



# **INTERNATIONAL SAILING FEDERATION**

## **JUDGES MANUAL**

**Edition 4a  
May 2006  
Amended January 2008**

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Southampton, UK**

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## **PREFACE**

This manual is designed to be a learning tool for judges who are gathering knowledge and experience with the aim of becoming International Judges. It also should be a reference guide for existing International Judges, with the aim of contributing to consistency in judging all over the world.

Since our sport is constantly changing and evolving, a manual such as this has to be a living document that needs to be updated constantly. It is by no means perfect, and contributions to improve it are always welcome and will be posted on the ISAF Web site as updates are made.

Special thanks are due to the many experienced International Judges who contributed to this manual.

Josje Hofland  
Chairman of the ISAF International Judges Sub-Committee

# **ISAF JUDGES MANUAL**

**Edition 4 / May 2006  
Amended January 2008**

This manual is designed and written for ISAF International Judges serving on international juries, and as the textbook for ISAF International Judge Seminars.

The advice and procedures contained in this book generally relate to major regattas and championships.

In addition, readers may find it useful as:

- a guide for judging at any event;
- a reference for national and regional judging seminars; and
- a basis for national judging manuals written by national authorities.

International Judges are encouraged to contribute to the ongoing development of this manual and ideas for improving the manual should be sent to the ISAF Secretariat.

\* \* \*

This manual is based on contributions from many very experienced judges. The International Sailing Federation thanks them all for their time and valuable suggestions.

ISAF's International Judges Sub-Committee 2006

For clarity and brevity, this manual uses the feminine gender in the historical sense when referring to a boat and the masculine gender when referring to a person.

However, the members of the judging community have found that a person's gender plays no part in determining his or her abilities as a judge.

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# **1. Basics**



# 1. The Basics

## 1.1. Introduction

The role of a judge in sailboat racing is unique in many ways. Firstly, a judge is required to determine disputes between competitors. To do this and to be seen doing it fairly and according to the rules, a judge must be thoroughly familiar with the Racing Rules of Sailing.

Secondly, a judge is often called upon to assist in many other critical aspects of a regatta, such as preparing the regatta's Notice of Race and Sailing Instructions, deciding measurement and rating rule compliance issues, watching for rule infringements, enforcing propulsion rules on the water, and much, much more.

Lastly, and by no means of least importance, a judge is asked to make decisions concerning the fairness of the competition. To do these things well is a challenging and sometimes difficult task.

Sailboat racing owes a debt of gratitude to those people willing to accept this responsibility and to work to acquire the necessary knowledge and experience to do it well. Those who make such a commitment are making a very large contribution to our sport.

## 1.2 Terms

### **Racing Rules of Sailing** (the "rules")

The rules used by sailboats when racing under the jurisdiction of the International Sailing Federation.

### **ISAF Codes and Regulations**

The ISAF Eligibility, Advertising and Anti-Doping Codes (ISAF Regulations 19, 20 and 21) are referred to in the definition of Rule. They are not included in the *Racing Rules of Sailing* because they often change during the four year publishing cycle of the rules. Changes are posted on the ISAF website ([www.sailing.org](http://www.sailing.org)) and through national authorities.

### **Case Book** (the "cases")

Cases are official interpretations and explanations based upon appeals and questions submitted to the Racing Rules Committee. They clarify the meaning of a rule or answer questions about conflicting interpretations.

The rules, changes to the rules, and cases are adopted by ISAF's Council based upon recommendation of the Racing Rules Committee. This means that **the Racing Rules of Sailing and ISAF Cases are authoritative.**

**International Judges are required to follow ISAF Rules and Cases when interpreting the rules.**

### **International Sailing Federation (ISAF)**

The international body governing the sport of sailboat racing is the International Sailing Federation. It is comprised of member national authorities, class associations, and other affiliated organisations. Among the many ISAF responsibilities and programmes is the training and certification of International Race Officials which include International Judges, Umpires, Race Officers, and Measurers.

### **National Authority**

The national authority is the organization that governs the sport of sailboat racing within its jurisdiction, and is a member of ISAF, as well. Many national authorities have additional responsibilities such as cruising and powerboat racing.

National authorities often prescribe additional rules to the racing rules. These prescriptions are included as rules governing sailboat racing within the jurisdiction of the national authority by the Sailing Instructions. They are rarely invoked for international events.

Most national authorities appoint a committee to hear appeals by boats against decisions of protest committees (and by race committees against the decisions of protest committees). Appeal procedures vary from country to country, but whatever procedure is prescribed, the highest appeal authority is the national authority under whose jurisdiction the event is held. ISAF does not hear appeals.

National authorities may submit appeals that they think clarify or help interpret a rule to the ISAF Racing Rules Committee. If the committee agrees with the decision, or believes the clarification is beneficial it will accept the appeal as an ISAF case, subject to ratification by the ISAF Council.

### **Organising Authority**

The body that plans and runs the races or event is the organising authority. It may be a club, a class association, a national authority, ISAF itself, or a combination of any of these. The organising authority must publish the Notice of Race and appoint a race committee to conduct the races. It may appoint a Protest Committee/International Jury or it may delegate that responsibility to the Race Committee

### **Race Committee**

The race committee is the committee appointed by the organising authority to conduct the races. It is responsible for publishing the Sailing

Instructions and scoring. When the organising authority has not appointed a Protest Committee or International Jury, the race committee is responsible for appointing a protest committee to conduct hearings. Members of the race committee may sit on the protest committee except when there is a request for redress under rule 62.1(a). Since a jury is independent of the race committee, members of the race committee may not sit on a jury.

### **Protest Committee**

The protest committee hears protests and requests for redress. It may be appointed by the organising authority. It may be independent of the race committee or a subcommittee of the race committee. It may, when meeting the requirements of Appendix N, qualify as an International Jury.

### **International Jury**

An International Jury is a protest committee that meets the requirements of Appendix N of the rules. It is appointed by the organising authority and subject to approval by the national authority if required under their Prescriptions. It is completely separate from the Race Committee.

An International Jury is composed of experienced sailors with excellent knowledge of the racing rules and extensive protest committee experience. Its membership is made up of people of different nationalities, the majority of whom shall be ISAF certified International Judges. Provided that it conducts itself in accordance with the procedures described in Appendix N, as stated in Rule 70.4 its decisions shall not be subject to appeal.

### **Event Measurer, Measurement Committee, Measurement Authority**

The organising authority of a major event may appoint an event measurer or a measurement committee to measure boats and check compliance to the measurement rules before the start of the competition, and carry out checks (such as sails set within black bands, distribution of ballast, weight of clothing etc.) during the competition. A measurement authority is a person or committee appointed by the organising authority to interpret the measurement rules. In such a case, if during a hearing the protest committee is in doubt about the meaning of a measurement rule, it shall refer the question to the measurement authority and is bound by the authority's decision.

### **Judge, National Judge, International Judge**

The term 'judge' is a loose term often used to describe a member of a protest committee who participates in decision-making. The title 'national judge' is given to a suitably qualified person by a national authority that runs a 'national judges' scheme. The title of 'International Judge' is awarded by ISAF to a person who meets the criteria set out in the ISAF

regulations.

**Umpire, National Umpire, International Umpire**

An umpire is a specially trained judge who makes decisions on the water, and may impose penalties, during a match or team race. Umpires may be called upon to hear protests during match racing and team racing events, as well.

## **2. ISAF International Judges Programme**

## **2. ISAF International Judges Programme**

### **2.1. How to Become an International Judge**

ISAF created the International Judges programme in 1981 to meet three perceived needs of competitors. First, the need to identify knowledgeable and experienced individuals to sit on protest committees at world championships and other high profile events; second, the need to ensure that a jury at these international events reflects the diverse nationalities and sailing cultures of the competitors, and, finally, the need to determine the results at the end of the regatta.

Since then, ISAF has expanded from the judge training and certification programme to include measurers, umpires, and race officers. Training and certification of sailboat racing officials and administering the Racing Rules of Sailing are recognised as the core purpose of the International Sailing Federation.

The Judges programme is administered under the authority of the Race Officials Committee through its sub-committee, the International Judges Sub-committee. Its responsibilities are stated in ISAF Regulation 15.8 and Regulation 33.

#### ***Regulation 15.8 INTERNATIONAL JUDGES SUB-COMMITTEE— TERMS OF REFERENCE***

##### ***Constituting the Committee***

*15. 8.1 The International Judges Sub-committee, which shall administer the International Judges programme, has been established by the Council as a Sub-committee of the Race Officials Committee pursuant to Article 59.*

##### ***Terms of Reference***

*15.8.6 The International Judges Sub-committee shall:*

- (a) recommend to the Race Officials Committee the appointment of International Judges in accordance with Regulation 33;*
- (b) disseminate information to, and communicate with, International Judges;*
- (c) develop and conduct seminars for Judges;*

- (d) *recommend policies regarding the conduct of International Judges and Umpires;*
- (e) *strive for consistent and uniform application of rules;*
- (f) *propose rule changes and submit interpretations of the Racing Rules to the Racing Rules Committee when appropriate;*
- (g) *deal with such matters as requested by other ISAF Committees.*
- (h) *develop a procedure for the grouping and classification of International Judges according to their abilities and to place them in groups based on agreed criteria.*

## **2.2. Terms of Appointment**

### **Regulation 33. INTERNATIONAL JUDGES ADMINISTRATION**

**33.2** *The Terms of appointment shall be as follows:*

- (a) *the appointment begins on the date the ROC's approval is granted;*
- (b) *if the applicant is less than seventy years old on the date of ROC approval, the duration of appointment shall be 4 years from the date approval is granted;*
- (c) *if the applicant is seventy years old or older on the date of ROC approval, the duration of appointment shall be 2 years from the date approval is granted.*

## **2.3 Requirements for Initial Appointment as an International Judge**

**33.3** *A candidate for Initial Appointment shall:*

- (a) *be nominated by the candidate's MNA\*, an ISAF Class Association or the Race Officials Committee;*
- (b) *be recommended by the candidate's MNA\*;*
- (c) *send the application on the official form, to be received by the ISAF Secretariat by 1 September.*
- (d) *Meet the qualifications listed below in this Regulation.*

*The applications shall be considered at the time of the Annual ISAF*

*Meeting.*

## **2.4 Requirements for Re-appointment**

**33.4** *A candidate for re-appointment shall:*

- (a) apply directly to ISAF. The candidate's MNA\* shall be informed of the renewal application;*
- (b) send the application on the official form to be received by the ISAF Secretariat by 1 September.*
- (c) Meet the qualifications listed below in this Regulation. The application shall be considered at the time of the Annual ISAF Meeting.*

**33.4.2** *Candidates for re-appointment that do not meet all the criteria for re-appointment, especially with regard to events, may, in special circumstances or on medical grounds, be assessed on an individual basis. The Race Officials Committee may re-appoint candidates for a full 4-year term, may extend the existing appointment for 12 months, or may consider an application for re-appointment under regulation 33.4 for up to 12 months after the expiry of the term of appointment.*

**33.4.3** *Candidates whose appointments have expired for more than 12 months will be considered as candidates for initial appointment, and shall meet the requirements of Regulation 33.3.*

*\* In these Regulations, the "Country" of an International Judge shall be the Member National Authority of his principal residence. This MNA shall be named in the application and in the ISAF Year Book. If the International Judge has other appointments as an ISAF Race Official, the MNA of the Race Official shall be the same for all appointments.*

ISAF Regulations and Regulations governing International Judges are updated annually. It is recommended that the most current regulations are reviewed on the ISAF website.

## **2.5 Qualifications for an International Judge**

**33.5** *A candidate for International Judge shall:*

- (a) be an experienced racing sailor;*



- (b) *have knowledge of the rules, racing experience, judicial temperament, the physical capability to fulfil the requirements needed by a member of an International Jury, and agree to support the policies of the ISAF;*
- (c) *be proficient in the English language;*
- (d) *within the last four years prior to 1 September of the year of application:*

**SYSTEM 1 (initial appointment and re-appointment)**

- (i) *have attended an ISAF Judging Seminar;*
- (ii) *have passed a written examination designed to show an intimate knowledge of the Racing Rules of Sailing. Applicants who fail the written examination may take a new examination, but not normally within six months after the first one, unless there are special circumstances. Applicants who fail the examination more than once shall be assessed on an individual basis;*
- (iii) *have served as a member of a protest committee for at least three principal fleet racing events and obtained a completed IJSC reference form from each jury chairman. At two of these three events the candidate shall have been a member of an International Jury. One of these three events shall have been outside the candidate's Group, for candidates from Groups A-H, or the candidate's country, for candidates from Groups I-Q;*

*or*

**SYSTEM 2 (re-appointment only)**

- (i) *have served as a member of a protest committee for at least six principal events, the majority of which shall be fleet racing events. At three of these six events the candidate shall have been a member of an International Jury. Two of these six events shall have been outside the candidate's Group, for candidates from Groups A-H, or the candidate's country, for candidates from Groups I-Q.*

*The Group/Country requirement does not apply for ISAF World Championship Events (ISAF Events) designated by Regulations 18.12.15(a) or 20.6.1(d) and the Olympic Regatta.*

## **2.6 Considerations for Appointment**

**33.6** *The IJSC shall consider the following when considering an application;*

- (a) whether the candidate has demonstrated the required knowledge of the rules, their interpretation, and the necessary judicial temperament while a member of an International Jury;*
- (b) the importance of the principal events required by Regulation 33.5(d). These shall be judged by whether they are national or international events, the number of boats, the number of classes, their venue, and whether there was an International Jury;*
- (c) whether the candidate was chair of the jury or protest committee;*
- (d) the number of hearings;*
- (e) whether the candidate has attended an ISAF Judging Seminar; if the application is made under System 1;*
- (f) whether the candidate has passed the ISAF Judge Test, if the application is made under System 1;*
- (g) the candidate's racing and race management experience;*
- (h) whether the candidate is proficient in the English language;*
- (i) such other information that the International Judges Sub-committee may consider relevant.*
- (j) In addition, before recommending any candidate for nomination as an International Judge, the International Judge's Sub-committee shall consider:*
  - (i) Any comments received by means of the Judges' Regatta Report Forms;*
  - (ii) The candidate's relevant international committee experience; and*
  - (iii) Such other information as it may consider relevant.*

### **3. Qualities of an International Judge**

### **3. Qualities of an International Judge**

#### **3.1. Code of Behaviour**

ISAF International Judges are among the most exposed officials of the sport. It is therefore essential that judges behave with the highest degree of competence, propriety, and integrity. At no time can or should a judge do anything to bring the sport into disrepute.

Specifically ISAF international judges are expected to:

- maintain a high level of understanding and application of the racing rules, cases, procedures, and ISAF policies.
- ensure that each decision is based upon the rules and principles of fairness and objectivity, and is made with care without prejudice.
- uphold the confidentiality of jury deliberations during and after the regatta.
- be polite, courteous, open-minded, and patient with colleagues, competitors, regatta officials, team officials, coaches, and hosts, and to respect cultural differences.
- declare any conflict of interest before accepting a jury invitation. (See section 3.2 and ISAF Regulation 50.)
- plan to arrive at the event on time and remain until after the last protest issues are resolved.
- incur only expenses that are necessary, and when expenses are reimbursed, to claim only legitimate and essential out-of-pocket costs.
- be on time, and wear appropriate clothing on the water and ashore.
- refrain from smoking in the jury room and while judging on the water.
- abstain from consuming alcohol before or during a hearing, other than a glass of wine with a meal, and if a meal is eaten before a hearing not to drink alcohol at that time, not even a glass of wine. Judges must never become inebriated during an event.

A judge who does not practice this code of behaviour risks the termination of his appointment.

### **3.2 Conflict of Interest**

#### **ISAF Regulation 50 - Conflict of Interest**

- 50.1 A conflict of interest exists when an ISAF Race Official has, or reasonably appears to have, a personal or financial interest which could affect the official's ability to be impartial.*
- 50.2 When an ISAF Race Official is aware of a conflict of interest, he shall decline an invitation to serve at a regatta at which an International Jury is appointed.*
- 50.3 When the ISAF Race Official has any doubt whether or not there is a conflict of interest, the ISAF Race Official shall promptly consult the ISAF, prior to accepting the invitation and be bound by its decision.*
- 50.4 When at an event, an ISAF Race Official becomes aware of a conflict of interest, the official shall disclose the potential conflict to the International Jury which shall then take appropriate action.*

## **4. Protest Committees**

## 4. Protest Committees

### 4.1 Introduction

The extent and level of judging services that an organiser should provide to competitors depends on the type of event being conducted. Protests or disputes arising from races run solely for club members are not common. If a protest does occur, the race committee usually appoints a committee made of knowledgeable club members to hear the protest. This protest committee is often formed quickly with those who are available.

Sometimes, although this is not recommended, a protest committee is formed with competitors who were in the race. These competitors would need to withdraw if an objection was made by a party to the protest that they had a conflict of interest.

At an 'open' event in which sailors come from other clubs, it is desirable that the organizing authority appoint a protest committee, usually with three members, that is independent of the race committee. To avoid an appearance of favouritism, prejudice or conflicting interest, this protest committee should be made up of people not racing in the regatta and from different clubs. To ensure a higher level of experience and knowledge, many national authorities have a national judges scheme, and certify individuals as national judges. Some national authorities require that at national events, the membership of a jury includes a majority of national judges.

At a major international event, it is highly desirable (and often *required* by a class association or national authority) to appoint an 'International Jury', a body comprising experienced judges from different nations, the majority of whom hold the ISAF qualification of 'International Judge'. There is no appeal against a decision of a properly constituted International Jury acting within its jurisdiction. This is not the case for protest committees and juries, except, that if the Notice of Race and Sailing Instructions so state, the right of appeal may be denied (RRS 70.4) if:

- (a) *it is essential to determine promptly the result of a race that will qualify a boat to compete in a later stage of an event or a subsequent event (a national authority may prescribe that its approval is required for such a procedure);*
- (b) *a National Authority so approves for a particular event open only to entrants under its own jurisdiction; or;*
- (c) *a National Authority, after consultation with the ISAF, so approves for a particular event, provided the protest committee is constituted as required by Appendix N, except that only two members of the*

### *protest committee need be International Judges*

Most event organisers of match and team races use the system of umpiring in which penalties are imposed during the race. This avoids, for the most part, the need for conventional protests and the delays they cause. Additional skills are required of judges at match and team racing events. ISAF and many national authorities run umpiring programmes. The ISAF programme is described in a separate publication, the *ISAF Umpires and Match Racing Manual* which can be found on the ISAF Web Site ([www.sailing.org](http://www.sailing.org)) under Race Officials for those that wish to learn more about Umpiring and Team Racing.

## **4.2 Composition**

In the majority of cases, the organising authority appoints the members of the jury. In regattas such as a world championship, this decision is often made between the organising authority and the class association. The only exceptions occur at specific events which ISAF is responsible for appointing the jury such as the Olympics, and other championships (see ISAF Regulations 16.3 and 18.12).

The two key persons to the success of an International Jury are the chairman and vice-chairman. In order that the jury be seen as independent, it is best that the chairman is well-known and respected by the competitors, and preferably not of the same nationality as the country in which the event is taking place. When this is the case, the “local” vice-chairman is given the responsibility and authority for pre-regatta administrative and organisational duties.

This leads to a seemingly backward way of recruiting jury members. Since the regatta organisers usually know the “local” judge, he is often the first asked to help organise the jury. At this point the “local” judge should explain how the jury will be more easily seen as independent if a non-national is the chairman and he is the vice chairman. He should also offer to help recruit a qualified foreign judge to act as chair, and with the chair, recruit the remaining members of the jury.

Appendix N states the requirements for an International Jury to be properly constituted. The minimum number of members of an International Jury is five and it is preferable to have an odd number. The majority of members must be ISAF judges. The requirements regarding the maximum number of members from different nationalities on the jury depend upon which ISAF Group the members belong to, and are stated in rule N1.3 (no more than two except in Groups M, N, and Q, where three is the maximum).



A jury member's nationality does not make him an interested party or create a conflict of interest. However, since an International Jury is independent of the race committee, no member of the jury can be a member of both.

When making up the jury, consideration should be given to the type of boats and kind of racing. The jury at a windsurfing regatta will face different questions than at a one design world championship or an offshore race. Experience in the type of racing by some of the members is important.

If on-the-water judging of rule 42-Propulsion is to be carried out, then the majority of the jury members should have the ability and experience to do this specialist type of judging.

At least one of the members of the jury should be fully conversant with the boats being sailed, and the rules and traditions of the class. It is useful to include one member who also has an intimate knowledge of the local conditions.

Finally, consideration should be given to include one or two experienced non-International Judges who would benefit from the experience and to assist them in obtaining the requirements to apply to become an International Judge.

#### **4.3 Approval by National Authority of Jury Composition**

Some national authorities, under their Prescriptions, require approval for the appointment of an International Jury. When approval is required, the organising authority is usually required to submit details of the event with the names of the proposed chairman and members of the jury.

Rule N1.6 (rule 90(b)) requires that when the national authority prescribes that its approval is required for the appointment of an International Jury, its approval shall be included in the Sailing Instructions or be posted on the official notice board.

When a national authority requires its this approval, it often forms a committee of experienced judges who are also international judges to recommend approval. This committee should review the application carefully to ensure that all of the requirements of Appendix N are met.

#### **4.4 Responsibilities**

The main duty of this appointed body, whether it is a protest committee or an International Jury, is to conduct hearings (protests, requests for

redress, etc.). Sometimes its responsibilities are extended to include on the water judging of rule 42 Propulsion at dinghy events and monitoring rule compliance. Furthermore, a protest committee is expected give advice to the race committee or the organising authority, and help resolve problems that occur at regattas.

#### **4.4.1 Additional Responsibilities of International Juries**

Although technically there is no difference between the duties of a protest committee and an International Jury, in practice the higher profile of these regattas means there is more pressure on the judges, organizers, and competitors. Since there is no right to appeal International Jury decisions, the reputation of sailing rests upon the regatta's International Jury making correct and fair decisions.

At these events International Juries are often asked to decide questions of eligibility, measurement, and boat certificates, and authorise the substitution of competitors, boats, sails, and equipment.

### **4.5 Procedures**

Jury decisions are reached by a majority vote. If there is no majority, the Chairman of the hearing may cast an additional vote.

A jury member's nationality does not make him an interested party or create a conflict of interest. If, however, a member of the Jury should not participate in a hearing, an International Jury remains properly constituted if at least three members remain, and at least 2 are International Judges.

## **5. The Event**

## **5. The Event**

### **5.1 Pre-event Responsibilities of the Event Chairman**

Before an event begins, the jury chairman and vice-chairman have a variety of tasks to perform and items to check. A checklist is given in the appendices of this manual as well a form for submission to the Organising Authority seeking confirmation of the equipment, accommodation etc. that they will provide. This can be modified for the Event level to make it less daunting.

Although the jury chairman has no power over an organising authority, he has considerable influence if the relationship can be kept supportive. When possible, the jury chairman should tactfully ensure that the organising authority is aware of its responsibilities with respect to the jury. It may be appropriate for the chairman to send a photocopy of Section 5 and Appendix 8 of this manual to the National Authority.

The main pre-event responsibilities fall to the jury chairman and vice-chairman, but if other members of the jury can help, the jury will be that much better prepared. This task has become easier with the advent of electronic mail and Internet phone systems like Skype and others which are available.

### **5.2 Communication with Jury Chairman and Vice-Chairman**

Long before the event begins, the chair and vice chair should ask to review the Notice of Race and draft Sailing Instructions, determine who should be invited to join the jury, and agree with the organizing authority on reimbursement of expenses, housing, and the requirements of the jury on-water and ashore.

### **5.3 Deciding on the Extent of the Responsibilities of the Jury**

Rule N2 lays down the responsibilities of the jury. Rules N2.2 and N2.3 list the responsibilities that may or may not be given to the jury, as required by the organising authority.

It is important that the jury is seen to be independent of the race committee, and it is seldom wise for the organising authority to empower the jury to oversee or direct the race committee. A prudent jury can suggest improvements and ideas about courses and other race committee matters to the principal race officer, and bring about improvements without having to use 'power to direct'. If the decisions of the race committee then come into question in a redress hearing, the jury will feel more comfortable and better able to be impartial, not having been involved in those decisions.



## **5.4 Reviewing the Draft Notice of Race and Sailing Instructions**

A Notice of Race is, in effect, an agreement or contract between the organisers of the event and the competitors. The organisers set out the conditions under which they are prepared to run the event and competitors use the information to decide whether they will invest the time, effort, and money to attend.

It is therefore important that the Notice of Race contains the information necessary to enable a competitor to decide whether or not to compete in the event. Variations from the racing rules, advertising, eligibility, (crew weight restrictions, nationality, measurement or rating certificates, etc.), type of courses, alternative penalties, scoring, and prizes, together with the other requirements of rule J1, are all subjects on which the competitor needs information. A wise organizing authority and judge will utilize Appendix J and the Notice of Race Guide of Appendix K to ensure all the required information is covered, and the standard wording is used for consistency and to prevent future problems.

However, even after a thorough effort, changes to the Notice of Race may be necessary (e.g. harbour blocked by a vessel or available radio frequencies changed by governmental authority). In most cases competitors will understand and accept the change. But changes must be kept to a minimum. Someone who ships his boat from Australia to Europe has a right to complain, and perhaps a right to compensation, on finding that the terms of the 'contract' have been altered to such an extent that he would not have come had he known.

The Notice of Race and the Sailing Instructions should be checked for any differences or omissions of the requirements of Appendices J, K, and L. During the event, rule 63.7, provides guidance if there is conflict between the Notice of Race and the Sailing Instructions.

The chairman and vice chairman of the jury (and, if possible, the other members) should review the Sailing Instructions before the final draft is agreed upon. If all jury members have not reviewed the final draft Sailing Instructions, the final document should be reviewed by all members of the jury so that any corrections can be suggested to the race committee before the competitors' briefing. However, last minute changes should be limited to only those required to sail the regatta.

### **5.4.1 Common Problems Encountered in Notice of Race and Sailing Instructions**

ISAF Regulation 20, Advertising Code, is an area which requires careful checking. Restrictions to advertising, i.e. Category A, must be stated in the

Notice of Race.

Unless some form of alternative penalty system is incorporated, the jury has no alternative but to disqualify a boat after finding as a fact that she did not comply with a sailing instruction which is prefixed by the words 'boats shall' or 'boats shall not'.

The description of the starting/finishing lines and course instructions should be very clear. If the members of the jury or protest committee cannot easily understand them, then some of the competitors will be confused as well.

Rule 66 allows a request for reopening a hearing to be lodged until 24 hours after a boat has received the decision. On the last day of a large international regatta or world championship, it is often impossible for the jury to work under this rule. In such a case Appendix L — SAILING INSTRUCTIONS GUIDE, recommends adding a paragraph 16.7:

*“On the last day of the regatta a request for reopening a hearing shall be delivered*

- a) within the protest time limit if the party requesting reopening was informed of the decision on the previous day;*
- b) no later than 30 minutes after the party requesting reopening was informed of the decision on that day.*

*This changes rule 66.”*

## **6. Best Practices of the Jury During the Event**



## **6. Best Practices of the Jury During the Event**

### **6.1 The Initial Jury Meeting**

The more jury members who arrive during pre-racing activities, the better, but all the jury should be in attendance the day before racing commences at the latest. This allows for the competitors, regatta staff, and judges to get to know each other. It also allows the jury to be available if questions are raised about measurement or the Sailing Instructions. If it is not practical for all jury members to arrive early, there should be at least a majority of the panel present including either the chairman or vice chairman.

The entire jury should meet at least during the early afternoon of the day before the first race. Appendix 3 of this manual gives a checklist of items for discussion at this initial jury meeting.

The most important duty is a last minute check of the Sailing Instructions. Correcting a mistake may avoid many hours spent in later hearings. However, at this point it is important that only essential changes be made.

Any changes thought necessary to the Sailing Instructions must be approved by the race committee (Rules 89 and N2) unless the jury has been specifically authorised to initiate changes. Diplomacy during this first interaction is very important. It is often first interaction face-to-face between race committee and the jury. A good first experience will lead to good co-operation between the race committee and the jury for the entire event.

#### **6.1.1 Procedure for Casual Questions from Competitors**

Another important pre-event jury decision is how to answer unofficial or casual queries from competitors. Often a judge is approached by a competitor with a question about a regatta procedure or a hypothetical question on the rules.

The following procedure is recommended:

- If the question is not complicated, the answer is straight forward, and the judge is confident of the answer, the judge should answer the question.
- However, the judge should emphasise that the opinion expressed is his own opinion and the opinion of the jury might be different. If the competitor wishes an official answer to the question, he should submit it in writing and the answer will be posted on the Official Notice Board.

- If the answer is not clear to the judge, he should say so and ask for the question to be submitted in writing in order for an answer from the jury.
- If the judge thinks that others might have the same question, then he should submit the question in writing to the jury in order to get the question and answer on the notice board.

Fairness and impartiality should be maintained with even the most difficult competitors. The tone should be patient but firm. If the competitor begins to debate the answer, avoid an argument, and ask for questions to be in writing. Individual judges should never act alone with a difficult competitor. If you are alone and an argument seems likely, adjourn any discussion until another member of the jury is present or request that the competitors' question be put in writing.

### **6.1.2 Jury Philosophy on Jury Initiated Protests.**

The jury should discuss and agree on guidelines for jury initiated protests when an infringement is observed. Although it is the jury as a body which brings a case against a boat, that duty is delegated to individual jury members.

## **6.2 Pre-race Jury Meeting with Race Committee Chairman, Principal Race Officer and Other Officials**

Appendix 4 of this manual gives a checklist of items which the jury may want to discuss with the race committee and others.

A meeting should be arranged before racing begins between the members of the jury and the chairman of the race committee, the principal race officer, and other key personnel. The objective of this meeting is to develop a spirit of co-operation as well as a level of mutual understanding and respect. The chairman or representative of the jury should meet with the measurement personnel and review the wet clothing control equipment and equipment weighing procedure.

The jury should communicate with the race committee only through the jury chairman or his appointee. The chairman should speak to the race committee only through its principal race officer or someone delegated by him. This helps to avoid competitors receiving conflicting instructions, and reduces the possibility of a request for redress under rule 62.

## **6.3 Briefing of Competitors**

It is highly desirable to have a competitors' briefing. The briefing's main purpose is to introduce the key individuals to the competitors. This will

allow a regatta participant to know who to speak to if he needs help solving a problem during the regatta.

The meeting can be chaired by anyone from the organising committee, race committee or jury. If the participants speak different languages, the meeting should be held in ISAF's official language. This means that the chairman of the meeting should be proficient in English, and be experienced with speaking to multi-lingual groups.

The following points in relation to the service provided by the jury will help to promote an atmosphere of friendliness, fairness, and impartiality:

- Introduce the jury members.
- Emphasise that the jury is there to provide a service to competitors.
- Comment on Appendix P—Immediate Penalties for Breaking Rule 42, if it is being used, and post the ISAF interpretations on the Jury Notice Board.
- If there are likely to be specific problems in certain areas, describe what action the jury will be taking to monitor those areas. It is comforting for rule observing competitors to know that the jury is aware of likely problems and is ready to address them.
- At youth regattas, or regattas with less experienced competitors, it may be appropriate to remind them of the importance of an infringing boat taking the two turns penalty promptly whether or not the boat is hailed, and the importance of one or both boats protesting after a collision when no penalty is taken.
- It is almost impossible to avoid questions concerning a Sailing Instruction or some other regatta procedure question from a competitor. Great care must be taken. On the one hand, the jury wants to help competitors by answering their questions quickly. On the other hand, questions are often more complicated than they first appear. If the answer is not obvious, it is best to ask for it in writing so the jury can give it proper attention, and answer in writing. It is also helpful to emphasise that no answer to a question becomes official until both the question and answer are posted on the Official Notice Board.

When a jury is dealing with inexperienced or young competitors an even greater empathy and understanding is required. Not only should every effort be taken to answer all their questions but all decisions should be explained if requested. At all times jury members should maintain an atmosphere of fairness and impartiality.

A document to competitors titled *INFORMATION FROM THE JURY TO COMPETITORS* can list guidelines the jury will apply. It can include among other items:

- Penalty Turns and Retirements
- Observers at Hearings
- Requests for Redress for Alleged Race Committee Error in Scoring a Boat OCS or BFD
- Doping Control
- Video Evidence
- Protests

Standard documents that will provide consistency at Events are still currently under development and will be posted on the ISAF web site ([www.sailing.org](http://www.sailing.org)). It is recommended that regular access to this site to obtain new documents which will be posted there.

#### **6.4 Inspection of Boats**

When boats are to be measured, or measurement checks done, the jury members should watch the procedures to have an understanding of the process if an issue arises later in the regatta.

In a series where crews switch boats during the regatta, the jury may wish to inspect the boats for equality during the competition. However, jury members should not supplant the work of the boat inspection personnel.

#### **6.5 Weighing of Competitors and Clothing**

Crew weighing is becoming increasingly common throughout the sport when a maximum total weight of a boat's crew is specified in the Notice of Race and Sailing Instructions.

The boat owner's objective is to have a total crew weight at or near the optimum. This can mean starving and exercising the crew before the weigh-in to be under the maximum weight, then feeding them again for the races.

The best balance between rapid, unhealthy weight loss, and meeting the intent of the weight limitations is to weigh competitors once at the beginning of the regatta. Some class rules require random weighing of a

set percentage of the crews periodically through the regatta.

A typical sailing instruction would be 'the total weight of the boat's crew dressed in a minimum of shorts and T-shirts shall not exceed 450 kilograms at the time of weighing. Crews shall present themselves for weighing between [time] and [time] on [date].'

Light, medium, and heavy weight classes in some board sailing events encourage competitors to put on weight so as to qualify as the lightest person in the heaviest class. Here, the incentive is to be heavy for the weighing, and then to lighten up for the race.

A requirement for competitors to remain above or below a certain weight at all times during the regatta, with random checks during the regatta, is not recommended. Board sailors can lose significant weight during a strenuous race, and may inadvertently and innocently drop below a critical weight limit.

The organising authority must provide an accurate weighing machine (either a balance arm weighing machine, or pressure pads fed to an electronic read-out), and make it available for use (via an operator if necessary) to competitors for checking their own weight. If a spring balance is to be used, a standard test weight of a weight near to the critical weight should be on hand to verify the accuracy of the weighing machine. In a large number of regattas, the tendency these days is to have the scales calibrated and certified by the local government authority who certifies the scale's accuracy.

The responsibility for weighing rests with the race committee. However, it is wise for the jury to monitor the method and equipment. In this way any shortcomings can be corrected before they cause problems which may result in a request for redress.

The weighing of clothing after racing to check the limit imposed by rule 43 should be carried out by the race committee in accordance with Appendix H. A wise jury will monitor the method and equipment used.

## **6.6 Communicating with Coaches and Team Leaders**

Coaches, team leaders, and managers should be treated with respect, and as professionals. They often have much more immediate experience than the regatta race officers or jury members. It is common for an Olympic team coach to attend world championships in four or five different classes in one year. This gives them a unique understanding of what specific issues are currently being discussed and might arise during the regatta.

It is often desirable for the organising authority to arrange a meeting of coaches and team leaders before racing begins and, if possible, each morning during a regatta. Such meetings provide an informal interface between the competitors, the race management team, and the jury. The meetings in no way replace official communications to competitors posted on the official notice board.

From the regatta organiser's point of view, the following problems and procedures can be addressed:

- rule observance
- acting as safety cover in bad weather and towing
- regatta administration such as parking, opening ceremony, social events, boat launching, and recovery
- support boats entering the racing exclusion zone

On the morning of the last race, discuss their recommendations for future regattas.

These regular meetings provide an opportunity for competitors to, either directly or through their coaches, offer constructive suggestions.

There are often times when unofficial discussions can take place with a coach and potential problems, such as behaviour that have not yet reached the stage of a gross breach of sportsmanship, may be averted.

#### **6.6.1 Disciplining Coaches and Other Team Officials**

Unfortunately coaches are not defined as competitors and are not governed by the racing rules. If a coach breaks a rule the competitor or competitors the coach is associated with are penalised. The only exception is rule 69.2(a), where a National Authority may, acting on a report and after a hearing, take disciplinary action against a competitor or boat, or other person involved.

If a coach breaks a rule it is usually by providing outside assistance or breaking a Sailing Instruction limiting how close coach boats can be to the race course.

Coaches can be made subject to regatta rules limiting their actions by adding the requirements and penalties to the Sailing Instructions. For example, recommended Sailing Instruction L22 — Support Boats, can be changed to require boats

“... to stay outside the racing area (which requires to be defined in the Sailing Instructions) *and more than 25 metres away from any racing boat...*”

The Sailing Instructions must describe the penalties, which should be at the jury's discretion. This could range from issuing a warning, to penalising competitors associated with the coach, to requiring the coach to stay ashore for part or all of a day or to leave the regatta site.

A jury can also make a written report on the coach's or team leaders behaviour to their national authority under rule 69.2(a). These reports are taken very seriously and could cost the individual his job.

## **6.7 Communicating with the Media**

The media is an important part of any regatta and journalists and others involved in communicating with the general public are an essential part of the sport. Every assistance and co-operation should be accorded to the media without compromising the fairness of the competition.

The jury should agree on which member, quite often the local vice chairman, should be its representative to communicate with the media. Once that is done, all communications should be channelled through that jury spokesperson. A copy of the hearing results should be promptly given to the media centre. The jury representative should offer to explain jury decisions to members of the media or attend press briefings. Such efforts can avoid misunderstandings that could harm the way the sport of sailing is viewed by the public.

## **7. On-The-Water Operations, including rule 42**

In 2003 the Racing Rules Committee approved a series of ISAF Rule 42 Interpretations. These interpretations were reviewed in 2005 and have the same authority as ISAF Cases and should be read in conjunction with the rule book and Judges Manual.

The interpretations are available on the ISAF Website ([www.sailing.org](http://www.sailing.org) > Rules > Racing Rules of Sailing > 2005-2008 > Rule 42 Interpretations) and will be updated as necessary.



## **7. On-The-Water Operations, including Rule 42 and Appendix P**

Most of this chapter focuses on Judges activities when Appendix P is in effect. The first three sections apply whenever the Judges are on the water observing racing firsthand. The remainder of the chapter focuses on enforcement of rule 42 when Appendix P is in effect.

### **7.1 Monitoring Rules Compliance—General**

The presence of on-the-water Judges in easily identifiable Jury boats leads to better rules compliance and better racing. Very aggressive competitors are less likely to break the rules because they know Judges are watching and could protest them. The majority of competitors, who normally observe the rules, feel less pressure to “push the rules” in order to keep up with those who are breaking the rules. Competitors are less likely to ignore a rule or an infraction and take their penalty turns, or protest, if they know the Judges may have seen the incident.

However, our sport continues to be based on the premise that the competitors, not Judges, have the lead responsibility for enforcing the rules on themselves and their fellow competitors. Consequently, the information that Judges who are afloat gather concerning interaction between boats does not generally lead to direct action. Except where empowered by Appendix P or the sailing instructions, the Judges should only initiate a protest when they witness a clear infringement that is not observed by other competitors or when rule 2 (Fair Sailing) is involved.

Judges should record details of any error in race committee signals and any unusual race management practices that may become the subject of a request for redress.

### **7.2 Liaison with Race Committee**

Many classes now have special rules which switch on and off some of rule 42s prohibited or permitted actions depending on the wind speed. If the wind speed increases or decreases beyond a stated threshold, the race committee can indicate that rule 42 is switching on or off at a mark. When this occurs, it is essential that the race committee and the on-the-water Judges have a proactive and reliable means of communicating to ensure that Judges enforce the rules correctly.

If radio communications are difficult, the Judges should try and round the marks with the lead competitors to witness any signals that might change how the special class rules apply.

### **7.3 Equipment Required**

To be effective on-the-water Judges must have Jury boats that are suitable for use with the type of boats they are judging. Suitable boats

are normally maneuverable, hard-bottom and capable of speeds well in excess of the boats being judged. The boats must easily accommodate two Judges and their equipment and be large enough to operate safely in the range of weather and sea conditions in which the competitors will race. However, since the Judges will be maneuvering in close proximity to the competitors, the boats should optimally have a design that minimizes their windage and wake.

The Jury boats should be clearly identified to avoid confusion with spectator and/or coach boats. Equipping the boats with two-way radios will facilitate communication between Judges and with the race committee. When judging rule 42 on the water, the Judges must have a yellow flag and whistle to lodge protests against competitors.

When going afloat, Judges should have, at a minimum, wet notes, a tape or digital voice recorder, sailing instructions, class rules relevant to Rule 42, and the Interpretations of Rule 42.

#### **7.4 Rule 42**

The goal of enforcing rule 42 compliance on the water is to strive to maintain a level of compliance that makes the competition fair for all competitors. The on-the-water judging team must remember that rule 42 does not prohibit kinetics, but rather defines permitted and prohibited kinetics.

At the end of the regatta, competitors and officials alike should feel that the results were determined by sailing skill and tactics; and not by competitors breaking the rules, or Judges misinterpreting them.

Judges must remain consistent. This requires continuing dialog and discussion among the Judges. Before the first race, the Judges should discuss what they might see and when they should protest. They can also discuss trends and issues they have witnessed in recent events. During the event, the Judges should regularly review protests made and unusual body actions they see. During these discussions, Judges should avoid discussing individual competitors. Rotation of the Judge pairings will contribute to consistency.

When enforcing rule 42 on the water, Judges should only protest when they are positive they have witnessed an infraction of rule 42. Impartiality and objectivity is crucial. A second or third protest against a boat should be judged exactly the same as the first. Judges can best achieve this by not following the event results or yellow flag protest count.

## **Illegal Kinetics**

Rule 42 states that competitors may move in the boat to adjust the sails and trim "but shall not otherwise move their bodies to propel the boat." Often one of the first clues of a rule 42 violations is that one boat looks different from the others, in the movement of the boat, rig or sails or the body of the crew. Judges have to observe actions and the effects of those actions.

Judges should protest actions that cause pumping, rocking, or ooching, if the Judge can connect the effect to the competitor. In these cases, an increase in speed is not required for a protest.

For a single roll tack or gybe to be illegal, the exaggerated body movements of the competitor must cause a speed increase. However, if repeated tacks and gybes are unrelated to wind changes or tactics, no increase in speed is necessary to break rule 42.

Sculling also falls into both camps. Repeated forceful movements of the helm that have no effect on speed or direction are prohibited. However, even gentle sculling is prohibited if it propels the boat or prevents her from moving astern.

## **Legal Kinetics**

Rule 42.3 lists exceptions to the basic rule that allow the competitors to use specific kinetic actions in specific situations.

Competitors can:

- Roll the boat to help steer it;
- Use exaggerated body movement to help steer a boat through a tack or gybe;
- Pump once to initiate pumping or surfing;
- If moving slowly above close-hauled, scull the boat to a close-hauled course;
- Reduce speed by repeatedly moving the helm;
- Use any means to help a person or another vessel in danger;
- Use any means other than a propulsion engine to get clear after grounding or colliding with another boat.

## **7.5 Reaching a decision**

Judges will make decisions that are more consistent if they go through the following process before deciding to protest. They must be in the

right position to observe the possible breach, verbalize what they see, connect the competitor's movement to the effect on the boat or sails, and finally decide if that movement is a prohibited action.

Some of the questions, Judges should ask themselves and each other are:

### **Possible Pumping**

- Are there surfing or planing conditions?
- Is the boat pumping while surfing or planing?
- Could the trim and release be a response to conditions?
- Is the repeated trim and release fanning the sail?
- Does negative pumping cause the flicking leach? (Permitted by Pump 4)
- Can you connect the flicking leach to body movement or is it caused by other factors?

### **Possible rocking**

- Is the competitor causing the boat to roll?
- Is the competitor accentuating background rolling?
- Is competitor-induced rolling helping to steer the boat?
- Is the amount of rolling consistent with the amount the boat turns?
- Is it in sympathy with the waves?

### **Possible Ooching**

Downwind:

- Is the competitor stopping their body movement abruptly?

Upwind:

- Are there waves?
- Is the competitor's movement in phase with the waves?
- Is the sail flicking?

- Could it be the waves causing the flicks on the leach?
- How does it compare to other boats?

### **Possible Sculling**

- Are the tiller movements forceful?
- Are they propelling the boat or preventing it moving astern?
- Is the boat above close hauled and clearly altering course towards a close-hauled course?
- Is the sculling offsetting previous sculling?
- If the competitor is backing the sail, is the sculling preventing the boat from changing course?

### **Repeated Tacks or Gybes**

- Do the individual tacks or gybes increase the speed of the boat?
- How close together and how frequent are the tacks and gybes?
- Does the boat change direction because of the gybes?
- Can the gybes be justified for tactical reasons or wind shifts?

### **General**

Judges must remember to police all rule 42 infringements, even those not mentioned above, such as propelling a boat by fending off others and decreasing speed by dragging feet or the body in the water.

## **7.6 Regatta Procedures (Fleet Racing)**

Judges must be very familiar with Appendix P “Immediate Penalties for Breaking Rule 42”. This appendix outlines the penalties and procedures for on-the-water judging of rule 42. Judges must also be very familiar with rule 42, and with the interpretations of rule 42. Before going afloat each day, a Judge should re-read rule 42 and the interpretations to the rule so that it is fresh and clear in the Judge’s mind.

During a race, the on-the-water Judges should cover the entire fleet, but mainly concentrate on the first third of the fleet, as the top competitors generally set the example.

Rule 42 breaches divide into two types: tactical and technical. Tactical infringements are of short duration and committed in order to achieve an immediate advantage. They typically occur at the start, while crossing a right of way boat, near the two-length zone from a mark, or at the finish. Technical infringements of rule 42 occur around the course and are part of the competitor's normal style of sailing.

Both Judges should agree on a technical infringement before they protest a competitor. While the benefit of doubt remains with the competitor, once the Judges are sure of the infringement they should protest promptly and protect the fairness of the competition for fair competitors.

A Judge that sees a clear tactical infringement can and should act independently.

### **Signalling the protest**

Once the Judges decide to protest: one Judge on the Jury boat should be responsible for all signaling and recording of protests, the other should focus on driving.

The Judge handling the signals should raise the yellow flag high in the air immediately and hold it vertically while the Jury boat moves into position to hail the competitor. Since the Jury boat will often have to move quicker than normal to get into a position to hail promptly, holding the flag up while moving into position lets the competitors know that a Jury boat's sudden movements have a purpose.

When the Jury boat is close enough that the Judge is sure the competitor will hear and understand, the Judge should blow his or her whistle forcefully, point the yellow flag at the protested boat and loudly hail their full sail number. If the competitor does not appear to hear or understand the hail, repeat it and make eye contact if possible. Make absolutely certain that the competitor knows they are being protested.

If the Judges have to delay their signaling to move into position safely, they may add to the hail a very brief description of the offense so that the competitor knows why they have been protested. Such as "Sculling just before the start", or "Body pumping at the mark".

Keep the yellow flag flying clearly while the competitor completes their penalty, or until you are absolutely certain the competitor will not complete a valid penalty. It is the competitor's responsibility to know what penalty they should take. If asked by the competitor if the penalty taken is correct the Judges should not answer as they may not know accurately whether the protest is the competitor's first, second, or third.

Remember that the signals should be clear and the hail loud and clear so that all competitors around the offending boat also know who has been protested.

### **Recording the protest**

The Judge recording the protest should record the boat's number; the race number and leg of the course; the time; the infringement; relevant rules and interpretations; and what action the competitor took in response to the protest.

When observing a competitor taking a two-turn penalty, note the tack they were on when they started and finished their turns. Be sure to watch to see if the protested boat takes its complete penalty (rule 44.2 Two Turns Penalty includes two tacks and two gybes).

If the Judges protest two boats at the same time, each will observe one of the protested boats to see that each boat performs the proper penalty. If the protest is just before or after a boat finishes, the Judges should record boats that finish in front of and behind the protested boat in both the protested boat's original finish, and her second finish after performing her penalty turns. The Judges should check the results to make sure the correct finishing position is awarded.

Judges must report all yellow flag protests and the resulting action taken by competitors to the Judge responsible for recording penalties at the conclusion of the day's racing. This includes submitting a report of no activity if the Judges did not have any yellow flag protests.

If a competitor continues to race or performs his penalty turns improperly, the protesting Judge(s) must report that boat's disqualification (DSQ for a first protest, and DNE for a second protest) to the Judge recording the protests and he will advise the Race Committee scorer in accordance with Appendix P2 Penalties. The Judges should also check the posted results to ensure that they reflect the appropriate penalty. If a competitor requests redress from the posted results the Judges should be prepared to attend a hearing.

When Judges protest a competitor for the first or second time, and the race committee subsequently postpones the start, signals a general recall, or abandons the race, the competitor is not required to take a penalty. If it is the competitor's first infraction, they do not have to perform their turns. If it is their second infraction, they may participate in any restart. However, the Judges must still record and report the protest in the normal manner as the protest still counts to determine the number of times the competitor has been protested during the series.

When the Judges protest a boat for the third time, regardless of whether the race committee subsequently postpones, abandons, or signals a general recall, the competitor must still retire from that race and all other races in the series.

Using a tape or digital voice recorder can be a valuable tool. Some best practices to maximize the benefit include:

- Protect the recorder from water damage and the microphone from wind noise.
- When positioned where tactical infringements are likely, leave the recorder running. This includes the last 90 seconds before the start, throughout mark roundings, and while observing finishes.
- When discussing a possible technical infringement, record the conversation between the Judges as you analyze a competitor's movements. This can be very useful later when you are describing what you saw to the competitor.
- When protesting a competitor, record the hail of the protest and keep the recorder running while the competitor completes their penalty.
- At all times when the recorder is running, take extra care to keep voice and tone objective and impersonal. Refer to competitor by sail number only and avoid personal or editorial comments. Good recordings of well-articulated protests can significantly improve a Judge's credibility with the competitors.
- Be aware that some Judges object in principle to being recorded. Ask your fellow Judge's permission before using a recorder, and consider the recording confidential unless both of you agree to share the recording.
- Occasionally review your recordings. Listen for improvements you can make in articulating the behavior you are seeing.

### **Explaining the protest to the competitor**

Judges should be available to answer questions from protested competitors. They should be available either afloat between races or on shore after racing.

When discussing the infringement with the competitor, focus on giving as much detail as possible about the competitor's actions. Describe what first attracted your attention to them. Describe how the competitor's actions affected the boat. Explain what rule they broke and the relevant interpretation.



Competitors can be angry, upset or confused by the Judge's protest. Be aware that some will emotionally link the protest to an implicit accusation of cheating. A Judge can mitigate the risk of an emotional confrontation by talking calmly about the specific actions that they saw the competitor make, and avoiding implications of the motives or intent of the competitor. If both Judges that protested in an incident are available, they should try to talk to that competitor together. One Judge should calmly handle most of the conversation. The other Judge should watch for signs that the discussion is becoming confrontational or argumentative. If this happens, the second Judge can suggest that they continue the conversation later.

Most of the time Judges should let the competitors initiate the discussion. Judges should be more proactive about instigating a meeting when they believe a competitor may not understand how their actions break rule 42. This is particularly true at junior or low-level adult events, with inexperienced competitors, or when a competitor has incurred a second protest for the same action. By explaining and clarifying how the competitor is infringing the rules, the Judges can help the competitor avoid additional protests.

## **7.7 Positioning the Jury Boats**

When judging any sport, being in the right position at the right time is crucial to doing a good job. For on-the-water rule 42 enforcement, the objective is to place Jury boats in positions where they are close to potential problems. This requires:

- Knowledge of the fleet racing tactics - to anticipate the movements of the competitors.
- Knowledge of the characteristics of the specific boat designs - to know what types of prohibited kinetics are most effective for that boat type.
- Taking into account the types of boats racing, Jury boats, number of Judges, conditions, course configurations, and local geography – to maximize the Judges' ability to cover to whole fleet throughout the race.
- Common sense and diligent focus - to react to changing circumstances promptly.
- On-going awareness of the positions of the other Judge boats.

While it is clearly not possible to monitor all the boats all of the time, it is an achievable goal for the Judge boats to cover the course such that every racing boat is aware of their presence at some time during each race. The Judges should pay closer attention to leaders, but look with a 'wide vision', to scan as many competitors as possible.

In many regattas with multi-fleets the Judges have insufficient resources to cover all the fleets. If choices have to be made Judges should prioritise starts, downwind legs and finishing legs.

When protesting, the driver has to balance the need to be close enough to the competitor to signal the penalty clearly, while remaining far enough away to stay clear of the penalty turns that the competitor will perform.

Judges operating Jury boats are responsible for ensuring that they minimize their engine wash, and that they position their boat in a manner that will minimize the effects of their wind shadow.

Jury boats should try to cross boats at right angles maintaining a predictable course when close to competitors. Jury boats should be a minimum of five boat lengths away when crossing in front and one boat-length away when crossing behind. On downwind legs, be aware that in surfing conditions, competitors will often make dramatic course changes to take best advantage of the waves. If you find yourself too close to the boats, your best option may well be to stop and let the competitor sail around you. When doing this, the Jury boat driver can raise both hands up high as a signal to the competitors that the Jury boat has stopped.

Except at the start and during the first beat, Jury boats should position themselves so they are visible to the maximum number of competing boats.

### **Pre-Start**

Rule 42 takes effect at the preparatory signal. Generally, rule 42 violations are rare until about a minute before the start. In light air, a boat that is having trouble reaching the starting area, be tempted to use illegal kinetics after the preparatory signal (including a tow from their coach boat) to get to the starting area. A boat that wishes to start at the far end of the starting line may be tempted to break rule 42 in an effort to traverse the line quickly.

Be aware that the protested boat wishing to take a penalty must sail well clear of other boats, and perform both turns promptly.

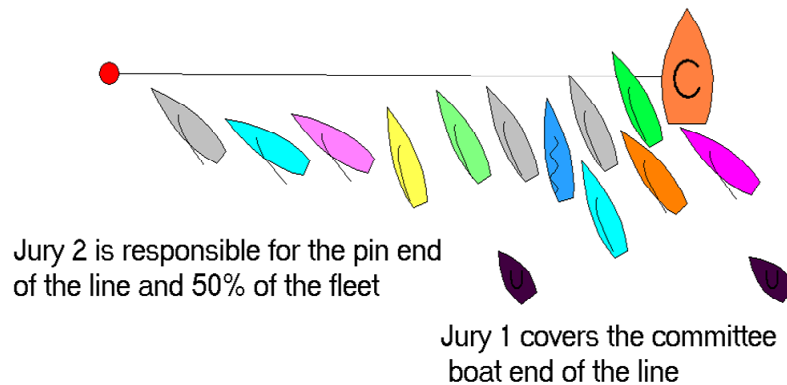
Signal protests as soon after the incident as practical. Do not wait for the starting signal.

### **Start**

Protests must be signaled quickly, yet the Jury boat must also stay clear of other competing boats.

#### R42 STARTING LINE INFRINGEMENTS:

Sculling  
Body pumping  
Rocking in light airs



#### Common infractions:

- Sculling just prior to the starting signal
- Repeated rocking/pumping by body movement that rolls the boat or fans the sails, at the start.
- Rocking before the start as a boat tries to propel itself from the “*second row*” into the “*first row*”

#### Positioning of Jury boats

The Jury chairman (or designated rule 42 head) will assign positions behind the line. Usually the Jury boats will spread from right to left. Their positioning will depend on the distribution of competitors (not the actual starting line). When assigned to take the “pin end” of “left end”, a Jury boat will cover the boats closest to the pin end of the line.

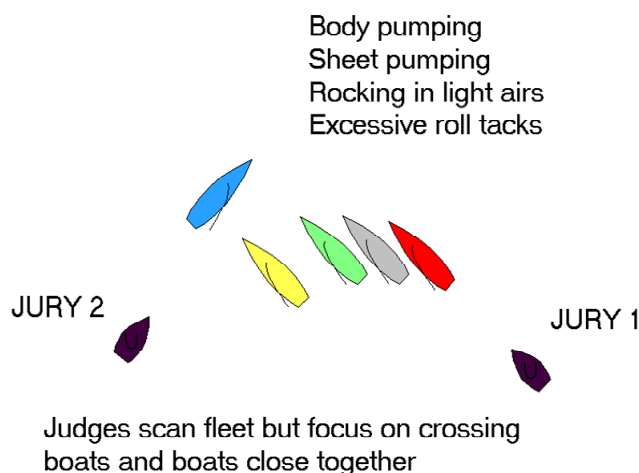
The Jury boats should position themselves far enough behind the fleet to observe ten to fifteen boats and close enough to respond quickly, depending on the size of the fleet. Since most competitors are on starboard tack in their final positioning just before the start, Jury boats will have the best view when they are positioned astern of the boats.

When a large group of competitors are seeking to start at the starboard end of the line (typically the committee boat end), Jury boats may well find that they can observe these competitors best by being in a position below and to the right of the entire starting line.

### Upwind

Jury boats can find it challenging to move into a good position to signal a protest without affecting other competing boats. In light wind, the sound of a hail and the whistle will carry a long distance allowing the Jury boat to signal with less movement. Immediately after the start, it may be impossible to signal promptly without interfering with other competing boats. In this case, wait until you can make a good approach to the competitor, and then signal them. When you've had to delay the protest, you can add a quick explanation such as "Rocking back at the start" so that the competitor knows why you protested them.

#### R42 UPWIND LEG INFRINGEMENTS



### Common infractions:

In light wind:

- Rocking the boat by body movement
- Repeated roll tacking
- Exaggerated roll tacking so that the boat's speed increases as a result of the tack

In stronger wind:

- Fanning the sails by bouncing the body on the deck or in the hiking straps

Fanning the sails by short sharp repeated pumps of the main sheet

### Positioning of Jury Boats

Jury boats will generally position themselves behind the fleet and focus on pressure points. Jury boats can move through the fleet but they should be extremely careful of their wake. In addition, the Jury boat's engine noise and propeller wash can be distracting to the competitors. A Jury boat should avoid remaining alongside a single competitor for an extended time.

Towards the end of the upwind leg, the Jury boats should start to position themselves for the next leg. The Jury boat watching the front third of the fleet should move into a position to observe the leaders as they start the reach or run. Towards the end of the leg, the Jury boat observing the rear two thirds of the fleet should move to a visible position to weather of the windward mark.

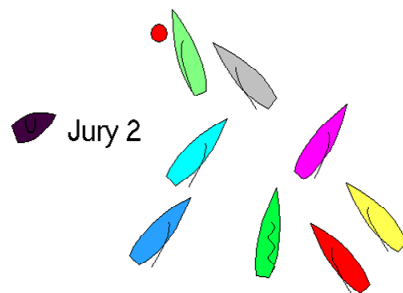
At the first windward mark the Judges should be highly visible and a second Jury boat positioned to leeward of the fleet to go with the leaders as they sail on the reach. Positioning to leeward of the fleet on the reach allows Judges to stay closer to the fleet with less negative effects from windage or wake.

### RULE 42 WINDWARD MARK INFRINGEMENTS

JURY VISIBILITY  
VERY IMPORTANT

Jury 1

Sculling  
Body pumping  
Rocking in light air  
Excessive roll tacks



### Reaches

At the start of the leg, the Judges should actively discuss and decide if surfing and/or planing conditions exist. If the conditions are marginal,

Judges must frequently re-consider as small changes in wind may cause surfing and/or planing conditions to come and go.

An increase in boat speed does not necessarily qualify as 'surfing (rapidly accelerating down the leeward side of a wave).'

A "domino effect" can occur on reaches. One competitor will begin to surf by pumping illegally and start gaining on other boats. The other boats, to maintain their position, will also begin to pump illegally. Ideally the Judges will act before that happens, but if not they should protest the first clear breach they see.

In the rare cases where the Judges lose control of the fleet and the majority of boats are breaking Rule 42 inaction is not an option. The judges should protest the first clear breach and keep protesting until the fleet start complying with the rules.

Judging when one wave ends and another starts can be difficult. You can Judge the end of one wave as the end of a surge of boat speed. When a boat is planing they are not permitted to pump even though they may move from one wave to another.

In stronger winds, it is often difficult to differentiate between rapid trimming and pumping. The rules permit trimming that is in response to changes in course or wind, even if rapid. However, they do not permit repeated trimming that is not connected to wind or waves. A competitor may not constantly pump their sails.

#### **Common infractions**

- Repeated trimming that is not in relation to waves or wind.
- Pumping a sail more than once per wave
- Body pumping to promote surfing and/or planing
- Pumping a sail when already surfing or planing
- Ooching (generally in stronger winds to promote surfing)

#### **Positioning of Jury boats**

One Jury boat should stay to leeward of the fleet. The boat that was at the windward mark watches from the windward side of the fleet.

If you see an improper action during a mark rounding, wait until the boat is clear of the mark and on the next leg to signal the protest.

## **Run**

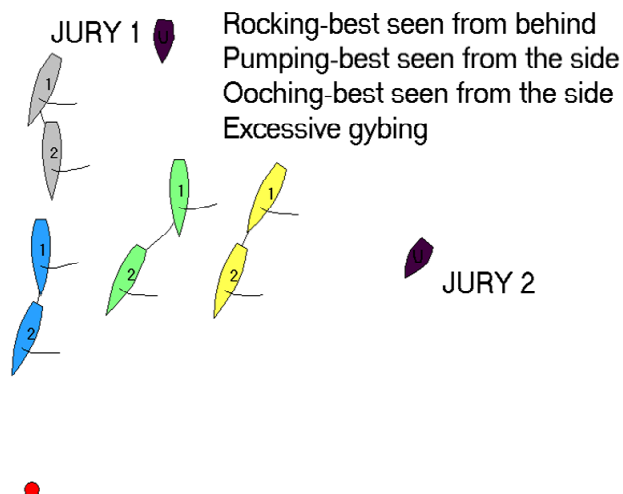
If Judges see the competitor rolling the boat by repeatedly moving their bodies the same way as the mast with no change of direction it is rocking. Positive rocking is when the windward roll is caused by the competitor moving to windward first and negative rocking when the competitor begins the rocking by moving to leeward first. If the competitor is moving his body to counter the roll of the boat it is permitted trimming.

The best way to identify boats that may be rocking illegally is to keep a “wide view”. Your eyes will naturally pick out boats that are rolling more than those around them. Watch those boats to identify what is causing the extra rolling. If you see body motion or repeated trimming not related to the wind or waves that is inducing the rolling and not permitted by the exception, you should protest. This can be difficult to Judge as competitors mix up permitted and prohibited actions. Talk over the specifics of what you see with your fellow Judge. If you are not certain that the motion is improper, watch for a little longer, and protest only when both Judges are satisfied the rolling is improper and that they would be able to articulate clearly the prohibited body motion or trimming to the competitor.

The ISAF interpretation, ROCK 3 notes that competitors are not required to stop their boat’s background rolling. However when the boat is set up to be unstable a single roll may be enough to induce rocking and is prohibited (Rock 5).

Be alert for excessive gybing or pumping in the last 100 metres of the leg to establish or break overlaps.

## RULE 42 DOWNWIND INFRINGEMENTS



### Common infractions

- Rocking
- In light winds, repeated gybing clearly not in response to wind shifts or tactical considerations.
- Exaggerated rolling during gybing that propels the boat faster than it would have gone in the absence of the gybe.

### Positioning of Jury Boats

Always position one Jury boat near the front of the fleet. Often the same Jury boat will follow the leaders throughout the race. Having a Jury boat near the front will encourage good behavior by the leaders. This helps ensure that the competitors will win or lose by fair sailing.

Both Jury boats should attempt to move within the fleet. If a Jury boat wants to jump from the back of the fleet to the front, it should stay well clear of the fleet before accelerating both for safety and to minimize the impact of their wake on the competitors. When moving “at speed”, try to find the speed at which the Jury boat has the least wake. For many small powerboats, traveling at a moderate speed maximizes the size of their wake. You should avoid such speeds unless it is necessary for safety.



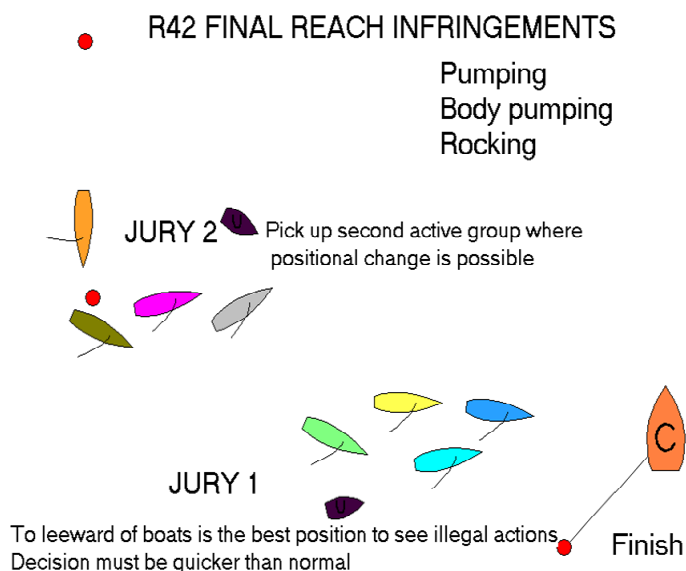
The lead boat should watch the initial roundings from the centre of the gate, staying clear of race management and press site lines

## Finish

The issues on the final leg are the same except that a Jury boat must be present in the finishing area at all times when boats are finishing.

When they see an infringement right at the finish, they can and should protest boats even if they are no longer racing. Make every attempt to signal the protest quickly when a boat has finished so that the competitor can promptly perform their penalty turns and re-finish.

Be aware that if it is the competitor's second or third protest, they must retire from the race instead of doing a Two Turns penalty. If the finish is crowded and the race committee is busy, the competitor may wait for a clear opportunity to notify the race committee that they are retiring after finishing.



## Common infractions

- Pumping to pass one or two boats just as the boats are finishing.
- In light air on beats or runs to a finish, roll tacks or gybes that are forceful and either repeated and unrelated to wind changes or tactics, or that result in the boat going faster than it would have without tacking or gybing

### **Positioning of Jury boats**

A Jury boat should position itself near the last leeward mark and move towards the finish with the leaders. The Jury boat should position itself close to and to leeward of the first small group of closely competing boats and follow them to the finish. It should then remain at the finishing area.

The second Jury boat should watch the end of the last run, and then patrol the final reaching area paying particular attention to “pressure points” where boats are close together and passing might occur.

### **7.8 At the Competitors' Briefing (with/without Appendix P)**

Telling the skippers that there will be an active on-the-water Jury presence has a significant effect on rule 42 compliance. The chairman should cover the following points:

- The Judges will take action only on clear infringements.
- The Judges will not issue warnings about rule 42 infractions.
- The Judges will post a list of boats protested under Appendix P or disqualified under rule 67.
- Remind the competitors that rule 60.1 still applies and one boat may protest another.

### **7.9 On-Shore after the Race**

Upon returning to shore, the Judges should pass their detailed protests to the rule 42 coordinator who promptly compiles a combined list of all on-the-water protests and reviews the list to see if all competitors took the appropriate penalty. If not, the coordinator needs to initiate additional action, typically notifying the race committee of disqualifications under P2.1 (DSQ) or P2.2 (DNE). When a competitor receives a third protest, they must withdraw from all races in the series (P2.3). While technically this is the competitor's action, the Jury coordinator should notify the race committee on behalf of the competitor to change the scores in previous races to RAF.

The Judges should post the complete list of boats that they have protested under Appendix P (or disqualified under rule 67) on the official notice board as soon as possible. Include on the list the names of the Judges who issued each yellow flag, so the competitors can approach the Judges with any questions or clarification they might have. The Judges should be available to competitors on shore after racing to discuss any of their calls. These discussions should always be between the competitor and the Judges who protested the incident. The

Chairman may want to monitor the conversations discretely and moderate if the conversation starts to become contentious or heated.

#### **7.10 Rule 42 Redress Hearing**

While rule 67 permits the protest committee to disqualify without a hearing, it does not prevent a boat from requesting redress alleging that the disqualification was an improper action of the protest committee.

#### **7.11 Appendix P—Immediate Penalties for Breaking Rule 42**

Appendix P outlines the procedures and penalties for protesting on the water. This system evolved from several systems previously used by many classes and multi-class regattas. It made its debut in Olympic Competition in 1992.

As with all systems, there are advantages and disadvantages.

##### **Advantages**

- Competitors see Judges taking action and understand the limits of rule 42.
- The second and third penalties are severe enough to encourage competitors to clean up their behavior.
- Competitors are much more aware of the circumstances at the time of the penalty, enabling a more fruitful discussion after the race.

##### **Disadvantages**

- When the competitors are in a tight bunch, a delay can occur before Judges can signal the protest (e.g. sculling at the start). This causes confusion and the reaction '*I wasn't doing anything*'.
- The number of on-the-water Judges is frequently insufficient to monitor the whole fleet consistently. Consequently, the competitors believe the enforcement to be inconsistent because the Judges will miss some severe infractions, while seeing and then protesting other less severe infractions.
- The Jury boats may be inadequate to motor amongst the fleet, preventing the Judges from monitoring the whole fleet evenly.
- Competitors may tend to abdicate personal responsibility for obeying rule 42. When they think the Judges are not watching, they may increase their kinetics until they get caught, believing that the gains they make will be worth the risk of the occasional Two Turns Penalty.

The use of on-the-water rule 42 compliance has grown over the last decade and expands the responsibilities of Judges. Whilst the racing rules permitted on-the-water judging in the past, prior to the addition of Appendix P, there was no specific place in the rulebook. Consequently, the penalty systems (and the sailing instructions describing them) were often different from event to event.

Appendix P codifies this and creates a consistent framework under which competitors and Judges can operate. It is now easy for a regatta organizer to invoke Appendix P and make provision for on the water judging of rule 42.

Many Judges and competitors have widely diverse positions on rule 42 and its enforcement. However, they must accept the rule (and the supplemental ISAF interpretations of rule 42) as it exists. If they disagree with a rule, ISAF has a documented procedure for submitting proposed rule changes.

Judges should not allow individual classes a level of prohibited actions because all seem to be breaching the rules a similar amount. Judges have to remain objective and protest boats that infringe the rules; it's up to classes to change their class rules if they don't want to use Rule 42. When Judges accept an appointment to an event which has on the water enforcement of rule 42, they must be willing to enforce the existing rules and interpretations to the best of their ability. It is far better to have no Judge present on the water, than to have a Judge empowered to enforce the kinetics rule who observes blatant infractions and does nothing. Judges should give the benefit of the doubt to the competitor and never protest unless they are certain of the infraction. However, once they are convinced, they must act to protect the fair competitor.

## **8. Jury Administration**

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### **8.1 The Jury Secretary's Duties**

The most essential part of the jury secretary's job is organising the jury desk for the receiving and processing of protests. Ideally the jury desk should be situated next to the protest room. The secretary and the chairman should consult before the start of the event and decide the system to be used. It needs to be carefully adapted to the Sailing Instructions.

It will be necessary for the protest system to fit in with the race committee. The time with which hearings can be started depends on good communications, so that the race committee can inform the jury secretary as quickly as possible of the number of protest flags seen, the identification of the boats if they are required to advise the Race Committee of a protest, and the end of protest time.

The job of the jury secretary depends on the working relationship between the people involved. A good secretary will take a wide view and allow the jury to concentrate on the racing, the hearings and the rules without having to worry about administration. The secretary should check to see that:

- the jury room has sufficient chairs, table, lighting, paper pads, protest models
- needed equipment - such as a printer, dedicated photocopier, and telephone is available; most Judge's bring notebook computers to regattas these days
- there are enough blank forms
- each jury member has a copy of the Notice of Race, Sailing Instructions and Amendments, class rules, notices, protests, time limits, alternative penalties, and mark roundings are available if needed
- the official notice board is as designated in the Sailing Instructions and is properly identified
- any letter regarding denial of right of appeal or constitution of international jury is displayed as required by rule N1.6
- the communication between chairman, race committee, results service,

etc. is operating;

- when national authority prescriptions are in force, a copy in English is available for all competitors (rule J2.2 (6));
- procedures are followed, such as whether or not the chairman requires the secretary to remain inside or outside the jury room during hearings; whether full decisions are to be typed and posted, and the format required; whether to accompany the jury on the jury boat or remain on shore.

## **8.2 General Daily Administration**

Attend jury and race committee meetings, and ensure that all notices to competitors, amendments to Sailing Instructions, etc. are signed by the appropriate officer (the principal race officer, race committee chairman or jury chairman - see Appendix 11 for blank forms), and posted as quickly as possible. Adequate photocopies must be available for competitors.

Each day, each member of the jury needs photocopies of any new paperwork (amendments etc.) in their file. The jury section of the official notice board must be kept in order.

Applications for crew substitutions and haul-out requests must be processed, if the Sailing Instructions specify that these require jury approval.

## **8.3 Receiving Protests**

The hours the jury desk will be open to receive protests (or notify if elsewhere) must be posted.

The receiving officer must never reject any protest or request for redress, whatever form it takes, and whether or not it is received outside the time limit. It is for the jury to decide whether or not a protest or request is valid, after addressing the various validity requirements.

## **8.4 Recording and Copying the Protest**

On receipt, each protest or request for redress should receive a number, date, time, and the initials of who received it. This information must be recorded on the protest form.

If there are convenient photo-copying facilities, several copies may be made at this time, one of which can be returned to the person lodging the protest or request, and one made available at the earliest opportunity to

the protestee. The balance of the photocopies and original are for the protest committee.

## **8.5 Arbitration System**

When a protest is delivered to the protest desk, a judge or jury secretary accepting protests logs the time and asks the protestor to stand by. A judge then determines if the protest is suitable for arbitration, and if so, the protestor is asked to find the representative of the other boat. The arbitration hearing is scheduled to be heard as soon as both boats are present and the parties accept arbitration as an alternative to a full hearing.

If one of the parties does not come to the arbitration hearing, the arbitration hearing does not proceed. The voluntary nature of arbitration makes rule 63.3(b) inapplicable. The jury secretary will schedule the protest for a protest hearing.

## **8.6 Withdrawing Protests**

A protest can only be withdrawn when the competitor's request is approved by the jury (rule 63.1) or an arbitrator, when this system is in use. Once the protest has been received and logged in the register nobody except the jury or arbitrator can allow the protestor to take it away.

## **8.7 Acknowledging an Infringement**

When a protest has been lodged, and the protestee wishes to "acknowledge the infringement", the words - "I acknowledge the infringement described in this protest, and hereby retire (or accept a penalty)" - should be written on the protest form and signed by the representative of the protested boat. Often a special form is used which is then stapled to the protest form. In all cases of acknowledgement, the protest must be presented to the jury, perhaps when all other hearings have been completed.

## **8.8 Scheduling Hearings**

If it is known when hearings are to begin, the representative of the protesting boat can be informed when his hearing is scheduled. The first few hearings are best scheduled at 10 minute intervals, then at half-hour intervals (assuming there is only one protest committee). Thus, if the first one or two protests are invalid, there is little delay. Should the first hearings take much longer, the remaining hearings can be rescheduled.

The objective is to keep the jury working until all hearings are complete



(allowing for meal breaks) and keeping the competitors waiting as little as possible. If hearings get behind schedule, later hearings should be rescheduled, so that competitors can get changed or go for a meal.

When there is a protest and a counter-protest, or protests from different boats about the same incident, they should be scheduled to be heard at one hearing.

Hearings should be scheduled so they are heard in the order that the protest forms are received, and all those requiring race committee evidence are heard consecutively.

The race committee should be promptly informed of any request for redress to allow as much time as possible to investigate the matter.

Photocopies should be made of each form so as to provide a copy for each member of the jury, the protestor, and the protestee (or race committee in the case of a request for redress or request for a hearing), plus an extra for filing by the secretary. The jury chairman should receive the original form.

The hearing schedule should be posted on the notice board as soon as possible after the end of protest time for lodging protests. Hearings may begin before the protest time expires provided that the parties to the protest are ready to proceed.

## **8.9 The Hearing**

When the jury is ready to hear the case, a copy of the protest (or request) should be given to each member of the jury. When the jury is ready to proceed, call the parties, usually one from each boat, and interpreters if necessary.

The jury secretary should ensure that witnesses are available and waiting (out of earshot!), and be ready to ask them to enter the jury room when requested.

After each hearing, record the decision, and file the original protest form. A good system is to use a large envelope for each case, with the serial number and parties noted on the outside of each envelope. When all protests have been heard, the jury secretary should communicate the results to the results office and the media, complete the protest results log and post it on the notice board.

If there is a request for a written decision from competitors, the jury secretary should make sure that a time is set aside for the matter to be

discussed, and that any written decision is posted by the appropriate time before the next race.

#### **8.10 After the Last Race**

The jury secretary, in consultation with the chairman, should ensure that all protests and papers are filed, perhaps with the organising club, for reference. They should be kept for at least six months after the event.

## **9. The Protest Hearing**

## 9. The Protest Hearing

### 9.1 Jurisdiction, General Principles, Preparation

The jury's jurisdiction is limited to that granted by the Racing Rules of Sailing. These racing rules in their turn, by means of sailing instructions, call up other rules such as national authority prescriptions when they apply, class rules and any other conditions governing the event. If a boat breaks a bylaw of a government, harbour or maritime agency, unless the requirement for a boat to comply with such a law is included in the sailing instructions, the matter is outside the jurisdiction of the jury.

In addition to requests for redress by a competitor there are several types of protest hearings:

- boat vs. boat                      rule 60.1
- RC vs. boat                      rule 60.2
- PC vs. boat                      rule 60.3  
   rule 61.1(c)      during a hearing  
   rule 60.3(a) 1    serious damage or injury

The function of the jury, sitting as a protest committee, is to resolve disputes in such a way that the competitors feel that they have been dealt with fairly and in strict compliance with the rules. The hearing should be conducted in a formal but friendly way so the parties feel they had their evidence seriously considered. The jury should be polite, yet firm.

Dress by members of the jury should be appropriate for the event and its venue.

There are many different room configurations that work well. Some chairmen like a round table with the participants alternating with the members of the jury. Others feel that at important events such as world championships, the chairman should sit in the centre of the side of the table facing the door, with the jury members sitting either side of him. Parties should sit opposite the chairman. When a witness gives evidence he should sit between the parties.

No alcoholic beverages, including wine or beer, should be consumed by the members of the jury before or during a hearing. No alcohol or smoking should be allowed in the jury room, and mobile telephones must be switched off.

The chairman should run through the protest or request for redress with

the other members of the jury before the parties are invited in, so that the jury has a general idea of the problem.

When there is time, the members of the jury should be introduced by name to the parties to the protest. If a party objects to any member, the chairman should ask the reason, and if the objection meets the definition of interested party, replace the member, although they may still participate as a witness. If not valid, the objection should be overruled.

It is very rare for there to be a legitimate reason for objecting to a member of an international jury; nationality in itself is never a legitimate reason.

The jury members should take an active role in questioning the parties (at the appropriate time) to ensure that sufficient evidence is presented to enable the jury to find facts necessary to determine the protest.

Jury members' notes of the evidence are very useful.

Junior sailors (some of whom may be as young as 10 at an Optimist World Championship) can be intimidated by insensitive judges and the jury hearing system. Special care and patience by judges is essential. Younger sailors find the final summing up particularly difficult and more complete explanations of rulings may often be necessary.

## **9.2 Interpreters**

Great care should be taken to ensure that competitors who are not fluent in English understand all of the statements and procedures. Constant checks by the chairman are necessary. This can be difficult for a chairman who also needs to be concerned about procedure. It may be necessary to ask one of the jury members to pay attention to the individual instead.

If a competitor speaks enough English to say he has poor English skills, ask him to start the hearing without an interpreter. If he is still having trouble understanding, allow an interpreter to be present. It is often the coach who plays this role, and if the chairman is not careful, the coach can provide an unfair advantage to his athlete. Remind the coach that they are there as translators, not rules advisers.

In general, the chairman should not allow interruptions by the parties during the hearing and should explain that the procedure will permit each party to give his evidence at the appropriate time. However, interruptions by a party (or jury member) to say he did not understand or did not hear something should be welcomed.

### **9.3 Right to be Present**

All parties to the protest have a right to be present during the hearing and to ask questions of any person giving evidence. When a party elects not to attend, the hearing should proceed without him. When a party wishes to attend but finds the time of the hearing inconvenient, the jury must decide to what extent the competitor can be accommodated. The jury must allow the protestee a reasonable time to prepare a defence. When at the beginning of a hearing, the jury is asked for more time, it will need to decide whether more time is deserved or necessary. Usually, however, when asked by the chairman, the protestee is happy to proceed immediately.

When neither the protestor nor the protestee attends the protest hearing, the jury may act as it thinks fit. It may dismiss the protest, or, it may act upon the evidence at hand i.e. the protest form. If a collision is alleged, it may find the facts and disqualify the infringing boat. When this occurs, the jury should be ready to reopen the hearing on request.

### **9.4 Right to Withdraw a Protest**

Withdrawing a protest requires the approval of the Jury. A competitor may not automatically withdraw a protest simply by saying so. The jury should determine the reason why it is being withdrawn. If foul play is suspected, that permission should not be given.

### **9.5 Hearing More Than One Protest Concurrently**

When there is a protest and a 'counter-protest', or several protests relating to the same incident, they should be heard together in a single hearing. If the jury has doubts about whether two protests are about the same incident, it is preferable to assume that they are and start the hearing as if they were.

Multiple requests for redress about a single complaint are best addressed at a single hearing. When considering the validity of protests concerning one incident, each should be addressed in order of lodging. The jury should decide whether each is valid and give the reasons for refusing those that are not valid; however, provided that at least one is valid, the hearing must proceed.

When there are multiple counter protests, it is normal practice to allow the competitor who lodged the first valid protest to choose whether to act as the protestor (and give evidence first) or the protestee (and give evidence, and summing up, last).

## **9.6 Penalising a Boat Other Than the Protested or Protesting Boat**

A party to a protest has the right to hear all the evidence. If it becomes apparent that a third boat might have infringed a rule and that boat must be protested by the Protest Committee under rule 60.3(a)(2). Rule 61.1(c) requires that the boat be informed as soon as possible, the current hearing should be closed, and the hearing begins again with all the parties present.

## **9.7 Observers**

At the initial jury meeting, the matter of whether hearings should be open to observers should be discussed. The ISAF's policy is to encourage open hearings, but often a large enough room is not available.

Opening a hearing to observers not connected with the case, club members, other sailors, parents, coaches, and press, can greatly enhance the respect for the hearing system and can have a deterrent effect to parties and witnesses who are inclined not to be truthful when giving evidence. However, a hearing should not be made open to observers if any jury is uncomfortable with spectators. It is more important to give a good service to the parties than to educate, impress or entertain those not involved.

No person should be present who witnessed the incident and who is to be called to give evidence, or might be called to give evidence.

Observers at an open hearing should be made aware of their obligation to be quiet, except to draw the chairman's attention to the fact should any observer realise they were involved; such an observer should then be asked to leave, but might be called (by a party or by the jury itself) to give evidence.

The observers must leave the room when the evidence has been taken and the jury wishes to discuss the case and make a decision. See Appendix 8 for a proposed wording for Observer Rules.

A party might ask for a hearing to be closed to observers, and such a request can be considered by the jury on its merits.

## **9.8 Hearing procedure: Validity**

### **9.8.1 General Principles**

The validity of a protest must be addressed by the jury before the hearing can proceed. It is not sufficient to simply obtain the protestor's opinion that

the protest is valid. This may require that the chairman investigates deeper if the response to the question “When did you yell protest?” is “Immediately.”

When the protested boat admits that she knew she was being protested and did not do a turns penalty, the jury may review each of the validity requirements quickly.

When the protest is valid the hearing must proceed (unless a party acknowledges an infringement); when it is invalid, it must be refused. However, if the protest is invalid but serious damage or injury resulted from the incident, the jury may protest any boat involved (rule 60.3(a)(1)).

When the protest seems invalid, an opportunity must be given to the protesting boat to give evidence on the failed validity requirements. If there is conflicting evidence on the question of validity, it is normal for the parties (and observers, if there are any) to withdraw while the jury decides on whether or not the protest is valid, then recall the parties and announce its decision.

### **9.8.2 Receiving Written Protest in Time**

Unless a procedure for lodging protests is specified in the Sailing Instructions, a protest is considered to be lodged when it is received by any official whom the boat's representative assumes to be acting on behalf of the race committee or jury. If the protest is submitted outside the time limit, it should be accepted and that fact noted clearly on the first page. The secretary must not refuse a protest because the time limit has expired.

If the protest is late, rule 61.3 requires the jury to decide whether there is an acceptable reason for it being outside the time limit. When there is a good reason, the jury must extend the time limit and record its action.

### **9.8.3 Identification of Protestee**

The protest must identify the protestee. In almost all cases, this will be by sail number or boat's name. When there is an error in identification, this may be corrected before the hearing starts.

### **9.8.4 The Description of the Incident**

The nature of the incident must be included in the protest. When this is not included, the protest is invalid and must be refused. There must be adequate information from which the protestee can identify the incident and understand the allegation. Other details required by rule 61.2 may be



corrected before or during the hearing.

#### **9.8.5 Protestor's Representative**

The protestor is the boat that protests, and the boat's representative is the owner or the person in charge (rule 78.1). However, when neither appears, the jury should be sure that the person before them is authorised by the owner or the person in charge.

#### **9.8.6 The Hail**

One issue that ISAF's Racing Rules Committee has not yet addressed is the interpretation of "reasonable" in rule 61.1(a), "...she ... shall hail 'Protest' and conspicuously display a red flag at the first reasonable opportunity..."

Until the Racing Rules Committee approves a Case, International Judges will be forced to use their own common sense to interpret the requirement taking into account the prevailing conditions at the time of the incident.

#### **9.8.7 The Protest Flag**

On boats over six metres, a red flag must be conspicuous and displayed at the first reasonable opportunity after the incident and keep it displayed until she is no longer racing. A protest flag must be seen primarily to be a flag (ISAF Case 72). No protest flag is required from boats less than six metres.

A delay of more than 30 seconds would rarely allow the protested boat an opportunity to do a penalty or meet the requirement of rule 61.1.

#### **9.8.8 Protests in the Racing Area**

In the racing area, when the protestor has hailed 'protest' loudly and displayed the protest flag correctly, the protestee has been adequately informed and nothing else is required under rule 61.1.

#### **9.8.9 Protests not in the Racing Area**

The protestor must inform the protestee that she is lodging a protest as soon as reasonably possible. This might be the next time they come close on the race course. Or, if the boats had not come close to each other on the water, very soon after coming ashore.

#### **9.8.10 Determine Validity**

The validity of the protest needs to be decided. If it seems obvious that the protest is valid, the chair may glance at the rest of the jury to see if anyone would like to discuss any issue. If not, the chair can simply state that the jury is satisfied that the protest is valid. If someone on the panel would like to discuss the question, the parties are asked to leave the room during the deliberation.

If it is decided requirements for the protest have not been met, the protest is invalid and the hearing is closed.

### **9.9 Hearing Procedure: Taking Evidence and Finding Facts**

The next objective is to listen to the evidence and develop a clear picture of what each party thinks happened. During this part of the hearing a judge is starting to “see” the incident and determine which rules might apply. Questions by judges should be limited to helping to determine which rule applied as the situation developed or to determine how credible a person’s evidence is about what happened during the incident.

### **9.10 Hearing Procedure: Witnesses**

The jury must hear all witnesses called by the parties. This can be helpful when one of the crew gives a different story to the others, or it can be an apparently unnecessary lengthening of the proceedings. An able chairman will keep witnesses strictly to the point and gather the necessary evidence quickly without giving offence.

Appendix 6 of this manual gives the normal routine order of conducting a case, calling witnesses etc. This is not obligatory and may be altered under exceptional circumstances.

When witnesses are called to give evidence, the jury secretary, or a representative of the jury should be instructed to call them, rather than a party to the protest.

### **9.11 Hearing Procedure: Finding the Facts**

Juries must evaluate the evidence given by each party and witnesses and be aware of factors that might impact on their decision-making. The witness’s style of communication and their level of confidence are often not reliable indicators of the accuracy of their information.

Judges should be aware of the wide range that individuals perceive and describe events. Someone may excel in some areas but have normal or

subnormal skills in other areas. This variability makes a difference in how well people express their recall of an event in a protest hearing. Some will do better orally and others will do better by demonstrating with model boats. Not all parties will write a good description or draw a good diagram. Deficiencies in any way of expressing evidence should not be automatically taken as poor recall or poor situational awareness. The deficit could reflect instead a limitation in a persons ability to express himself.

Allow witnesses to show the incident with model boats from their own angle. Do not set the wind direction for them, because this requires them to mentally rotate the incident to a new angle if they saw it at a different angle. Not all people are good at mental rotation, and this could interfere with their recall of the incident.

Assign colours of boat models to the boats involved in the protest and keep the colours consistent through all presentations in the hearing. This will assist the parties and judges in understanding the demonstrations of the incident. This will be especially helpful to any judge who might have difficulty in seeing the incident from different angles if one presentation has the wind blowing at the presenter, and another has the wind blowing away from the presenter. The ability to mentally rotate the event in space is not related to the person's ability to perform as a judge.

#### **9.12 The Influence of Race Memory on Recall of Evidence**

Human perception begins with expectation based on prior knowledge, and not on sensations of what was there to see or hear. Persons with good race memory know where to look at the time of the incident and are able to recall incidents with good detail, including nearby boats, relative positions and speeds of boats, and the sequence of events. With good rules knowledge also, the witness will present evidence that is likely to fit within the requirements of the rule believed to apply. Persons who do not know the rules well may miss important details on boat positioning that are needed to find facts.

#### **9.13 Cautions in Evaluating Evidence**

Juries can make judgements about the credibility of evidence based on style and presentation of evidence. Witnesses who express their opinions confidently are often given more weight than someone who is less forceful and less believable.

You should be aware of speech patterns that could lead juries to erroneous conclusions:

- Use of hedge words, such as “kind of”, “I think”, “If I’m not mistaken”, “it seems”;
- Use of rising intonation in a declarative statement, suggesting that the speaker is seeking approval for the answer, e.g. in response to the question of “how fast”, the response “5 knots?”
- Repetition indicating insecurity;
- Intensifiers, such as “very close”, instead of “close”;
- High degree of direct quotation, indicating deference to authority; and
- Use of empty adjectives, such as “charming”, “cute”, “interesting”.

Do not confuse confident witnesses with accurate ones because their confidence is based on more information than simply the information that determines its accuracy. Their confidence may not be at all related to the accuracy of their recall.

#### **9.14 Hearing Procedure: Finding the Facts**

In almost all cases the differences of opinion are settled by the quality of the evidence. The racing rules do not give the onus of proof to one boat or the other. Port is not required to prove she kept clear of starboard. A jury is required to consider all the evidence, consider who was in the best position to determine what happened—determine which evidence is more credible, then decide the facts of the incident.

It is an unalterable responsibility of the jury to establish the “facts” that the decision will be based upon, even when the parties present widely differing testimony. If one party says the boats were one metre apart while the other says ten boat lengths, the jury must decide which opinion is more creditable. Varying testimony is common and does not necessarily mean that someone is lying. It may reflect different perspectives or feelings at the time of or after the incident. When all the evidence is reviewed and a distance is determined, that distance will become a “fact” the decision is based upon.

One way to determine whether something is a fact or not is to use the “home video rule—if the action can be seen in a video, it is fact.” “Boat A altered her course when she was one boat length away is a fact. Boat B intended to luff,” or “the boats were about 10 metres apart” are not facts. “Boat C was prevented from sailing a close hauled course by the presence of boat D,” or, “the boats were more than eight metres apart,” are facts.

Listen carefully to the evidence, be aware of the parties' body language, take notes and, most importantly, establish facts. A recommended way of doing this is to:

- establish what rules might apply to the incident;
- what are the boats' obligations under those rules;
- what facts are needed to determine whether the boats met those obligations; and
- what questions will help to establish those facts.

### **9.15 Hearsay Evidence**

Hearsay evidence is evidence given by a person who has no direct knowledge; he has simply heard it from another party. For example, in support of his claim that there was a collision, a party to the protest might say "John Smith, the owner of *Outsider*, told me that he also saw the collision." The only question the chairman should ask when such a statement is made is "Is John Smith going to come to the hearing to give evidence?" If the answer is that he is not, then the statement by the party is meaningless. On the whole, hearsay evidence should be disregarded.

### **9.16 Photographic Evidence**

Photographic and video recordings may be accepted as evidence at a hearing and can sometimes be useful. However, there are limitations and problems, and these should be appreciated by the jury.

The following points may be of assistance to juries when video or photographic evidence is used.

- When a video recording is to be shown to the jury, it is the party presenting the evidence that should arrange the necessary machinery and ensure an operator (preferably the person who made the recording) is available to operate it.
- The party bringing the video evidence should have seen it before the hearing and provide reasons why he believes it will assist the jury.
- It is usually preferable to view the video after the parties have presented their cases.
- Allow the recording to be viewed first without comment, then with the comments of the party bringing the evidence, then with those of the

other party. Questions may be asked in the formal way by the parties and the jury members.

- The depth of any single-lens camera is poor and with a telephoto lens, it is non-existent. When, for example, the camera's view is at right angles to the courses of two overlapped boats, it is impossible to assess the distance between them. Conversely, when the camera is directly ahead or astern, it is impossible to see when an overlap begins or even if one exists, unless it is substantial. Keep these limitations firmly in mind.
- Use the first viewing of the tape to become oriented with the scene. Where was the camera in relation to the boat? What was the angle between them? Was the camera's platform moving? If so, in what direction and how fast? Is the angle changing as the boats approach the critical point? (Beware of a radical change caused by fast panning of the camera.) Did the camera have an unrestricted view throughout? If not, how much does that diminish the value of the evidence? Full orientation may require several viewings; take the time necessary.
- Since it takes only about 30 seconds to run and re-wind a typical incident, view it as many times as needed to extract all the information it can give. Also, be sure that the other party has an equal opportunity to point out what he believes it shows and does not show.
- Hold the equipment in place until the end of the hearing. The tape should be made available during deliberation for review to settle questions as to just what fact or facts it establishes. Also, one of the members may have noticed something that the others did not.
- Do not expect too much from the videotape. Only occasionally, from a fortuitous camera angle, will it clearly establish the central fact of an incident. But, even if it does no more than settle one disputed point, that alone will help in reaching a correct decision.

### **9.17 Written Evidence**

Written evidence from a witness or a party that cannot attend a hearing violates the principle that a witness' testimony can be cross-examined or questioned by the other parties and jury members.

### **9.18 Leading Questions**

A leading question is a question in the form of a statement inviting agreement, and should be discouraged by the chairman. However, when a questioner finds it difficult to ask any questions without them being

leading questions, the chairman may decide to allow some leading questions rather than completely disrupt the questioner's line of questioning.

Straightforward leading questions:

"You did see me steering a straight course, didn't you?", or 'Do you agree that as I was sailing toward the mark, I had a half boat-length overlap?'

Presuppositions:

A question with a presupposition leads the witness to view the presupposition to be accurate. For example: "Had the boats reached the 2 length zone when the overlap was established?" This question presupposes the overlap. Witnesses are likely to accept the presupposed overlap to be true, or to remember it as an established fact and condone it if asked about it later in the hearing. A better question would be "Position the two boats relative to each other when the lead boat got to this position (the two length zone).

A question that contains a false presupposition can influence a witness to testify to the presence of a non-existent object corresponding to that presupposition.

Multiple choice questions:

Multiple choice questions should not be allowed, because they influence the response. The question, "How many lengths, 1, 2, or 3?" will lead to a smaller number than the question, "How many lengths, 1, 5, or 10?" A better question would just be "How many lengths?"

Language that supports a position:

The question asked can lead to different answers, based on the wording chosen. The question, "How far apart?" will lead witnesses to respond with a greater number than the question, "how close?" A better question would be, "Position the two boats relative to each other and estimate the distance between them".

The choice of verbs can lead the witness. The question, "How fast were the boats travelling when blue 'smashed' into yellow?" yields a higher estimate of speed than the same sentence using the verbs, 'collided', 'bumped', 'made contact' or 'hit'. A better question using language from the rule would be "What was the speed of the boats when contact occurred?"

Questions about the existence of an object or event that use the definite article, "the" are more likely to yield a "yes" answer than questions that use the indefinite article, "a". "Did you hear the hail?" implies that the hail was

made, and the party or witness is likely to condone it, even if it is false. A better question would be, "Tell us anything that you heard".

### **9.19 Deliberations**

Once all the evidence is taken, it is the jury's responsibility to find the facts and make a decision. Often the entire panel has privately reached the same facts and conclusion. Considerable time can be saved if the chairman asks for their decision. If everyone has come to the same conclusion, then writing the facts and conclusions goes very quickly, but if it is found that the jury does not see the situation the same way, then it can quickly refocus on the differences at hand. This decision-making process should be conducted in private.

Another method of proceeding is for the chairman or his appointee to state, and at the same time write, a complete description of the incident on the basis of the evidence received. Should any member not agree on some point, or believe there is an omission of an essential fact, there should be a discussion on that point until an agreement is reached. Apply relevant rules to these facts and identify any missing ones. Discuss and agree to any controversial issues. Once the facts are recorded and agreed upon, the chairman can suggest a decision and reasons for the decision. Finally, once the facts are found, the decision should be read aloud by the chairman giving the jury members one last chance to propose a change.

When the case is complex and a wide range of opinions is likely among the jury members, it is preferable for the chairman to start by asking each jury member for an overview, and then address the points of difference.

### **9.20 Resolving Controversial Issues**

When all but one member is in general agreement, the dissenter should be given an opportunity to state his point of view, and try to persuade the other members. Only after having been given ample opportunity to persuade the others, should his opinion be overruled.

Try to obtain unanimity among the jury. Establish the most likely scenario by backing up to the last point of certainty, assess the weight of the conflicting evidence, and, if necessary, recall the parties to obtain any missing information. Once the difference of opinions among jury members has been resolved, the procedure in the previous paragraph can be used. It should be rarely necessary to have a vote, but when a reasonable time has been allowed for discussion and diversity of views persist, a vote may be necessary. This should be used as a last resort.

The chairman has a casting vote (that is, when there is an even number of



votes either way including the chairman's vote, then the chairman has an extra vote). When a casting vote is required to decide a case, it is usually worth spending some more time discussing the case.

### **9.21 Jury Member with Strongly Held Minority Opinion**

Usually, after thorough discussion, a member of the jury who does not agree with the majority is happy to be overruled by the majority. Occasionally a minority opinion on an important matter is held so strongly that the judge wishes not to be associated with the decision. In such a case, he has the right to insist that it be made clear that the jury was not unanimous. If the dissenter feels strongly enough he may ask to be named as the dissenter. In such unusual circumstances, the chairman must include details of the case in his regatta report, and when the dissenter is an International Judge, he must include details of the case in his own regatta report.

### **9.22 Onus of Satisfying the Protest Committee**

There is a primary onus on a protestor at the beginning of a protest to satisfy the jury that there has been an incident with the protestee. Occasionally, the protestee denies anything having ever happened, (perhaps the protestor has mistaken the sail number). If the jury is not satisfied, the protest must be dismissed. These cases are rare.

There is one rule, rule 18.2(e), that permits the jury, when it is in doubt, to presume facts about the timely establishment or breaking of an overlap. However, the jury must not merely rely on this rule, it must take an active part in trying to resolve the doubt by other means. It should question the parties and witnesses to elicit all available evidence to find facts and to learn what in truth happened. Then, if still in doubt, it must use rule 18.2(e) to resolve the case.

When making its decision, rule 18.2(e) is relevant only when the jury is in doubt. In this case the decision might use such words as: 'The jury is not satisfied that *Quicksilver* established an inside overlap before *Titanium* reached the two length zone,' and rule 18.2(e) would be cited. When the jury is satisfied by the evidence that *Quicksilver* failed to get her overlap, then the words used might be: '*Quicksilver* failed to establish an inside overlap [etc.],' and rule 18.2(e) would not be cited in the decision.

### **9.23 Recording the Facts and Decision; Rule 14**

When there is contact between two boats, a rule has been broken. Therefore, the jury must, under rules 63.6 and 64.1, find the relevant facts and give a decision, i.e. penalise (at least) one of the boats.

This is important if the contact caused damage. In these cases, it is essential for the jury to decide whether the boats fulfilled their responsibilities under rule 14. In every case involving contact, a rule other than rule 14 was broken. However, rule 14 specifically forbids avoidable contact between boats. Care should be taken to record the necessary facts to indicate whether either the right-of-way or give-way boat broke rule 14 and whether any penalty applies.

## **9.24 Announcing the Decision**

The jury will recall the parties to the protest to announce the decision. Observers, members of the press, and witnesses etc. may be included. The facts found, the decision, and the reason for the decision, should be read by the chairman, and, when appropriate, a translation given.

The decision will be to dismiss the protest, to conclude that no rule was broken or that a boat broke a rule and is to be disqualified, except when:

- a boat was compelled to break a rule by the actions of another boat breaking a rule;
- other penalties are provided for in the SIs;
- a right-of-way boat, or a boat with the right to room, broke rule 14 but caused no damage;
- rule 36, Races Restarted or Resailed, applies; or
- the boat was not racing, except as allowed in Rule 64.1(c)

Disqualification under these rules may not be excludable (DNE):

- rule 2;
- rule 30.3;
- rule 42, if rule 67, P2.2 or P2.3 applies.

All jury decisions should be brought to the scorers' attention promptly and a record kept of this action. (Appendix 9 Scorer Notification Form)

If a party to the protest requires clarification, this should be given immediately, but no further discussion should be permitted at this time. Whether or not, and to what extent, discussion with a dissatisfied party at a future time should be permitted, will depend on the experience and

confidence of the chairman and members of the jury. Permitting an informal discussion with the jury, and setting a time for this discussion in response to dissatisfaction when the protest decision is announced can often defuse a stressful atmosphere; conversely, refusing any future discussion can often exacerbate the bad feeling. Alternatively, a jury member may be appointed to informally explain a decision. However, any dissension within the jury should never under any circumstances be discussed outside the jury.

If, for some reason, the jury no longer complies with the requirements of Appendix N, the parties should be told that they have the right to appeal.

### **9.25 Race Committee Protests**

A protest initiated by the race committee under rule 60.2 has certain validity requirements which the jury must ensure are complied with before proceeding with the hearing. The jury must satisfy itself that neither of the exceptions in 60.2(a) apply. If either does, the race committee's protest is invalid. Rule 61.1(b) requires the protestee to be informed. Rule 61.2 applies to race committee protests.

When the race committee protests a boat, and no jury has been appointed, the race committee should appoint a committee to hear the protest.

A representative of the race committee acts in the same way as a protesting boat would do in a normal boat-to-boat protest, giving evidence, being given the opportunity to ask questions, answering questions, calling witnesses, and being asked to leave the room while the jury (or protest committee) makes its decision.

### **9.26 Measurement Protests**

Measurement protests are initiated by another boat or by the Race Committee based upon a report from the measurer under rule 60.1, 60.2 and 78.3, or by the protest committee. The rules do not give the Class Association, National Authority or the event measurer the right to protest.

Most measurement problems are found during pre-regatta measurement and are worked out between the measurer and the person responsible for the boat. However, the jury is sometimes asked to settle a dispute over an interpretation of a measurement rule before the start of racing. Otherwise, measurement protests usually arise from a protest by the Race Committee based upon a post race inspection by the measurer. Unlike a protest committee acting under rule 60.3, a measurer must report. Neither the measurer nor the protest committee has any discretion as to whether or

not to proceed; i.e. when the report is filed, the hearing must be called.

In almost all cases the jury is able to decide the protest using the process outlined in rule 64.3. Evidence concerning the accuracy of the measurement and the interpretation of the rule is presented by the competitor and the event measurer. The *ISAF Equipment Rules of Sailing* is a valuable tool to settle questions about measurement procedures.

After listening to all of the available evidence, if the jury decides there is no reasonable doubt about the interpretation of the measurement rule, then it must decide the case. The jury must do this even if the decision does not meet with the approval of the measurer who made the report, or the authority responsible for interpreting the class measurement rule.

On the other hand, if the jury is still in doubt about the interpretation of a measurement rule, rule 64.3(b) requires that the jury refer the questions, and relevant facts to an authority responsible for interpreting the rule. This authority will usually be the Class Association's technical committee, ISAF, or a National Authority. This authority is not the event measurer, even if the event measurer is also the chairman of the class technical committee. Once the jury refers the question, it is bound by the measurement authority's reply.

#### **9.26.1 Basic Rules**

A protest about measurement or rating is often the cause of much anxiety and emotion because of the inference that the owner or person in charge has knowledge, or should have had knowledge of the offence. More often a measurement error is just that, a simple error or misunderstanding about the interpretation or application of a rule. Sometimes there is a grey area between what is clearly permissible and what is clearly prohibited, exposing the rule to considerable variation in interpretation.

The entire process of a measurement protest is supported by only a few basic rules. Competitors, race and protest committees, and measurers are all required to abide by these rules.

Rule 78 is fundamental. It requires every boat to have a proper measurement certificate and makes the owner responsible for ensuring that his boat complies with her class rules and her certificate.

Rule 64.3 deals with the procedures for deciding a protest brought under rule 78.

#### **9.26.2 Class Rules**

Class rules spell out the details of how a boat must measure and/or rate.

They usually include administrative provisions, owners' responsibilities, etc., in addition to the details about measurement.

Almost no set of rules is perfect, and class rules are no exception. It is the imperfections that lead to most measurement problems. There are loopholes that permit a skilled owner or designer to stay within the wording of the rule and gain an advantage. However, often the writers of the class rules take offence to someone taking an unanticipated advantage of "their" rules and heated, emotional discussions take place.

Although the rule and measurement procedures appear complex, they can usually be understood by a protest committee with a little effort and some informed assistance from an expert witness, usually a measurer or class rule administrator.

Class association measurement and championship rules govern a class, but these rules do not empower a class association to disqualify or otherwise penalise boats during an event except when channelled through the jury.

### **9.26.3 Sailing Instructions**

Sailing instructions may include provisions for the handling of measurement questions - everything from pre-race procedures to measurement checks to penalties.

If the race organisers intend to take an active role in measurement checking and enforcement, it is important that any special rules and procedures be spelled out in the Sailing Instructions. Frequently such advance planning will eliminate problems that might develop later and save the protest committee endless time in clearly identifying its authority and role in measurement questions.

### **9.26.4 Measurer's Responsibility**

A measurer appointed for an event to conduct measurement checks is a part of the race committee. A person not so appointed, even if he is a senior international chief measurer, has no official status at an event except when called as an expert witness. Under the racing rules, the official measurer is subject to the direction of the race committee and the racing rules. He is not independent or free to act as he wishes.

Before a race or regatta, when the measurer concludes that a boat does not comply with the rules, he may suggest to the owner/skipper that the defect be corrected. If it is not, he must report this to the race committee, which must then protest the boat.

After a race, when he concludes that a boat does not comply with the class rules, he must report this to the race committee, which must then initiate a protest.

When a boat protests another for infringing a measurement rule, she must produce sufficient evidence to convince the protest committee that there may have been an infringement, failing which the protest would not be valid since it would not satisfy the requirements of rule 61.2(c). For example, a protest alleging that a boat 'must have an illegal hull', with no evidence of the way in which the hull has infringed the class rules, must be ruled as invalid, since the protest does not 'describe the incident' (i.e. describe the manner in which the boat has infringed). It is not uncommon for Sailing Instructions to require that when haul out and measurement costs are incurred they are paid for by the 'losing' party.

#### **9.26.5 Acceptance of a Measurement Protest**

The protest committee must first determine whether the protest is valid; the requirements of rule 61 must be met.

Rule 61.2(c) requires the protestor to identify the rule believed to have been broken. A protest stating only that 'the boat doesn't measure' or that 'she is too fast for her rating' should normally be rejected because it does not meet the requirements of rule 61.2(c).

Unless the allegation is reasonably specific in describing the rules infringed or the nature of the alleged infringement, the protest committee should refuse to hear the protest.

#### **9.26.6 Jury's Responsibility in Measurement Protests**

When a protest has been lodged under rule 78 and in accordance with the requirements of rule 61, rule 64.3 becomes operative and controlling.

The jury may not automatically hand the matter to someone else. It must hold a hearing, find the facts, determine whether it can interpret the rules, and if so, decide the question. Unless it is unable to interpret or apply the rules, it must decide the protest without referring the question to a qualified authority.

Note: Rule 63.6 requires that the protest committee take evidence from the parties and such other evidence as it thinks necessary. The rules expect the protest committee to obtain the evidence it needs to decide the protest.

### **9.26.7 Expert Witnesses and Evidence**

Only in an unusual situation will the protest committee be able to resolve a measurement protest without calling some more or less 'expert' witnesses. It is helpful (if not essential) to have someone who is thoroughly familiar with the class rules and procedures to assist the protest committee as an expert witness. Measurers are helpful. Boat designers can be expert witnesses when there is no conflict of interest. But witnesses, no matter how expert, are just witnesses. The protest committee makes the final decision.

### **9.26.8 Re-measurement**

When a measurer is available, and the protest alleges complex infringements, the jury may wish to order measurement checks or even re-measurement. This is within its power and its obligation to 'take such other evidence' as it needs to make a decision.

Nothing in the rules gives the owner of one boat an absolute right to demand that another boat be re-measured. The decision to order (or ask for) re-measurement is a matter for the protest committee alone (or the organising authority if the Sailing Instructions give it that power). Note however, that the losing party may have to pay for re-measurement and any measurement costs.

A boat disqualified under a measurement rule may continue to compete in subsequent races without making changes to the boat, provided that she states in writing that she intends to appeal, provided an appeal has not been denied (rule 70.4). If she fails to appeal or the appeal is decided against her, she will be disqualified from all races.

### **9.26.9 Qualified Authority**

The authority responsible for interpreting a measurement rule is sometimes identified in the Class rules. Under IMPS it is the rating authority in whose waters the boat is lying.

Once a jury refers a measurement question to the responsible authority, it is 'bound' by its report. When such a reference is made, the protest committee gives up some of its jurisdiction. Accordingly, the jury should word its questions carefully to ensure that it gets the information it needs to make its decision without abdicating its responsibilities.

## **9.27 Jury Protests**

A protest initiated by the jury under rule 60.3 has the same validity requirements as for those initiated by the race committee, which the jury must ensure are complied with, before proceeding with the hearing.

When conducting the hearing, the chairman should ensure that the boat's representative is aware that although an individual member (or two or more individual members) of the jury will present the evidence, it is the jury as a body that has initiated the hearing under rule 60.3. It is recommended that members of the jury present their evidence from their normal positions seated around or behind the protest room table.

When the witness is a member of the jury, a decision must be made as to whether that member (and any other who witnessed the incident) will leave the room with the protestee while the remaining members of the jury make their decision, or whether he should stay to take part in, or be present during the making of, the decision. Unless the chair (or the one or two jury member witnesses) feels uncomfortable with the concept of the jury witnesses remaining as a part of the jury, they should remain. The members giving evidence are certainly not 'interested parties', they are a part of an independent body, with nothing to gain or lose from the decision. If the jury witness stays for the decision, he must not give any new evidence after the parties have been dismissed.

The practice of jury witnesses being dismissed while the remaining members make the decision tends to portray jury members as individuals intent on protesting individual boats, and having a personal interest in the success of their protests. Remaining as a part of the corporate body of the jury helps to portray the jury as an independent body with an interest in the fairness of the competition as a whole. The practice of dismissing jury witnesses becomes embarrassing when all members of the jury witness an incident.

However, should the jury be convinced that the protestee feels genuinely and strongly that it would be unjust for the one or two jury witnesses to remain, then the jury witness should be dismissed for the decision. Rule N3.2 provides that the jury remains properly constituted as long as 3 members remain and at least 2 members are International Judges.

## **9.28 Drug Abuse Hearings**

Drug testing can be initiated only with written permission from the national authority or the ISAF.

Competitors cannot protest alleged infringements of rule 5; hearings in



relation to drug abuse can be initiated only after a competitor has refused to be tested or failed a drug test.

Since the testing of samples takes several weeks, the process of imposing penalties, (in so far as ISAF Regulation 21 applies), will fall outside the jury's jurisdiction and rule 63.1 does not apply.

## 9.29 Requests for Redress

A boat may not protest the race committee or the jury. It can, however, seek a hearing for redress. The race committee may request redress for a boat and a protest committee may call a hearing to consider granting redress to a boat. Redress cannot be granted without a hearing.

### WHO MAY REQUEST REDRESS?

1. A boat (rule 60.1(b))

A "boat" may request redress. In the introduction to the Racing Rules of Sailing, under terminology "Boat" is defined as meaning a sailboat and the crew on board. Obviously redress can only be given to a boat that is racing and normally boats request redress for themselves; however this is not a requirement of the rules. There is no impediment to a boat or its crew from requesting redress for another boat that is racing irrespective of whether the boat that was making the request was racing or not. If appropriate, boats may also be given redress as a result of a hearing whether it was asked for or not. (rule 64.2)

*EXAMPLE: A boat that is racing goes to the assistance of a boat that is in distress, there is nothing to preclude the boat that was in distress, irrespective of whether it was racing or not, from requesting redress for the boat that came to its assistance.*

2 The race committee can request redress for a boat.(rule 60.2(b))

*EXAMPLE: The race committee becomes aware that it incorrectly recalled a particular boat it may request a hearing for redress for that boat.*

3 The protest committee can call a hearing to consider redress (rule 60.3(b)). Unlike the race rules applicable to a protest the protest committee can call a hearing based on a report or information received from any source including invalid protests or requests for redress or from any party whether interested or not.

*EXAMPLE: During the hearing of a protest the protest committee may become aware of, or receive a report, that a boat that may be entitled to redress and has not claimed it. The protest committee may call a hearing to consider granting such redress.*

At a hearing convened to consider a request for redress, the jury must first address the validity of the request. That request must be in writing, and describe the nature of the incident. It must include the date, time,

whereabouts, and the rule infringed. Missing particulars that are relevant can be added at the hearing.

No protest flag is required (except for match racing), and there is no obligation for the boat requesting redress to inform the race committee. The request must be received within the time limit for protests. However, the time limit must be extended when there is an acceptable reason for the request having been received outside that time limit. There is no set time frame to be allowed after the time at which the requesting boat could reasonably have come into possession of the information causing the request.

A request for redress submitted as a 'protest against the race committee', or in any other form, can nevertheless be accepted as a request for redress provided it complies with the requirements of rules 61.2 and 61.3, so far as they are relevant.

Requests for redress are often received outside the protest period, and a decision as to whether the time delay was reasonable (for example after the posting of provisional results) has to be made. The protest committee shall extend the time limit if there is good reason to do so. The decision as to whether a reason to extend the time is "reasonable" is at the discretion of the protest committee but it must be at the first reasonable opportunity after the requester becomes aware of the basis of the redress situation.

When the protest is accepted as valid, the protest committee should then proceed to take evidence from the representative of the boat requesting redress, his witnesses if any, the race committee and its witnesses, and any witnesses the jury decides to call.

Questioning by the jury may be necessary to ascertain whether the request satisfies the requirements of rule 62, namely whether the boat's finishing position (either in the race in question or in the series as a whole) has through no fault of her own been made significantly worse by:

- an improper action or omission of the race committee:
  - mistiming or incorrect signals
  - improper notification of changes to the SIs
  - incorrect scoring
  - incorrect identification
  - missing or drifting marks.
- an improper action or omission of the organising authority
  - change in the Notice of Race
- an improper action or omission of the protest committee

- incorrect decision
  - improper procedures
  - collision of a jury boat and a competitor
  - on-the-water rule 42 penalty given in error
- physical damage (refer to ISAF Case 19) caused by a boat breaking a rule of part 2 or a vessel not racing which is required to keep clear
    - broken rudder
    - badly torn sail
    - injured crew member

The following are not physical damage:

- capsize
  - rigs or lifelines entangled
  - loss of places
  - crew overboard
- giving help in compliance with rule 1.1. Refer to ISAF Case 20.
  - the result of a penalty imposed under rule 2 or disciplinary action under rule 69.1(b).

A major requirement is that there must be no fault on the party making the request;

- A competitor being late to leave the marina and missing the start is not the fault of the Race Committee.
- A starting mark that drifts does not exempt a boat from the requirement to start as defined.

When the jury decides that the request does not satisfy these requirements, it must dismiss the request; as the jury has no power to ignore the requirements.

The following provides further guidance to the various requirements which are necessary for redress.

#### SCORE

For redress to apply it is a boats score in a race or series that must have been made significantly worse. The worsening of the position of a boat in a race or series is not grounds for redress.

*EXAMPLE: A boats position in a series may be made worse if a race is abandoned in accordance with the rules, however, it would not be entitled to redress because its score has not been made worse by the*

*abandonment as its score remains the same as it was before the race was abandoned.*

#### NO FAULT OF ITS OWN

To be entitled to redress, a boat's score must have been made significantly worse through no fault of its own. This means if a boat is responsible, either fully or partially, to the worsening of its score no matter how small a part it is responsible it shall not be entitled to redress.

*EXAMPLE: If a starting signal is made five seconds late and two boats are recorded as OCS, one being over fifteen seconds before the starting signal and the other by two seconds only the second boat would be entitled to redress as the first boat would still have been OCS due to his own actions irrespective of the race committee's improper action of a late starting signal.*

#### SIGNIFICANTLY

A boat's score in a race or series must be made significantly worse. The term "significantly" is subjective and is determined by the protest committee.

*EXAMPLE: The worsening of a score by one point could be significant if it decides the outcome of a series. Whereas if the worsening of a score by twenty five points means a boat comes thirty seventh in a series instead of thirty sixth it is probably not significant. However if the same boat scored the extra twenty five points in a race that it would have won this may make it significant as the boat may have missed out on a race prize.*

#### IMPROPER ACTION OR OMISSION

An improper action is the doing of something that is not permitted by the racing rules, notice of race or sailing instructions. An omission is not doing something that is stated shall be done as required by the rules, notice of race or sailing instructions. If a race officer or protest committee does or does not do something over which it has discretion or is not mandatory, even though it may be totally inappropriate and an extremely bad or poor judgement it is neither an improper action, or an omission for which redress can be given.

*EXAMPLE: If a race committee signals course 3 when only courses 1 and 2 are described in the sailing instructions this would be an improper action as the course was not in the sailing instructions. Whereas if the race committee signalled course 2 and subsequently the first boat could not finish the course within the time limit and the course was not shortened, these would not be improper actions or omissions. This course is permitted by the sailing instructions and shortening the course is not mandatory; it was certainly, a case of poor judgement by the race officer but not an improper action or omission.*

When the jury is satisfied that the request meets these requirements, it

must make as fair an arrangement as possible; it has no power to decide *not* to make an arrangement when the requirements have been met (though the fairest arrangement might be to let the results stand).

When it appears during the hearing that the requirements of rule 62 are going to be met, the party's opinion should be obtained as to what redress he hopes to get. Although the jury is under no obligation to take such an opinion into consideration, it is often enlightening.

When only one boat, or very few, have requested redress and their requests are found to have fulfilled the requirements above, the most equitable decision is rarely to abandon a race; that should be an option of last resort. It is useful and enlightening (and often a requirement in order to fulfil its obligation under rule 64.2) for the jury to obtain evidence from leading boats not involved in the request for redress.

When deciding what redress best fulfils the jury's obligation to make 'as fair an arrangement as possible', refer to the scoring adjustments in Appendix A 10. Mark rounding positions and boat timings may prove helpful. Sometimes the fairest arrangement is to do nothing.

### **9.30 Redress after Disqualification Without a Hearing**

When prescribed in the Sailing Instructions, rule 67 permits the jury to penalise a boat without a hearing when it is satisfied that the boat has infringed rule 42. However, when a boat thus penalised requests redress, the jury must arrange a hearing, even when the evidence is such that an infringement seems certain. The jury must not only be seen to be fair but must act fairly to all competitors.

### **9.31 Requests to Reopen**

Rule 66 does not enable an unsuccessful party to simply re-argue the merits of his case, but rather to present new evidence that could not reasonably have been presented at the original hearing. The word "may" in the first sentence of rule 66 means that there is no absolute obligation on the protest committee to reopen, but the protest committee would err if it does not do so when the circumstances clearly warrant a reopening. That said, it is not in the best interests of the event to allow an unsuccessful party a reopening only for the purpose of shoring up an argument or reformulating testimony that had already been considered. In those circumstances, a reopening is also unreasonably burdensome to the protest committee and the other parties involved.

There are two circumstances described in rule 66 which require a protest committee to reopen a hearing after it has made its decision. The first is

when the protest committee decides that it may have made a significant error. The second is when significant new evidence becomes available within a reasonable time. The word “significant” is used to qualify both circumstances and means the error or new evidence would likely change the substance or outcome of the decision.

Errors by the protest committee that should lead to a reopening include improper procedures or misapplication of a rule. The protest committee might decide that a key conclusion was not supported by the facts. More often, a hearing is reopened when a mistake was made in the interpretation of a rule.

For a hearing to be reopened to consider new evidence, the evidence must be both new and material (rule M4). New and material evidence means evidence not previously presented in the original hearing, which bears directly and substantially upon the specific matter under consideration and which is neither cumulative nor redundant. Cumulative evidence is additional evidence of the same character as existing evidence and that supports a fact established in the previous hearing, especially a fact that does not need further support. To be material, the evidence must be relevant to the decision and which leads to a reasonable possibility that, when viewed in the context of all the evidence, the outcome of the case will change.

In order to be considered new, the evidence must not have been available at the time of the previous hearing. Evidence that was in existence at the time of the original hearing but unknown to the party at that time may be considered as new evidence. Evidence that was known to exist but not presented is not new.

A party to a hearing has an obligation under the rules to prepare for the hearing, to locate witnesses, to collect evidence in advance of the hearing, and to request a postponement if it is needed. See rule 63.2 (Time and Place of the Hearing; Time for Parties to Prepare). If a witness or other evidence is known to exist but is unobtainable in time for the hearing, it is the responsibility of the party to ask for additional time. The scribe will record any such request.

For example, a new witness presented after the hearing is closed, is rarely considered “new evidence” unless the party made the protest committee aware of the witness before or during the original hearing, or unless the witness and his testimony were unknown to the party. When a party does not search for witnesses or does not ask the protest committee for a postponement, any later request to reopen to hear a “new” witness will rarely be granted. If however, the party attended the hearing and requested a postponement or extension of time to locate a witness, a

subsequent request to reopen may meet the test of rule 66 and the protest committee will likely want to reopen the hearing.

Photographic and videographic evidence that is claimed to be new can and should undergo a preview by some or all of the protest committee to establish that the evidence is new, material and not cumulative. The chairman will usually assign two or three judges to view the evidence and report back to the protest committee. If the evidence is appropriate and pertinent, or if there is any doubt, the judges will refer the evidence to the full protest committee.

The protest committee could also learn of significant new evidence on its own and decide to reopen the hearing. If any new evidence is to be considered, the parties have a right to be present under rule 63.3 (Right to be Present). In addition, the parties have the right under rule 63.6 (Taking Evidence and Finding Facts) to question any new witnesses.

If a party requests a reopening, the protest committee must decide if the request to reopen is valid. There is a time limit for requests to reopen a hearing. Under rule 66, a party has 24 hours after being informed of the protest hearing decision to ask for a reopening.

If the request is timely, the protest committee must decide, from the reasons given by the requesting party, if it has made a significant error or if there is significant new evidence. The initial presentation by the requesting party should be limited to the reasons for reopening, not to any new evidence. The rules are silent on the subject, but if the other parties are available it is a good idea to have them present during this initial fact-finding.

If the protest committee decides there is sufficient reason to reopen, it must notify the parties of its decision. When the hearing will be reopened, the protest committee must provide the same notification that is required for a protest hearing and a majority of the members of the protest committee should, if possible, be members of the original protest committee. At a reopened hearing, only the new evidence or evidence related to an alleged protest committee error should be considered. Parties may ask questions, call witnesses and sum up, and the protest committee proceeds as it would in any other hearing.

If the protest committee decides on its own that it may have made a significant error, it may, without taking any new evidence, revise its decision without the parties present. There is no time limit for the protest committee to reconsider its decision. When the protest committee changes its decision, it shall inform the parties in accordance with rule

65.1. This can be done by posting the revised decision or by delivering copies of the decision to the parties to the hearing.

It is always up to the protest committee to decide whether a reopening request is granted and the examples of situations stated above where a protest committee may grant a reopening are only a guide and should only be used as such.

The protest committee may also reopen a hearing when it had decided a protest without a party present but later found that the party was unavoidably absent. That hearing is reopened under rule 63.3(b), not rule 66, and is therefore not subject to rule 66's limitations on scope and timeliness. Such a hearing would begin anew, rehearing all evidence previously presented.



## **10. Arbitration**

## 10. Introduction

Protest arbitration is a process of resolving protests without the formality of a full protest hearing. Arbitration is simply a short meeting between the sailors involved in a protest and an experienced judge serving as the arbitrator. All parties must agree to participate, and if any party refuses, arbitration cannot proceed. The sailors tell the arbitrator what happened on the water and the arbitrator makes a decision about which boat, if any, broke a rule. The party that broke a rule may take a reduced penalty which is specified in the Sailing Instructions. If the arbitrator's decision is accepted, the protestor withdraws the protest and the dispute is resolved before the protest is formally heard by the protest committee. The primary purpose of arbitration is to simplify and speed up the protest process for incidents that do not require the full protest hearing process.

### 10.1 The Penalty

Arbitration can only work if the boat that the arbitrator says broke a rule can take a penalty that is less than the disqualification she may receive in any subsequent protest hearing. The penalty is stated in the sailing instructions and, if accepted by a boat as a result of arbitration, holds the same status under rule 44.1(b) as the penalty she could have taken on the water.

The penalty for arbitration should be more severe than any penalty that is available to the boat on the water at the time of the incident, but significantly less severe than a DSQ. Most judges have found that a scoring penalty of 40% of the number of boats entered works reasonably well. A more severe penalty often results in a competitor refusing to take it and instead deciding to take a chance on avoiding a DSQ in the protest room. A less severe penalty cheapens the penalty that a competitor promptly accepts on the water. A boat shall not be scored worse than the points for a DSQ. As in other scoring penalties, there is no change to the finishing order of other boats in the race. Therefore two boats may receive the same score.

For boats finishing toward the back of the fleet, any fixed percentage scoring penalty will often result in the penalty being the same as disqualification. As an alternative to the fixed 40% penalty, a sliding penalty may make arbitration acceptable for those boats, such as points equal to 40% of the number of entries or 50% of the difference between the boat's finishing position in the race and the number of entries, whichever is less. For all percentage penalties, use the rounding formula shown in rule A10.

The penalty must be clearly defined in the sailing instructions and as with penalties taken on the water, a penalty taken ashore should be available when appropriate to any boat, except in a protest hearing. That resolves potential inequities that result in having the penalty available only through arbitration. For example:

- (a) If the penalty was available only in arbitration, a boat that broke a rule in a situation that is not suitable for arbitration does not have access to the same penalty that a boat can take in a less complicated situation that is subject to arbitration.
- (b) The protestor cannot deny the protestee access to the lesser penalty by refusing to attend the arbitration. If the protestee can take the penalty in or out arbitration, the protestor does not gain by refusing arbitration.
- (c) A universal penalty available after racing allows a boat to take a penalty instead of retiring (RAF), when she realizes she broke a rule when coming ashore.

**In all cases, the penalty taken must be appropriate for the infringement. A boat taking a penalty other than retirement cannot have caused injury or serious damage, or have gained a significant advantage from her breach.**

## **10.2 Principles of Arbitration**

In considering arbitration for an event, it is important for the organisers and the protest committee to understand the impact of arbitration on the racing rules. When used as described here, arbitration is consistent with the 2005-2008 Racing Rules of Sailing. None of the rules in Part 5 (Protests, Redress, Hearings, Misconduct and Appeals) that protect the interests of the competitors are compromised by arbitration. All of the safeguards built into Part 5 Section A (Protests and Redress) and Part 5 Section B (Hearings and Decisions) remain in place. If the decision of the arbitrator is accepted by the protestor, the protest is withdrawn. If not, the protest remains and must be heard under the rules of Part 5 by the protest committee. See rule 63.1 (Requirement for a Hearing).

The competitors should be notified in the notice of race and sailing instructions that all protests involving a rule of Part 2 will be subject to arbitration. Rule 44.1 needs to be changed in the sailing instructions with language similar to the following:

*Rule 44.1 is changed to permit a boat that has broken a rule of Part 2 or rule 31.1 to take a penalty after racing but prior to any protest hearing. Her penalty shall be a scoring penalty as calculated in rule 44.3(c) equal to 40% of the number of entries or 50% of the difference between her finishing position and the number of entries, whichever is less.*

Arbitration takes place after a written protest has been lodged, but prior to the protest hearing. The arbitration hearing is held in a quiet location, well away from other competitors and observers. Testimony given during arbitration should not be overheard by any potential witnesses of a subsequent protest hearing. Only the arbitration judge, the protestor and the protestee are permitted to attend. No witnesses are allowed. If a competitor believes the case requires a witness, the protest will go to a protest hearing.

Arbitration should only be used for protests where:

- the incident only involves two boats. A protest involving three or more boats is usually too complex for a single judge to handle in less than 15 minutes.
- the incident is limited to the rules of Part 2 or rule 31. If it becomes clear that other rules are applicable, or another boat may be involved, the arbitration hearing should be closed and the protest forwarded to the protest committee.
- there was no contact that could have caused injury or serious damage.

An arbitration hearing is not a protest hearing. While the general procedures of hearing a protest are used in arbitration, the arbitrator is not bound by the rules of Part 5 that govern the conduct of a protest hearing. The arbitrator and the competitors should understand that any participant in an arbitration hearing may decide that the protest should be heard by

the protest committee. Such a request from a competitor must not be denied.

The arbitrator conducts the hearing with the knowledge that the protest may still be heard by the protest committee. The arbitrator never enters into a discussion on the interpretation of a rule or answers questions about his/her conclusions until the decision is accepted and the protest withdrawn.

The arbitrator's main task is to decide the likely outcome of the protest if it went to a protest hearing and includes validity which is the first hurdle. This includes the possibility that the protest will be dismissed as being invalid, e.g. if the protest form states the flag was displayed 3 minutes after the incident and there were no exceptional grounds, then why go any further and advise the protestor that the protest is invalid.

The arbitration hearing begins with validity but taking the nature of arbitration this cannot be an exhaustive probe for the facts of any issue. If this is needed then the protest is not suitable for arbitration. The arbitrator will ask *how did you inform [protestee] of your protest?* and *MAY did you fly a flag? or did you hail protest?*. A simple request for confirmation from the protestee helps but do not allow a long answer and does not deeply go into the timing of the flag or hail.

The arbitrators impression about validity will then be somewhere along the following lines:

|        INVALID        |        QUESTIONABLE        |        VALID        |

To be reasonable to all parties the arbitrator should continue even though the limited available facts about validity put this in the *questionable* zone. But the arbitrator should not proceed if he/she is convinced that the protest is invalid.

If so, the arbitrator may say "I think the protest committee will find this protest invalid" and suggest that the protest be withdrawn.

Using model boats, the arbitrator takes each party's testimony in turn, allowing questioning, but keeping tight control. In making a decision, the arbitrator will consider the probability that testimony derived from witnesses or more rigorous questioning of the parties will not substantially change the facts presented to the arbitrator.

The arbitrator will decide:

- One or both boats broke a rule. The arbitrator applies the principles of exoneration to a boat that has been compelled by the other boat to break a rule,

usually by saying "*I think Boat B broke a rule.*". Refer to rule 64.1(b).

- Neither boat broke a rule.
- The protest should go to the protest committee. The protest might be too complicated to decide without witnesses or may involve a rule not suited to arbitration.

The entire process should take no longer than 10 to 15 minutes. If that time is exceeded, the issue is too complex for arbitration, and the arbitration hearing should be closed. The protest is then forwarded to the protest committee.

If the arbitrator's decision is accepted and any appropriate penalty(s) taken, the arbitrator asks if the protestor wants to withdraw the protest. For arbitration hearings, the protest committee agrees to give the arbitrator the right to act on the committee's behalf and approve a request to withdraw a protest under rule 63.1 (Requirement for a Hearing). Note that there are good reasons but no obligation on the protestor to withdraw the protest.

If the protest is not withdrawn, it must be heard by the protest committee. Sometimes a protestor may refuse to withdraw the protest in order that the protestee will be scored DSQ in the protest hearing. The arbitrator should explain that if a boat accepts an appropriate penalty, rule 44.4(b) (Limits on Penalties) applies. In such a case, the protest committee may penalize the protestor in the subsequent protest hearing, but the boat that took the penalty shall not be penalized further.

Once the protest is withdrawn, the arbitrator is free to discuss any aspect of the case with the parties to the hearing. Successful arbitration is often followed with a number of "what if" scenarios played out between the judge and the sailors, unless the judge has other duties. If time is limited, the judge can arrange to meet the competitors at a later time.

The arbitration judge must not serve as a member of the protest committee empanelled to hear that same protest. There are two reasons for this. First, the arbitration judge will be seen by the competitors to have already made up his/her mind. Second, the arbitrator could have testimony obtained during arbitration that will not be available in the protest hearing.

Testimony given during the arbitration hearing shall remain confidential and the arbitrator shall not discuss any aspect of the arbitration with the protest committee before the hearing. The arbitration judge shall not be called as a witness as any testimony obtained by the arbitrator is not first hand.

The arbitrator should also not be an observer at the hearing, and should only be called as a witness if there is a subsequent hearing under rule 69 against one of the parties for lying in the protest hearing.

Some judges believe that the arbitrator's presence in the hearing room keeps the parties from changing their story. That view has to be weighed against the importance of having the arbitration process being seen by competitors as completely independent and transparent from any protest hearing.

### **10.3 The Procedures**

When a protest is delivered to the protest desk, the judge or jury secretary accepting protests logs the time and asks the protestor to stand by. A judge or arbitrator reviews the protests as they are received to decide if the protest is suitable for arbitration. At large events it is preferable to have more than one arbitrator to enable the process to flow smoothly. If the protest is suitable for arbitration, the protestor is asked to find the representative of the other boat and the arbitration hearing is scheduled to be heard as soon as possible.

If one of the parties does not come to the arbitration hearing, the arbitration hearing does not proceed. The voluntary nature of arbitration makes rule 63.3(b) inapplicable. The jury secretary will then schedule that protest for a protest hearing.

The judge should have available the notice of race, the sailing instructions and any amendments to them, a current rule book, a watch to keep track of the time and boat models. It may also be desirable to have The Case Book on hand, but it should not be referred to while the competitors are in the arbitration area. If an ISAF Case must be consulted, the incident may already be too complex for arbitration.

Pre-printed forms for penalty acceptance are useful but not mandatory. The last page of the Protest Form has a tick box for the protestor to withdraw the protest.

The arbitrator may assist the protestor in correcting protest contents under rule 61.2. The arbitrator does not write the decision on the protest form in case the decision is not accepted by the competitors.

Keep in mind that even if both parties agree with the arbitration decision, the arbitration is not complete until the withdrawal of the protest is approved by the arbitrator (rule 63.1) and agreed by the protestor. It is advisable to have the arbitrator write on the protest form the words "I withdraw this protest" or "I acknowledge breaking a rule and accept the penalty stated in the sailing instructions", and have the competitor sign the statement.

The arbitrator may accept a request, with good reason, to withdraw the protest before the arbitration hearing. However, if the hearing proceeds and the arbitrator decides the protestor broke a rule, the protestor is not permitted to withdraw the protest before the penalty is accepted.

Arbitration decisions are not subject to appeal. Rule 70.1 dictates that only protest committee decisions can be appealed. If the protest is withdrawn, there is no protest remaining and nothing to appeal.

### **10.4 The Arbitrator**

The judge who will arbitrate protests should be a highly qualified and experienced judge with a strong command of the rules. The arbitrator must think and make decisions quickly and must command the respect of the sailors. An excellent deliberative judge may not make the best arbitrator and will usually be more valuable in untangling the complex protests that are not quickly resolved through arbitration. If a judge would like to learn the arbitration process, it is acceptable to allow him/her to attend the arbitration hearing as an observer, as long as both parties agree. But, remember neither the arbitrator nor the observer will be able to sit on a panel that might later hear that protest.

## **10.5 Conclusion**

Sailboat racing is a self-policing sport and the method to resolve a dispute on the water begins with the hail of "protest." If the protested boat takes a penalty on the water, the dispute is resolved. If the protested boat does not take a penalty, the rest of the process is often seen by competitors to be too formal and too time consuming.

Protest arbitration provides an intermediate method of protest resolution before the protest is heard by the protest committee. Arbitration gives sailors a chance to take a less severe penalty than disqualification when they realize that they have broken a rule. Arbitration does not solve all protests, but for most situations involving the rules of Part 2 and rule 31, arbitration is seen by competitors to be fast, informal and much less intimidating than attending a protest hearing.

## **11. Damage and Injury**



## **11. Damage and Injury**

These important words are used in conjunction with four rules and despite their importance; there is very little case law to guide a jury as to their application.

- Damage  
Rule 14(b), penalise a boat for contact that causes damage
- Serious damage  
Rule 44.1, taking a penalty for a part 2 infringement
- Physical damage  
Rule 62.1(b), granting redress
- Serious damage or serious injury  
Rule 60.3, protest brought by a protest committee

### **11.1 Damage**

There is no definition of exactly what constitutes damage; however ISAF Case 19 makes some suggestions:

- was the market value diminished?
- was an item or equipment made less functional?
- was a crew member injured?

### **11.2 Serious Damage**

This is not possible to define but a protest committee should ask:

- was the performance of the boat or crew seriously impaired?
- was the market value of the boat significantly diminished?
- was a crew member seriously injured?

### **11.3 Physical Damage**

An example of physical damage is:

- real damage to either boat or crew

Examples of what is not physical damage are

- capsize with no damage, causing a loss of places
- rigs or lifelines entangled

#### **11.4 Serious Injury**

An example of serious injury might be an injury that required medical attention beyond minor aid but not necessarily hospitalisation.

## **12. Rule 2 and Rule 69**

## **12. Rule 2 and Rule 69**

### **12.1 Rule 2—Fair Sailing**

Rule 2 is one of five fundamental rules of sailing. The ISAF Case Book gives guidance as to what actions may be considered a breach of this rule and the principles of sportsmanship and fair play. A boat, a protest committee, jury or race committee may protest under this rule. A boat may only be penalised when it is clearly established that this rule has been broken. Any resulting disqualification is not excludable from a boat's series score (DNE).

### **12.2 Rule 69 Hearing**

Rule 69 hearings are separate and different from other hearings in four main ways:

- an action under rule 69 is not a protest
- an action under rule 69 is against a competitor, not a boat
- an action under rule 69 can only be initiated by a protest committee, jury or international jury
- on receiving a report, the jury has absolute discretion on whether to proceed to a hearing or not

The jury initiates a 69 hearing either on its own or after receiving a report (oral or written) from anyone, even someone not involved in the regatta.

#### **12.2.1 When the Jury Should Initiate Action Under Rule 69?**

Standards of ethical behaviour among sailors throughout the world vary greatly, and it is not the responsibility of International Judges to educate individuals in the subject of moral behaviour. However, it is essential to the healthy development of the sport that severe penalties be imposed on competitors who knowingly infringe a racing rule, cheat, lie at a hearing, or behave in any way that brings the sport into disrepute.

Although there is no rule requiring a competitor not to 'grossly infringe a rule' or 'grossly breach good manners or sportsmanship', rule 69 describes the procedure for the jury to adopt should a competitor commit such a misdeed, and rule 2 requires that 'a boat, her owner and crew shall compete in compliance with recognised principles of sportsmanship and fair play.

### **12.2.2 Who Can be Subject to a Rule 69 Hearing**

Rule 69 uses the term 'competitor'; this means any owner and any crew member. At present Rule 69.1 does not apply to coaches or team managers however rule 69.2 provides a method of reporting their bad behaviour directly to their national authority.

### **12.2.3 The Time of the Misdeed**

The misdeed must occur within the period immediately prior to and ending shortly after the prizegiving. Thus, a jury is not at liberty to hold a rule 69 hearing to address a misdeed by a competitor which happened before the beginning of the event although actions immediately prior to an event may result in entry exclusion under rule 76.

### **12.2.4 The Place of the Misdeed**

Within the period established in 12.2.3, provided that the misdeed can readily be associated with the event, the time and place is irrelevant. For example, if a competitor was involved in a serious fight involving assault, in a public place but unrelated to the venue of the regatta, but which brings the sport into disrepute, he could be the subject of a rule 69 hearing. On the other hand, were it to have taken place between the competitor and someone unrelated to the regatta, in private or in public, without the public knowing the competitor was competing in the regatta, it would probably not be appropriate for a jury to initiate a rule 69 hearing.

### **12.2.5 Preparation of the Jury**

Before a jury convenes a rule 69 hearing, it should first prepare itself. The jury will try to get a clear view about the meaning of rule 69 and the procedure to be followed. Be critical about your own emotions. Nobody is accustomed to a rule 69 hearing and the incident might give rise to a lot of emotion, not just for jury members, but also to a lot of people involved in the event. Remain calm and controlled, and be aware of the pace of the hearing.

Start reading rule 69 carefully. Discuss the implications of the rule and discuss the potential infringement.

Read Appendix M5.1 and be aware of the procedure to follow. Think about what might happen during the hearing and what your answers will be.

Discuss the procedure within the jury.

It makes it easier if the tasks are delegated among the jury members, one chairs the hearing, another person is the scribe.

Prepare the written information you are going to give the person who is accused of the rule 69 violation.

If the hearing involves juniors or youths, ensure that a parent, guardian or coach is present as a witness to the proceedings.

#### **12.2.6 Informing the Person in Writing**

The person concerned must first be informed in writing (rule 69.1(a)). Should the evidence giving rise to the decision to proceed with a rule 69 hearing against one of the parties arise during a protest hearing, the written allegation should be prepared with the protest decision and given to the competitor immediately after giving the protest decision. Even if the competitor gives approval to proceed with the hearing immediately, wait. The competitor must be given a reasonable time to prepare a defence.

#### **12.2.7 Examples of Cause for Initiation of Rule 69 Hearing**

- Gross breach of good manners: Whether a breach of good manners is gross or not will depend very much upon whether other people (competitors, officials or the public) are offended by the behaviour. What might be acceptable behaviour in one situation may be totally unacceptable in another. The common use of foul language on television makes it difficult for some young people to realise how offensive such language is to others. This is a difficult area to be consistent, and cases of swearing should be judged on the emotion behind the words rather than the words themselves.
- Gross breach of good sportsmanship: This includes cheating (acting to gain an advantage by infringing rule 2, lying at a hearing, etc.). Unlike normal protests where it is assumed that if there is a rule infringement it was not done on purpose, 'intent' is fundamental to a gross breach of good sportsmanship.

Examples of occasions when action under rule 69 would be appropriate, should the jury become aware of evidence are:

- lying at a hearing
- knowingly infringing a rule with intent to gain an unfair advantage
- threatening behaviour or physical person-to-person contact

falsifying documents in order to have accepted a boat that does not measure

- intentional or wilful refusal to follow the requirements of the organising authority
- deliberately damaging another boat
- abuse of officials
- theft
- drunken behaviour
- fighting

#### **12.2.8 Mitigating Circumstances**

Judges should bear in mind that some people have a minimal capacity for remaining 'cool' and can become irrational more easily than others. A wise jury will take into consideration any sincerely given apology by the offending party, in relation to a 'spur-of-the-moment' incident.

#### **12.2.9 The Hearing**

It is especially important at a rule 69 hearing to maintain an atmosphere of formality and to ensure that the competitor is given ample opportunity to answer the allegations. It is important that a written account is kept of the proceedings. The hearing must be held in accordance with rules 63.2, 63.3, 63.4, and 63.6.

#### **12.2.10 Litigation**

In the past, there have been threats made by competitors against juries, i.e. that the competitor will sue for libel (the dictionary definition of which is '*the publication of defamatory matter in permanent form, as by a written or permanent statement, picture etc*'). It is hoped that such a possibility will not deter juries from taking action when the need arises.

Although these rules apply to all protest hearings, because of the seriousness of a rule 69 hearing, they are worth repeating:

- Only when there is evidence at hand that indicates a high probability of guilt should a rule 69 hearing be initiated.
- The competitor must be given the allegations in writing and a reasonable opportunity to prepare a defence.

- During the hearing, ample opportunity should be given to the competitor to present evidence and call witnesses, and the procedures should be adhered to meticulously.
- A written record of the evidence presented must be kept.
- The test of 'beyond all reasonable doubt' should be applied. This is quite different to a protest hearing when the test of 'balance of probabilities' would be appropriate.
- No publication of the outcome should be made, other than the usual hearing result on the official notice board.

Although under Rule 3 each competitor and boat owner agrees to be governed by the racing rules and to accept the penalties imposed or other action taken, subject to appeal and review procedures, liberal courts in some countries state that they have a greater authority than the racing rules to decide on decisions from a jury under rule 69. It might be appropriate in some countries for judges to be insured against costs arising out of civil court proceedings; though action brought by a competitor might fail, the costs of defence might be considerable.

#### **12.2.11 Party Fails to Attend**

The principle in rule 63.3(b) applies to rule 69 hearings, but a jury must be certain that the competitor has received the written allegation, and has had an opportunity to respond to the suggested time and date of the hearing, and, if necessary, to make a reasonable effort to set a time and date convenient to the competitor involved.

#### **12.2.12 Case Dismissed**

After a hearing, when the accused competitor is found 'not guilty' of the alleged misdemeanour, the jury must make this quite clear. The news of a rule 69 hearing will have spread throughout the regatta, and it is important that the competitor's name is cleared publicly.

#### **12.2.13 Penalties**

When a competitor is found '*guilty*', a rule 69 hearing does not have to result in the imposition of a penalty; a warning may be given. A warning may suffice after, for example, a minor misdeed followed by an apology. A warning is not reported to any national authority.

The jury may exclude a competitor and their boat, when suitable, from further participation in an event or series, and it may take any other appropriate disciplinary action. The maximum penalty would be to



disqualify the competitor from the entire regatta, since the jury has no power to penalise outside the event over which it has jurisdiction.

#### **12.2.14 Reporting the Details of the Case in the ISAF Regatta Report**

The Jury Chairman's Regatta Report Form should record whether or not a penalty was imposed. Sufficient details should be included for a reader to understand why the decision was made. Names may be excluded when no penalty is imposed.

#### **12.2.15 Appealing the Decision**

The competitor may appeal a decision only if the international jury was not properly panelled.

#### **12.2.16 Reporting to National Authorities**

When no penalty is imposed (a warning is not a penalty), no report to any national authority is required. When a penalty is imposed, the case must be reported to the national authorities listed in rule 69.1(c). The report should be detailed, since the national authority will rely on it to decide whether to penalise further. It is useful for the jury to recommend whether a further penalty is appropriate. Try to make this report as soon as possible, so important issues are not forgotten.

#### **12.2.17 Action by National Authority**

Should a national authority decide that an additional penalty is appropriate, it must follow the same procedures the jury followed: the competitor should be informed and given an opportunity to appear before the national authority's appointed body.

# **APPENDICES**

## **Appendix 1. Chairman's Pre-Event Checklist**

Before the regatta begins, the chairman should:

- become aware of the history, traditions, policies, and special conditions effecting the event;
- agree with the Organizing Authority regarding Jury roles, payment of expenses, required equipment and facilities including the submission of the Jury/OA Pre-Event Checklist amended to the Event requirements
- review the Notice of Race, especially regarding ISAF Advertising Code, the denial of right to appeal, and other required notifications in the Notice of Race.
- review the draft Sailing Instructions;
- investigate applicable local and national laws, and whether jury liability insurance is appropriate;
- advise on selection of members of the jury;
- check for any conflict of interest of both IJs and NJs.
- advise judges on schedule, reimbursement agreements, travel arrangements, housing, and supplied clothing;
- arrange for a time and place for first jury meeting; and
- arrange for time and place for meeting with the organising committee, the principal race officer, race committee chairman.

## **Appendix 2. Judge's Equipment Checklist**

Each judge develops their personal checklist of equipment they bring to regattas. A checklist for an experienced judge flying to a regatta might include the following.

- The Racing Rules of Sailing and any changes which may have been made and posted on the ISAF website
- ISAF Cases
- Class Rules or Measurement Regulations
- The Notice of Race, Sailing Instructions, and available pre-regatta information
- Regatta administrative papers including copies of amendments and official notices
- A watch suitable for timing
- A tape-recorder or waterproof notebook
- Whistle
- Waterproof plastic bag to store Sailing Instructions and Notices
- Foul weather gear, boots, warm clothing, and sunscreen, and other items suitable for the expected conditions
- Clothing for protest hearings as agreed upon with the jury chairman
- Buoyancy Aid

In addition, depending upon the regatta, judges may find some of the following items helpful. (They are sometimes provided by the organising authority or host boat club.)

- Model boats for protest hearings
- Ruled grid to the size of the models
- Laptop computer
- Printer

- Electrical extension cord with multiple receptacles
- Jury forms stored on the computer, CD or memory stick
- A method of determining wind direction and speed
- Hand-bearing compass
- Binoculars
- Cell phone
- VHF Radio and charger
- Small tool bag with extra line or plastic wire ties to secure flags.

### **Appendix 3. Checklist of Items for Discussion at First Jury Meeting**

- Introductions: names of jury members, name of jury vice-chairman, jury secretary, chairman of the race committee, principal race officer, measurer, scorer, etc.
- Discuss the jury's authority and role.
- Review the Sailing Instructions thoroughly. This may be the most important task that the jury should do before racing starts and may avoid problems later. However, only last minute changes that are considered essential should be considered. Unless the jury has been specifically authorised to initiate changes to the Sailing Instructions, any changes must be suggested tactfully to the race committee.
- Confirm chairman as sole jury spokesman, or appoint jury spokesman.
- Establish a policy for answering questions from the competitors.
- Select jury panels and appoint panel chairmen, panel secretaries etc.
- If there is no jury secretary, allocate duties to one or more jury members.
- Review policy for jury-initiated protests.
- Determine monitoring of rule observance for rules 31, 42, 44.2, and Appendix 1
  - the criteria required for lodging a jury protest and jury policy in regard to rule 69
  - tape recorders, positioning, observation by two jury members
  - jury to meet (or chairman to be consulted) before the filing of sensitive protests by jury members
  - technical and measurement protests; who is 'the authority responsible for interpreting the rule' (rule 64.3)
  - protest scheduling and hearing procedure including approximate starting time and any late-night cut-off time for hearings
- special considerations (last day, social schedule, practice race, times of meetings and hearings);
- redress policy, especially breakdowns of borrowed boats and OCS.

The chairman may wish to delegate areas of responsibility to individual jury members. Examples are:

- Sailing Instructions and Notices to Competitors
- Measurement issues: certificates, sail/equipment stamps, corrector weight control, class rules, supplied boats
- Notice board, scoring, and results
- Jury equipment: including boats radios, radio channels, jury flags, tape recorders, binoculars, and, if Appendix P is to be used, yellow flags and whistles
- Protest scheduling, interpreters
- Wet clothing control
- Entries, crew substitution, and haul-out
- Coach relations
- Logistics, meals, transportation, aeroplane ticket confirmation, housing expense reimbursement
- Media relations
- Rule observance and jury protests enforcement, especially rules 42 and advertising

#### **Appendix 4. Checklist of Items for Discussion at Jury Meeting with Race Committee and Organising Authority**

- Authority and role of the jury
- Procedure for changes to the Sailing Instructions
- Ask race committee chairman to brief jury on his views and procedures
  - change of course
  - abandonment
  - rescue - course and patrol
  - communications
  - rule enforcement (protests) by race committee
  - sound signals and shapes
  - line bias
  - individual and general recalls (line boats, positioning, signalling, calling the line)
  - rounding order lists, protest flag location, and time recording;
  - starting penalties (rule 30)
  - marks and mark boats
  - which edge of cylinder marks called
  - preliminary results and scoring including rule 42 DSQ by jury
  - measurement controls (checking boats for required equipment and wet clothing after each race)
  - race committee presentation in OCS redress request
  - race committee representative at end of day to check with jury before leaving - and be available at least through protest time in case needed for a hearing
  - responsibility for posting time (and signals)
  - possible post-race meeting with principal race officer and/or race committee chairman
  - schedule meetings with team leaders/coaches (see section 6.7)
- Courses, marks, and course changes
- Signals, observation requirements
- Limitations on racing (conditions when racing should not be started or should be stopped)
- Communications, radio procedure, and protocol (especially private communications)



- Jury equipment
- Protest hearings (locations, schedules, announcement procedures for decisions)
- Confirm logistics of jury transportation, expenses, etc.
- Confirm arrangements for meals in late evenings
- Agree whether, and if so to what extent, the jury are to be active on the water, and allocate activities and jury boats
- Discuss whether a competitors' briefing should take place, and if so, what form it should take (Section 6.4); confirm all jury members will attend
- Agree to what extent there should be communication between the jury and team leaders and coaches (Section 6.7)
- Review opening ceremony participation by members of jury. Check that jury will still be available until after the prize-giving.

## **Appendix 5. Recommendations for Protest Committees— RRS Appendix M**

*The ISAF Racing Rules of Sailing Appendix M, is advisory only; in some circumstances changing these procedures may be advisable. It is addressed primarily to protest committee chairmen, but may also help judges, jury secretaries, race committees and others connected with protest hearings.*

In a protest hearing, the protest committee should weigh all testimony with equal care; should recognise that honest testimony can vary, and even be in conflict, as a result of different observations and recollections; should resolve such differences as best it can; should recognise that no boat or competitor is guilty until a breach of a *rule* has been established to the satisfaction of the protest committee; and should keep an open mind until all the evidence has been heard as to whether a boat or competitor has broken a *rule*.

### **M1 PRELIMINARIES** (may be performed by race office staff)

Receive the form from the protestor.

- Note on the form the time the *protest* is lodged and the time protest time ends.
- Inform each *party* and the race committee when necessary, when and where the hearing will be held.

### **M2 BEFORE THE HEARING**

Make sure that

- each *party* has a copy of the protestor request for redress. When copies are unavailable let the protestee read the *protest* or redress before beginning.
- no member of the protest committee is an *interested party*. Ask the *parties* whether they object to any member. When redress is requested under rule 62.1(a), a member of the race committee should not be a member of the protest committee.
- only one person from each boat (or *party*) is present unless an interpreter is needed.
- all boats and people involved are present. If they are not, however, the committee may proceed under rule 63.3(b).

- boat representatives were on board when required (rule 63.3(a)).

When the *parties* were in different races, both organising authorities must accept the composition of the protest committee (rule 63.7). In a measurement *protest* obtain the current class rules and identify the authority responsible for interpreting them (rule 64.3(b)).

### **M3 THE HEARING**

#### **M3.1 Check the validity of the *protest* or request for redress.**

- Were the contents adequate (rule 61.2 or 62.1)?
- Was it delivered in time? If not, is there good reason to extend the time limit (rule 61.3 or 62.2)?
- When required, was the protestor involved in or a witness to the incident (rule 60.1(a))?
- When necessary, was 'Protest' hailed and a red flag flown correctly (rule 61.1(a))?
- When the flag and hail were not necessary was the protestee informed?

Decide whether the *protest* or request for redress is valid (rule 63.5).

Once the validity of the *protest* has been determined, do not let the subject be introduced again unless truly new evidence is available.

#### **M3.2 Take the evidence (rule 63.6).**

- Ask the protestor and then the protestee to tell their stories. Then allow them to question one another. In a redress matter, ask the *party* to state the request.
- Invite questions from protest committee members.
- Make sure you know what facts each *party* is alleging before calling any witnesses. Their stories may be different.
- Allow anyone, including a boat's crew, to give evidence. It is the *party* who must decide which witnesses to call. The question 'Would you like to hear N?' is best answered by 'It is your choice.'

- Call each *parties* witnesses (and the protest committee's if any) one by one. Limit *parties* to questioning witnesses (they may wander into general statements).
- Invite the protestee to question the protestor's witness first (and vice versa). This prevents the protestor from leading his witness from the beginning.
- Allow a member of the protest committee who saw the incident to give evidence (rule 63.6) but only in the presence of the *parties*. The member may be questioned and may remain in the room (rule 63.3(a)).
- Try to prevent leading questions or hearsay evidence, but if that is impossible discount the evidence so obtained.
- Accept written evidence from a witness who is not available to be questioned only if both *parties* agree.
- Ask one member of the committee to note down evidence, particularly times, distances, speeds, etc.
- Invite first the protestor and then the protestee to make a final statement of her case, particularly on any application or interpretation of the *rules*.

### **M3.3 Find the facts (rule 63.6).**

- Write down the facts; resolve doubts one way or the other.
- Call back *parties* for more questions if necessary.
- When appropriate, draw a diagram of the incident using the facts you have found.

### **M3.4 Decide the *protest* or request for redress (rule 64).**

- Base the decision on the facts found (if you cannot find some more facts).
- In redress cases, make sure that no further evidence is needed from boats that will be affected by the decision.

### **M3.5 Inform the *parties* (rule 65).**

- Recall the *parties* and read them the facts found and decision. When time presses it is permissible to read the decision and give the details later.
- Give any *party* a copy of the decision on request. File the protest or request for redress with the committee records.

### **M4 REOPENING A HEARING (Rule 66)**

When a timely request is made for a hearing to be reopened, hear the *party* making the request, look at any video, etc., and decide whether there is any material new evidence which might lead you to change your decision. Decide whether your interpretation of the *rules* may have been wrong; be open-minded as to whether you have made a mistake. If none of these applies refuse to reopen; otherwise schedule a hearing.

### **M5 GROSS MISCONDUCT (RULE 69)**

- M5.1** An action under this rule is not a *protest*, but the protest committee gives its allegations in writing to the competitor before the hearing. The hearing is conducted under the same rules as other hearings but must have at least three members (rule 69.1(b)). Use the greatest care to protect the competitor's rights.
- M5.2** A competitor or a boat cannot protest under rule 69, but the protest form of a competitor who tries to do so may be accepted as a report to the protest committee which can then decide whether or not to call a hearing.
- M5.3** When it is desirable to call a hearing under rule 69 as a result of a Part 2 incident, it is important to hear any boat vs. boat *protest* in the normal way, deciding which boat, if any, broke which *rule*, before proceeding against the competitor under this rule.
- M5.4** Although action under rule 69 is taken against a competitor, not a boat, a boat may also be penalized.
- M5.5** The protest committee may warn the competitor when it believes this to be sufficient penalty, in which case no report need be made to the national authority. When the penalty is more severe and a report is made to the national authority, it is helpful to recommend to the national authority whether or not further action should be taken.

## M6 APPEALS (RULE 70 AND APPENDIX F)

When decisions can be appealed,

- leave the papers so that the information can easily be used for an appeal. Is there an adequate diagram? Are the facts found sufficient? (Example: There was or there was not an *overlap*. 'Perhaps' is not a fact.) Are the names of the protest committee members on the form, etc.?
- comments on any appeal should enable the appeals committee to picture the whole incident clearly; the appeals committee knows *nothing* about the situation.

## M7 PHOTOGRAPHIC EVIDENCE

Photographs and videos can sometimes provide useful evidence but protest committees should recognise their limitations and note the following points:

- The *party* producing the photographic evidence is responsible for arranging the viewing.
- View the tape several times to extract all the information from it.
- The depth perception of any single-lens camera is very poor; with a telephoto lens it is non-existent. When the camera views two *overlapped* boats at right angles to their course, it is impossible to assess the distance between them. When the camera views them head on, it is impossible to see whether an *overlap* exists unless it is substantial.
- Ask the following questions:
  - Where was the camera in relation to the boats?
  - Was the camera's platform moving? If so, in what direction, and how fast?
  - Is the angle changing as the boats approach the critical point? Fast panning causes radical change.
  - Did the camera have an unrestricted view throughout?

## Appendix 6. Speed Table

Number of Seconds to Travel One Boat Length

Yacht Length meters / feet	Time 1 sec	2	3	4	5	6	7	8	9	10	11	13	15
3.0 / 10	6.0	3.0	2.0	1.5	1.2	1.0	0.8	0.7	0.7	0.6	0.5	0.5	0.4
3.7 / 12	7.2	3.6	2.4	1.8	1.4	1.2	1.0	0.9	0.8	0.7	0.6	0.5	0.5
4.3 / 14	8.4	4.2	2.8	2.1	1.7	1.4	1.2	1.0	0.9	0.8	0.8	0.6	0.6
4.9 / 16	9.6	4.8	3.2	2.4	1.9	1.6	1.3	1.2	1.0	1.0	0.9	0.8	0.6
5.5 / 18	10.8	5.4	3.6	2.7	2.2	1.8	1.5	1.3	1.2	1.1	1.0	0.9	0.7
6.1 / 20	12.0	6.0	4.0	3.0	2.4	2.0	1.7	1.5	1.3	1.2	1.1	0.9	0.8
7.3 / 24	13.2	6.6	4.5	3.3	2.6	2.2	1.9	1.6	1.5	1.3	1.2	1.0	0.9
7.9 / 26	14.4	7.2	4.8	3.6	2.9	2.4	2.0	1.8	1.6	1.4	1.3	1.1	1.0
8.5 / 28	16.8	8.4	5.6	4.2	3.4	2.8	2.4	2.1	1.9	1.7	1.5	1.3	1.1
9.1 / 30	18.0	9.0	6.0	4.5	3.6	3.0	2.6	2.2	2.0	1.8	1.6	1.4	1.2
9.8 / 32	19.2	9.6	6.4	4.8	3.8	3.2	2.7	2.4	2.1	1.9	1.7	1.5	1.3
10.4 / 34	20.4	10.2	6.8	5.1	4.1	3.4	2.9	2.5	2.3	2.0	1.8	1.6	1.4
11.0 / 36	21.6	10.8	7.2	5.4	4.3	3.6	3.1	2.7	2.4	2.2	2.0	1.7	1.4
11.6 / 38	22.8	11.4	7.6	5.7	4.6	3.8	3.2	2.8	2.5	2.3	2.1	1.7	1.5
12. / 40	24.0	12.0	8.0	6.0	4.8	4.0	3.4	3.0	2.7	2.4	2.2	1.8	1.6
13.7 / 45	27.0	13.5	9.0	6.7	5.4	4.5	3.9	3.4	3.0	2.7	2.4	2.1	1.8
15.2 / 50	30.0	15.0	10.0	7.5	6.0	5.0	4.3	3.7	3.3	3.0	2.7	2.3	2.0
18.3 / 60	36.0	18.0	12.0	9.0	7.2	6.0	5.1	4.5	4.0	3.6	3.3	2.8	2.4
21.3 / 70	42.0	21.0	14.0	10.5	8.4	7.0	6.0	5.2	4.7	4.2	3.8	3.2	2.8

Example:

A 12 metre boat travelling at 5 knots will travel one boat length in 4.8 seconds.

## Appendix 7. Boat Speed Versus Distance Tables

Source: *Understanding the Yacht Racing Rules* by Dave Perry

Distance = R x T (1 knot = 6,000 ft per hour)

Boatspeed Knots	Distance Feet/Second	Metres/Second
1	1.7	0.5
2	3.3	1.0
3	5.0	1.5
4	6.7	2.0
5	8.3	2.5
6	10.0	3.0
7	11.7	3.5
8	13.3	4.0
9	15.0	4.5
10	16.7	5.0

Alteration (feet) Change in Course (degrees)

x = length of boat y = amount the bow moves

Amount the bow moves Length of boat	10 degrees	15 degrees	20 degrees
10 feet (for every 5 degrees add 11")	1'9"	2'8"	3'7"
15 feet (for every 5 degrees add 16")	2'7"	3'11"	5'3"
20 feet (for every 5 degrees add 21")	3'6"	5'3"	7'0"

For example, when a 20 foot yacht changes its course 10 degrees, its bow will move 3'6". When a 50 foot yacht changes its course 20 degrees, its bow moves 17'3".

When a 20 foot yacht is one length away from a 7 foot wide obstruction, then it needs to alter course at that moment to avoid it by 3'6", or 10 degrees. This becomes important when defining an obstruction, or the applicability of Rule 19.

These tables will be very useful when you feel a competitor is exaggerating the facts to their benefit.



## **Appendix 8      Observer Rules Document**

### **Rules for Observers**

- Observers are admitted during the taking of evidence stage of a
- protest hearing at the sole discretion of the Chairman of the Protest Panel.
- No observer will be allowed to enter after the Hearing has commenced.
- An Observer may not be a witness to a hearing.
- An observer shall not be a translator for a witness to the hearing.
- Observers will be required to leave the room at any times when the Protest Panel is deliberating.
- The Chairman of the Protest Panel may ask an observer to leave the Hearing Room at any time without giving a reason.
- From the time the protest starts until the decision is given Observers are not to communicate with any Party to the Protest or Witness on any matter in relation to the hearing. This includes the time during which a hearing may be adjourned.
- Observers shall remain seated during the hearing and not to be within visual contact with a party or a witness of the protest.
- Observers, unless requested, shall not leave the Jury Room during a Hearing.
- Observers shall remain silent during the hearing.
- Observers shall have tape recorders, radios and mobile phones turned off during the hearing.
- Observers shall not bring drinks into the Jury Room and shall not smoke during the Hearing.

## **Appendix 9      Forms**

## Register of Protests and Requests Received

Event: \_\_\_\_\_

Enter protests, requests for redress, requests for a hearing etc.

'Number' should start at 1 and continue throughout the event.

'Date' and 'time' are the date and time of receipt of the form.

[illegible]

Page:

[illegible]

## Penalty Acknowledgement Form

Date: \_\_\_\_\_ Class: \_\_\_\_\_

Race #	My Sail Number	Leg of Course	I performed a Two Turns Penalty (Rule 44) or a One Turn Penalty (RRS 31 Touching a Mark)

# RRS 42 Infringements On-the-Water Calls

Event: \_\_\_\_\_ Class: \_\_\_\_\_

Race #	Leg	Sail # Bow #	Pump	Rock	Ooch	Scull	Tack / Gybe	Action	Remarks

Date: \_\_\_\_\_

Judge/Observer: \_\_\_\_\_

## Rule 42 Infringements

**Date :** \_\_\_\_\_ **Page :** \_\_\_\_\_

[illegible]

## PROTEST INFORMATION

Protest Number:

Hearing Start Time:  
Finish Time:

<input type="text"/>
<input type="text"/>

Class:

Race:

Protestor:

Protestee:

Decision:

Results  
Corrected:



## Request to the Race Committee / Jury

<input type="checkbox"/> Change of Sail Number	Class: _____
<input type="checkbox"/> Scoring Inquiry	Sail Number: _____
<input type="checkbox"/> Other Request	Name: _____

Scoring Only:

**Race Number:** \_\_\_\_\_

**Recorded Finishing Position:** \_\_\_\_\_

**Actual Finishing Position:** \_\_\_\_\_

Request:

Decision Race Committee / Jury:

**Date:** \_\_\_\_\_

**Signature Helmsman:** \_\_\_\_\_

## End of Protest Time

Date:

Class / Group	Finishing Time Last Boat	End of Protest Time

## Notice to Competitors

Number:

Time

Date

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

From:

<input type="text"/>	Organising Committee
----------------------	-------------------------

Class :

Subject:

Signature:

<input type="text"/>
----------------------

## CHAMPIONSHIP

NOTIFICATION TO SCORER Thursday, 17 January 2008

Hearing No.	Serial No.	Class	Race No.	Sail No.	Decision

Signed

Jury Chairman

Date: 17/1/08 12:02:59

Deleted: 17/1/08 10:14:19

### Jury/OA Pre-Event Checklist

**I am sure your preparations for the event are now well under way. In order for the Jury to do a good job it would be helpful if you could confirm the following. I realise that some of these may appear ‘obvious’, but the list is based upon real experience and it is much better to be clear as soon as possible. Please just indicate OK or make comments as you think fit.**

Category	Item	OK or comment
Jury Membership	Please confirm that you are expecting the following members of the Jury	
	Jury secretary – name?	
Key Personnel	Please complete the name of the following key personnel.	
	Organiser responsible for Jury Team	
	Principal Race Officer	
	Boat manager & Repairs	
Jury Welfare	Please confirm the following:	

	You are planning to collect jury members from the local airport	
	You are planning to return jury members to the local airport after the event.	
	You are providing single room accommodation for each jury member.	
	Please state the name location of accommodation (this is often required for entry into a country)	
	Please state contact name and number at the accommodation for any queries.	
	You are providing daily transport from the accommodation to the venue and return	
	You are providing breakfast at the accommodation	
	You are providing breakfast at the venue	
	You are providing lunches, including soft drinks, at the venue for days ashore	
	You are providing suitable packed lunches for days on the water up to 8 hours. These include soft drinks (water up to 2 litres per person per day);	
	You are providing evening meals at the venue	

	You are providing evening meals elsewhere	
	Evening meals will be available for the jury after hearings – may be late!!	
	You will reimburse agreed expenses on production of statements with receipts before the jury members depart. These will include all transport costs, accommodation, breakfast, lunch and dinner (all if not provided by you at no cost to the jury).	
	Please state the number of functions or occasions when you would expect the jury members to be wearing jackets and ties (or equivalent for lady jurors).	
	There will be internet access available for jury members to connect with their own laptop computers.	

Category	Item	OK or comment
Jury Ashore	Please confirm the following	
	You will provide a jury hearing room as follows:	
	Table minimum size 2 m x 1 m	
	5 chairs for jury	
	3 chairs for parties to hearing	

	6 chairs (minimum) for observers	
	Power points	
	Lighting	
	Available 24 hours per day for jury use only	
	A work room, other than the hearing room with	
	Working space for at least 2 people	
	Power points	
	Printing facility from laptop or computer available with printer	
	Photocopier – available all hours	
	Internet access	
	Supply of photocopy paper	
	Secure storage for personal equipment, including laptop computers, especially while afloat.	
	Somewhere to hang wet clothing to dry	
	Please confirm that the following hard copy documents will be available for each jury member	
	The Notice of Race	



	Sailing Instructions	
	Class rules	
	Any special regulations governing the event	
	Please confirm that a notice board (or area of a notice board) is available for the exclusive use of the jury throughout the event. The area should be capable of displaying at least 8 pages of A4.	
Jury Meetings	Please confirm that the following meetings will be scheduled and that an appropriate location is available for these.	
	Pre event	
	Jury chairman (JC) with organisers (OA)	
	JC with PRO	
	Jury meeting	
	JC with competitors/coaches	
	Daily	
	JC with PRO/OA before racing (very brief)	
	JC with competitors/coaches (10 min)	
	Jury daily briefing	
	JC with PRO/OA after racing	
	Jury post race meeting & hearing scheduling.	

Category	Item	OK or comment
Jury Afloat	Confirm that all jury members are insured by the organising authority to drive judge boats.	
	Confirm any licence required to drive judge boats.	
	Is personal buoyancy required to be worn while afloat?	
	If required, will the organizers be able to provide?	
	We will be 6 judges and require 3 boats which should conform to the following, if possible.	
	3 boats	
	No other duties (the measurers may require a boat, but this should not be a jury boat)	
	Minimum 5 metre length overall	
	Minimum 40 hp engine	
	Preferable for engine to be 4 stroke	
	Capacity for 3 people to spend 8 hours per day	

	Preferably inflatables	
	Dry storage area	
	The following equipment to be available for each boat	
	VHF radio	
	Channel to communicate with other jury boats	
	Channel to communicate with PRO	
	Channel to communicate to shore	
	Jury identification flag – large 'JURY' on white or yellow background.	
	Jury id flag fixed without obscuring vision	
	Yellow 'protest' flag on stick – minimum 0.5 metre x 0.3 metre flag	
	Cool box for drinks	
	Jury will bring own voice recorders own notebooks own whistles	