

Racing Rules of Sailing

Introduction, Definition Party, Definition Protest, Part 5

A submission from the Chair of the Racing Rules Committee

Purpose or Objective

To delete Part 5 and replace it with the new version prepared by the Part 5 Working Party following consultation with the Racing Rules Committee and the International Judges Subcommittee.

Proposal

1. Amend the Introduction and Definitions in accordance with the document attached to this submission.
2. Delete Part 5 and replace it the version in the document attached to this submission.
3. The Racing Rules Committee may further amend the new draft as necessary to reflect any other decisions made at its 2023 annual meeting.

Current Position

As above

Reasons

1. Part 5 has, in the last few cycles, become more complicated as numerous changes have been made to fix different issues that have arisen. As the current wording has become more complicated, so have the number of issues that need fixing.
 2. A Working Party was established two years ago to review and prepare a completely new draft of Part 5.
 3. Last year, the Part 5 Working Party circulated its proposals to amend Part 5. Since then, further work has been undertaken and the draft has been circulated to the RRC and IJSC for further comment.
 4. The draft has been prepared, as far as possible, to have a neutral effect in terms of the actual consequences of the draft. If an issue of principle has arisen, the Working Party has put forward a separate submission for the Committee to resolve the question and this main re-draft can then be updated.
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5. The complete re-write has the benefit that a 'clean slate' can be used to the wording of the rules, although much of the actual text will be familiar. There is the disadvantage – which the Working Party fully accepts – that there is a high amount of rule number changes. In addition, the page length is not shorter than Part 5 at present. However, the Working Party believes that the concept of keeping one idea to one rule means the wording is much easier to understand to lay readers and to non-English speakers.
 6. There are a number of minor drafting issues which the Part 5 Working Party is still reviewing with the Submissions Working Party. Any proposed amendments will be ready for the Committee to consider by its meeting.
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Attachment

INTRODUCTION

[...]

Each of the terms in the table below is used in *The Racing Rules of Sailing* with the meaning given.

<i>Term</i>	<i>Meaning</i>
Boat	A sailboat and the crew on board.
<u>Committee</u>	<u>The protest committee, race committee or technical committee.</u>
Competitor	A person who races or intends to race in the event.
National authority	A World Sailing member national authority.
Race committee	The race committee appointed under rule 89.2(c) and any other person or committee performing a race committee function.
Racing rule	A rule in <i>The Racing Rules of Sailing</i> .
Technical committee	The technical committee appointed under rule 89.2(c) and any other person or committee performing a technical committee function.
Vessel	Any boat or ship.

DEFINITIONS

A term used as stated below is shown in italic type or, in preambles, in bold italic type. The meaning of several other terms is given in Terminology in the Introduction.

[...]

Party A party to a hearing is

- (a) for a protest hearing: a protestor, a protestee;
- (b) for a redress hearing: a boat requesting redress or for which redress is requested; a boat for which a hearing is called to consider redress under rule **61.1** ~~60.3(b)~~; a ~~race~~ committee acting under rule 61.1 ~~60.2(b)~~; ~~a technical committee acting under rule 60.4(b)~~;
- (c) for a redress hearing under rule **61.4(b)(1)** ~~62.1(a)~~: the body alleged to have made an improper action or omission;
- (d) a person against whom an allegation of a breach of rule 69.1(a) is made; a person presenting an allegation under rule 69.2(e)(1);
- (e) a *support person* subject to a hearing under rule **62** ~~60.3(d)~~ or 69; any boat that person supports; a person appointed to present an allegation under rule **62.2** ~~60.3(d)~~.

However, the protest committee is never a *party*.

Protest An allegation made under rule 60 ~~61.2~~ by a boat or a committee, ~~a race committee, a technical committee or a protest committee~~ that a boat has broken a *rule*.

PART 5

SECTION A

PROTESTS; REDRESS; SUPPORT PERSONS

60 PROTESTS

60.1 Right to Protest

A boat or committee may protest a boat.

60.2 Intention to Protest

- (a) If a *protest* concerns an incident in the racing area:
 - (1) At the first reasonable opportunity, a boat shall hail 'Protest' and, if her hull length is longer than 6 metres, conspicuously display a red flag until she is no longer *racing*.
 - (2) A committee shall inform a boat after the race within the protest time limit of its intention to protest.
 - (b) However, if
 - (1) the incident did not occur in the racing area,
 - (2) a protestee is not within hailing distance at the time of the incident,
 - (3) the incident was an error in *sailing the course* by a protestee, or
 - (4) a protest committee decides to protest a boat under rule 60.5(a)(2),then the protestor shall instead inform the protestee of its intention to protest at the first reasonable opportunity.
 - (c) If at the time of the incident it is obvious to a protesting boat that a member of either crew is in danger, or that injury or serious damage has resulted, rules 60.2(a) and 60.2(b) do not apply, but she shall attempt to inform the other boat within the protest time limit of her intention to protest.
 - (d) A committee may inform a boat of its intention to protest by posting a notice on the official notice board.
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60.3 Delivering a Protest

- (a) A *protest* shall be in writing and identify the incident when it is delivered. In addition, it shall identify
- (1) the protestor and protestee,
 - (2) where and when the incident occurred,
 - (3) any *rule* the protestor believes was broken, and
 - (4) the name of the protestor's representative.

Requirement (1) may be met at any time before the hearing, and requirements (2), (3) and (4) may be met before or during the hearing.

- (b) A *protest* shall be delivered to the race office within the protest time limit unless the protest committee decides there is good reason to extend the time. The protest time limit is
- (1) for *protests* about an incident observed in the racing area, two hours after the last boat in the race *finishes*, or
 - (2) for all other *protests*, two hours after the relevant information is available to the protestor.

However, if the sailing instructions state a different protest time limit, then that time limit applies instead.

60.4 Invalid Protests

A *protest* is invalid if

- (a) it does not comply with the definition Protest or rule 60.2 or 60.3,
 - (b) it is from a boat that alleges a breach of a rule of Part 2 or rule 31 but she was not involved in and did not see the incident,
 - (c) it is from a committee and is based on information from
 - (1) a request for redress,
 - (2) an invalid *protest*, or
 - (3) a report from a person with a *conflict of interest* other than the representative of the boat herself,
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and the exceptions in rule 60.5 do not apply, or

- (d) it alleges a breach of rule 69 or a Regulation referred to in rule 6, unless permitted by the Regulation concerned.

60.5 Committee Protests

Rule 60.4(c) does not apply to

- (a) a *protest* from the protest committee if
 - (1) it learns of an incident involving a boat that may have resulted in injury or serious damage, or
 - (2) during the hearing of a valid *protest* it learns that the boat, although not a *party* to the hearing, was involved in the incident and may have broken a *rule*.
- (b) a *protest* from the technical committee if it decides that a boat or personal equipment does not comply with the class rules or with rule 50.

60.6 Protest Decisions

- (a) The protest committee shall conduct a hearing as required by rule 63 to decide a *protest*.
 - (b) A boat shall only be penalized
 - (1) at a protest hearing to which she is a *party*,
 - (2) under rules 60.7, 62.4 or 69, or
 - (3) under a *rule* which expressly states a penalty may be applied without a hearing.
 - (c) If the protest committee decides that a boat has broken a *rule* it shall disqualify her whether or not the applicable *rule* was mentioned in the *protest*. However, a boat shall not be disqualified if
 - (1) she is exonerated or some other penalty applies,
 - (2) the race is restarted or resailed, in which case rule 36 applies,
 - (3) the boat has already taken an applicable penalty, in which case she shall not be penalized further unless
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the penalty for a *rule* she broke is a non-excludable disqualification, or

(4) she broke a class rule and rule 60.6(d) applies.

if a boat has broken a *rule* when not *racing*, her penalty shall apply to the race sailed nearest in time to the incident.

(d) If the protest committee decides that a boat has broken a class rule:

(1) the boat shall not be penalized if any deviations in excess of tolerances specified in the class rules were caused by damage or normal wear and they did not improve the performance of the boat,

(2) the boat shall not *race* again until any deviations have been corrected unless the protest committee decides there is, or has been, no reasonable opportunity to do so,

(3) any breach of the same rule in earlier races in the same event may have the same penalty imposed for all such races without further *protest*, and

(4) the boat may compete in subsequent races without changes to the boat, but only if she states in writing she intends to appeal. If she fails to appeal, or the appeal is not successful, she shall be disqualified without a hearing from all subsequent races in which she competed.

60.7 Discretionary Penalties

When a boat reports within the protest time limit that she has broken a *rule* which is subject to a discretionary penalty, the protest committee shall decide the appropriate penalty having first considered the evidence that it considers appropriate. There is no requirement to hold a hearing.

61 REDRESS

61.1 Requesting or Considering Redress

The protest committee may call a hearing to consider redress and a boat or committee, other than the protest committee, may request redress.

61.2 Requesting Redress

- (a) A request for redress shall be in writing and identify the reason for making it.
- (b) A request shall be delivered to the race office:
 - (1) if it is based on an incident in the racing area, within the protest time limit or two hours after the incident (whichever is the later),
 - (2) if it is based on a protest committee decision on the last scheduled day of racing, no later than 30 minutes after the decision was posted, or
 - (3) for all other requests, as soon as reasonably possible after the relevant information is available.

However, the protest committee shall extend the time if there is good reason to do so.

61.3 Invalid Requests

A request for redress is invalid if it does not comply with rule 61.2.

61.4 Redress Decisions

- (a) The protest committee shall conduct a hearing as required by rule 63 to consider whether to grant redress.
- (b) A boat is entitled to redress if her score or place in a race or series has been made, or may be made, significantly worse through no fault of her own caused by
 - (1) an improper action or improper omission of a committee or the organizing authority, but not by a protest committee decision when the boat was a *party* to the hearing,

- (2) injury or physical damage because of the action of a boat that was breaking a rule of Part 2 and took an appropriate penalty or was penalized,
 - (3) injury or physical damage because of the action of a vessel not *racing* that was required to keep clear or is determined to be at fault under the *IRPCAS* or a government right-of-way rule,
 - (3) giving help (except to herself or her crew) in compliance with rule 1.1, or
 - (4) an action of another boat, or a crew member or *support person* of that boat, that resulted in a penalty under rule 2 or a penalty or warning under rule 69.
- (c) If a boat is entitled to redress, the protest committee shall make as fair an arrangement as possible for all boats affected, whether or not they asked for redress. This may be to adjust the scoring (see rule A9 for examples) or finishing times of boats, to *abandon* the race, to let the results stand or to make some other arrangement.
- (d) If there is doubt about the facts or probable results of any arrangement for the race or series, especially before *abandoning* the race, the protest committee shall take evidence from appropriate sources.

62 SUPPORT PERSONS

- 62.1** Upon receipt of a report from a boat or a committee, or based on its own observation or information from any source, the protest committee may call a hearing to consider whether a *support person* has broken a rule.
- 62.2** If the protest committee decides to call a hearing, it shall conduct a hearing as required by rule 63 and may appoint a person to present the allegations.
- 62.3** If the protest committee decides that a *support person* who is a *party* to the hearing has broken a *rule*, it may
- (a) issue a warning,
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- (b) exclude the person from the event or venue or remove any privileges or benefits, or
- (c) take other action within its jurisdiction as provided by the *rules*.

62.4 In addition, if the protest committee decides that

- (a) a boat may have gained a competitive advantage as the result of the breach by the *support person*, or
- (b) the *support person* committed a further breach after the protest committee warned a boat in writing, following a previous hearing, that a penalty may be imposed,

then the protest committee may also penalize a boat that is a *party* to the hearing for the breach of a *rule* by a *support person* by changing the boat's score in a single race, up to and including disqualification.

SECTION B

HEARINGS AND MAKING DECISIONS

63 CONDUCT OF ALL HEARINGS

Rule 63 applies to all hearings conducted by the protest committee.

63.1 Rights of Parties

- (a) All *parties* to a hearing shall be
 - (1) informed of the time and place of the hearing,
 - (2) given access to the *protest*, request for redress, or report to be considered at the hearing,
 - (3) allowed reasonable time to prepare for the hearing, and
 - (4) allowed to have a representative present throughout the hearing but, in a *protest* involving a breach of a rule of Part 2, 3 or 4, the representative shall have been on board at the time of the incident unless the protest committee decides otherwise.

- (b) If a *party* does not attend a hearing, the protest committee may proceed with the hearing in their absence.

63.2 Hearings

- (a) The protest committee shall hear all protests and requests delivered unless it allows them to be withdrawn.
- (b) The protest committee may combine hearings which arise from the same or very closely connected incidents into one hearing, but not a rule 69 hearing.
- (c) The protest committee may change the type of case if it is appropriate to do having considered the information in the case, including any evidence given during a hearing.
- (d) If the protest committee decides to protest a boat under rule 60.5(a)(2), it shall close the current hearing, deliver a *protest* in accordance with the *rules*, and then hear the original and new *protests* together.
- (e) A hearing involving *parties* in different events conducted by different organizing authorities shall be heard by a protest committee acceptable to those authorities.

63.3 Conflict of Interest

- (a) A possible *conflict of interest* of a protest committee member shall be declared by that member, or be notified by a *party* who is aware of it, as soon as possible.
- (b) A protest committee member with a *conflict of interest* shall not be a member of the protest committee hearing the case, unless:
 - (1) all *parties* consent, or
 - (2) the protest committee decides that the *conflict of interest* is not significant.

However, for World Sailing major events, or for other events as prescribed by the national authority of the venue, a person who has a *conflict of interest* shall not be a member of the protest committee.

- (c) When deciding whether a *conflict of interest* is significant, the protest committee shall consider
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- (1) the views of the *parties*,
 - (2) the level of the conflict,
 - (3) the level of the event,
 - (4) the importance to each *party* of the case, and
 - (5) the overall perception of fairness.
- (d) Any written information provided under rule 63.6(b) shall include any *conflict of interest* declared by a protest committee, and any decision by the protest committee under rule 63.3(b)(2).

63.4 Hearing Procedure

- (a) The protest committee shall first consider validity. The hearing shall be closed if
- (1) a *protest* or request is invalid, or
 - (2) a *protest* was made under rule 60.5(a)(1) and there is no injury or serious damage.
- (b) The protest committee shall take the evidence of the *parties* present at the hearing, their witnesses, and any other evidence it considers necessary. Hearsay evidence is admissible.
- (c) A *party* present at the hearing may question any person who gives evidence.
- (d) A member of the protest committee who is a witness shall inform the parties of this fact as soon as reasonably possible after the start of the hearing.
- (e) A witness shall be excluded from the hearing when not giving evidence, except for a witness who:
- (1) is also a *party*, or
 - (2) is a member of the protest committee..
- (f) The protest committee may exclude evidence which is irrelevant or unduly repetitive.

63.5 Decisions

- (a) The protest committee shall consider the evidence and decide what weight to give it. It shall then find the facts
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based on the balance of probabilities (unless a *rule* requires otherwise), and then apply the *rules* to those facts to make its conclusions and a decision.

- (b) Decisions shall be made by simple majority vote. When there is an equal division of votes, the chair of the hearing may cast an additional vote.
- (c) If there is a conflict between
 - (1) two or more *rules* that must be resolved before a decision can be made,
 - (2) those *rules* are valid *rules*, and
 - (3) those *rules* are in the notice of race, the sailing instructions, or any of the other documents that govern the event under item (g) of the definition Rule,then the protest committee shall apply the *rule* that it believes will provide the fairest result for all boats affected.
- (d) If there is doubt about the meaning of a class rule, the protest committee shall refer its questions, together with the relevant facts, to an authority responsible for interpreting the rule. In making its decision, the committee is bound by the authority's reply.

63.6 Informing the Parties and Others

- (a) The protest committee shall promptly inform the *parties* to the hearing of the facts found, the applicable *rules*, the decision, the reasons for it, and any penalties imposed or redress given.
 - (b) If requested within seven days of being informed of the decision, the above information shall be provided promptly in writing to all the *parties* and the protest committee may, if relevant, prepare or endorse a diagram.
 - (c) The protest committee may publish the above information after any hearing, including a hearing under rule 69, unless it decides there is good reason not to do so.
 - (d) The protest committee may direct that the above information is to be confidential to the *parties*.
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- (e) If the protest committee penalizes a boat under a class rule, it shall send the above information to the relevant class rule authorities.

63.7 Reopening a Hearing

- (a) The protest committee may reopen a hearing if requested, or of its own decision, if it decides
 - (1) a *party* was unavoidably absent from the hearing,
 - (2) it may have made a significant error, or
 - (3) significant new evidence has become available within a reasonable time.

However, a protest committee shall reopen a hearing when required to do so by the national authority under rules 71.2 or R5.

- (b) A *party* to the hearing may request a reopening by delivering a written request to the race office no later than 24 hours after being informed of the decision. However, on the last scheduled day of racing the request shall be delivered
 - (1) within the protest time limit if the requesting *party* was informed of the decision on the previous day;
 - (2) no later than 30 minutes after the *party* was informed of the decision on that day.

A request delivered outside these times is invalid.

- (c) The protest committee shall consider all requests to reopen a hearing and
 - (1) if based only on new evidence, a majority of the members of the protest committee shall, if practicable, be members of the original committee;
 - (2) if based on a significant error, the protest committee shall, if practicable, have at least one new member.

64 DAMAGES AND COSTS

- 64.1 Any question of damages arising from a breach of a *rule* shall be governed by prescriptions, if any, of the national authority.
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- 64.2** Any measurement costs in a *protest* involving a class rule shall be paid by the unsuccessful *party* unless the protest committee decides otherwise.

Note: There are no rules 65 to 68.

SECTION C

MISCONDUCT

69 MISCONDUCT

69.1 Obligation not to Commit Misconduct; Resolution

- (a) A competitor, boat owner or *support person* shall not commit an act of misconduct.
- (b) Misconduct is:
 - (1) conduct that is a breach of good manners, a breach of good sportsmanship, or unethical behaviour; or
 - (2) conduct that may bring, or has brought, the sport into disrepute.
- (c) An allegation of a breach of rule 69.1(a) shall be resolved in accordance with the provisions of rule 69. It shall not be grounds for a *protest*.

69.2 Action by a Protest Committee

- (a) A protest committee acting under this rule shall have at least three members.
 - (b) When a protest committee, from its own observation or from information received from any source, including evidence taken during a hearing, believes a person may have broken rule 69.1(a), it shall decide whether or not to call a hearing.
 - (c) When the protest committee needs more information to make the decision to call a hearing, it shall consider appointing a person or persons to conduct an investigation. These investigators shall not be members of the protest committee that will decide the matter.
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- (d) When an investigator is appointed, all relevant information he gathers, favourable or unfavourable, shall be disclosed to the protest committee, and if the protest committee decides to call a hearing, to the *parties*.
 - (e) If the protest committee decides to call a hearing, it shall promptly inform the person in writing of the alleged breach and of the time and place of the hearing and follow the procedures in rule 63, except that:
 - (1) unless a person has been appointed by World Sailing, a person may be appointed by the protest committee to present the allegation.
 - (2) a person against whom an allegation has been made under this rule shall be entitled to have an advisor and a representative with him who may act on his behalf.
 - (f) If the person
 - (1) provides good reason why he is unable to come to the hearing at the scheduled time, the protest committee shall reschedule it; or
 - (2) does not provide good reason and does not come to the hearing, the protest committee may conduct it without the person present.
 - (g) The standard of proof to be applied is the test of the comfortable satisfaction of the protest committee, bearing in mind the seriousness of the alleged misconduct. However, if the standard of proof in this rule conflicts with the laws of a country, the national authority may, with the approval of World Sailing, change it with a prescription to this rule.
 - (h) When the protest committee decides that a competitor or boat owner has broken rule 69.1(a), it may take one or more of the following actions
 - (1) issue a warning;
 - (2) change their boat's score in one or more races, including disqualification(s) that may or may not be excluded from her series score;
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- (3) exclude the person from the event or venue or remove any privileges or benefits; and
 - (4) take any other action within its jurisdiction as provided by the *rules*.
- (i) When the protest committee decides that a *support person* has broken rule 69.1(a), rules 62.3 and 62.4 apply.
- (j) If the protest committee
 - (1) imposes a penalty greater than one DNE;
 - (2) excludes the person from the event or venue; or
 - (3) in any other case if it considers it appropriate,it shall report its findings, including the facts found, its conclusions and decision to the national authority of the person or, for specific international events listed in the World Sailing Regulations, to World Sailing. If the protest committee has acted under rule 69.2(f)(2), the report shall also include that fact and the reasons for it.
- (k) If the protest committee decides not to conduct the hearing without the person present, or if the protest committee has left the event and a report alleging a breach of rule 69.1(a) is received, the race committee or organizing authority may appoint the same or a new protest committee to proceed under this rule. If the protest committee decides it is impractical to conduct a hearing, it shall collect all available information and, if the allegation seems justified, make a report to the national authority of the person or, for specific international events listed in the World Sailing Regulations, to World Sailing.

69.3 Action by a National Authority and World Sailing

The disciplinary powers, procedures and responsibilities of national authorities and World Sailing that apply are specified in the World Sailing Disciplinary Code. National authorities and World Sailing may impose further penalties, including suspension of eligibility, under that code.

SECTION D

APPEALS

70 APPEALS AND REQUESTS TO A NATIONAL AUTHORITY

70.1 Unless rule 70.3 applies, a *party* to a hearing has the right to appeal the protest committee's decision, but not the facts found, to the national authority. This includes when the protest committee has failed to hold a hearing or to make a decision.

70.2 A protest committee may request confirmation or correction of its decision by the national authority.

70.3 There is no right of appeal for decisions:

- (a) of an international jury properly constituted under Appendix N,
- (b) which are essential to promptly determine the result of a race that will qualify a boat to compete in a later stage of an event or subsequent event (and the national authority may prescribe that its approval is required for such decisions),
- (c) made at an event open only to boats entered by
 - (1) an organization affiliated to the national authority, or a member of that organization, or
 - (2) a personal member of the national authority,and the national authority has granted its approval to the use of this rule, or
- (d) made at an event by a protest committee constituted as required by Appendix N except that only two members of the protest committee need be International Judges, and the national authority has granted its approval to the use of this rule after consultation with World Sailing,

However, (b), (c) and (d) shall only apply if specified in the notice of race or sailing instructions.

70.4 The national authority means the one to which the organizing authority is associated under rule 89.1. However, if boats will pass through the waters of more than one national authority while

rating, an appeal or request shall be sent to the national authority where the finishing line is located, unless the sailing instructions identify another national authority.

70.5 Appeals and requests shall conform to Appendix R.

71 NATIONAL AUTHORITY DECISIONS

71.1 A person who has a *conflict of interest* or was a member of the protest committee shall not take any part in the discussion or decision on an appeal or a request for confirmation or correction.

71.2 The national authority shall accept the facts found by the protest committee unless rule R5 applies.

71.3 The national authority may:

- (a) uphold, change or reverse the protest committee's decision (including a decision on validity),
- (b) order that the hearing be reopened, or
- (c) order that a new hearing is held by the same protest committee or by a new protest committee (which may be appointed by the national authority).

71.4 If the national authority decides that a boat that was a *party* to a protest hearing broke a *rule* and is not exonerated, it shall penalize her, whether or not that boat or that *rule* was mentioned in the protest committee's decision.

71.5 The decision of the national authority is final. The national authority shall send its decision in writing to all *parties* to the hearing and the protest committee, who shall be bound by the decision.

71.6 If the national authority orders a hearing to be reopened, it may limit the scope of the reopened hearing to such issues as it considers appropriate.

72 INTERPRETATIONS

A club or other organization affiliated to a national authority may request an interpretation of the *rules* from the national authority, provided that no *protest* or request for redress that may be appealed is involved. An interpretation shall not be used to change a previous protest committee decision.