policy intent.

DECISION MAKING FACTORS

This guide should not be seen as either a replacement for, or as an alternative interpretation of the Rules. It does, however, provide a decision-making framework for determination of an appropriate penalty starting point.

The guidelines as to penalties are just that. They are not intended to override the discretion that is vested by the Rules in raceday Adjudicative Committees. However, in the interests of consistency and fairness Adjudicative 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. In such circumstances the Adjudicative Committee must carefully explain any departure from the guideline.

Although starting points are listed for breaches of the Rules that are likely to arise on raceday, an Adjudicative 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 is common for an Adjudicative Committee to determine the interests of denunciation, deterrence, and the integrity of racing in these particular circumstances (the status of the race) may warrant a substantial penalty. But these factors must not deflect the Committee from its primary task of assessing the gravity of the breach and the culpability of the respondent. Aggravating and mitigating factors relating to the nature of the breach and personal aggravating and mitigating factors must be considered.

Rule 920 (2) provides that:

On finding a breach proved, the Adjudicative Committee may impose any penalty provided by these Rules. In imposing a penalty provided in these Rules the Adjudicative Committee may have regard to such matters as it considers appropriate including:

- (a) the status of the Race;
- (b) the stake payable in respect of the Race;
- (c) any consequential effects upon any person or horse as a result of the breach of the Rule; and/or
- (d) the need to maintain integrity and public confidence in racing.

The starting point is just that, and movement both above and below this point may (and will usually) occur. In other words, the Adjudicative Committee may impose a final penalty beyond this point where the breach is outside 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.

Careless Riding and breaches of the Whip Rule(s) are by far the most common offences dealt with by an Adjudication Committee on a raceday.

Careless riding

An Adjudicative Committee should firstly consider the level of carelessness in setting a penalty i.e., low (5 days suspension), mid (7 days suspension), or high range (10 + days suspension). Once the range is determined, aggravating and mitigating factors are considered. Where one or more of these factors are present, then the starting point may be adjusted upwards or downwards accordingly.

Aggravating features of a careless riding breach could include:

- Relegation resulted
- Horse(s) fell/jockey(s) injured
- High level of culpability

Mitigating features of the breach could include:

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

A Riders personal aggravating and mitigating factors are also to be considered and the necessary adjustments made e.g., poor record/good record, with regard being had to the number of rides, and any admission of the breach.

NZTR Penalty Guidelines

In addition to the starting points for careless riding penalties, NZTR Penalty Guidelines provide:

- Fines to be added as a percentage of the Jockey's share of stake earned by their mount where the offence occurs in any Black- type race, Prestige Jumping race or major race.
- Concessions may be considered with respect to fines imposed on Apprentice Jockeys.
- When considering the penalty for careless riding, a rider's record over the preceding 12 months will be taken into account

Whip offences

There is extremely limited scope or discretion for an Adjudicative Committee to depart from the Penalty Guide when imposing a penalty for a breach of the whip rules. Any departure would need to be carefully assessed on the basis of exceptional circumstances.

NZTR Penalty Guidelines

In addition to the starting points for whip breach penalties, NZTR Penalty Guidelines provide the following General Whip Penalty Provisions:

- No warnings will be issued for breaches of the whip Rules in any Black-Type race.
- In all breaches of the whip Rules in any Black-Type race, the starting point for a fine will be an amount equal to 50% of the Jockey's share of the stake earned by their mount or the starting point on the whip penalty table, whichever is greater, and may be in addition to any suspension imposed as above.
- When considering an appropriate penalty, a rider's whip record over the preceding 6 months will be taken into account.

The whip should not be used inappropriately on a horse at any time. In particular, excessive, unnecessary, or improper use of the whip outside of a race may be regarded as misconduct under Rule 340 of the Rules.

FINES, SUSPENSIONS AND DISQUALIFICATIONS

Only penalties permitted by the Rules may be imposed. Members of Adjudicative Committees must be familiar with the any penalty provisions in the Rules.

Generally, anyone committing a breach of the Rules can be:

- Fined.
- suspended and fined.
- suspended from holding or obtaining a licence, permit, certificate, or registration.
- disqualified (can include horse).

Depending on the nature of breach, there are limits on each of those penalties and it is the duty of every member of an Adjudicative Committee to be familiar with the General Penalty provisions prescribed by the Rules.

Every member of an Adjudicative Committee considering imposing a penalty of suspension or of disqualification must be familiar with the effect of each such penalty.

PENALTY GUIDE – THOROUGHBRED – STARTING POINTS WHEN AN INFORMATION IS FILED

<i>Rule</i>	<i>Description</i>	<i>Penalty Starting Point</i>
340	Misconduct *See Note (3) below	Fact dependent
404 (2)	Wrong horse to races/trials/jump-outs	\$800
534(2)(b)	Late scratching (after 7.30 am deadline) - no horse denied start - horse denied start	\$200 fine \$350 fine
614 (2)	a) Neglect in saddling when there are consequences for the betting public and owners; or horse and rider issues are apparent. b) Failing to attach lead bag	a) \$750 fine b) \$300 fine
621 (b)	Failure to present medical certificate	\$200
636(1)(b)	Failure to take all reasonable and permissible measures to win or obtain best possible placing	6 weeks 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.	Starting points: 1st – 5-week susp 2nd - 4-week susp 3rd - 3-week susp 4th - 2-week susp 5th - \$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)(b)	Reckless riding causing fall	8-week suspension
638(1)(c)	Improper riding	6-week suspension
638(1)(d)	Careless riding causing fall	4-week suspension
638(1)(d)	Careless riding (a) Low range (b) Mid-range (c) High range * See note (1) below	NZTR Directive (as of 30 May 2022) SP's (a) 5-day suspension (b) 7-day suspension (c) 10-day suspension

638(1)(e)	Incompetent riding	4-week suspension
638(3)(g)(i)	Use of Whip more than 5 times prior to 100 m	See table below
638(3)(g)(ii)	using the whip in consecutive strides	See table below
638(2)	Celebratory gesture	\$300
638 (3)(e) & (f)	Excessive, unnecessary, or improper manner The whip should not be used inappropriately on a horse at any time. In particular, excessive, unnecessary, or improper use of the whip outside of a race may be regarded as <u>misconduct under Rule 340 of the Rules.</u>	See below
638 (4)	Unreasonably slowing, reducing, or checking the speed	6-8 days suspension
649 (1b)	Non accidental touching another person prior to weight in- disqualified	\$500 fine
649 (4)(a)	Trainer – wrongful act re weighing in or out	Fact dependent
650 (1) (b)	Trainers’ duty to report any condition or occurrence	\$750

*Note (1) – Careless riding penalties

- Fines to be added as a percentage of the Jockey’s share of stake earned by their mount where the offence occurs in any Black- type race, Prestige Jumping race or major race.
- concessions may be considered with respect to fines imposed on Apprentice Jockeys.
- When considering the penalty for careless riding, a rider’s record over the preceding 12 months will be taken into account.

Penalties for use of whip breaches:

Rule 638(3)(g)(i), using the whip more than 5 times prior to the 100m mark (refer NZTR Whip use Directive)

<i>Offence</i>	<i>1 additional strike</i>	<i>2 additional strikes</i>	<i>3 additional strikes</i>	<i>4 or more additional strikes</i>
1 st	Warning	\$250	\$500	Suspension 5 National Days
2 nd	\$250	\$500	Suspension 5 National Days	Suspension 5+ National Days
3 rd	\$500	Suspension 5 National Days	Suspension 5+ National Days	Suspension 5+ National Days
4 th	\$500 + Suspension 2 National Days	Suspension 5+ National Days	Suspension 5+ National Days	Suspension 5+ National Days
5 th and following	Suspension 5+ National Days	Suspension 5+ National Days	Suspension 5+ National Days	Suspension 5+ National Days

Rule 638(3)(g)(ii), using the whip in consecutive strides (refer NZTR Whip use Directive)

<i>Offence</i>	<i>2 Consecutive Strides</i>	<i>3 Consecutive Strides</i>	<i>4 or more Consecutive Strides</i>
1 st	Warning	\$300	Suspension 5 National Days
2 nd	\$150	\$500	Suspension 5+ National Days
3 rd	\$300	Suspension 5 National Days	Suspension 5+ National Days
4 th	\$500	Suspension 5+ National Days	5 plus days suspension
5 th plus	Suspension 5 National Days	Suspension 5+ National Days	Suspension 5+ National Days

*Note (2) – Whip penalties

- No warnings will be issued for breaches of the whip Rules in any Black-Type race.
- In all breaches of the whip Rules in any Black-Type race, the starting point for a fine will be an amount equal to 50% of the Jockey's share
- of the stake earned by their mount or the starting point on the whip penalty table, whichever is greater, and may be in addition to any suspension imposed as above.
- When considering an appropriate penalty, a rider's whip record over the preceding 6 months will be taken into account.

Miscellaneous whip breaches

Whip breaches contained within Rule 638 (3)(f) which provides that:

- *Without limiting the generality of subrule 638(3)(e), in a Flat Race or Jumping Race, a trial (including jump-outs and/or tests for certification purposes) a Rider must not use his or her whip in a manner contained within (i) to (viii).*

The March 2022 NZTR Revised Penalty Guidelines for whip rule breaches provide that:

- *The whip should not be used inappropriately on a horse at any time. In particular, excessive, unnecessary, or improper use of the whip outside of a race may be regarded as misconduct under Rule 340 of the Rules.*

<i>Rule</i>	<i>Description</i>	<i>1st breach</i>	<i>Comments</i>
638 (3)(f)(i)	- forward of the Rider's horse's shoulder or in the vicinity of its head	Fact dependent	Depends on circumstances of the breach as well as any aggravating factors
638 (3)(f)(ii)	- using an action that raises the Rider's arm above shoulder height	\$250 fine SP	
638 (3)(f)(iii)	- when the Rider's horse is out of contention	\$300 fine SP	
638 (3)(f)(iv)	- when the Rider's horse is showing no response; or after passing the winning post;	Fact dependent	Depends on circumstances of the breach as well as any aggravating factors
638 (3)(f)(v)	- in a manner that causes injury to the Rider's horse	Fact dependent	
638 (3)(f)(vi)	- when the Rider's horse is clearly winning	\$300 SP	
638 (3)(f)(vii)	- when the Rider's horse has no reasonable prospect of improving or losing its position	\$300 SP	
638 (3)(f)(viii)	- in a manner where the seam of the flap is the point of contact with the horse, unless the Rider satisfies the Stewards that that was neither deliberate nor reckless	Fact dependent	Depends on circumstances of the breach as well as any aggravating factors

*Note (3) – Misconduct / whip

The whip should not be used inappropriately on a horse at any time. In particular, excessive, unnecessary, or improper use of the whip outside of a race may be regarded as misconduct under Rule 340 of the Rules.

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

APPENDIX A – Includes reasons for change

PENALTY GUIDE – THOROUGHBRED – STARTING POINTS WHEN AN INFORMATION IS FILED

Penalty Guide				
Rule Number	NZTR Rule Description	Penalty Starting Point (SP)		Reason for change
		Current (SP)	Proposed changes	
330(3)(a)	Wilfully breaks riding engagement	\$200	Transfer to Min Schedule	Efficiency when facts not disputed
330(3)(b)	Double riding engagement	\$200	Transfer to Min Schedule	Efficiency when facts not disputed
330(4)	Trainer/Owner etc breaking riding engagement	\$200	Transfer to Min Schedule	Efficiency when facts not disputed
330(6)(a)&(b)	Rider's agent or Employer breaking apprentice's riding engagement or double-booked rider	\$200	Transfer to Min Schedule	Efficiency when facts not disputed
340	Misconduct *See Note (3) below	Fact dependent	No change	N/A
404 (2)	Wrong horse to races/trials/jump-outs	\$800	No change	N/A
423(1)	Failure to notify change of ownership	\$500	Transfer to Min Schedule	Efficiency when facts not disputed
433(2)	Wrong colours being worn	\$50	Transfer to Min Schedule	Rule rarely used but minor offence
534(2)(b)	Late scratching (after 7.30 am deadline) - no horse denied start - horse denied start	\$200 fine \$350 fine	No change	N/A
605(1)	Rider - Late arrival on course	\$100 fine	\$200	Efficiency when facts not disputed
605(2)	Apprentice failing to notify representative	\$100 fine	Transfer to Min Schedule	Efficiency when facts not disputed
606	Leaving jockey's room or race course without Stewards permission	\$100 fine	Transfer to Min Schedule	Efficiency when facts not disputed
607	Suspended rider entering jockey's room	\$100 fine	Transfer to Min Schedule	Efficiency when facts not disputed
609(b) 610 (2)(a)	Failure to wear approved body protector and/or skull cap	\$400 fine	\$500 and Transfer to Min Schedule	Efficiency when facts not disputed
610(4)	Having or wearing a modified body protector or skull cap	\$600 fine	\$500 and Transfer to Min Schedule	Efficiency when facts not disputed

614 (2)	c) Neglect in saddling when there are consequences for the betting public and owners; or horse and rider issues are apparent. d) Failing to attach lead bag	c) \$750 fine d) \$300 fine	No change	N/A
614 (2)	Neglect in saddling – other: a) presenting horse with incorrect saddlecloth b) affixing gear incorrectly c) omitting towel	a) \$50 fine b) \$100 fine c) \$150 fine	Transfer to Min Schedule	Where there are no consequences - Efficiency when facts not disputed
621 (b)	Failure to present medical certificate	\$200	Transfer to Min Schedule	Efficiency when facts not disputed
636(1)(b)	Failure to take all reasonable and permissible measures to win or obtain best possible placing	6 weeks suspension	No change	N/A
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.	Starting points: 1st – 5-week susp 2nd - 4-week susp 3rd - 3-week susp 4th - 2-week susp 5th - \$300 fine Any other stakes or dividend bearing place - \$200 fine	No change	N/A
638(1)(a)	Foul riding	Fact dependent	No change	N/A
638(1)(b)	Reckless riding	6-week suspension	No change	N/A
638(1)(b)	Reckless riding causing fall	8-week suspension	New	Update to reflect seriousness
638(1)(c)	Improper riding	6-week suspension	No change	N/A
638(1)(d)	Careless riding causing fall	4-week suspension	No change	N/A
638(1)(d)	Careless riding (d) Low range (e) Mid-range (f) High range * See note (1) below	NZTR Directive (as of 30 May 2022) SP's (d) 5-day suspension (e) 7-day suspension (f) 10-day suspension	No change NZTR REVISED PENALTY GUIDELINES FOR CARELESS RIDING RULE BREACHES	N/A
638(1)(e)	Incompetent riding	4-week suspension	No change	
638(3)(g)(i)	Use of Whip more than 5 times prior to 100 m	See table below	No change	N/A
638(3)(g)(ii)	using the whip in consecutive strides	See table below	No change	N/A
638(2)	Celebratory gesture	\$300	Transfer to Min Schedule	Efficiency when facts not disputed
638 (3)(e) & (f)	Excessive, unnecessary, or improper manner	See below	NZTR REVISED PENALTY GUIDELINES FOR	Unnecessary or improper manner

	The whip should not be used inappropriately on a horse at any time. In particular, excessive, unnecessary, or improper use of the whip outside of a race may be regarded as <u>misconduct</u> under Rule 340 of the Rules.		WHIP RULE BREACHES	or improper including sub-clause (f) fact dependent
638 (4)	Unreasonably slowing, reducing, or checking the speed	6-8 days suspension	No change	N/A
649 (1b)	Non accidental touching another person prior to weight in-disqualified	\$500 fine	No change	N/A
649 (4)(a)	Trainer – wrongful act re weighing in or out	Fact dependent	No change	N/A
650 (1) (b)	Trainers' duty to report any condition or occurrence	\$750	Transfer to Min Schedule	Efficiency when facts not disputed