

World Sailing

Judicial Board Rules of Procedure  
Appeals & Reviews of Other Decisions by  
World Sailing  
(Part G)

## **1. INTRODUCTION**

These Rules of Procedure apply to any appeal or review of any decision made under Part G of Regulation 35. They **do not** apply to disciplinary proceedings.

## **2. RIGHT OF APPEAL**

- 2.1 A party (the “Appellant”) may appeal from a decision of World Sailing where the World Sailing Constitution or Regulations expressly permit such an appeal or review to be made to the Judicial Board (“the Board”).

## **3. NOTICE OF APPEAL**

- 3.1 The Appellant shall submit to the Chief Executive Officer, within the time limits specified in World Sailing Regulation 35.8.2, a notice of appeal containing or accompanied by:

- (a) details, and where available a copy, of the decision appealed from;
- (b) the Appellant’s request for remedy;
- (c) any request to stay the execution of the decision appealed from together with the reasons (if applicable); and
- (d) a non-refundable deposit of One Hundred Euros (€100).

(the “Notice of Appeal”).

- 3.2 If the deposit required by Rule 3.1(d) is not paid within three working days of submission of the Notice of Appeal, the Chief Executive Officer shall return the Notice of Appeal to the Appellant and take no further action.

- 3.3 The Chief Executive Officer shall:

- (a) provide a copy of the Notice of Appeal to the Judicial Board
- (b) serve the Notice of Appeal on the Respondent; and
- (c) Inform the Appellant and the Respondent on the name and contact details of the Registrar.

## **4. APPOINTMENT OF THE PANEL**

- 4.1 The Judicial Board shall appoint an Independent Panel to conduct, determine and hear the appeal. The Panel will be appointed in accordance with Regulation 35.3.6 and 35.8.3. The constitution of the Panel and the date that the file is passed to the Panel will be notified to the parties by the Registrar.

- 4.2 Any challenge to the appointment of a Panel member by a party shall be made to the Registrar within five (5) days of notification of the Panel membership. The Board shall determine any challenges in accordance with Regulation 35.3.8

## **5. STATEMENT OF APPEAL**

- 5.1 Within ten (10) days of the submission of the Notice of Appeal the Appellant shall submit to the Registrar a statement of appeal containing or accompanied by:
- (a) a statement of the facts and any rules, regulations or laws giving rise to the appeal and upon which the Appellant is relying;
  - (b) copies of all documents upon which the Appellant is relying;
  - (c) the names of any witnesses the Appellant wishes to call; and
  - (d) any proposals or statements concerning any procedural matters.
- (the "Statement of Appeal")
- 5.2 The Registrar shall serve the Statement of Appeal on the Respondent. If the Registrar does not receive the Statement of Appeal by the required time limit, the appeal shall continue on the basis of the Notice of Appeal alone, subject to the discretion of the Independent Panel.

## **6. REPLY**

- 6.1 Within twenty-eight (28) days of receipt by the Respondent of the Statement of Appeal, the Respondent shall submit to the Registrar (the "Reply"):
- (a) confirmation or denial of all or part of the Notice and/or Statement of Appeal (setting out as fully as possible the facts and rules, regulations or laws that the Respondent believes applies), any other information upon which the Respondent relies;
  - (b) copies of all documents on which the Respondent wishes to rely unless the document has been previously submitted by the Appellant;
  - (c) the names of any witnesses the Respondent wishes to call; and
  - (d) any proposals or statements concerning any procedural matters.

## **7. JURISDICTION**

- 7.1 The Independent Panel may decide on its own jurisdiction, including whether the Panel is properly constituted, what matters have been submitted to it and any objections with respect to the validity of the appeal.
- 7.2 An Independent Panel:
- (a) is not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before a court of law; and
  - (b) may draw such inference from the failure of a witness to give evidence or answer a question as it considers appropriate.
- 7.3 Once appointed, the Independent Panel will conduct all proceedings.

## **8. COMMUNICATIONS**

- 8.1 The parties and the Independent Panel shall communicate through the Registrar unless otherwise directed by the Independent Panel. Any communication from one party to the Registrar or to the Panel (and vice versa) shall be copied to the other party.
- 8.2 All communications shall be delivered or sent by first class post, fax or email to the parties at the address set out in the Notice of Appeal or Reply, or at such address as any party may have previously notified the Registrar of.

## **9. FURTHER SUBMISSIONS**

- 9.1 Unless the Independent Panel directs otherwise, the parties shall not submit further written argument(s) after the time limit for the submission of the Statement of Appeal or the Reply as the case may be.
- 9.2 If the Respondent fails to submit its Reply within the time-limit set, the Independent Panel may proceed with the case and deliver its decision.

## **10. DIRECTIONS AND CONDUCT OF THE PROCEEDINGS**

- 10.1 The Independent Panel determines its own procedure and shall conduct the proceedings as it sees fit but at all times in a manner which:
  - (a) complies with the World Sailing Constitution, Regulations and these Rules;
  - (b) complies with its duty to act fairly and impartially;
  - (c) allows the parties reasonable opportunity to put their respective cases and to deal with that of their opponent;
  - (d) avoids unnecessary delay or expense; and
  - (e) provides a fair and efficient means for resolving the dispute.
- 10.2 The Independent Panel may follow any procedure agreed by the parties if in the Panel's opinion it is reasonably practicable so to do.
- 10.3 With the consent of the parties, the Independent Panel may proceed in an expedited manner for which it shall issue appropriate directions.
- 10.4 If a party continues in the proceedings notwithstanding the fact that a provision of, or requirement under these Rules has not been complied with, that party shall have waived its right to object (unless it promptly states its objection).
- 10.5 The Independent Panel shall issue its decision in the proceedings within 3 months of the Notice of Appeal being delivered to it (unless this time is extended by the Board on application by the Independent Panel to it).

## **11. HEARINGS**

- 11.1 Any party requesting a hearing has the right to be heard in front of the Independent Panel. In the absence of any such request, the Panel shall endeavour to reach a decision without a

hearing on the basis of the written evidence. The format of the hearing is at the discretion of the Panel and may be by personal hearing or by audio- or video-conference.

11.2 The Independent Panel shall fix the date, time and place of any hearings and shall give the parties as much notice as practicable of the date, time and place of any hearing.

11.3 Any hearings shall be in private unless the parties agree otherwise or unless the Independent Panel directs.

## **12. WITNESSES**

12.1 If the Independent Panel requires it, each party shall disclose the subject matter and content of the evidence of each witness it will be calling how that evidence relates to the points at issue and

12.2 The Independent Panel shall have the power to decide whether any witnesses shall be required to attend or be called to give evidence at any hearing.

12.3 The Independent Panel may question a witness at any stage and shall control the questioning of a witness by the parties.

## **13. DECISIONS AND POWERS OF THE INDEPENDENT PANEL**

13.1 The decision of the Independent Panel shall be in writing, shall be dated and signed by its members (such signature may be electronic), and shall state the reasons on which it is based.

13.2 Where there are three Independent Panel members, the Panel shall decide on any issue by a majority.

13.3 The Registrar shall transmit decisions of the Independent Panel to the parties.

13.4 Subject to Regulation 35.8.5, all decisions of an Independent Panel shall be final and binding on the parties and on any party claiming through or under them and the parties agree, by submitting to the proceedings held under these Rules, to waive irrevocably their right to any form of appeal, review or recourse to any state court or other judicial authority, subject to any applicable statutory or other rights.

13.5 The Independent Panel shall have the powers set out in the Arbitration Act 1996, including the powers to make a declaration on any matter to be determined in the proceedings. In addition, the Panel shall have the power:

- (a) to allow any party to amend its written case and/or to submit further evidence;
- (b) to extend or abbreviate any time-limit provided by these Rules (save for the time limit for the decision which may only be extended by the Board);
- (c) to conduct enquiries;
- (d) to order any party to make any property under its control available for inspection by the Panel;

- (e) to order the production to the Panel and the other party/parties for inspection, copies of any documents in a party's control which the Panel considers relevant;
- (f) to decide which rules of evidence on admissibility, relevance and/or weight shall apply;
- (g) to dismiss a claim or to proceed in the absence of one or more of the parties, in the event of a failure to comply with any directions of the Panel;
- (h) to consolidate proceedings;
- (i) to join any other party to the proceedings on the application of a party, subject to the consent in writing of such third party; and
- (j) to order on an interim basis, subject to final determination in a decision, any remedy which the Panel would have the power to grant in a final decision (including to order a party to do or refrain from doing anything and/or staying execution of the decision below). The Independent Panel may not make any interim order or grant any provisional award unless and until the Notice of Appeal has been properly submitted and served on the other parties.

#### **14. COSTS**

- 14.1 The costs of the Independent Panel shall be borne by World Sailing unless the Panel orders that a party shall contribute in full or in part to those costs due to the party's unreasonable conduct in the proceedings.
- 14.2 The parties shall be responsible for their own legal and other costs.

#### **15. CONFIDENTIALITY**

- 15.1 The proceedings of a Panel shall take place in private.
- 15.2 Subject to Rules 15.4 and 15.6 below, all oral or written representations, submissions, evidence and documents created in the course of any proceedings are confidential between World Sailing and the individual or body concerned.
- 15.3 All oral or written representations, submissions, evidence and documents created or used in the course of any proceedings shall be subject to qualified privilege.
- 15.4 Decisions of the Panel shall be published by World Sailing in accordance with Regulation 35.3.12. In addition to publication of decisions of the Panel, World Sailing may publish with the permission of the Panel:
  - (a) a summary of any decision, finding, hearing, order, proceedings or resolution; or
  - (b) any representations, submissions, evidence and documents created or used in the course of proceedings whether or not this reflects on the character or conduct of a Participant.
- 15.5 Each Participant shall be deemed to have consented to any such publication.

- 15.6 World Sailing shall have the right to use and rely upon any representations, submissions, evidence and documents that are provided to it during the course of any inquiry and/or are created or otherwise generated or used during the proceedings of an Independent Panel for the purpose of carrying out its regulatory functions and monitoring and implementing compliance with the Racing Rules of Sailing and the World Sailing Constitution and Regulations..

## **16. APPLICABLE LAW AND LANGUAGE**

- 16.1 The seat of the proceedings shall be London. However, the Independent Panel may at its discretion hold a hearing in another place.
- 16.2 Proceedings under these Rules shall be governed by the law of England and Wales unless otherwise determined by the Independent Panel. Any non-mandatory provisions of the Arbitration Act 1996 which are expressly excluded or modified by these Rules are not incorporated into the Rules.
- 16.3 Subject to any different order being made by the Panel during the proceedings, the language of the proceedings shall be English, and all submissions, statements or evidence in any other language shall be accompanied, at the time they are introduced into the proceedings, by a translation into English, with such translation being provided by the Participant that introduced the submission, statement or evidence
- 16.4 Members of any Independent Panel and any World Sailing staff involved in any proceedings shall not be held personally liable for any acts or omissions in relation to any such proceedings.