

World Sailing Regulations

Regulation 35

A submission from the Board on behalf of the Judicial Board

Purpose or Objective

To update Regulation 35 – Disciplinary, Appeals and Review Code based on experiences in the first year of operation of the Code and other housekeeping.

These changes had been requested by the Judicial Board.

Proposal 1

Amend Regulation 35.2.3 as follows:

35.2.3 No Participant shall commit ~~gross~~ misconduct, as defined under RRS 69.1(a).

Current Position

As above

Reason

From 1 January 2017, RRS 69.1(a) will change from “gross misconduct” to “misconduct”. This is a housekeeping change to update the Code to reflect this.

Proposal 2

1. Amend Regulation 35.5.4 and Regulation 35.6.4 as follows:

35.5.4 When a report is received by a National Authority under Regulation 35.5.3, it shall review the report and may conduct a further investigation in relation to the matters in the report. **However, the Judicial Board may direct that the report shall be transferred to World Sailing under Regulation 35.6.12.**

35.6.4 The National Authority shall review the complaint and may conduct an investigation in relation to the matters in the complaint. **However, the Judicial Board may direct that the complaint shall be transferred to World Sailing under Regulation 35.6.12.**

2. Amend Regulations 35.5.12 and 35.6.23 (which has identical wording) as follows:

35.5.12 There is a right of appeal from the decision of the National Authority to:

- (a) an alternative dispute resolution body appointed by the National Authority if those arrangements have been approved by World Sailing; or
- (b) if World Sailing has not approved any alternative arrangements, to the Judicial Board if, and only if, the decision of the National Authority imposes a suspension or revocation of more than three months on the Competition Eligibility or World Sailing Eligibility of the Participant; or

(c) to the Judicial Board if the Chief Executive Officer considers that the decision of the National Authority is unduly lenient.

Current Position

As above.

At present the Judicial Board can only intervene in a national case if (a) the National Authority does not make a decision within 3 months or (b) the National Authority suspends eligibility for more than 3 months

Reason

1. It is a principle of the Disciplinary Code to give MNAs as much discretion and autonomy as possible in relation to disciplinary matters. However, the Judicial Board is aware of cases where MNAs have not conducted appropriate investigations or have imposed sanctions which are too lenient for the circumstances.
2. This proposal would allow the Judicial Board the power to transfer a case to the World Sailing disciplinary structure. It would also allow World Sailing to review a national level decision if it believed that a decision was unduly lenient (i.e. a very light sanction which was not justified by the facts of the case).
3. "Unduly lenient" is the legal term for sanctions which are unjustifiably light in the circumstances of the case.

Proposal 3

Amend Regulations 35.4.7(c) and 35.5.3(c) as follows:

- (c) in any other case if it considers it appropriate **(including under RRS 69.2(k))**

Current Position

As above.

Reasons

1. In some cases, reports of misconduct are received after the event has finished or where the protest committee cannot fairly hold a hearing into the allegations.
2. RRS 69.2(k) of the 2017 – 2020 RRS allows the protest committee to report the matter to the national authority or World Sailing (as appropriate). This amendment clarifies how the reports are then to be dealt with under the Disciplinary Code.

Proposal 4

Add new Regulation 35.3.2(k):

35.3.2 The Judicial Board is responsible and has authority for:

...

(k) determining whether a complaint or report received by World Sailing:

(i) is within the jurisdiction of World Sailing and the provisions of this Code; and

(ii) is within the relevant time period for making such a complaint or report and whether it can be considered by World Sailing.

Current Position

There is no such provision.

Reasons

1. World Sailing receives complaints or reports which are not a matter for it under the Disciplinary Code or are out of time.
2. This amendment clarifies that the Judicial Board has the power to determine that the matter is out of World Sailing's jurisdiction or is out of time. This prevents the inconvenience of appointing and convening an Independent Panel to consider this issue.

Proposal 5

Amend Regulation 35.6.2(b) as follows:

35.6.2 All such complaints must be made:

...

- (b) in writing to the equivalent person at ~~a~~ **the** National Authority **of the**
Participant who is the subject of the complaint in all other instances;

Current Position

As above

Reason

This corrects an unintended error in the wording of Part E of the Code (which deals with complaints not arising from events). Under all other Parts of the Code, complaints and reports are made to the MNA of the person complained about (i.e. not the MNA of the venue or the boat as only the MNA of the person has effective jurisdiction over them). This change brings Part E of the Code into line with this policy.
