

INTERPRETATION 007-21

REQUEST FOR INTERPRETATION FROM A VICE-PRESIDENT

Question 1

Regulation 35.2.1 states:

35.2.1 In this Code, a "Participant" means

- a. any competitor, boat owner, support person; and*
- b. any World Sailing Council, committee or commission member, working party member, any alternates appointed, World Sailing Member (including any representatives sent by a Member to attend World Sailing Events, meetings or other official functions), World Sailing Officer, World Sailing Race Official or World Sailing Representative, or any person, official or body subject to the World Sailing Constitution or World Sailing Regulations.*

At what point does someone cease to be considered a "Participant" for the purposes of Regulation 35.2.1.b?

Answer 1

A person who is considered a "Participant" as defined in Regulation 35.2.1.b will cease to be considered as such from the time they no longer hold any of the listed offices or appointments and/or are no longer subject to the World Sailing Constitution or Regulations – whichever is the latter in time.

However, having agreed to comply with the World Sailing Constitution / Regulations, a person remains subject to the jurisdiction of World Sailing concerning conduct that occurred whilst they were a Participant. Therefore they continue to be subject to the Regulations and remain responsible for their conduct whilst they held any of the offices or appointments under those Regulations.

Accordingly action can be taken concerning such persons for conduct whilst they held such offices or appointments.

Question 2

If the subject of a complaint under Regulation 35 ceases to be a "Participant" during the investigation, what options remain open to the Disciplinary Investigating Officer under Regulation 35.6.13?

Answer 2

Regulation 35.6.13 states:

- 35.6.13 Following the review, the Disciplinary Investigating Officer shall in his absolute discretion (against which there is no appeal):*
- a. take no further action; or*
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*b. issue a warning to any **Participant** in the report, and thereafter take no further action; or*

*c. charge any **Participant** with any act(s) of Misconduct which, in the opinion of the Disciplinary Investigating Officer, may warrant disciplinary action within the jurisdiction of World Sailing.*

(Emphasis added)

The three options that are available to a Disciplinary Investigating Officer (“**DIO**”), are conditioned as actions brought against a *Participant*. If the person was a Participant at the time of the alleged conduct, then all three actions are available to the DIO.

The fact they are no longer a Participant is a factor to which the DIO can take account when exercising their discretion, but the weight to be given to this factor is wholly a matter for the DIO.

Question 3

Regulation 36.2 states:

36.2 World Sailing and each of its members, any candidate for election to a World Sailing office or MNA office, members of its Council and its Committees, Commissions and working parties, World Sailing Race Officials, or any person, official or body subject to the World Sailing Constitution or World Sailing Regulations, all other World Sailing Representatives, Organising Committees of any World Sailing events and World Sailing Classes (“Parties”) shall be bound by, respect and comply with the World Sailing Code of Ethics.

At what point does someone cease to be considered a “Party” for the purposes of Regulation 36?

Answer 3

See Answer 1 ..the same principle applies to a `Party`.

Question 4

If the subject of a complaint under Regulation 36 ceases to be a “Party” during the investigation, what options remain open to the Ethics Officer under Regulation 36.10?

Answer 4

Regulation 36.10 states:

36.10 Following the investigation, the Ethics Officer shall:

a. take no further action; or

*b. issue a warning to any **Party** in the report, and thereafter take no further action; or*

*c. charge any **Party** with a breach of the Code.*

(emphasis added)

See Answer 2 – the same principle applies.

**Constitution Committee
World Sailing**

3 September 2021