

Confirmation of Review Board's Authority

Article 77

A submission from the Chairman of the Constitution Committee

Proposal:

That Council approve that the following amendments to the Constitution be included in the agenda of the 2008 General Assembly:

77. Authority **and** Functions

The Review Board will decide on:

77.1 As to questions of Eligibility

- (a) a request by a Member National Authority or the ISAF Executive Committee for review and confirmation, revision, modification or annulment of its own decision affecting a competitor's ISAF eligibility; **and**
- (b) any appeal which a competitor or prospective competitor files with the Review Board, concerning his or her eligibility under the Articles, the Regulations, the Racing Rules of Sailing, ~~or~~ the Equipment Rules of Sailing or the Constitution, Regulations or Rules adopted by International Classes and Recognised Classes designated as such in accordance with Regulation 26.2; **and**
- (c) Any appeal which a competitor is entitled to make to the Review Board **concerning:**
 - (i) ~~Concerning the Competitor's ISAF Eligibility under the Federation Regulations, the Racing Rules or Sailing and the Equipment Rules of Sailing; **or** Regulations Racing Rule of Sailing Equipment Rules of Sailor; **or**~~
 - (ii) concerning the competitor's ISAF Class eligibility under the Class's Constitution or Regulations (or equivalent thereof), or
concerning the competitor's ISAF or other eligibility under the Constitution, By-laws, Regulations, Rules, **or** governing documents of any kind made, adopted or acknowledged by any governing body or authority in respect of **any Special Events or Class Events as defined in the Regulations.**
 - ~~1 any Special Event as defined in the definition section of the ISAF regulations, and~~
 - ~~2 without limiting the generality of 77(c)(ii) above, Events of Classes as defined in the definition section of the ISAF Regulations.~~

In these Articles, the ~~ISAF~~ Regulations and any sailing activities governed by them, eligibility means the status required to enter events as generally set out in ~~ISAF~~ Regulation 19, the Eligibility Code, or in any **documents governing** any Class or Event ~~governing documents~~ which are of a similar nature or intent.

77.2 Generally, any appeal by any person or organization where these Articles of the Regulations specifically authorize that person or organization to make such an appeal.

~~77(b)(iii) any appeal which an ISAF Race Official or ISAF Representative is entitled to make under Regulation 51.~~

~~in these Articles, the ISAF Regulations and any sailing activities governed by them, eligibility means the status required to enter events as generally set out in ISAF Regulation 19, the Eligibility Code or in any Class or Event governing documents which are of a similar nature and intent.~~

Current Position:

As above.

Reason:

1. Over the past few years Council has made a number of provisions allowing aggrieved persons to appeal to the Review Board against a decision by an ISAF committee. For instance Race Officials and ISAF Representatives can appeal against decisions made under Regulations 34, 35 and 51. It is anticipated that such rights of appeal will become more frequent in order to ensure that the individual is seen to be protected against any unfair decisions made by ISAF. It is also possible that organisations will be given a similar right of appeal.
2. It would seem that the original function of the Review Board was solely to deal with the eligibility for sailors to compete in events and that function is still a very important part of the Board's duties. The existing provisions in Article 77 relating to that part of the Board's authority has not been changed, except to make minor corrections.
3. The second part of the existing Article 77 refers only to the appeal provided in Regulation 51 and the intention of this amendment is to give the Board the authority it is lacking under the existing provisions to deal with appeals which come to it under different parts of the regulations, such as Regulations 34 and 35, or, if they are created, under provisions of the Constitution.
4. The principle behind this amendment was approved by Council in May 2008 and is being put into practice by this submission.