



World Sailing Judicial Board Rules of Procedure

Appeals Against Decisions of a National
Authority or Independent Panel

Other Disciplinary Complaints
(Part E of Regulation 35)

1. INTRODUCTION

- 1.1 These Rules of Procedure apply to any appeals against decisions of a National Authority or Independent Panel under Part E of Regulation 35. However, for the avoidance of doubt, they do not apply to other complaints received by World Sailing, charges laid by a Disciplinary Investigating Officer and complaints received by National Authorities under Part E (including complaints heard by an alternative dispute resolution body appointed by a National Authority).

2. RIGHT OF APPEAL

- 2.1 A party ("**Appellant**") may appeal from a decision of a National Authority or Independent Panel where the World Sailing Constitution or Regulations expressly permit such an appeal or review to be made to the Judicial Board ("**Board**").

3. NOTICE OF APPEAL

- 3.1 The Appellant shall submit to the Chief Executive Officer, within the time limits specified in World Sailing Regulation 35.6.25, a notice of appeal containing or accompanied by:
- (a) details, and where available a copy, of the decision appealed from;
 - (b) the Appellant's request for remedy; and
 - (c) a non-refundable deposit of One Hundred Pounds (£100) ("**Notice of Appeal**").
- 3.2 If the deposit required by Rule 3.1(d) is not paid within three working days of submission of the Notice of Appeal, the Chief Executive Officer shall return the Notice of Appeal to the Appellant and take no further action.
- 3.3 The Chief Executive Officer shall:
- (a) provide a copy of the Notice of Appeal to the Board;
 - (b) serve the Notice of Appeal on the Respondent; and
 - (c) inform the Appellant and the Respondent of the name and contact details of the Registrar.

4. APPOINTMENT OF THE INDEPENDENT APPEAL PANEL

- 4.1 The Board shall appoint an Independent Appeal Panel ("**Appeal Panel**") to conduct, hear and determine the appeal. The Appeal Panel will be appointed in accordance with Regulation 35.3.7, 35.3.8 and 35.6.26. The constitution of the Appeal Panel and the date that the file is passed to the Appeal Panel will be notified to the parties by the Registrar.
- 4.2 Any challenge to the appointment of an Appeal Panel member by a party shall be made to the Registrar within five (5) days of notification of the Appeal Panel membership. The Board shall determine any challenges in accordance with Regulation 35.3.8.

5. STATEMENT OF APPEAL

- 5.1 Within ten (10) days of the submission of the Notice of Appeal the Appellant shall submit to the Registrar a statement of appeal containing or accompanied by:
- (a) a statement of the facts and any rules, regulations or laws giving rise to the appeal and upon which the Appellant is relying;
 - (b) copies of all documents upon which the Appellant is relying;
 - (c) the names of any witnesses the Appellant wishes to call (either in person or by way of written statement); and
 - (d) any proposals or statements concerning any procedural matters. (“**Statement of Appeal**”)
- 5.2 The Registrar shall serve the Statement of Appeal on the Respondent. If the Registrar does not receive the Statement of Appeal by the required time limit, the appeal shall continue on the basis of the Notice of Appeal alone, subject to the discretion of the Appeal Panel.

6. REPLY

- 6.1 Within twenty-eight (28) days of receipt by the Respondent of the Statement of Appeal, the Respondent shall submit to the Registrar (“**Reply**”):
- (a) admission or denial of all or part of the Notice and/or Statement of Appeal (setting out as fully as possible the facts and rules, regulations or laws that the Respondent believes applies and any other information upon which the Respondent relies);
 - (b) copies of all documents on which the Respondent wishes to rely unless the document has been previously submitted by the Appellant;
 - (c) the names of any witnesses the Respondent wishes to call (either in person or by way of written statement); and
 - (d) any proposals or statements concerning any procedural matters.

7. JURISDICTION

- 7.1 The Appeal Panel may decide on its own jurisdiction, including whether the Appeal Panel is properly constituted, what matters have been submitted to it and any objections with respect to the validity of the appeal.
- 7.2 An Appeal Panel:
- (a) is not bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before a court of law; and
 - (b) may draw such inference from the failure of a witness to give evidence or answer a question as it considers appropriate.
- 7.3 Once appointed, the Appeal Panel will conduct all proceedings (unless the Regulations or these Rules of Procedure provide that a matter is for the Judicial Board to decide).

8. COMMUNICATIONS

- 8.1 The parties and the Appeal Panel shall communicate through the Registrar unless otherwise directed by the Appeal Panel. Any communication from one party to the Registrar or to the Appeal Panel (and vice versa) shall be copied to the other parties.
- 8.2 All communications shall be delivered or sent by first class post, fax or email to the parties at the address set out in the Notice of Appeal or Reply, or at such address as any party may have previously notified the Registrar of, and to the Registrar at judicial.board@sailing.org (or any other email address notified of the Registrar).

9. FURTHER SUBMISSIONS

- 9.1 Unless the Appeal Panel directs otherwise, the parties shall not submit further written argument(s) after the time limit for the submission of the Statement of Appeal or the Reply as the case may be.
- 9.2 If the Respondent fails to submit its Reply within the time-limit set, the Appeal Panel may proceed with the case and deliver its decision.

10. DIRECTIONS AND CONDUCT OF THE PROCEEDINGS

- 10.1 The Appeal Panel determines its own procedure and 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 parties reasonable opportunity to put their respective cases and to deal with that of their opponent;
 - (d) avoids unnecessary delay or expense; and
 - (e) provides a fair and efficient means for resolving the dispute.
- 10.2 The Appeal Panel may follow any procedure agreed by the parties if in the Appeal Panel's opinion, it is reasonably practicable so to do.
- 10.3 With the consent of the parties, the Appeal Panel may proceed in an expedited manner for which it shall issue appropriate directions.
- 10.4 If a party continues in the proceedings notwithstanding the fact that a provision of, or requirement under these Rules has not been complied with, that party shall have waived its right to object (unless it promptly states its objection).
- 10.5 The Appeal Panel shall issue its decision in the proceedings within 3 months of the Notice of Appeal being delivered to it (unless this time is extended by the Board on application by the Appeal Panel to it).

11. HEARINGS

- 11.1 The Appeal Panel shall have the power to determine if the matter shall be dealt with on written submissions alone or at a hearing. If after considering representations of the parties the Panel decides that there shall be a hearing. The format of the hearing is at the discretion of the Appeal Panel and may be by personal hearing or by audio or video-conference.

- 11.2 Participants appearing before the Panel have the right to choose to be represented, at their own cost, by any person who may speak on his or its behalf, including a legal representative. In the event that a Participant is to be represented, the Panel must be notified of that fact and the identity of the representative within five (5) days of submission of the Reply.
- 11.3 The Appeal Panel shall fix the date, time and place of any hearings and shall give the parties as much notice as practicable of the date, time and place of any hearing.
- 11.4 Any hearings shall be in private unless the parties agree otherwise or unless the Appeal Panel directs.

12. WITNESSES

- 12.1 If the Appeal Panel requires it, each party shall disclose the subject matter and content of the evidence of each witness it will be calling (either in person or by way of written statement) and how that evidence relates to the points at issue; and
- 12.2 The Appeal Panel shall have the power to decide whether any witnesses shall be required to attend or be called to give evidence at any hearing.
- 12.3 The Appeal Panel may question a witness at any stage and shall control the questioning of a witness by the parties.

13. DECISIONS AND POWERS OF THE APPEAL PANEL

- 13.1 In proceedings before the Panel, the findings of any protest committee or international jury shall be presumed to be correct unless clear evidence is shown to the satisfaction of the Panel that this is not the case or that the findings were reached without appropriate procedural fairness.
- 13.2 Unless otherwise stated, the applicable standard of proof shall be the comfortable satisfaction of the Panel, bearing in mind the seriousness of the matter.
- 13.3 The decision of the Appeal 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.
- 13.4 The Appeal Panel shall decide on any issue by a majority.
- 13.5 The Registrar shall transmit decisions of the Appeal Panel to the parties.
- 13.6 Subject to Regulation 35.8.5 and 35.6.28, all decisions of an Appeal Panel shall be final and binding on the parties and on any party claiming through or under them and the parties agree, by submitting to the proceedings held under these Rules, to waive irrevocably 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.
- 13.7 The Appeal Panel shall have the powers set out in the Arbitration Act 1996, including the powers to make a declaration on any matter to be determined in the proceedings. In addition, the Appeal Panel shall have the power:

- (a) to 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
- (b) to determine if the matter shall be dealt with on written submissions alone or at a hearing
- (c) to determine that issues shall be dealt with as preliminary issues, or at a preliminary hearing
- (d) to allow any party to amend its written case and/or to submit further evidence;
- (e) 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 Board);
- (f) to conduct enquiries;
- (g) to order any party to make any property under its control available for inspection by the Appeal Panel;
- (h) to order the production to the Appeal Panel and the other party/parties for inspection, copies of any documents in a party's control which the Appeal Panel considers relevant;
- (i) to decide which rules of evidence on admissibility, relevance and/or weight shall apply;
- (j) to dismiss a claim or to proceed in the absence of one or more of the parties, in the event of a failure to comply with any directions of the Appeal Panel;
- (k) to consolidate proceedings;
- (l) to join any other party to the proceedings on the application of a party, subject to the consent in writing of such third party; and
- (m) to order on an interim basis, subject to final determination in a decision, any remedy which the Appeal Panel would have the power to grant in a final decision (including to order a party to do or refrain from doing anything and/or staying execution of the decision below). The Appeal Panel may not make any interim order or grant any provisional award unless and until the Notice of Appeal has been properly submitted and served on the other parties.

14. COSTS

14.1 The costs of the Appeal Panel shall be borne by World Sailing unless the Appeal Panel orders that a party shall contribute in full or in part to those costs due to the party's unreasonable conduct in the proceedings.

14.2 The parties shall be responsible for their own legal and other costs.

15. CONFIDENTIALITY

15.1 The proceedings of an Appeal Panel shall take place in private.

15.2 Subject to Rules 15.4 and 15.6 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.

15.3 All oral or written representations, submissions, evidence and documents created or used in the course of any proceedings shall be subject to qualified privilege.

15.4 Decisions of the Appeal Panel shall be published by World Sailing in accordance with

Regulation 35.3.12. In addition to publication of decisions of the Appeal Panel, World Sailing may publish with the permission of the Appeal 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.

15.5 Each Participant shall be deemed to have consented to any such publication.

15.6 World Sailing shall have the right to use and rely upon any representations, submissions, evidence and documents that are provided to it during the course of any inquiry and/or are created or otherwise generated or used during the proceedings of an Appeal Panel for the purpose of carrying out its regulatory functions and monitoring and implementing compliance with the Racing Rules of Sailing and the World Sailing Constitution and Regulations.

16. APPLICABLE LAW AND LANGUAGE

16.1 Proceedings under these Rules shall be governed by the law of England and Wales unless otherwise determined by the Appeal Panel. Any non-mandatory provisions of the Arbitration Act 1996 which are expressly excluded or modified by these Rules are not incorporated into the Rules.

16.2 Subject to any different order being made by the Appeal 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

16.3 Members of the Judicial Board, any Appeal Panel and any World Sailing staff involved in any proceedings shall not be held personally liable for any acts or omissions in relation to any such proceedings.