



International Sailing Federation

Disciplinary Commission

Rules of Procedure

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1. Interpretation

- “Chief Executive Officer” means the ISAF Chief Executive Officer or any member of his staff authorised by him to act on his behalf.
- “Commission” means the ISAF Disciplinary Commission appointed under *ISAF* Regulation 8.15 and, where relevant, includes *Panels* or individual members of the *Commission*.
- “Commission Chairman” means the member of the *Commission* appointed as its chairman or, if the chairman is absent or otherwise not capable of acting, the vice-chairman of the *Commission* or another member of the *Commission* authorised by the chairman to act on his behalf.
- “Competition Eligibility” has the meaning set out in *ISAF* Regulation 19.
- “ISAF” means the International Sailing Federation.
- “ISAF Eligibility” has the meaning set out in *ISAF* Regulation 19.
- “MNA” means a member national authority of *ISAF*, which has the meaning set out in Article 1 of the *ISAF* Constitution.
- “Overriding Objective” means the objectives in *Rule 2.3*
- “Panel” means a panel of the *Commission* appointed under *Rule 5* to hear and determine a *Report*.
- “Panel Chairman” means the member of the *Commission* appointed under *Rule 5.1* to chair a *Panel*, or in his absence, another member of a *Panel* nominated by the *Commission Chairman*.
- “Participant” means a person or body that a *Panel* grants permission to be a participant in proceedings before it under *Rule 6*.
- “Provisional Suspension” means the *Respondent’s Competition Eligibility* or *ISAF Eligibility* is temporarily suspended prior to the final decision of the *Commission*.

“Report”	means a report referred to the <i>Commission</i> under <i>ISAF</i> Regulations 35.5 or 35.7 or any report of a matter within <i>ISAF</i> which falls under the jurisdiction of the <i>Commission</i> by virtue of the <i>ISAF</i> Regulations.
“Respondent”	means a person who is the subject of a <i>Report</i> .
“Rules”	means these rules of procedure.
“in writing”	means by hard copy, fax or email.

2. General

- 2.1 These *Rules* are made by the *Commission* in accordance with *ISAF* Regulations 8.15.7 and 35.10 to govern the investigation, hearing and determination of *Reports*.
- 2.2 The *Chief Executive Officer* shall cause a copy of the *Rules* to be published on the *ISAF* website.
- 2.3 The functions of the *Commission* are set out in its terms of reference in *ISAF* Regulation 8.15 and, in particular but not limited to, are to:
- (a) determine whether or not allegations in *Reports* are true;
 - (b) whether any application rule or regulation has been broken by the *Respondent*; and
 - (c) if so, what sanction (if any) should be imposed.
- 2.4 The overriding objectives of these *Rules* are that:
- (a) cases and *Reports* are dealt with justly and in a fair and expeditious manner;
 - (b) *Respondents* are entitled to respond to allegations made against them in *Reports* and to see any evidence being considered by the *Commission*; and
 - (c) *Respondents* are entitled to make representations to the *Commission*.
- 2.5 The *Commission*, *Respondents*, *Participants* and any other persons involved in a case shall conduct themselves in accordance with the *Overriding Objective*.
- 2.6 Subject to the *Rules*, the *Commission* may make any order or direction that it considers appropriate to secure compliance of the *Overriding Objective*. *Respondents* and *Participants* shall comply with the orders and directions of the *Commission*.
- 2.7 The *Commission* may shorten or lengthen any deadlines in these *Rules* (or impose a deadline where none is sated) if it is satisfied that it is just and reasonable, and in compliance with the *Overriding Objective*, to do so in the circumstances of a case.

2.8 Subject to the *Rules, Panels* or individual members of the *Commission* shall have due regard to any relevant guidance or directions published by the *Commission*.

3. Jurisdiction

3.1 Any person or body filing a *Report* with *ISAF*, or requesting to be a *Participant* under *Rule 6*, shall be deemed to have accepted the jurisdiction of *ISAF*, the *Commission* and these *Rules*.

3.2 A *Respondent* shall raise any objection to the jurisdiction of *ISAF* or the *Commission* within seven days of either being served a *Report* under *Rule 9.1* or otherwise when notified *in writing* of the proceedings concerning him by *ISAF*. If the *Respondent* fails to do so, or otherwise proceeds in the case in a manner that indicates acceptance of these *Rules*, he shall be deemed to have irrevocably accepted the jurisdiction of *ISAF*, the *Commission* and these *Rules*.

4. Reports and notices; service

4.1 The *Commission* may from time to time order that *Reports* shall be filed in a form specified by the *Commission*.

4.2 *Reports* from an *ISAF* committee, *ISAF* commission, *MNA* or an *ISAF* international class association shall be signed by the chairman, president, secretary or other senior officer of that body.

4.3 Any notice or *Report* may be served on a *Respondent* or *Participant* by one or more of the following methods:

(a) by hand;

(b) by post; or

(c) by telex, facsimile or e-mail to him at his registered address or to the address or electronic address, if any, supplied by him to *ISAF*, an *MNA* or organising authority of an event or where it appears to the *Commission* that the email address is regularly used by the *Respondent* or *Participant*.

4.4 Notices delivered by hand are served immediately. Notices sent by telex, facsimile or e-mail shall be deemed to have been served two hours after they are sent (provided that if a notice would be deemed to have been served after 17:00 hours in the place of receipt, it shall instead be deemed served at 09:00hrs on the next day in the place of receipt).

4.5 Notices sent by post shall be deemed to have been served on the seventh day following that on which the letter containing the same is put into the post, and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed to the *Respondent* or *Participant* and was put into the post office as a prepaid first class letter (or prepaid first class airmail letter where appropriate).

4.6 Unless otherwise stated, all notices and communications to and from *ISAF* and the *Commission* shall be addressed to, or be issued by, the *Chief Executive Officer*. Any notice or communication to the *Chief Executive Officer* shall be served by post, fax or email and the provisions of *Rules 4.4* and *4.5*

apply (except that in the case of post, a notice sent by post shall be deemed served when actually received by ISAF).

The proper address for service of the *Chief Executive Officer* is:

The Chief Executive Officer
International Sailing Federation
Ariadne House
Town Quay
Southampton
SO14 2AQ
United Kingdom

Email: disciplinary@isaf.com

Fax: + 44 2380 635 789

5. **Panels**

- 5.1 Subject to *Rule 5.2*, the *Commission Chairman* shall appoint a panel of at least three *Commission* members to hear and determine a *Report*. The *Commission Chairman* shall appoint one of the members to chair the *Panel*. The *Commission Chairman* may appoint himself as a member of a *Panel*, including as the *Panel Chairman*. The *Commission Chairman* shall appoint:
- (a) at least three *Panel* members from three different *MNAs*; or
 - (b) in a *Panel* of only three members, two *Panel* members from one *MNA* and one member from a different *MNA* (who is then to be the *Panel Chairman*); and
 - (c) in all cases, one member of the *Panel* shall be legally qualified.
- 5.2 If the *Commission Chairman* considers that a *Report* must be determined urgently (for example due to its nature, the imposition of any *Provisional Suspension* or provisional sanction, or any delays in the procedure before the *Commission*) he may direct that the *Panel* shall consist of a single member of the *Commission*, who shall not be from the *MNA* of the *Respondent* and shall be legally qualified.
- 5.3 In the event of illness, recusal or other unavoidable absence of a member of a *Panel*, the *Commission Chairman* may appoint a replacement or permit the *Panel* to continue with a reduced number of members.
- 5.4 Upon being informed of the appointment of a *Panel*, a *Respondent* or *Participant* may object to the appointment of a member of a *Panel* within seven days. Any objection shall include the full reasons for the objection. The *Commission Chairman* shall rule on any objection as soon as reasonably possible. If the *Commission Chairman* upholds an objection, he shall replace the affected *Panel* member. If the *Commission Chairman* himself is objected to, the vice-chairman of the *Commission* shall make the ruling.

6. Participant status

- 6.1 Any person or organisation, or an ISAF officer, committee or commission, may apply to be granted status as a participant in the proceedings before the *Commission*.
- 6.2 The *Panel* (or pending the appointment of a *Panel*, the *Commission Chairman*) may grant status to a person or body as a *Participant* if the potential *Participant* has a substantial and relevant interest in the outcome of a case (for example, it is the submitter of a *Report*) and it is in compliance with the *Overriding Objective* to grant such an application.
- 6.3 The nature and extent of any *Participant's* involvement in proceedings before the *Commission* may be limited or restricted by *Commission*.
- 6.4 The following bodies shall be automatically deemed to have *Participant* status:
 - (a) in cases concerning the classification of competitors under *ISAF Regulation 22*, the *ISAF Sailor Classification Commission*; and
 - (b) in cases concerning the review of decisions by an *MNA* under *Rule 8*, the *MNA* in question.

7. Provisional Suspension and other provisional sanctions

- 7.1 A *Participant* may apply to the *Commission* for the *Provisional Suspension* of a *Respondent*. The *Commission Chairman* may also determine that *Provisional Suspension* should be considered by the *Commission*.
- 7.2 An application or decision on *Provisional Suspension* shall be referred by the *Commission Chairman* to a single member of the *Commission* (including himself) to determine the *Provisional Suspension* (provided that the member shall be from a different *MNA* than that of the *Respondent*).
- 7.3 The *Respondent* shall be given an opportunity to make representations (oral or written) to the member of the *Commission* determining the *Provisional Suspension* either:
 - (a) before imposition of any *Provisional Suspension*; or
 - (b) if the case is urgent, on a timely basis after imposition of any *Provisional Suspension*.
- 7.4 The member of the *Commission* shall determine whether or not to *Provisionally Suspend* the *Respondent* after considering the nature and extent of the *Report*, any information contained in an application for *Provisional Suspension*, any submissions of the *Respondent* and any other relevant information. The member of the *Commission* may impose conditions on the *Provisional Suspension*.
- 7.5 The decision of the member of the *Commission* shall be final but the member may review his decision if representations from the *Respondent* are considered under *Rule 7.3(b)*.
- 7.6 After finally determining a *Report*, a *Panel* shall lift any *Provisional Suspension* (but without prejudice to any sanction the *Panel* may impose).

7.7 Pursuant to ISAF Regulation 35.15, the *Commission* may provisionally impose any other sanction available to it that it believes is appropriate pending the outcome of a case. The *Commission* shall follow the same procedure in this *Rule 7* for any such determinations.

8. Reports under Racing Rule of Sailing 69.2(d) or Regulation 19.16

8.1 If a *Report* is made under ISAF Racing Rule of Sailing 69.2(d) or ISAF Regulation 19.16 to *ISAF*, then the *Report* shall be determined under this *Rule* and *Rules 9, 10* and *11* do not apply (unless otherwise provided in this *Rule 8*).

8.2 If a *Report* has also been made to an *MNA*, then the *Commission* may order that the case be adjourned pending receipt of the decision of the *MNA* or make any other directions it thinks fit.

8.3 The *Panel* shall consider the *Report* and, if it considers that no further action is required, then it shall confirm the original decision and notify the *Respondent* and the submitter of the *Report* of that fact.

8.4 If the *Panel* considers that it may be appropriate to revise or annul the original decision (or remit it for reconsideration), the *Panel* shall first allow the *Respondent*, any *Participant* and the submitter of the *Report* to make representations to the *Panel* within fourteen days of being notified that they may do so.

8.5 In its sole discretion, the *Panel* may hold a hearing for the purpose of allowing the *Respondent*, any *Participant* or the original submitter of the *Report* to make representations to the *Panel*. Hearings shall be held using the relevant procedures in *Rule 11*.

8.6 Following consideration of any representations, the *Panel* shall decide whether or not to confirm, revise or annul the decision and any sanction imposed (or, where appropriate, remit the *Report* for reconsideration consistent with the *Panel's* directions).

9. Admissions by Respondents

9.1 Following the appointment of a *Panel*, the *Chief Executive Officer* shall serve the *Report* on the *Respondent*. The *Respondent* may waive his right to a hearing by acknowledging that the allegations in the *Report* are true and that he accepts the determination of the *Panel* with respect to any sanction to be imposed on him (after consideration of any representations made to the *Panel*).

9.2 A *Respondent* waives his right to a hearing under *Rule 9.1* either:

(a) expressly in writing; or

(b) by his failure to challenge the allegations in the *Report* by notice *in writing* to the *Chief Executive Officer* within fourteen days of the date of service of the *Report*.

10. Summary procedure

10.1 If a *Respondent* does not waive his right to a hearing, the *Panel* shall consider whether or not the *Report* and case is such that it is appropriate that the *Report* be determined by way of written representations only. If the *Panel* is satisfied that this is the case, the *Panel* may direct that the *Report* be heard under this *Rule 10* as a summary case.

- 10.2 If the *Panel* directs that a *Report* shall be determined as a summary case under this *Rule 10*, the *Panel* shall consider the *Report* and any written representations from the *Respondent* and any *Participant* and, subject to any questions or inquiries from the Panel, shall then:
- (a) determine whether or not the *Report* is proved; and
 - (b) inform the *Respondent* and any *Participants in writing* of the sanction the *Panel* believes is appropriate in respect of the *Report*.
- 10.3 If the *Respondent* and any *Participant* believes the proposed sanction is inappropriate, it may within ten days either:
- (a) request that the *Panel* reconsider its decision; or
 - (b) make an application to the *Commission Chairman* requesting the case be referred to a *Panel* and heard in accordance with *Rule 11*.
- 10.4 The proposed sanction shall be confirmed *in writing* and be binding on the *Respondent* if:
- (a) having been being notified of the *Panel's* decision a *Respondent* or *Participant* has not requested reconsideration by the Panel; or
 - (b) the *Commission Chairman* has refused an application under *Rule 10.3* for a hearing.
- 10.5 If the *Commission Chairman* grants an application for a hearing under *Rule 10.3*, then the *Report* shall be heard in accordance with *Rule 11*.
- 10.6 If, at any time prior to publishing a sanction under *Rule 10.3*, the *Panel* may cancel the summary case procedure and proceed with a hearing under *Rule 11*.

11. Hearings

- 11.1 Unless the summary case procedure in *Rule 10* has been invoked by the *Commission*, the *Respondent* shall elect for the *Report* to be determined:
- (a) by way of correspondence; or
 - (b) by way of hearing.
- 11.2 If the *Respondent* elects for a hearing, the *Panel* shall, after considering any representations from the *Respondent* and any *Participant*, determine what form the hearing shall take. The *Panel* may determine that the hearing shall be held by electronic means (by telephone, videoconference etc.) provided that:
- (a) at all times the *Panel* and all persons at the hearing can hear and communicate with each other; and
 - (b) the *Panel* is satisfied the *Respondent* and any *Participant* is being treated fairly and justly.

- 11.3 As required by *ISAF* Regulation 35.11(a), at least fifteen days' notice of the time and place of any hearing must be given.
- 11.4 The *Panel* shall determine the procedure for the hearing and for the determination of the *Report* and, in particular, shall:
- (a) as an overriding principle, act fairly and in accordance with the principles of natural justice at all times;
 - (b) have regard to any general directions issued by the *Commission* with respect to the conduct of cases;
 - (c) allow the *Respondent* and any *Participant* the right to be represented (including by legal representation) at his own expense;
 - (d) ensure the *Respondent* and any *Participant* has been informed in a fair and timely manner of the *Report* and any evidence relied on;
 - (e) allow the *Respondent* and any *Participant* to respond to the *Report* and the potential resulting consequences;
 - (f) allow the *Respondent* and any other *Participant* at the hearing to:
 - i) present evidence;
 - ii) question each other;
 - iii) call and question witnesses (subject to the *Panel's* discretion to accept testimony by telephone or written representations); and
 - iv) make opening and closing statements;
 - (g) conduct the case in the official language of *ISAF* (English) provided the *Respondent* and any *Participant* shall have the right to an interpreter at the hearing, with the *Panel* to determine the identity (and responsibility for the cost) of the interpreter; and
 - (h) provide a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any sanction imposed.
- 11.5 The *Panel* may adjourn a hearing to such time and such place as it thinks fit.
- 11.6 The *Panel* may permit observers to be present in its discretion and subject to its directions.
- 11.7 If the *Respondent* or any *Participant*, having been duly notified of the date, time and location of the hearing fails to attend, the *Panel* may proceed to hear and determine the case if it is just and reasonable to do so.

12. Nature of proceedings and standard of proof; evidence

- 12.1 Proceedings before the *Commission* are inquisitorial and not adversarial.

- 12.2 The standard of proof shall be the comfortable satisfaction of the *Commission*, having regards to the seriousness of the allegations made (unless a *Respondent* wishes to establish specified facts or circumstances, in which case the standard of proof shall be the balance of probabilities).
- 12.3 The *Commission* is not bound by any rules of civil evidence or procedure and may give such weight and credibility to evidence, including hearsay evidence, as it may think fit.
- 12.4 The *Commission* and any *Panel* may draw adverse inferences to the *Respondent* based on the *Respondent's* refusal to appear at any hearing, to answer questions or submit any representations (when invited to do so and provided always that *Rule 11.7* is complied with).

13. Decisions and penalties

- 13.1 The decision of a *Panel* shall be made by a majority vote of its members. In the event of a tie, the *Panel Chairman* shall have a second or casting vote.
- 13.2 Decisions of the *Panel* shall be public, except that the *Panel* may determine that its decision (or any part of it) shall not be published and remain confidential if it believes there is good reason to do so. If the *Panel* directs that the full decision is not to be published, it shall issue a short statement for publication confirming any offences committed, any sanctions imposed on the *Respondent* and the reasons for not publishing the full decision.
- 13.3 The following one or more sanctions may be imposed:
- (a) no sanction;
 - (b) a warning, admonishment or reprimand;
 - (c) a fine not exceeding any relevant maximum set by the *ISAF* Executive Committee from time to time (subject to *ISAF* Regulation 35.14);
 - (d) a direction not to compete or officiate in a particular event or class (or types of event or classes);
 - (e) suspension or revocation of *Competition Eligibility* and/or *ISAF Eligibility* (or the imposition of conditions on such *Eligibility*);
 - (f) suspension or removal from office in the case of *ISAF* Representatives (as defined in the *ISAF* Regulations);
 - (g) suspension or removal of a certificate of appointment in the case of *ISAF* Race Officials (or the imposition of conditions on such appointment);
 - (h) for a breach of the *ISAF* Code of Ethics, any sanction set out in that Code;
 - (i) make a report to a *MNA*, *ISAF* Class, *ISAF* (under another *ISAF* Regulation or the *ISAF* Racing Rules of Sailing) or any other appropriate organisation; and/or
 - (j) any other sanction which it is within the powers of *ISAF* to impose.

13.4 Any sanction may be suspended or have conditions imposed on it if deemed appropriate by the *Panel*.

14. Appeals and reconsiderations

14.1 Subject to the right to request reconsideration under this *Rule 14*, there is no appeal from the decision of a *Panel* to the *Commission* as a whole. Any right of appeal is governed by ISAF Regulation 35.16.

14.2 The *Respondent* or a *Participant* may request that the *Panel* reconsider its decision within ten days of the decision being notified to them. The *Panel* may amend its decision if it believes it has good reason to do so.

15. Costs and expenses

15.1 Unless otherwise ordered by the *Panel*, each *Respondent* and *Participant* shall bear its own costs and expenses of the proceedings.

15.2 The *Panel* may order that a *Respondent* or *Participant* shall be liable to pay whole or part of:

- (a) another *Respondent* or *Participant's* costs or expenses; or
- (b) the costs and expenses of ISAF in administering the proceedings;

if it is satisfied that a *Respondent* or *Participant* acted in bad faith, dishonestly, or was unreasonable in the conduct of the proceedings.

15.3 Any costs ordered to be paid to *ISAF* shall be due and enforceable as a debt owed to the International Sailing Federation Limited of 69 Athol Street, Douglas, IM1 1JE, Isle of Man.

16. Interpretation; Amendment

16.1 The *Rules* shall be interpreted :

- (a) during the consideration of a case, by the *Panel* determining the case; or
- (b) at any other time, by the *Commission*.

16.2 A *Panel* considering a case shall have regard to any interpretations made by the *Commission* under Rule 16.1(b).

16.3 The *Commission* may amend these rules from time to time. The *Chief Executive Officer* is authorised to amend these *Rules* to correct any typographical or other changes in references.

17. Dispute resolution

17.1 The *Rules*, the proceedings of the *Commission* and any other disciplinary proceedings conducted by *ISAF* are governed by English law.

17.1 No dispute arising from or related to any proceedings conducted under these *Rules* or the proceedings of the *Commission* or *ISAF* shall be submitted to any court or tribunal. Instead the dispute shall be submitted exclusively to the independent *ISAF* Review Board for arbitration in accordance with its rules of procedure. The seat of the arbitration shall be England.

Approved by the ISAF Disciplinary Commission

27 August 2013