

INTERPRETATION 004-18

REQUEST FOR INTERPRETATION FROM ISRAEL SAILING ASSOCIATION

Question 1

The Annual General Meeting (AGM) is required to approve any Regulations made or amended in a substantive way since the last AGM. This Agenda item will of course bring in the Council decisions taken on the events and equipment for the 2024 Olympic Games. Please advise the process to make an amendment to reverse any changes to regulations at the AGM?

Answer 1

Article 28(c)(iv) of the Constitution requires that the agenda of the AGM contain a review of any Regulations made or amended in a substantive way by Council since the last AGM.

The following ordinary resolution appears on the Notice of AGM (the AGM agenda):

“To review and approve any Regulations made or amended in any substantive way by Council since the Annual General Meeting of 12 November 2017.”

Amendments to this resolution can be proposed by any MNA attending the AGM. It must give notice to the Chairman at the meeting of the amendment to the motion it wishes to make. Following previous practice, a proposed amendment could be worded as follows:

“To review and approve any Regulations made or amended in any substantive way by Council since the Annual General Meeting of 12 November 2017 except that Regulation xx is amended as follows [set out amendment]”

It is highly preferable that an MNA writes to the President (as the Chairman of the AGM) in advance setting out the amendment it proposes.

The Chairman will decide whether or not the amendment is valid. If it is valid, the amendment will be put to the meeting for a debate and vote. In the event that more than one amendment is proposed, the order in which the amendments will be dealt with is a matter for the Chairman.

The decision on whether or not an amendment is valid is a matter for the Chairman having taken appropriate advice. This includes on the legal principles which govern the amendment of ordinary resolutions at general meetings under company law. This includes the power to reject an amendment which is now inconsistent with a previous decision of the meeting (i.e. it seeks to change a matter which has already been agreed upon).

Under Answer 2 the Committee addresses the scope of the power of review.

Question 2

What is the process for the AGM to re-open the decision on the entire slate of ten events and equipment, and the subsequent process to make any changes to any of the slate of ten events and equipment?

Answer 2

The power of review by the AGM under the Constitution and Isle of Man law is limited¹. It permits the AGM to only review Regulations made or amended in a substantive way by Council since the last ordinary general meeting.

The term 'review' means to correct or improve the Regulation that Council has made/amended. Whether or not a proposed amendment is within the scope of the power to review is a question of degree and must be assessed in the context of what Council has changed. For this reason, it is difficult for the Committee to address hypothetical questions.

Regulation 23 provides a set mechanism for deciding the Olympic Events and Equipment. The Regulation itself does not permit changes to the whole slate unless a specific procedure has been invoked (which it has not for 2024).

The substantive changes which Council has made to the Events and Equipment for 2024 in Regulation 23.1.4 are clearly identifiable and can be summarised as follows:

<u>Previous List (2020)</u>	<u>New List (2024)</u>
Men's Windsurfer - RS:X	Men's Windsurfer RS:X
Women's Windsurfer - RS:X	Women's Windsurfer RS:X
Men's One Person Dinghy - Laser	Men's One Person Dinghy - Laser
Women's One Person Dinghy - Laser	Women's One Person Dinghy - Laser
Radial	Radial
Heavyweight Men's One Person Dinghy - Finn	Heavyweight Men's One Person Dinghy - Finn
Men's Skiff - 49er	Men's Skiff - 49er
Women's Skiff – 49erFX	Women's Skiff – 49erFX
Men's Two Person Dinghy - 470	Men's Two Person Dinghy – 470
Women's Two Person Dinghy - 470	Women's Two Person Dinghy – 470
Mixed Two Person Multihull – Nacra 17	Mixed Two Person Multihull – Nacra 17
	<u>Mixed Kite –</u>
	<u>Mixed One Person Dinghy –</u>
	<u>Mixed Two Person Dinghy –</u>

These are the substantive changes which the AGM will review at its meeting (including amendments, if any, from the forthcoming Council meeting). Any amendments which are wider than the substantive changes made by Council would be invalid.

In addition, the Committee considers that an amendment which proposed the insertion of new equipment (i.e. equipment for a new event) is not valid as this seeks to make a decision which Council has not yet made under Regulation 23.

¹ Advice was obtained by World Sailing from external Isle of Man Senior Counsel on this issue (World Sailing does not waive any privilege.). This interpretation is the Committee's considered opinion on the questions for interpretation.

As noted in Answer 1, there are other principles of company law which apply to amendments which can only be considered if/when amendments are received.

Question 3

What is the process for the AGM to re-open the decision on specific events and equipment, and the subsequent process to make any changes to any specific events and equipment?

Answer 3

If amendments are received, the Chairman will rule on their validity and the process to be followed. They will be ordered by the Chairman in the most logical order to assist the meeting in making a decision based on company law principles.

The meeting will then debate and vote on the amendments in the order decided by the Chairman.

If an amendment is agreed to by the meeting, the main resolution on the agenda is amended and awaits its final vote while any other amendments are considered.

Any pending amendments which are inconsistent with this now accepted amendment can be ruled invalid by the Chairman as they are now seeking to re-open business which has been settled by the meeting (e.g. if the AGM amends a particular event decision, then further amendments seeking to change that event will now be invalid because the AGM has already made its decision).

If an amendment is rejected, the main resolution remains unchanged and awaits its final vote while any other amendments are considered.

Following a decision on all amendments, the main resolution is then put to a vote.

All votes are held on a simple majority basis (i.e. 50% plus one of the votes cast for and against). Abstentions or invalid votes are not counted.

Question 4

Do all the submissions proposing a change to events/equipment require a 75% majority by Council (as per Regulation 23.1.6(b)) to be approved. If the answer is no, please advise which submissions are not required to comply?

Answer 4

No. Council has decided the 2024 Events under Regulation 23. Any change by Council to the list of Events, or the equipment for the Events which were not under review, must follow the process in Regulation 23.1.6(b) i.e. the 75% procedure.

With respect to the question on submissions, this is not a request for interpretation. The Committee's recommendations to Council will be published in the usual way during Conference.

Question 5

In respect of Submission 059-18, please advise whether the Israel Sailing Association position as stated in reason (d) is correct?

Answer 5

This is not a request for interpretation. The Committee's recommendation to Council on Submission 059-18 will be published in the usual way during Conference.

Question 6

Does the World Sailing conflict of interest policy apply to delegates at the AGM?

Answer 6

Regulation 3.5.1 provides that the Conflict of Interest Policy applies to Council members and Regulations 7.7.2 and 8.5.1 provide that it applies to Committee, Sub-committee and Commission members.

There is no provision which applies the Policy to AGM delegates.

**Constitution Committee
World Sailing**

22 October 2018