ISAF Review Board

Consequential Amendments – Articles 77 to 82

A submission from the Executive Committee

Purpose or Objective

To make consequential amendments to the ISAF Constitution if Council adopts new Regulation 35 (Disciplinary, Appeals and Review Code).

Proposal

REVIEW JUDICIAL BOARD

77. Constitution of the Review Judicial Board

(a) There shall be a Review Judicial Board appointed by the Council at its first meeting after each Ordinary Meeting of the General Assembly. Should a vacancy occur, among the appointed members or there be a need for more members, the Council may appoint a replacement or more members at the next meeting. The Review Judicial Board shall consist of a Chairman, Vice-Chairman and not less than ten and not more than twenty-five three other members.

(b) The Review Judicial Board shall, for the purpose of deciding matters cases referred to the Board, operate by review independent panels of three or five members (no more than two of which shall be from the same country) appointed by the Chairman of the Review Board in accordance with the Regulations, or in his absence the Vice-Chairman. No member of the Board shall sit on a panel considering a case.

78. Membership

In appointing members to the Review Judicial Board, the Council should note the following requirements:

(a) Members shall be proficient in the English language,

(b) At least one-third of the Members shall have a legal background,

(c) Members shall have a substantial yachting and sports background,

(d) Members shall be persons of the highest integrity from the world yachting community.

79. Authority and Functions

79.1 The Review Judicial Board will decide on cases brought by any person or organization where these Articles or the Regulations specifically authorize that person or organization to bring such a case before the Board.

79.2 The Judicial Board may confirm, revise, modify or annul any decision which is the subject of an appeal, or order a body that made a decision to hear or rehear a case.
79.3 Except in a case which is the subject of an appeal in accordance with Article 81, decisions of the Judicial Board shall be final and binding upon all bodies that are subject to the Federation’s Articles, Regulations, and Rules and upon any competitors or persons to whom they apply.

79.1 As to questions of Eligibility

(a) A request by a Member National Authority or the ISAF Executive Committee for review and confirmation, revision, modification or annulment of its own decision affecting a competitor’s ISAF eligibility; and

(b) Any appeal which a competitor or prospective competitor files with the Review Board concerning his or her eligibility under the Articles, the Regulations, the Racing Rules of Sailing, the Equipment Rules of Sailing; or the Constitution, Regulations or Rules adopted by International Classes and Recognised Classes designated as such in accordance with the Regulations; and

(c) Any appeal which a competitor is entitled to make to the Review Board concerning:

(i) the Competitor’s ISAF Eligibility under the Regulations, the Racing Rules of Sailing and the Equipment Rules of Sailing, or

(ii) Concerning the competitor’s ISAF Class eligibility under the Classes’ Constitution or Regulations (or equivalent thereof), or

(iii) Concerning the competitor’s ISAF or other eligibility under the Constitution, By-laws, Regulations, Rules or governing documents of any kind made, adopted or acknowledged by any governing body or authority in respect of any Special Events or Class Events as defined in the Regulations.

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

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

80. Procedure

The Review Judicial Board shall establish its own rules and procedure. The Board may require those applying or requesting a review or causing costs of the Board or one of its panels to exceed normal costs to pay such fee as it may determine.

A copy of the rules and procedure of the Review Board as adopted from time to time shall be furnished promptly to each National Authority.

81. Decisions of the Review Board:

(a) Shall be by simple majority,

(b) May confirm, revise, modify or annul the decision which is the subject of the appeal, or order the body that made the decision to hear or rehear the case. Except in a case which is the subject of an appeal in accordance with Article 82, its decision shall be final and binding upon all bodies that are subject to the Federation’s Articles, Regulations, and Rules and upon any competitors or persons to whom they apply.

81. Appeal of a Review Judicial Board Decision
Any right of appeal by any of the parties from any decision of the Judicial Board shall be set out in the Regulations.

Notwithstanding Article 81, there shall be a right of appeal by any of the parties from any decision of the Review Board:

(a) In any case involving accredited Olympic Competitors, in which the Court of Arbitration for Sport has properly established its jurisdiction under the Olympic Code for Sports,

(b) In any other case in which a competitor consents to the jurisdiction of the Court of Arbitration for Sport in respect of the appeal.

Current Position

As above.

Reasons

1. Following the review of ISAF’s disciplinary and judicial procedures, new Regulation 35 (the Disciplinary, Appeals and Review Code) has been proposed as Submission 017-15.

2. If that submission is passed, then the ISAF Constitution will need amending in order to reflect the changes and the amendments to the name and role of the Review Board.