

When the protest committee has discretion to decide the appropriate penalty for a breach, the penalties may range from zero points through to DNE. In determining the penalty, the protest committee will be guided by this document.

Discretionary Penalties are not just a list of standard penalties. The penalty should be adjusted as justified, while maintaining consistency. The overall concept is to establish a base penalty for a particular breach and then increase or decrease the penalty depending on the circumstances.

Suggested base penalties are listed in the attached two tables. These suggest the base band for common specific breaches and the answers to some general questions to be used when there is no specific breach listed. When a range of penalties is suggested for a specific breach, use the general questions to determine the band for the specific breach.

Penalties are divided into 4 bands with the mid point being the normal base penalty:

- Band 1 – 0 - 10% (mid point 5%)
- Band 2 – 10 - 30% (mid point 20%)
- Band 3 – 30 - 70% (mid point 50%)
- Band 4 – DSQ / DNE (starting point DSQ)

Start by using the tables below to find which band applies. Consider the 'base penalty' to be at the mid-point of the band. Then determine if there is cause to increase or decrease the penalty within the band or to change the band.

A positive answer to these questions would lead to reducing the penalty.

1. Was the breach accidental?
2. Was there a good reason or justification for the breach?
3. Was the breach reported by the competitor?
4. Did anyone who was not part of the boat's crew or support team contribute to the breach?

A positive answer to these questions would lead to increasing the penalty.

1. Was the breach repeated?
2. Was the breach deliberate as opposed to a misjudgement or carelessness?
3. Was there any attempt to conceal the breach?
4. Was anybody inconvenienced?

The protest committee may use other questions to determine if a penalty should be increased or decreased.

To calculate and apply the penalty:

- The discretionary penalty may not make a boat's score worse than retirement or disqualification.
- Percentage penalties are calculated to the nearest tenth of a point, (0.05 to be rounded upward).
- When the breach affected racing performance, it should be applied to all races sailed that day, provided any protest is valid for all races.
- When the breach does not affect racing performance and especially when it is largely administrative, the penalty should be applied to the race sailed nearest in time to that of the incident as specified in RRS 64.1.

When writing a decision applying a discretionary penalty, include the following statements:

- Using the DP Guide a starting penalty of xx% was decided
- The penalty was decreased because.....or There were no circumstances to justify decreasing the penalty
- The penalty was increased because..... or There were no circumstances to justify increasing the penalty.
- The penalty applied is xx% applied to [all races of the day] or to [race numbers yy]

BASE PENALTY BANDS FOR DISCRETIONARY PENALTIES (Generally the base penalty will be the mid point of the band)

| SPECIFIC BREACHES | |
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| <ul style="list-style-type: none"> - If the specific breach is not listed or a range of bands is suggested, go to second table. - Be sure that the DP is authorised for the specific breach. | |
| Safety | |
| <ul style="list-style-type: none"> • Failing to notify the Race Office when staying ashore | 1 |
| <ul style="list-style-type: none"> • Failing to comply with requirements for reporting retirement (failing to notify, not filling the form, filling the form later than the protest time limit) | 1 |
| <ul style="list-style-type: none"> • When non-compliance results in initiation of search and rescue | 4 |
| <ul style="list-style-type: none"> • Berthing – Boat not in assigned place but has notified the OA | 1 |
| <ul style="list-style-type: none"> • Berthing – Boat failing to promptly notify the OA | 2 |
| <ul style="list-style-type: none"> • Failing to avoid commercial traffic. | 1-4 |
| <ul style="list-style-type: none"> • Removal of pfd for more extended period while not racing | 1-2 |
| Code of Conduct | |
| <ul style="list-style-type: none"> • Failing to comply with a reasonable request by an official | 2-4 |
| <ul style="list-style-type: none"> • Failing to take proper care of, or interfering with the function of supplied equipment | 1-4 |
| Leaving the Shore | |
| <ul style="list-style-type: none"> • Failing to comply with an instruction to remain ashore (e.g. AP over H, D flag) | 1-4 |
| The Start | |
| <ul style="list-style-type: none"> • Failing to avoid the starting area not interfering with a racing boat | 1 |
| <ul style="list-style-type: none"> • Failing to avoid the starting area affecting a racing boat | 4 |
| Equipment Inspection | |
| <ul style="list-style-type: none"> • Failing to comply with instructions – valid reason | 1 |
| <ul style="list-style-type: none"> • Failing to comply with instructions – no valid reason | 3 |
| Replacement of Crew or Equipment | |
| <ul style="list-style-type: none"> • Failing to comply with instructions – valid reason | 1 |
| <ul style="list-style-type: none"> • Failing to comply with instructions – no valid reason | 3 |
| <ul style="list-style-type: none"> • Replacing crew or equipment with non-compliant crew or equipment | 4 |
| Identification and Advertising | |
| <ul style="list-style-type: none"> • Failing to apply event stickers as required (e.g. advertising, bow numbers, sail dots etc.). | 2-4 |
| <ul style="list-style-type: none"> • Applied event stickers, but they failed to stay in place (0% if applied by OA) | 1 |
| <ul style="list-style-type: none"> • Failing to wear bib as required | 1-2 |
| <ul style="list-style-type: none"> • National Flag not applied | 1 |
| <ul style="list-style-type: none"> • National Flag applied but fails to stay in place | 1 |
| Radio Communication | |
| <ul style="list-style-type: none"> • Making or receiving radio or text or cell phone message not available to all boats | 3 |
| Trash Disposal | |
| <ul style="list-style-type: none"> • Deliberate trash disposal | 4 |

| Positioning Equipment | |
|---|-----|
| • Failing to collect or return equipment as required or sign out/sign in | 1 |
| • Failing to install or comply with installation instructions | 3 |
| • If equipment was installed but its function is interfered with | 4 |
| Class Rules | |
| • Sail numbers and country codes | 1 |
| • Sail stops missing or out of place | 2 |
| • Sail set outside bands | 3 |
| • Modification of manufacturer supplied and controlled equipment | 3 |
| • Prohibited fairing or refinishing of hull/foil surfaces | 4 |
| • Use of equipment not registered (but certified) | 3 |
| • Safety equipment missing or inadequate | 1-4 |
| • Use of prohibited GPS or other electronics | 4 |
| • Use of uncertified equipment | 4 |
| • Missing or misplaced correctors | 4 |
| • Equipment outside measurement tolerances (excluding wear and tear) | |
| o No possible effect on boat speed | 1 |
| o Possible but not significant effect on performance | 2 |
| o Any significant effect on performance | 4 |

| GENERAL QUESTIONS | BAND |
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| To be used when there is no specific breach in the table above, or when the table above suggests more than one band. | |
| Could the breach compromise safety? | |
| No | 1 |
| Possibly but not certainly | 2-3 |
| Yes | 4 |
| Could the boat gain a competitive advantage? | |
| No – not possible | 1 |
| Possible, but unlikely to affect positions | 2-3 |
| Almost certainly would affect finishing position | 4 |
| Could the breach bring the sport into disrepute? (Note: if a protest committee considers that the sport may have been brought into disrepute, it should consider action under RRS 69, especially if no other rule is available.) | |
| No | 1 |
| Possibly but not certainly | 2-3 |
| Yes | 4 |
| Could the breach result in damage or injury? | |
| No | 1 |
| Possibly but not certainly | 2-3 |
| Yes | 4 |