



FFA NATIONAL BANNING REGULATIONS

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1. DEFINITIONS

1.1 In these Regulations:

A-League means the senior men's national competition staged in Australia and New Zealand by FFA, known as the Hyundai A-League.

A-League Club means a football club licensed by FFA to enter a team into the A-League.

Administrator means the person appointed by FFA in accordance with clause 6.7 to administer these Regulations.

Applicant has the meaning given in clause 7.1.

Application Form means the prescribed form a party must use to apply for determination of a Banning Matter in the form as attached in Annexure B.

Banning Appeal means an appeal brought under clause 7.1 in relation to a decision made by FFA to impose a ban on a person under these Regulations.

Banning Regulations means these Regulations promulgated by the Directors in accordance with the FFA Constitution.

Banning Notice has the meaning given to it in clause 5.2.

Business Day means a day when the offices of FFA are ordinarily open for business.

Chair means the Committee Member appointed by the President as Chair of a FIBAC panel in accordance with these Regulations.

Club means an A-League Club, National Youth League Club or W-League Club.

Committee Member means a member of the FIBAC appointed by FFA.

Exceptional Circumstances means circumstances that are truly exceptional and unique to the conduct of the person the subject of a Notice of Intention to Ban and which do not include the factors identified in Annexure A to these Regulations.

FFA means Football Federation Australia Limited including its employees, consultants, officers and directors.

FFA Event means any A-League, National Youth League, W-League, FFA Cup, Asian Champions League, National Premier Leagues Finals Series or Australian National Team football (soccer) match played in Australia or New Zealand.

FFA Spectator Code of Behaviour means the national policy issued by FFA that addresses the behaviour of spectators and participants at or in relation to FFA Events, as issued by FFA from time to time.

FIBAC or Football Independent Banning Appeal Committee means the independent body established by these Regulations.

National Premier Leagues Finals Series means the national competition staged by, or under the control of, FFA between the State Premiers of each State Body Member's National Premier League and is comprised of such configuration as determined by FFA from time to time.

National Youth League means the youth men's national competition staged in Australia by FFA, known as the Foxtel National Youth League.

National Youth League Club means a football club licensed by FFA to enter a team into the National Youth League.

Notice of Intention to Ban has the meaning given to it in clause 4.1.

President means the person appointed by FFA as President of FIBAC.

Review Application Form means the prescribed form a person must use to apply for a review under clause 16.1 in the form as attached in Annexure C.

Terms of Admission mean the terms of admission applicable to an FFA Event as issued from time to time.

W-League means the senior women's national competition staged in Australia by FFA, known as the Westfield W-League.

W-League Club means a football club licensed by FFA to enter a team into the W-League.

2. SCOPE OF REGULATIONS

- 2.1 These Regulations aim to:
- (a) promote the conduct of FFA Events in a manner that is safe for the players, spectators and workers; and
 - (b) seek to ensure that FFA Events take place in a manner that promotes and strengthens:
 - (i) the good name and reputation of FFA, Clubs and football; and
 - (ii) public confidence in the safety of attending the events.
- 2.2 These Regulations recognise that spectators attend FFA Events as licensees of the venues in which the FFA Events take place and that in order to give effect to the objects of the Regulations it will from time to time be necessary for FFA to ban certain persons from attending FFA Events.
- 2.3 These Regulations set out the powers, processes and procedures for banning individuals from attending FFA Events and the process for applying to the FIBAC to determine a Banning Appeal.
- 2.4 These Regulations also set out the:
- (a) establishment, membership and jurisdiction of the FIBAC;
 - (b) functions of the FIBAC; and
 - (c) procedural rules applicable to the operation of the FIBAC.

3. BANNING POWERS

- 3.1 Subject to these Regulations, FFA may ban a person from attending FFA Events (for such period and on such terms as it determines) if it determines that it is contrary to the best interests of football that the person continue to attend FFA Events.
- 3.2 FFA may only exercise its powers under clause 3.1 if it determines that the person has engaged in conduct:
- (a) in breach of the FFA Spectator Code of Behaviour;
 - (b) in breach of the Terms of Admission;
 - (c) that in FFA's reasonable opinion has jeopardised the safety and security of other persons at or in connection with an FFA Event, including players, officials or spectators, or the integrity of an FFA Event; or
 - (d) that in FFA's reasonable opinion is likely to be damaging to the reputation or standing of FFA or the sport of football in Australia.
- 3.3 FFA may exercise its powers under clause 3.1 despite the person in relation to the relevant conduct being the subject of a criminal charge that:
- (a) is pending; or
 - (b) has been withdrawn or dismissed.
- 3.4 The powers of FFA under clause 3.1 are without prejudice to any other legal remedy that FFA may have in relation to the spectator.

4. NOTICE OF INTENTION TO BAN

- 4.1 FFA will, prior to imposing a ban under these Regulations, issue a Notice of Intention to Ban to the relevant person which includes, but is not limited to, the following:
- (a) the particulars of the alleged conduct;
 - (b) the period of the ban that FFA intends to impose, applying the table set out in Annexure A;
 - (c) information advising the person of the process to follow if they intend to contest the imposition and/or length of the proposed ban, including:
 - (i) the process for seeking and obtaining access to evidence in accordance with clause 4.2; and
 - (ii) providing FFA with such written submissions and materials, documents or other evidence upon which they rely in contesting the imposition and/or length of the proposed ban;
 - (d) the period (which must be no less than fourteen days from receipt of the Notice of Intention to Ban) in which they must comply with the process referred to in clause 4.1(c) in order to contest the imposition and/or length of the proposed ban; and
 - (e) a link to a copy of these Regulations;

- 4.2 Where the person the subject of a Notice of Intention to Ban, as part of the process referred to in 4.1(c), seeks to obtain access to the evidence relied upon by FFA to support the issue of the Notice of Intention to Ban, FFA will grant access to such evidence in the form that it is able to other than evidence which FFA is unable to disclose because:
- (a) FFA is subject to legal restrictions in relation to the evidence that prevent its disclosure; or
 - (b) the third party who has provided the evidence will not authorise its disclosure to the person or their legal representative.
- 4.3 If there is any evidence that FFA is unable to disclose, FFA will in writing advise the Applicant of the reasons for the restriction and to the extent possible provide a summary of the evidence.

5. **BANNING NOTICE**

- 5.1 After the expiry of the period for response notified in accordance with clause 4.1(d), FFA may, after considering any written submissions, materials, documents or other evidence provided within the notified period by the person the subject of the Notice of Intention to Ban:
- (a) determine that the conduct has been established and impose the proposed ban;
 - (b) determine that the conduct has been established and impose a different ban no greater than that proposed in the notice; or
 - (c) determine that the conduct has not been established and impose no ban.
- 5.2 If FFA determines in accordance with clause 5.1 to impose a ban on the person, it will issue a Banning Notice to the person that will include, but is not limited to, the following information:
- (a) the particulars of the conduct;
 - (b) the ban imposed;
 - (c) the consequences of not complying with the Banning Notice;
 - (d) notice of the process for bringing a Banning Appeal to the FIBAC pursuant to these Regulations; and
 - (e) a link to a copy of these Regulations;
- 5.3 In determining the ban to be imposed on a person FFA will apply the table of bans set out in Annexure A. FFA may only in Exceptional Circumstances apply a ban that is below the minimum period prescribed for that conduct in Annexure A.
- 5.4 Subject to clause 6 below, the person must comply with the ban(s) imposed by FFA that are recorded in a Banning Notice.

6. THE FOOTBALL INDEPENDENT BANNING APPEAL COMMITTEE

- 6.1 FFA will establish the FIBAC to hear Banning Appeals.
- 6.2 FFA will establish and maintain a roster of individuals deemed necessary for the proper functioning of the FIBAC and will appoint from these individuals a person to be President of FIBAC.
- 6.3 To be eligible for appointment to the FIBAC, the individual must not hold a disqualifying position (being the position of director, officer, employee, consultant or contractor of FFA or a Club) and must have the experience or skills suitable to the function of the FIBAC, including a barrister or solicitor. The President and Chair must have legal qualifications.
- 6.4 A Committee Member must be removed as a Committee Member if he or she accepts a disqualifying position (being the position of director, officer, employee, consultant or contractor of FFA or a Club).
- 6.5 A Committee Member cannot hear or determine a Banning Appeal if that Committee Member has a conflict of interest such that he or she cannot determine the Banning Appeal in an independent and impartial manner.
- 6.6 The FIBAC will, when it is meeting, comprise three Committee Members, one of whom, will be appointed by the President to act as Chair of the proceedings. There can be more than one FIBAC panel meeting at any one time.
- 6.7 FFA must appoint an Administrator to provide administrative assistance to the FIBAC.
- 6.8 The Administrator must:
- (a) convene the FIBAC in accordance with these Regulations;
 - (b) be the central point of contact for a person who is bringing a Banning Appeal to the FIBAC;
 - (c) collate all submissions, documents and evidence relevant to a Banning Appeal; and
 - (d) perform all tasks prescribed to the Administrator and any incidental tasks necessary to ensure the smooth and efficient operation of the FIBAC.
- 6.9 All notifications and communications that the FIBAC intend for the parties (and vice versa) must be made through the Administrator.
- 6.10 The Administrator may issue orders to the parties of an administrative nature.
- 6.11 FFA will each year review the roster maintained under clause 6.1.

7. BANNING APPEALS

- 7.1 Subject to clause 7.6, a person the subject of a Banning Notice may bring a Banning Appeal to the FIBAC (**Applicant**) by lodging a completed and signed Application Form with the Administrator within 28 days of receipt of the Banning Notice.
- 7.2 The Application Form must be signed by the Applicant and contain the following mandatory information (in addition to any other relevant mandatory information provided for in the Application Form):
- (a) the name and contact details of the Applicant, including a residential and email address and a mobile telephone number;
 - (b) a copy of the Applicant's Banning Notice;
 - (c) the ground(s) of appeal as specified in clause 7.3 that the Applicant contends that he or she has to the FIBAC;
 - (d) a statement setting out the basis upon which he or she is appealing the ban that has been imposed (with reference to the relevant ground of appeal provided for in clause 7.3) including any written submissions, materials, documents or other evidence that they intend to rely on; and
 - (e) whether he or she is seeking to set aside the ban in its entirety or just reduce the period of the ban.
- 7.3 An application before the FIBAC is not de novo. The sole grounds of any Banning Appeal to the FIBAC are that:
- (a) the person was not afforded a reasonable opportunity to be heard in respect of the Notice of Intention to Ban;
 - (b) FFA's decision was affected by bias; or
 - (c) FFA's decision was one that was not reasonably open to FFA having regard to the evidence before FFA.
- 7.4 It is not a ground of appeal that the conduct that was relied upon by FFA to impose the ban was the subject of a criminal charge brought against the Applicant, which has subsequently been withdrawn or dismissed.
- 7.5 The fact that an Applicant has lodged an Application Form does not affect the validity of the Banning Notice, unless and until the FIBAC sets aside or otherwise varies FFA's decision in respect of the ban imposed.
- 7.6 A person the subject of a Banning Notice who has not previously appealed the decision of FFA to impose the ban may appeal FFA's decision outside the 28 day appeal period provided in clause 7.1 by lodging a completed and signed Application Form with the Administrator at any time within seven (7) years of receipt of the Banning Notice. In any appeal that is brought outside the 28 day appeal period it is presumed that the facts that were relied upon by FFA to support the ban are true unless the contrary is proved by persuasive evidence filed by the Applicant that was not available within the 28 day appeal

period despite reasonable inquiries and investigation. The evidence before FFA for the purpose of clause 7.3(c) will, subject to this clause 7.6, be taken to include any evidence filed by the Applicant that was not before FFA.

8. OPERATION OF THE FIBAC

- 8.1 Once the Administrator receives an Application Form which complies with clause 7, the Administrator must in consultation with the President convene the FIBAC within seven (7) days.
- 8.2 Subject to clause 8.6, all matters to be considered by the FIBAC will be assessed on the written submissions, materials and documents that the parties provide to the FIBAC.
- 8.3 Within seven (7) days of the Administrator receiving an Application Form that complies with clause 7, FFA will provide the Administrator with:
- (a) a copy of the documents and materials it relied upon to impose the ban other than evidence which FFA is unable to disclose because:
 - (i) FFA is subject to legal restrictions in relation to the evidence that prevent its disclosure; or
 - (ii) the third party who has provided the evidence will not authorise its disclosure to the person or their legal representative; and
 - (b) a copy of any written submissions and further materials and documents that it intends to rely upon.
- 8.4 The Administrator will provide the Applicant with access to FFA's written submissions and the further materials and documents that FFA is relying upon. If there are any restrictions on the materials and/or documents that FFA can make available to the FIBAC, the Applicant or the Applicant's legal representative, FFA will set out in writing the reasons for the restriction(s) and to the extent possible provide a summary of the restricted materials and/or documents.
- 8.5 The parties will not be permitted to supplement the submissions and evidence that they provide under clauses 7.2 and 8.3 without the leave of the FIBAC. If the FIBAC considers that additional submissions are required, the parties will be given and must comply with such directions as determined by the FIBAC.
- 8.6 The FIBAC may elect to conduct an oral hearing in respect of a Banning Appeal if it considers in its absolute discretion that such a hearing is required.
- 8.7 If the FIBAC determines that it will hold an oral hearing, the hearing will be conducted at such location as the Chair directs and each party shall bear its own costs of attendance. The hearing may take place by way of video or telephone conference if the FIBAC so directs.
- 8.8 The FIBAC has the right to determine all procedures to be adopted during a hearing of a Banning Appeal. Proceedings will be conducted with as little formality and technicality, and

with as much expedition, as a proper consideration of the matters before the FIBAC permits.

- 8.9 The FIBAC may limit or disallow any evidence that the FIBAC considers is not relevant.
- 8.10 Each member of the FIBAC has a single vote and where decisions of the FIBAC are not unanimous, the decision of the majority will prevail.
- 8.11 An Applicant may elect to terminate the Banning Appeal before a determination is made by the FIBAC.
- 8.12 Hearings and deliberations by the FIBAC must be held behind closed doors.

9. DETERMINATION OF THE FIBAC

- 9.1 If the FIBAC determines that an Applicant has not established that one or more of the grounds of appeal set out in clause 7.3 are made out, the FIBAC must dismiss the application.
- 9.2 If the FIBAC determines that an Applicant has established that one or more of the grounds of appeal set out in clause 7.3 are made out, the FIBAC may make a new determination. That new determination may:
 - (a) set aside the decision of FFA to impose the ban;
 - (b) uphold the decision of FFA to impose the ban; or
 - (c) vary the decision of FFA by the imposition of a lesser ban.
- 9.3 For the purposes of clause 9.2(c), the FIBAC may only in Exceptional Circumstances apply a ban below the minimum period prescribed for that conduct in Annexure A.
- 9.4 The FIBAC shall within 21 days of the Administrator receiving the Application Form, or such longer period as advised by the FIBAC if required, notify FFA and the Applicant of its determination. The FIBAC may initially announce the determination only (verbally or in writing), but must subsequently provide a copy of the written determination complying with clause 9.5.
- 9.5 A determination made by the FIBAC must:
 - (a) be in writing;
 - (b) briefly provide the reasons on which the determination is based; and
 - (c) contain the date on which, and the place where, the determination was made.
- 9.6 A copy of the FIBAC's written determination must be promptly provided to the parties as soon as practicably possible following the determination being made using the contact details provided in the Application Form.
- 9.7 Unless otherwise specified in the FIBAC's determination, the determination (including where a determination is announced in accordance with clause 9.4) has immediate effect.

9.8 A determination made by the FIBAC is final and binding on the parties.

10. PUBLICATION AND CONFIDENTIALITY

- 10.1 The Administrator must keep a central register of all determinations made by the FIBAC.
- 10.2 Subject to clause 10.3, a determination made by the FIBAC (including the written determination), and all submissions, evidence and information provided in proceedings of the FIBAC must be treated in the strictest confidence and must not be made public.
- 10.3 FFA may:
- (a) report on the outcomes of determinations of the FIBAC, excluding the person's personal information;
 - (b) provide copies of written determinations made by the FIBAC to Committee Members; and
 - (c) disclose the outcome of a determination of the FIBAC, including the person's personal information, for the purposes of enforcing the Banning Notice, including to Clubs, police and venues at which FFA Events may be held.

11. COMMITTEE MEMBER IMMUNITY

- 11.1 The parties, and their respective witnesses and experts and all other persons taking part in any proceedings relating to a Banning Appeal agree not to institute or maintain any proceedings, or bring any claim of any nature whatsoever against a Committee Member (past or present), in respect of any act or omission during the course of any proceedings in relation to a Banning Appeal, or arising out of any determination or findings made or otherwise by a Committee Member.
- 11.2 Each party and their respective witnesses and experts and all other persons taking part in any proceedings relating to a Banning Appeal (**Indemnifiers**) indemnify the Committee Members (past or present) (**Indemnified Persons**) in relation to any loss or damage of any nature whatsoever sustained by the Indemnified Persons as a result of any proceedings or claim of any nature whatsoever brought against the Indemnified Persons by any related party of that Indemnifier.

12. NOTICE

- 12.1 A party notifying or giving notice under these Regulations must do so writing and in English.
- 12.2 A Notice of Intention to Ban or Banning Notice will be taken to have been received:
- (a) if personally served on the recipient; or
 - (b) if sent by post, three (3) days after the posting to the person's last known address.

- 12.3 For all other notices provided under these Regulations, including notices from the Administrator, notice will be taken to have been received:
- (a) if personally served on the recipient;
 - (b) if sent by post, three (3) days after the posting to the person's last known address; and
 - (c) if sent by email (to an email address notified).
- 12.4 If the person the subject of a Notice of Intention to Ban or a Banning Notice is a registered member of a Club, FFA will provide a copy of that person's Notice of Intention to Ban or Banning Notice to the Club of which they are a registered member.

13. COSTS

Each party must bear its own costs in relation to these Regulations, including costs of legal representation, experts and witnesses and any travel or accommodation expenses.

14. STANDARD OF PROOF

The standard of proof to be applied in relation to any question of fact to be determined under these Regulations is the balance of probabilities. The rules of evidence do not apply and facts relevant to a determination may be established by any reliable means, including admissions and the drawing of inferences from the failure of a person the subject of a Notice of Intention to Ban to provide to FFA evidence of facts that reasonably would be expected to be within his or her knowledge.

15. TRANSITIONAL PROVISIONS

- 15.1 A person that is subject to a ban from attending FFA Events that was imposed by FFA prior to 15 February 2016 who contends that he or she did not commit the conduct for which the ban was imposed may at any time prior to 15 May 2016 apply to the FIBAC for a review of FFA's decision to impose the ban.
- 15.2 An application for review under clause 15.1 is made by lodging a completed Review Application Form with the Administrator that includes:
- (a) the name, residential and email address and mobile telephone number of the person;
 - (b) a copy of the notice that notified the person of the ban;
 - (c) a written submission setting out the basis on which it is contended that he or she did not engage in the conduct for which the ban was imposed and why FFA was in error in making its decision to impose the ban; and
 - (d) all materials, documents or other evidence that the person relies upon in support of the application.

- 15.3 FFA will within a reasonable time after receipt of the application for review provide to the Administrator for provision to the person:
- (a) a copy of the evidence that was relied upon by FFA in imposing the ban other than evidence which:
 - (i) is no longer available;
 - (ii) FFA is unable to disclose because FFA is subject to legal restrictions in relation to the evidence that prevent its disclosure; or
 - (iii) FFA is unable to disclose because the third party who has provided the evidence will not authorise its disclosure to the person or their legal representative; and
 - (b) its written submissions, any statements in accordance with clause 15.4 and further materials upon which it relies in support of its contention that the ban should not be set aside.
- 15.4 In the event that there:
- (a) is evidence that FFA relied upon that is no longer available FFA will provide the Administrator with a statement that identifies the evidence that is not available and which sets out the evidentiary practice that FFA typically undertook at the relevant time to make such decisions; or
 - (b) are any restrictions on the materials and/or documents that FFA can make available to the FIBAC, the person or the person's legal representative, FFA will set out in writing the reasons for the restriction(s) and where practicable provide a summary of the restricted materials and/or documents.
- 15.5 Within 14 days of the Administrator providing the material referred to in clause 15.3 to the person, the person may provide to the Administrator any further submission, evidence or material in reply, a copy of which the Administrator will provide to FFA.
- 15.6 The Administrator will after receipt of the material provided for in clauses 15.3, and 15.5 in consultation with the President convene the FIBAC within seven (7) days.
- 15.7 The FIBAC will review the submissions and evidence provided by the parties in accordance with this clause 15 and determine whether on the balance of probabilities the decision to impose the ban should be set aside. In making this determination the FIBAC should give proper consideration to the effect that the loss of evidence may have had to the strength of the FFA case over time and the likelihood that FFA would have at the time of the decision have acted other than in accordance with its normal evidentiary practices.
- 15.8 The FIBAC may in reviewing FFA's decision decide that it requires a party to provide further information or documents and the parties must provide such further information or documents that the FIBAC requests for this purpose.
- 15.9 The FIBAC shall provide a written determination that briefly states the reasons on which it is based and contains the date on which, and the place where, the determination was made. A copy of the FIBAC's determination shall be provided to the parties as soon as

practicably possible following the determination being made using the contact details provided in the application.

16. **ENFORCEMENT**

These Regulations come into force on 15 February 2016.

ANNEXURE A

Table of Prohibited Conduct

The following table sets out the minimum period that FFA or the FIBAC must impose for particular types of conduct:

| | Type of Conduct | Minimum Ban Period |
|-----|--|--|
| 1. | Unauthorised access to the field of play | 1 year |
| 2. | Ignition and/or possession of incendiary devices (including flares, detonators, sound bombs or the like) | 5 years |
| 3. | Throwing missiles | 1 year |
| 4. | Disorderly or offensive conduct | 1 year |
| 5. | Assault (including participation in a football supporter brawl) | 3 years |
| 6. | Damage to property | 1 year |
| 7. | Vilification, including a person doing public acts to incite hatred towards, serious contempt for, or severe ridicule of a person or group of persons having any of the following attributes: religious belief/activity; sexuality or gender; race; and/or ethnicity | 2 years |
| 8. | Possession of weapon | 5 years |
| 9. | Breach or attempted breach of an existing Banning Notice | Additional 2 years |
| 10. | Other conduct that falls within clauses 3.1 and 3.2 of these Regulations | 1 year |
| 11. | Attempting, conspiring or inciting to commit, or aiding, abetting, counselling or procuring the commission of any of the above listed conduct | As per the minimum ban period listed for the type of conduct |

The minimum ban period for each offence has been set after already taking into account the types of factors that might be presented in banning related matters including but not limited to:

1. the age, background or financial circumstances of the offender;
2. provocation;
3. inducement by other persons;
4. intoxication;
5. prior good conduct
6. remorse;
7. co-operation with the police, FFA or other authorities;
8. the location or time at which the conduct was committed;
9. the impact that the ban may have on the offender, including the importance to him or her of attending football matches; and
10. the extent to which the offender's conduct is publicly known.

ANNEXURE B

Application Form

Banning Appeal to FIBAC for bans issued post 15 February 2016

ANNEXURE C

Application Form

Transitional Provisions – Review by FIBAC of bans issued prior to 15 February 2016