

Appendix 3 – Eligibility Code

Regulation 19

A submission from the Executive Committee

Purpose or Objective

To consolidate in one place all of the various regulations relating to the eligibility of sailors to compete under RRS, and to revise both the layout and text to give proper effect to the intention of the existing Regulations relating to Eligibility, and remove confusing text.

Proposal

1. Move regulations relating to nationality criteria, currently under Regulation 24.5, which also relate to the eligibility of a competitor for certain events, to the Eligibility Code.
2. Delete the existing text in its entirety and replace with the revised text below.

APPENDIX 3 – ELIGIBILITY CODE

19.1 Competition Eligibility

- 19.1 An individual shall have Competition Eligibility unless that eligibility has been suspended or revoked. 'Competition Eligibility' means the individual has a general entitlement to take part in competition in the sport of sailing.
- 19.2 An individual who does not have Competition Eligibility, or who is in breach of any condition imposed on his Competition Eligibility, shall not compete in any competition in the sport of sailing to which the RRS or these Regulations apply in whole or in part.
- 19.3 A boat that races with, as part of her crew, a competitor who is in breach of this Code shall be disqualified from all such races.

ISAF Eligibility

- 19.4 In addition to Competition Eligibility, a competitor has 'ISAF Eligibility' if he meets the following conditions:
- (a) he is a member of his/her Member National Authority or one of its affiliated organizations. Such membership to be established by the competitor either:
 - (i) by being entered by a national authority of the country of which the competitor is a national or ordinarily a resident; or
 - (ii) by presenting a valid membership card or certificate, or other satisfactory evidence of identity and membership;
 - (b) he is registered as an 'ISAF Sailor' on the ISAF Website for those events listed under Regulations 19.6(a) to (c), Olympic Qualification Events and ISAF Graded Match Racing Events;
 - (c) he has agreed to be governed and bound by the Regulations and any other

requirements issued by ISAF; and

- (d) he has not had either his Competition Eligibility or ISAF Eligibility suspended or revoked under Regulation 19.

19.5 In exceptional circumstances the Executive Committee may waive the requirements contained in Regulations 19.2.1(a) and (b) for a sailor who, for good reason, is unable to comply with those requirements.

Events Requiring ISAF Eligibility

19.6 ISAF Eligibility is required for the following events:

- (a) the Olympic Sailing Competition;
- (b) the sailing events of Regional Games recognized by the International Olympic Committee;
- (c) events including "ISAF" in their titles;
- (d) world and continental championships of ISAF classes and world championships of the IMS, Major Events and other events approved by ISAF as a World Championship;
- (e) any event at which the Organizing Authority, Member National Authority or ISAF has appointed an International Jury, International Umpires, International Race Officers, International Measurers or ISAF Technical Delegates to act in that capacity;
- (f) any event approved by a Member National Authority of ISAF as an Olympic qualifying event;
- (g) any event designated by a Member National Authority within its jurisdiction as requiring competitors to satisfy the requirements of Regulation 19.7; and
- (h) any event designated by ISAF.

19.7 Additionally, with the prior approval of the relevant Member National Authority, an Organizing Authority may also impose the same requirements as above for an event and that fact shall then be stated in the notice of race and the sailing instructions.

Nationality Criteria

19.8 When participating in an ISAF Event, a competitor must be a national of the Member National Authority that enters him or that he represents as determined under the guidelines set out below. However, the Notice of Race may specify that Regulation 19.8 does not apply to crew substitutes.

19.9 The following wording shall be included in the notice of race and sailing instructions:

"Any competitor in the championship must be a national of the country of the Member National Authority which is entering him/her or which he represents."

19.10 All applications or disputes relating to the determination of the country that a competitor may represent in the championship shall be determined by the Executive Committee.

19.11 The requirements of Regulation 19.8 shall not apply to competitors participating in the ISAF Open Match World Racing Championship or the ISAF Offshore Team World Championship.

19.12 On application, the Executive Committee may grant exemptions to Regulation 19.8 in case of a competitor being a permanent resident of the country he wishes to represent. The following conditions will apply:

- (a) a competitor must have been an ordinary resident of the country for more than three (3) consecutive years and must be able to establish his residency for this period;
- (b) a competitor must have been member of the relevant Member National Authority, or a club or other organization affiliated to the relevant national authority for at least three (3) consecutive years;
- (c) a competitor who has represented one country in the Olympic Games, in continental or regional games or in world or regional championships recognized by the Federation (ISAF), and who wants to represent another country, may represent this country provided that at least three (3) consecutive years have passed since the competitor last represented a different country in the events referred to above or the Executive Committee has reduced this period.

Nationality Criteria Guidelines

19.13 Based on the criteria used by the IOC for the Olympic Games and ISAF policy, the following guidelines shall be used by the Executive Committee in assessing an application:

- (a) A competitor who is a national of two or more countries at the same time may represent either one of them, as he/she may elect. However, after having represented one country in the Olympic Games, in ISAF events, in continental or regional games or in world or regional championships recognized by the ISAF, he may not represent another country unless he/she meets the conditions set forth in Regulation 19.12 that apply to persons who have changed their nationality or acquired a new nationality.
 - (b) A competitor who has represented one country in the Olympic Games, in ISAF events, in continental or regional games or in world or regional championships recognized by the ISAF, and who has changed his nationality or acquired a new nationality, shall not participate in any of the events referred to above in this paragraph to represent his new country until three years after such change or acquisition. The Executive Committee may after taking into account the circumstances of each case, and with the agreement of the Member National Authorities concerned, reduce or cancel this period.
 - (c) If a part of an existing country such as an associated state, province or overseas department, a country or colony acquires independence and becomes a new country or is incorporated into or is associated with another country recognized by the IOC, Regulations 19.12(a) and (b) shall not apply and a competitor may:
 - (i) continue to represent the former country if he remains a national of that country; or
 - (ii) represent the new country of the country into which the newly independent territory has been incorporated provided that country has a Member National Authority and the competitor becomes or applies to become a national of that country; and
 - (iii) the choice provided for in this paragraph may only be made once in respect of such change in national status.
 - (d) In all cases not expressly addressed in these Regulations, in particular those cases in which a competitor would be in a position to represent a country other than that of which he/she is a national, or to have a choice as to the country which he/she intends to represent, the Executive Committee may take all decisions of a general or individual nature, and in particular issue specific requirements relating to
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nationality, citizenship, domicile or residence of the competitors, including the duration of any waiting period.

- (e) In the instance of applications that need to be decided in haste, possibly shortly before the start of a championship, the Executive Committee shall nominate two individuals to determine applications/disputes on its behalf for the specific championships only.

Suspension or revocation of Competitor Eligibility or ISAF Eligibility

19.14 Competition Eligibility or ISAF Eligibility (or both) may be suspended or revoked:

- (a) by a National Authority (for events within its own jurisdiction) or by ISAF:
 - (i) for a breach of RRS 69.1(a); or
 - (ii) for competing, within the preceding two years, in an event that the competitor knew or should reasonably have known was a Prohibited Event; or
- (b) for a breach of RRS 5.

ISAF's powers in this Regulation are in addition to the provisions of RRS 69.

19.15 A 'Prohibited Event' means an event:

- (a) permitting or requiring advertising beyond that permitted by the ISAF Advertising Code;
- (b) with prizes or other benefits referred to in Regulation 25.12.2 that is a national event not approved by the National Authority of the venue or an international event not approved by ISAF;
- (c) that is described as a world championship or uses the word "world", either in the title of the event or otherwise, and that is not approved by ISAF;
- (d) that does not conform to the requirements of RRS 89.1 and is not otherwise approved by ISAF; or
- (e) for which the Organizing Authority that has not paid the ISAF Event Fees, and
- (f) has been listed on the ISAF website on a list maintained for this purpose

Review by ISAF

- 19.16 A National Authority must report any decision it makes under RRS 69.3 or Regulation 19.14 to ISAF, including where it suspends or revokes Competition Eligibility and/or ISAF Eligibility. The decision of the National Authority (together with its reasons) shall be sent promptly in writing to the Secretary General.
- 19.17 On receipt of such a report, ISAF may confirm, revise or annul the decision (or remit it to the National Authority for reconsideration in accordance with the ISAF's directions).
- 19.18 After a decision to suspend or revoke, or to impose conditions on, Competition Eligibility and/or ISAF Eligibility has become final, the Secretary General shall report the decision to all National Authorities, ISAF Class Associations and other ISAF affiliated organizations, which may also suspend eligibility for events held within their own jurisdiction. The Secretary General may do this by publishing an appropriate notice on the ISAF website.

Appeals

- 19.19 A competitor may appeal a decision to suspend, revoke, or impose conditions on his
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Competition or ISAF Eligibility to the Review Board. The competitor shall be advised of the right to appeal and be provided with a copy of the Review Board Rules of Procedure.

- 19.20 A National Authority or ISAF may ask for a review of its decision by the Review Board. The Review Board Rules of Procedure shall govern all appeals and requests for review.
- 19.21 Upon an appeal or request for review, the Review Board may confirm, revise or annul the decision, or require a hearing or rehearing.
- 19.22 Decisions of the Review Board may be appealed only in accordance with Article 82.
- 19.23 The Secretary General shall promptly notify all National Authorities, ISAF Class Associations and other ISAF affiliated organizations of all Review Board decisions made pursuant to this Regulation. The Secretary General may do this by publishing an appropriate notice on the ISAF website.

Reinstatement of Competition and/or ISAF Eligibility

- 19.24 A competitor may apply to ISAF for his Competition Eligibility and/or ISAF Eligibility to be reinstated, or have any conditions imposed upon it removed or amended, if
- (a) he establishes substantial, changed circumstances justifying the change; and
 - (b) a minimum of three years has passed since the original decision.
- 19.25 A competitor may appeal a refusal to grant such an application to the Review Board, in which case the procedures set out in Regulations 19.19 to 19.23 shall apply.

Class Eligibility

- 19.26 Any competitor whose eligibility has been suspended, denied, or revoked by an ISAF Class may appeal that decision to the Review Board in accordance with Articles 79, 81 and 82 and the procedures set out in the Review Board Rules of Procedure

Important Notes:

1. Much of the current text of Appendix 3 is replicated in this new version, but with modifications to give it clarity.
2. Similarly Regulation 24.5 appears almost unchanged but incorporated into the new text.
3. Various parts of the current text have been re arranged to improve clarity.
4. References to Articles by number have been updated

Current Position

Current Appendix 3 – Eligibility Code, Regulation 19 and current Regulation 24.5

Reasons

1. The existing text has been found confusing by sailors, administrators and lawyers alike. Bad rules encourage non observance in whole or part and are similarly badly and inconsistently administered, which is bad for the sport. Recent cases dealt with by ISAF have demonstrated flaws in the current wording.
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2. The existing appears to be an amalgam of various concepts without any logical connection, which in itself has caused confusion. The expressions 'eligibility' (as a defined term in Article 79.1 of the Constitution) and 'ISAF Eligibility' have been used with different meanings and intentions.
 3. The existing text has prompted several request for clarification, and an interpretation.
 4. Sailors should be able to find all rules relating to eligibility in one part of the Regulations and not have to hunt through the Regulations to find relevant parts. Consolidating them in one appendix will be a major improvement.
 5. The provisions relating to reports, appeals and reinstatement all needed revising.
 6. This revised text is required now so that it is consistent with the 2013-16 RRS. The new edition of the RRS requires ISAF to have in place '*established procedures*' by 1 January 2013. As Regulation 19 is a 'rule' under the RRS, it is an important source of jurisdiction for ISAF.
 7. There is a need for consistency of penalties applied under rule 69.
 8. These proposals were presented in draft to the 2012 Annual Conference for feedback and comment. The Race Officials Committee, Constitution Committee and Racing Rules Committee approved the documents in principle and any detailed feedback has been incorporated into the documents.
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