

**PROPOSALS FOR 2019 MODIFICATIONS TO THE EQUINE ANTI
DOPING AND CONTROLLED MEDICATION REGULATIONS**

1 November 2018

Dear Member Federations,

Please find below a summary of the proposed changes to the FEI Equine Anti-Doping and Controlled Medication Rules together with the corresponding explanations, the comments received as well as the reasoning for accepting or not accepting each comment.

Modifications to the text are indicated in red print; text that has been moved from one location to another is indicated in green.

Kindly note that modifications of a purely editorial nature and corrections to spelling and/or article numbers are not included in the summary below.

The proposed changes will be submitted for voting at the FEI General Assembly 2018.

Note: This memo was updated on 1 November 2018 to reflect the comments received from the UAE NF on the proposed changes to Article 7.4.1 and 7.4.2 of the EAD Rules. The UAE NF's comments were sent by the deadline but were inadvertently omitted from the version of the memo that was published on 23 October 2018. No changes have been made to the proposed final wording.

Sincerely,



Mikael Rentsch

FEI Legal Director

1. Imposition of Provisional Suspension on Registered Trainer in Endurance Cases

Article No. 7.4.1 and 7.4.2 (EAD Rules) – Provisional Suspensions

Explanation for Proposed Change

Under the FEI legal system the “Person Responsible”, i.e. the Athlete, is always held liable for doping/controlled medication offences and is the person that is provisionally suspended.

In the discipline of Endurance, particularly in certain regions, it is accepted that the day to day care of the Horse is usually managed by the registered Trainer, who according to the FEI Endurance Rules must be registered with the FEI.

However, under the current Equine Anti-Doping and Controlled Medication Rules, where there is a positive case for a Banned Substance or two or more Controlled Medication Substances, only the Athlete (i.e. the Person Responsible) and the Horse (in Banned Substance cases) receives a Provisional Suspension. Even if the FEI opens a separate case against the Trainer, under the current system, it is not mandatory/automatic to provisionally suspend the Trainer. As the Trainer is not provisionally suspended, he/she is free to train other horses while the legal process case against him is ongoing.

Therefore, under this proposal, for Endurance cases only:

- The FEI would impose a mandatory and automatic provisional suspension on the registered Trainer in Banned Substance cases.
- In certain cases, where the provisional suspension is not mandatory, for example in Specified Substance cases, if the FEI imposes a provisional suspension on the Athlete, the FEI will also impose a provisional suspension on the registered Trainer (see Article 7.4.2).

The provisional suspension will run until either (i) the FEI Tribunal agrees to lift it; or (ii) the FEI Tribunal’s final decision in the case, where a definite period of Ineligibility may be imposed.

In addition, the definitions of “Provisional Suspension” and “Ineligibility” would be amended to make it clear that the Trainer cannot train Horses during the period of suspension (See Point 3 below).

Proposed Wording

7.4.1 The FEI shall provisionally suspend a *Person Responsible*, member of the *Support Personnel*, and/or the *Person Responsible's Horse* prior to the opportunity for a full hearing based on: (a) an admission that an *EAD Rule* violation has taken place (for the avoidance of doubt, an admission by any *Person* can only be used to provisionally suspend that *Person*); or (b) all of the following elements: (i) an *Adverse Analytical Finding* for a *Banned Substance* that is not a *Specified Substance* from the *A Sample* or *A and B Samples*; (ii) the review described in Article 7.1.2 above; and (iii) the *Notification* described in Article 7.1.4 above. For the discipline of Endurance, where the criteria at (b) above are met, the FEI shall provisionally suspend the registered Trainer (as defined in the FEI Endurance

Rules) of the Horse and the registered Trainer shall be considered as a member of the Support Personnel for the purposes of these EAD Rules.

Notwithstanding the foregoing, the FEI shall not provisionally suspend a *Person Responsible* who is a *Minor* and to whom Article 8.3 below (*Special Procedure for Minors*) applies but the FEI shall provisionally suspend the relevant *Horse*.

7.4.2 The FEI may provisionally suspend a *Person Responsible*, member of the Support Personnel, and/or the *Person Responsible's* *Horse* prior to the opportunity for a full hearing based on (a) evidence that a violation of these EAD Rules is highly likely to have been committed by the respective *Person* or (b) all of the following elements (i) an *Adverse Analytical Finding* for a *Banned Substance* that is a *Specified Substance* from the *A Sample* or *A and B Samples*; (ii) the review described in Article 7.1.2 above; and (iii) the *Notification* described in Article 7.1.4 above. For the discipline of Endurance, where the criteria at (b) above are met, if the FEI provisionally suspends the *Person Responsible* pursuant to this Article 7.4.2, the FEI shall also provisionally suspend the registered Trainer (as defined in the FEI Endurance Rules) of the *Horse* and the registered Trainer shall be considered as a member of the *Support Personnel* for the purposes of these EAD Rules.

In addition, the FEI may provisionally suspend a *Person Responsible* who is a *Minor* to whom Article 8.3 below (*Special Procedure for Minors*) does not apply but the FEI shall provisionally suspend the relevant *Horse*.

Comments Received

EEF: Supported in general but concerns are raised with regards to the feasibility of enforcing this rule (difficulty to ensure that the registered trainer is also the real trainer for the respective horse).

GER: Generally, we are strongly in favour of the proposed modification with regard to suspension of registered trainers in Endurance.

We will, however, not be able to guarantee that no horse under the direct or indirect care of a suspended trainer is entered into CENs or CEIs. While we may be able to block suspended trainers in our systems - so they cannot enter horses into competitions themselves and horses cannot be officially registered with these trainers - we have no way of controlling under whose direct or indirect care those horses actually are.

We will therefore not be able to enforce the consequences of „Ineligibility“ and „Provisional Suspension“ as designed by the definitions of „Ineligibility“ and „Provisional Suspension“ in Paragraph 3 (Consequences of „Ineligibility“ and „Provisional Suspension“) of the proposal.

IRL: The IRL NF has reviewed the proposed EADCM rules for 2019 and support the proposals in line with our EFF colleagues.

LIB: Don't agree with the proposed Article No. 7.4.1 and 7.4.2 (EAD Rules) – Provisional Suspensions

Update 1 November 2018

UAE NF:

We don't agree with this proposed amendment:

- it suggest to punish both athlete and Trainer for the same violation. We suggest that the *Person Responsible* shall be the *Trainer* because according to the definition in Endurance Rules article 800 codex of the Athlete and Trainers
- the *Trainer* is in charge of the preparation and responsible for the conditioning of the *Horse* for the Competition which involves the exercise programme, nutrition of the

Horse, seeking appropriate Veterinary care and the administration of therapeutic substances under Veterinary advice.

FEI Feedback

The FEI acknowledges that there are issues with ensuring that the registered trainer in Endurance is the de-facto day to day trainer of the Horse. However, we feel that this measure, combined with ongoing measures in Endurance to tighten up the registration of trainers, is a step in the right direction.

The FEI's position is that the Athlete should still remain the Person Responsible, and be subject to sanctions, as is the case with the FEI's other disciplines but that it should still be possible to impose sanctions and suspensions on the registered Trainer.

Proposed Final Wording

Proposal stays as above.

2. Mandatory Imposition of Provisional Suspension on Endurance Trainer in Controlled Medication Cases

Article No.7.4.1 ECM Rules –Provisional Suspension

Explanation for Proposed Change

(A) Mandatory Provisional Suspension of registered Trainer in ECM cases with 2 (or more) Controlled Medications

This is the proposed extension of a provisional suspension to the registered Trainer in Endurance for violations of the Equine Controlled Medication Rules, based on the same rationale set out in Point 1 above for the Equine Anti-Doping Rules.

Therefore, where a Sample contains 2 or more Controlled Medication Substances, the Athlete **and** the registered Trainer will be automatically provisionally suspended.

(B) Mandatory Provisional Suspension of registered Trainer in ECM cases with only 1 Controlled Medication if registered Trainer has a pending or prior violation

Currently where there is only one Controlled Medication and if the Athlete has a clean record, the Athlete can accept the Administrative Procedure ("Fast Track") and it counts as a prior violation. However, no sanctions are imposed on the registered Trainer and the Fast Track does not count as a prior violation for the registered Trainer.

To strengthen the system, the FEI proposes to provisionally suspend a registered Trainer in Endurance cases even if there is only 1 Controlled Medication in the Sample, **if** that Trainer has a **pending or prior violation** of the EADCMRs (with the same Horse or another Horse). This means that there are consequences for registered Trainers even if an Athlete accepts the Fast Track.

The Athlete would still be able to accept the Fast Track procedure, as long as the Athlete has a clean record.

(C) Non mandatory provisional suspensions

In certain cases, where the provisional suspension is not mandatory, for example in Specified Substance cases, if the FEI imposes a provisional suspension on the Athlete, the FEI will also impose a provisional suspension on the registered Trainer (see Article 7.4.2).

The provisional suspension will run until either (i) the FEI Tribunal agrees to lift it; or (ii) the FEI Tribunal's final decision in the case, where a definite period of Ineligibility may be imposed.

Proposed Wording

7.4.1 The FEI shall provisionally suspend a *Person Responsible*, member of the *Support Personnel*, and/or the *Person Responsible's Horse* prior to the opportunity for a full hearing based on: (a) an admission that an *ECM Rule* violation has taken place (for the avoidance of doubt, an admission by any *Person* can only be used to provisionally suspend that *Person*); or (b) all of the following elements: (i) an *Adverse Analytical Finding* for two *Controlled Medication Substances* from the *A Sample* or *A and B Samples* provided that neither of the *Controlled Medication Substances* is a *Specified Substance*; (ii) the review described in Article 7.1.2; and (iii) the *Notification* described in Article 7.1.4 above. For the discipline of Endurance, where the criteria at (b) above are met, the FEI shall provisionally suspend the registered Trainer (as defined in the FEI Endurance Rules) of the Horse and the registered Trainer shall be considered as a member of the Support Personnel for the purposes of these ECM Rules. If a *Provisional Suspension* is imposed, either the hearing in accordance with Article 8 shall be advanced to a date which avoids substantial prejudice to the *Person Responsible* alleged to have committed the *ECM Rule* violation, or such *Person Responsible* shall be given an opportunity for a *Preliminary Hearing* either on a timely basis after imposition of the *Provisional Suspension* or before imposition of the *Provisional Suspension* in order to show cause why the *Provisional Suspension* should not be imposed (or should be lifted). Where a *Horse* is provisionally suspended, the *Owner* shall also have the right to request a *Preliminary Hearing*. Notwithstanding the foregoing, the FEI may provisionally suspend a *Person Responsible* pursuant to this Article 7.4.1 if that *Person Responsible* is a *Minor* but the FEI shall provisionally suspend the relevant *Horse*.

Additionally, and notwithstanding the above provisions or the provisions of Article 7.4.2 below, for the discipline of Endurance, the FEI shall provisionally suspend the registered Trainer of the Horse based on all of the following elements:

(i) an Adverse Analytical Finding for one (1) Controlled Medication Substance (including its metabolites or markers) from the A Sample or A and B Samples, except where the Controlled Medication Substance is a Specified Substance;

and

(ii) a previous violation of the ECM Rules within the last four (4) years or a previous violation of the EAD Rules within the last ten (10) years involving the same Horse or another Horse trained by the registered Trainer provided that the registered Trainer was the registered Trainer of that Horse at the time of the previous violation(s);

and/or

(iii) a pending EAD or ECM Rule violation involving the same Horse or another Horse trained by the registered Trainer provided that the registered Trainer was the registered Trainer of that Horse at the time of the previous violation(s).

7.4.2 The FEI may provisionally suspend a *Person Responsible*, member of the *Support Personnel*, and/or the *Person Responsible's Horse* prior to the opportunity for a full hearing if (a) the *Person Responsible*, member of the *Support Personnel* or *Horse* has a pending *EAD* or *ECM Rule* violation or previously violated the *EAD Rules* in the last ten (10) years

or the ECM Rules in the last four (4) years or (b) based on (i) an Adverse Analytical Finding for two Controlled Medication Substances from the A Sample or A and B Samples and at least one of the Controlled Medication Substances is a Specified Substance; (ii) the review described in Article 7.1.2; and (iii) the Notification described in Article 7.1.4 above. For the discipline of Endurance, if the FEI provisionally suspends the Person Responsible pursuant to this Article 7.4.2, the FEI shall also provisionally suspend the registered Trainer (as defined in the FEI Endurance Rules) of the Horse and the registered Trainer shall be considered as a member of the Support Personnel for the purposes of these ECM Rules.

Comments Received

No comments received.

Proposed Final Wording

Proposal stays as above.

3. Consequences of “Ineligibility” and “Provisional Suspension”

Definitions Section

Explanation for Proposed Change

It is proposed to amend the definitions of “*Ineligibility*” and “*Provisional Suspension*” to have the flexibility to prevent a person who is serving a ban/provisional suspension under the EADCMRs from attending events, even as a spectator. There are certain venues/disciplines where spectators may have access to/get close to the Field of Play and the FEI wants to be able to prevent certain suspended persons having such access. This would not apply to all suspensions but only where such limitation of access is specifically stated in the Notification Letter (in the case of Provisional Suspensions) or requested by the FEI or in its submission to the FEI Tribunal and, then confirmed by the FEI Tribunal in its final decision.

Other Consequences of Suspension for registered Trainers in Endurance

The following approach is proposed:

- if an Endurance Trainer is suspended, he cannot train any Horses or have any Horses under his direct or indirect care or have any Horses for which he is the registered trainer (or any Horses under his direct or indirect care) entered in CENS or CEIs. This is the system that currently applies in horse racing under the British Horseracing Authority’s (BHA) system and we have mirrored the BHA wording in the amended definitions below.

The FEI will also actively ensure that the existing “Prohibited Association” provisions of the EADCMR are applied, so that where a Trainer is suspended, no FEI Athletes can have any involvement/association with the suspended Trainer.

Proposed Wording

Ineligibility. A consequence of an *EADCM Regulations* violation whereby the *Person Responsible, Horse* and/or member of the *Support Personnel* is barred for a specified period of time from participating in any activities surrounding any *Competition* or *Event* or other activity or funding as provided in the applicable rules and, only if so specified in the FEI Tribunal Decision, from participating in or attending any *Competition* or *Event* in any capacity including as a spectator.

In the discipline of Endurance where an *Ineligibility* period is imposed on the registered Trainer of the *Horse*, for the duration of the period of *Ineligibility*:

- the Trainer is prohibited from training any Horses and from having any Horses under his direct or indirect care; and

- the FEI and the National Federation shall not:

(i) accept any entries for any Horses registered with, or under the direct or indirect care of, the Trainer for any Competition or Event (at national or international level), except where the relevant Competition or Event will take place after the expiration of the period of Ineligibility; or

(ii) permit any Horse, registered with, or under the direct or indirect care of, the Trainer to participate in any Competition or Event (at a national or international level) even if duly entered; or

(iii) permit any Horse that was registered with the Trainer at the time of the FEI Tribunal Decision (but is no longer registered with the Trainer) and subsequently participated in any Competition or Event (at either national or international level) to be re-registered with the Trainer until the Ineligibility period has expired; or

(iv) permit any Horse that was under the direct or indirect care of the Trainer at the time of the FEI Tribunal Decision (but has since left the direct or indirect care of the Trainer) and subsequently participated in any Competition or Event (at either national or international level) to return to the direct or indirect care of the Trainer until the Ineligibility period has expired.

Provisional Suspension: A consequence of an EADCM Regulation violation or admission whereby the *Person Responsible* and/or member of the *Support Personnel* and/or a *Horse* is barred temporarily from participating in any capacity in a *Competition* or activity or being present at an *Event* (~~other than as a spectator~~) that is authorised or organised by the *FEI* or any *National Federation* or at *Competitions* authorised or organised by any international- or national-level Event organisation prior to the final *Decision* at a hearing conducted under Article 8 (Right to a Fair Hearing). If so specified in the Notification, the Person Responsible and/or member of the Support Personnel may be barred temporarily from participating in or attending, in any capacity, including as a spectator, any Competition that is authorised or organised by the FEI or any National Federation.

In the discipline of Endurance where a Provisional Suspension is imposed on the registered Trainer of the Horse, for the duration of the period of the Provisional Suspension:

- the Trainer is prohibited from training any Horses and from having any Horses under his direct or indirect care; and

- the FEI and the National Federation shall not:

(i) accept any entries for Horses registered with or under the direct or indirect care of the Trainer for any Competition that is authorised or organised by the FEI or any National Federation, except where the relevant Competition will take place after the lifting of the Provisional Suspension;

(ii) permit any Horse registered with, or under the direct or indirect care of the Trainer, to participate in any Competition that is authorised or organised by the FEI or any National Federation even if duly entered;

(iii) permit any Horse that was registered with the Trainer at the time of the Notification (but is no longer registered with the Trainer) and subsequently participated in any Competition or Event (at either national or international level) to be re-registered with the Trainer until the Provisional Suspension period has been lifted; or

(iv) permit any Horse that was under the direct or indirect care of the Trainer at the time of the Notification (but has since left the direct or indirect care of the Trainer) and subsequently participated in a Competition or Event (at either national or international level) to return to the direct or indirect care of the Trainer until the Provisional Suspension has been lifted.

Comments received

GER: We have a similar rule in our national regulations that has proven to be most helpful in certain circumstances. It may be worth considering to separate this barrage from the concept of ineligibility and install it as an autonomous sanction.

In Germany, we have predominantly applied this sanction in cases where the imposition of an ineligibility period was impossible or futile. The German cases involved officials that had been found guilty of abusing horses. The FEI system of regulations may offer a different solution to these specific cases (i.e. a period of ineligibility). An autonomous sanction will, however, offer more flexibility, should you ever be confronted with a case that cannot be resolved by the imposition of a period of ineligibility.

An autonomous sanction of a „barrage“ can still be combined with a period of ineligibility. If the FEI Tribunal decides to impose such „barrage“ in addition to a period of ineligibility, it will be more visible and issue a clearer statement.

LIB: Refuse the modification and request to keep original wording

FEI Feedback

Next year we plan to undertake a complete review of the FEI Legal System which would include a review of all the sanctions available and how they are presented in the rules. We can consider the proposal to have a stand-alone sanction of a ban from attending FEI venues as part of that legal review.

Proposed Final Wording

Proposal stays as above.

4. Rights of registered Trainer in EADCMR legal process

Article No. 7.1.4 Equine Anti-Doping Rules and 7.1.4 Equine Controlled Medication Rules

Explanation for Proposed Change

The current Article 7.1.4 sets out the various rights that PRs and Owners have as part of the EADCMR legal processes.

It is proposed to clarify that, where a registered Trainer in Endurance, is provisionally suspended or subject to the legal process under the EADCMRs, the Trainer will have the same rights (to ask for a hearing, to reach a settlement etc.)

Proposed Wording

7.1.4 If the review of an Adverse Analytical Finding under Article 7.1 does not reveal an apparent departure from the *Testing* procedures of the *FEI Veterinary Regulations*, the *FEI Standard for Laboratories* or another *FEI* standard, *FEI Rule* or *Regulation*, *FEI Manual* or policy that caused the *Adverse Analytical Finding*, the FEI shall promptly *Notify* the *Person Responsible* and the *Owner* of the *Horse* (if applicable) of:

(a) the *Adverse Analytical Finding*;

(b) the *EAD Rule* violated;

.....

(n) the opportunity to cooperate and provide substantial assistance in discovering or establishing an anti-doping rule violation.

In the discipline of Endurance, where a *Provisional Suspension* is imposed on a registered *Trainer of the Horse* pursuant to either *Clause 7.4.1* or *7.4.2* below, the registered *Trainer* shall be notified accordingly and the provisions of this Article 7 that apply to the *Person Responsible* and the *Owner* shall also apply to the registered *Trainer*.

Comments Received

No comments received.

Proposed Final Wording

Proposal stays as above.

5. Criteria for lifting of Provisional Suspension

Article No. 7.4.4 Equine Anti-Doping Rules and 7.4.4 Equine Controlled Medication Rules – Lifting of Provisional Suspension

Explanation for Proposed Change

Further to the decision of the Court of Arbitration for Sport from earlier this year (accessible [here](#)) where two PRs unsuccessfully challenged the FEI's policy of provisionally suspending the Horse for two months, it is necessary to clarify the difference between the grounds applicable to (i) an application to lift a Provisional Suspension imposed on a Person Responsible and (ii) an application to lift a Provisional Suspension imposed on the Horse.

The proposed change clarifies that the ground where the Provisional Suspension could be lifted for cases of No (Significant) Fault or Negligence would only apply to a PR's application to have his/her Provisional Suspension lifted but does not apply to an application to have the Provisional Suspension of the Horse lifted.

The reason for the difference is that the level of the Person Responsible's fault or negligence is irrelevant to the imposition of the two month provisional suspension of the Horse; the position of the FEI is that the provisional suspension on the Horse is necessary for welfare of the horse and level playing field grounds.

Proposed Wording

7.4.4 The *Provisional Suspension* shall be maintained unless the *Person* requesting the lifting of the *Provisional Suspension* establishes to the comfortable satisfaction of the *FEI Tribunal* that:

- (i) the allegation that an *EAD Rule* violation has been committed has no reasonable prospect of being upheld, e.g., because of a material defect in the evidence on which the allegation is based; or
- (ii) the *Person* can demonstrate that the evidence will show that he bears *No Fault or No Negligence* for the *EAD Rule* violation that is alleged to have been committed, so that any period of *Ineligibility* that might otherwise be imposed for such offence is likely to be completely eliminated by application of Article 10.4 below or that 10.5 applies and the *Person* can demonstrate that the evidence will show that he bears *No Significant Fault or Negligence* and that he has already been provisionally suspended for a period of time that warrants the lifting of the *Provisional Suspension* pending a final *Decision* of the *FEI Tribunal*. This Article 7.4.4(ii) does not apply to an application to lift a *Provisional Suspension* imposed on a *Horse*; or
- (iii) exceptional circumstances exist that make it clearly unfair, taking into account all of the circumstances of the case, to impose a *Provisional Suspension* prior to the final hearing of the *FEI Tribunal*. This ground is to be construed narrowly, and applied only in truly exceptional circumstances. For example, the fact that the *Provisional Suspension* would prevent the *Person* or *Horse* competing in a particular *Competition* or *Event* shall not qualify as exceptional circumstances for these purposes.

The corresponding change would be made to Article 7.4.4(ii) of the Equine Controlled Medication Rules.

Comments Received

No comments received.

Proposed Final Wording

Proposal stays as above.

6. Minor Changes

Articles No. 10.5.1, 10.8.4.1, Definitions

Explanation for Proposed Change

In a couple of places in the EAD and ECM Rules, there are references to "*Athlete*" instead of "*Person Responsible*".

Proposed Wording

In each of Articles 10.5.1 and 10.8.4.1 of both the EAD Rules and the ECM Rules and in the definitions of "*Administrative Procedure*" and "*No Significant Fault or Negligence*" the word "*Athlete*" will be deleted and replaced with "*Person Responsible*."

Comments Received

No comments received

Proposed Final Wording

Proposal stays as above