



World Sailing
Judicial Board Rules of Procedure
(Part J Elections)

1. INTRODUCTION

- 1.1 These Rules of Procedure apply to any disciplinary complaints received by World Sailing under Part J of Regulation 35.

2. GENERAL

- 2.1 For the avoidance of doubt, in these Rules of Procedure the word “Participant” shall have the meaning ascribed in Regulation 35.2.1 but shall also include any person who was a Participant when the matter referred to in the complaint arose.
- 2.2 The disciplinary bodies in sailing are not courts of law. They are concerned with achieving a fair and just outcome for all Participants in an expeditious manner.
- 2.3 All Participants involved in proceedings shall act in a spirit of cooperation to ensure proceedings are conducted expeditiously, fairly and appropriately, having regard to their sporting context.
- 2.4 An Elections Ad Hoc Independent Panel (“the Panel”):
- (a) is not bound by any enactment or rule of law relating to the admissibility of evidence; and
 - (b) may draw such inference from the failure of a witness (including a Participant) to give evidence or answer a question as it considers appropriate.
- 2.5 The Panel shall conduct the proceedings as it sees fit but at all times in a manner which:
- (a) complies with the World Sailing Constitution, Regulations and these Rules;
 - (b) complies with its duty to act fairly and impartially;
 - (c) allows the Participants reasonable opportunity to put their respective cases and to deal with the other Participants’ cases;
 - (d) avoids unnecessary delay or expense and provides a fair and efficient means for resolving the dispute.
- 2.6 If a Participant continues in the proceedings notwithstanding the fact that a provision of, or requirement under, these Rules has not been complied with that Participant shall have waived its right to object (unless it promptly states its objection).
- 2.7 In calculating time limits under these Rules, exclude the date of the event that triggers the period and any reference to a day or days shall mean a calendar day or days (unless specified to be working days). For the purposes of Elections, it is anticipated that an accelerated timetable may be required and the Panel shall therefore have the power to amend the time limits stipulated.
- 2.8 The fact that a Participant is liable to face or has pending any other criminal, civil or disciplinary proceedings in relation to the same matter shall not prevent or fetter the Panel from conducting the proceedings. Nor shall the fact that the Participant has since resigned or had his position terminated if the subject matter of the complaint arose when they were a Participant.

3. THE ELECTIONS AD HOC INVESTIGATOR AND ELECTIONS AD HOC INDEPENDENT PANEL

- 3.1 In the year of World Sailing Elections, the Judicial Board shall appoint an Elections Ad Hoc Investigator and Elections Ad Hoc Independent Panel to process and

determine any complaints referred to it by the World Sailing Elections Committee.

3.2 The Elections Ad Hoc Investigator will be a single investigator appointed by the Judicial Board with the following responsibilities:

- (a) the investigation of allegations of a breach of the Election Rules;
- (b) the decision to charge a Participant for a breach of the Election Rules; and
- (c) the prosecution of any such cases before the Elections Ad Hoc Independent Panel

3.3 The Elections Ad Hoc Independent Panel shall consist of between three to six legally qualified experts in their own jurisdiction.

3.4 No World Sailing Board, committee or commission member, World Sailing employee, World Sailing officer or World Sailing Race Official or Judicial Board member shall be appointed as the Elections Ad Hoc Investigator or as a member of the Elections Ad Hoc Independent Panel.

3.5 The Elections Ad Hoc Investigator and the Elections Ad Hoc Independent Panel shall remain in post from the date of appointment to three months after the Election.

4. PROCEDURE PRIOR TO CHARGE

4.1 Any complaint of an alleged breach of World Sailing Election Rules shall be made to the World Sailing Elections Committee within 5 working days of the alleged breach occurring or within 14 days of the conduct relating to an Election coming to light. Any complaints received after the Elections Ad Hoc Investigator and Elections Ad Hoc Independent Panel have had their jurisdiction ended under Clause 3.5 of these Rules of Procedure will be determined as out of time.

4.2 Upon receipt of a complaint the World Sailing Elections Committee shall review and determine in accordance with Regulation 35.11.6

- (a) to make written observations to the candidate or nominee; or
- (b) to issue a warning to the candidate or nominee; or
- (c) to take no further action; or
- (d) to refer the complaint to the Elections Ad Hoc Investigator for process in accordance with the Judicial Board (Elections) Rules of Procedure.

4.3 The Elections Ad Hoc Investigator shall review and investigate the complaint and within 7 days of appointment decide

- (a) To take no further action; or
- (b) To charge any Participant with a breach of the Election Rules.

4.4 The decision of the Elections Ad Hoc Investigator shall be communicated to the Participant at the first reasonable opportunity.

4.5 If the decision is under Clause 4.3.(b) to charge the Participant with a breach of the Election Rules then within seven days of written notice of the Charge having been provided to the Participant, the charged Participant shall lodge a written reply (the

“Reply”) which:

- (a) admits or denies each Charge or part of a Charge; and
- (b) make any representations on whether the Participant wishes for the matter to be dealt with:
 - i) on written submissions alone; or
 - ii) at a hearing.

4.6 The Reply shall also include:

- (a) a clear explanation of the nature and extent of the Participant’s admission or denial of the Charge(s) or any part of a Charge;
- (b) a list of witnesses upon whom the Participant intends to rely together with a written statement setting out his/her evidence in full; and
- (c) copies of any documentation, evidence or other relevant material (of whatever nature) on which the Participant intends to rely at a hearing.

4.7 If the Participant:

- (a) fails within seven days of the service of the Charge (or any extended time) to lodge a Reply and the Panel is satisfied that the Charge was served; or
- (b) fails to indicate in the Reply whether he wishes the matter to be dealt with at a hearing or on written submissions; or
- (c) fails to comply with the requirements of this Rule 4,

then the Panel may, of its own motion or on the application of the Elections Ad Hoc Investigator, determine the Charge in such manner and upon such evidence as it considers appropriate.

5. CONDUCT OF PROCEEDINGS AND GENERAL POWERS OF THE PANEL

5.1 The Panel shall have the power to make a declaration on any matter to be determined in the proceedings. The Panel shall have the power to determine if the matter shall be dealt with on written submissions alone or at a hearing. In addition, without prejudice to any power conferred on the Panel by operation of law, the Panel shall have the power:

- (a) to allow any Participant to amend its written case and/or to submit further evidence;
- (b) to extend or abbreviate any time-limit provided by these Rules (save for the time limit for the decision which may only be extended by the Judicial Board);
- (c) to establish the date, time and place of any hearing, and grant any adjournment thereof, for the avoidance of doubt such hearing may be held virtually via video conferencing facilities;
- (d) to instruct that a transcript be made of the proceedings;
- (e) to determine that issues shall be dealt with as preliminary issues, or at a preliminary hearing;
- (f) to require that the Participants make written submissions, or submit skeleton arguments in advance of any hearing;
- (g) to determine who shall attend, or be called to give evidence at, any hearing.
- (h) to question a witness at any stage and control the questioning of a witness by

the Participants.

- (i) to conduct enquiries;
- (j) to order any Participant to make any property under its control available for inspection by the Panel;
- (k) to order the production to the Panel and the other Participant/Participants for inspection, copies of any documents in a Participant's control which the Panel considers material and relevant;
- (l) to decide which rules of evidence on admissibility, relevance and/or weight shall apply;
- (m) to dismiss a claim or to proceed in the absence of one or more of the Participants, in the event of a failure to comply with any directions of the Panel or a failure to attend a hearing;
- (n) to consolidate proceedings subject to the consent in writing of all the Participants concerned and the Judicial Board;
- (o) to join any other Participant to the proceedings on the application of a Participant, subject to the consent in writing of such third Participant; and
- (p) to order on an interim basis, subject to final determination in a decision, any remedy which the Panel would have the power to grant in a final decision (including to order a Participant to do or refrain from doing anything and/or staying execution of the decision below). The Panel may not make any interim order or grant any provisional award unless and until the Charge has been properly submitted and served on the other Participants.

5.2 The Panel may make directions for the conduct of the proceedings in writing without a hearing, or may order and hold a directions hearing which may take the form of an oral hearing or may be conducted by telephone conference or video link. The directions of the Panel are final and not subject to appeal, but may be modified by the Panel if appropriate.

6. DETERMINATION ON WRITTEN SUBMISSIONS

- 6.1 After considering any representations made under Rule 4.1 (b) if the Panel determines that the matter shall be dealt with on the basis of written submissions, the Panel may dispense with an oral hearing, make whatever orders it thinks appropriate, and determine the Charge on the papers.
- 6.2 If the Participant admits the Charge in the Reply and wishes it to be dealt with on written submissions, he may set out in the Reply any submissions in mitigation.

7. DETERMINATION AT A HEARING

- 7.1 Where, after considering any representations made under Rule 4.1.(b), the Panel determines that the matter cannot be dealt with under Rule 6.1. the format and timing of the hearing is at the discretion of the Panel, and may be by way of personal hearing or by audio or video conference.
- 7.2 If the Participant is an individual, he must attend a hearing unless the Panel orders otherwise.
- 7.3 Any other Participant appearing before the Panel has the right to choose to be represented by any person who may speak on his or its behalf, including a legal representative, at their own cost in accordance with Rule 10.2. In the event that a Participant is to be represented, the Panel must be notified of that fact and the

identity of the representative at the time of the Reply.

- 7.4 If a Participant gives evidence in his own defence, he must give his evidence first (i.e. before any other defence witness gives evidence). Witnesses of fact who attend a hearing shall not be permitted to enter the hearing until they are called to give their evidence.

8. JURISDICTION

- 8.1 The Panel may decide on its own jurisdiction, including whether the Panel is properly constituted, what matters have been submitted to it and any objections with respect to the validity of the Charge. The Panel may also dismiss a case as vexatious, frivolous and/or because it has already been addressed by the disciplinary, judicial and/or appellate systems of World Sailing.

9. DECISIONS OF THE PANEL

- 9.1 The Panel shall consider whether or not a Charge is proven. In doing so the Panel will have regard to any admission of the Charge (or a part of the Charge) made by the Participant. If a Charge is denied, or if it is admitted but there remains a factual dispute about the circumstances, the Panel shall consider the witnesses and other evidence placed before it together with each Participant's submissions in order to make findings as to the factual basis on which the Charge is either proved or not proved.
- 9.2 Unless otherwise stated, the applicable standard of proof shall be the comfortable satisfaction of the Panel, bearing in mind the seriousness of the alleged misconduct.
- 9.3 Unless previously agreed or directed by the Panel, the Panel shall announce its decision on whether the Charge is proven first. The Panel shall announce its decision as soon as reasonably practicable and in such manner as it considers appropriate.
- 9.4 The decisions of the Panel shall be in writing, shall be dated and signed by its members (such signature may be electronic), and shall state the reasons on which it is based.
- 9.5 The following are examples of sanctions that may be imposed by the Panel where a Charge is proven:
- (a) a formal warning;
 - (b) a reprimand;
 - (c) a fine;
 - (d) a declaration that the Candidate or nominee is required to make a corrective statement
 - (e) a declaration that the Candidate or nominee is disqualified from standing in the Elections.
- 9.6 Except as provided in Part H of the Disciplinary Code, all decisions of the Panel shall be final and binding on the Participants and on any party claiming through or under them and World Sailing, the MNA and the Participants agree, by submitting to the proceedings held under these Rules, to irrevocably waive their right to any form of appeal, review or recourse to any state court or other judicial authority, subject to any applicable statutory or other rights.

10. COSTS

- 10.1 The costs of the Panel shall be borne by World Sailing unless the Panel orders that a Participant shall contribute in full or in part to those costs due to the Participant's unreasonable conduct in the proceedings.
- 10.2 The Participants shall be responsible for their own legal and other costs.

11. CONFIDENTIALITY

- 11.1 The proceedings of a Panel shall take place in private.
- 11.2 Subject to Rules 11.4 and 11.6 below, all oral or written representations, submissions, evidence and documents created in the course of any proceedings are confidential between World Sailing and the individual or body concerned.
- 11.3 All oral or written representations, submissions, evidence and documents created or used in the course of any proceedings shall be subject to qualified privilege.
- 11.4 Decisions of the Panel shall be published by World Sailing in accordance with Regulation 35.3.12. In addition to publication of decisions of the Panel, World Sailing may publish with the permission of the Panel:
 - (a) a summary of any decision, finding, hearing, order, proceedings or resolution; or
 - (b) any representations, submissions, evidence and documents created or used in the course of proceedings whether or not this reflects on the character or conduct of a Participant.
- 11.5 Each Participant shall be deemed to have consented to any such publication.

12. APPLICABLE LAW AND LANGUAGE

- 12.1 The seat of the proceedings shall be London. However, the Independent Panel may at its discretion hold hearings virtually via video-conference.
- 12.2 Proceedings under these Rules shall be governed by the laws of England and Wales.
- 12.3 Subject to any different order being made by the Panel during the proceedings, the language of the proceedings shall be English, and all submissions, statements or evidence in any other language shall be accompanied, at the time they are introduced into the proceedings, by a translation into English, with such translation being provided by the Participant that introduced the submission, statement or evidence.
- 12.4 Members of the Judicial Board, The Elections Ad Hoc Investigator and the Members of any Election Ad Hoc Independent Panel and any World Sailing staff involved in any proceedings under these Procedural Rules shall not be held personally liable for any acts or omissions in relation to any such proceedings.