

Deferred Submission 007-11

Following the decision of Council to defer Submission 07-11 to May 2012, the Constitution Committee propose the following in order to establish the ISAF Ethics Commission and Code.

ISAF Ethics Commission**New Regulation and Code****Proposal 1:**

Insert New Regulation 8.14:

Ethics Commission

8.14 Ethics Commission

Constituting the Commission

- 8.14.1 The Ethics Commission has been established and appointed by the Executive Committee in accordance with Regulation 8.
- 8.14.2 Regulation 8.2 does not apply to the appointment or removal of members of the Commission. Council shall appoint the members of the Commission on the nomination of the Executive Committee. There shall be at least seven members of the Commission, including at least two members of the Constitution Committee and at least two members of the Review Board. Council shall appoint the Chairman and Vice-Chairman of the Commission on the nomination of the Executive Committee.
- 8.14.3 A member of the Commission may be removed by Council on the recommendation of the Executive Committee.
- 8.14.4 Not used.
- 8.14.5 Not used.

Terms of reference

- 8.14.6 The Commission shall report to the Executive Committee, except where any issue or report concerns a member of the Executive Committee, in which case the Commission shall report to Council.
- 8.14.7 The Commission may adopt its own rules of procedure to govern its meetings and operations subject to the approval of the Executive Committee under Regulation 8.2.
- 8.14.7 The Commission shall:
- (a) promote ethical behavior within ISAF and the sport of sailing generally;
 - (b) keep the ISAF Code of Ethics under review and propose any amendments it may consider necessary;

- (c) carry out investigations into complaints submitted under the ISAF Code of Ethics and make reports to the Executive Committee (or Council if a report concerns a member of the Executive Committee);
- (d) advise ISAF and its members on the proper application of the Code of Ethics (including by issuing guidance); and
- (e) provide confidential guidance on request concerning a question of ethics.

Proposal 2:

Add new Regulation 36:

36 ETHICS

Establishing and amending the Code of Ethics

- 36.1 There shall be a body of rules concerning the ethical behaviour and standards known as the ISAF Code of Ethics (“the Code”).
- 36.2 ISAF Officers, members of the General Assembly, members of Council, members of ISAF Committees, Commissions and working parties, ISAF Race Officials and all other ISAF Representatives (the “Parties”) shall comply with the Code.
- 36.3 The Code shall be adopted by Council from time to time acting on the recommendation of the Executive Committee. The Ethics Commission shall advise the Executive Committee on the establishment and subsequent amendments to the Code.

Complaints under the Code

- 36.4 Any complaint, allegation or report that a breach of the Code has been or may have been committed by a Party (a “Complaint”) shall be submitted in writing to the Secretary General, who shall refer it to the Ethics Commission.
- 36.5 If the Commission believes that the Complaint shows there is a case to answer, it shall commence a formal investigation. If the Commission does not believe the Complaint shows there is a case to answer, he shall inform the person who submitted the Complaint and the Secretary General of the decision.
- 36.6 Once a formal investigation into a Complaint has been commenced by the Ethics Commission, the Commission shall be solely responsible for investigation and reporting on it.

Investigations

- 36.7 The Ethics Commission shall investigate the Complaint and may take such evidence as it considers necessary. In particular, the Commission may inspect the books and records of ISAF, interview any person (with their consent) and seek outside advice and assistance if necessary. The Commission’s rules of procedure may include the power to delegate the investigation of a Complaint to a panel of not less than three members of the Commission.
- 36.8 After an investigation is complete, the Ethics Commission shall prepare a written report of its findings, opinions and recommendations for the Executive Committee.

Report

- 36.9 The report of the Ethics Commission shall be sent to the Secretary General, who shall refer it to the Executive Committee. The Executive Committee shall consider the report and may then refer the case to a Hearing Committee under Regulation 35. If the Complaint concerns a member of the Executive Committee, the report shall instead be referred to Council.
- 36.10 After the conclusion of any case, the report of the Ethics Commission and the decision of the Executive Committee shall be published and brought to the attention of Council.

Sanctions

- 36.11 The sanctions that may be applied by a Hearing Committee or the Review Board for a breach of the Code shall be set out in the Code itself.

Proposal 3

Amend Regulation 35 as follows:

Add 'the Ethics Commission' to the list of petitioners in Regulation 35.2:

- 35.2 For the purposes of this Regulation a petitioner is defined as **the Ethics Commission**, an Executive Committee member, a Council member, an ISAF Full Member (Member National Authority), ISAF Class Association, ISAF Race Official, an ISAF Technical Delegate or Chairman of the Race Officials Committee when acting in accordance with Regulation 32.8

Amend Regulation 35.5 to read:

- 35.5 The Hearing Committee may take any disciplinary action which, within its jurisdiction, it considers appropriate against the Respondent. The actions which may be taken by the Hearing Committee are an admonishment, reprimand or suspension of the Respondent's official position with ISAF. Suspension may be permanent or for a specified period of time. **For breaches of the ISAF Code of Ethics, the Hearing Committee may impose one or more of the sanctions set out in the Code.**