

## PART 5 PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS continued:

### SECTION B

#### HEARINGS AND DECISIONS

#### 63 HEARINGS

##### 63.1 Requirement for a Hearing

A boat or competitor **shall not be penalized without a protest hearing, except** as provided in **rules 30.2, 30.3, 30.4, 64.4(d), 64.5(b), 64.6, 69, 78.2, A5.1 and P2**. A decision on **redress shall not be made without a hearing**. The protest committee shall hear all *protests* and requests for redress that have been delivered to the race office unless it allows a *protest* or request to be withdrawn.

##### 63.2 Time and Place of the Hearing; Time for Parties to Prepare

**All parties** to the hearing shall be **notified** of the time and place of the hearing, the **protest or redress information** or the **allegations** shall be **made available** to them, and they shall be allowed **reasonable time to prepare** for the hearing. When two or more hearings arise from the same incident, or from very closely connected incidents, they may be heard together in one hearing. However, a hearing conducted under rule 69 shall not be combined with any other type of hearing.

##### 63.3 Right to Be Present

(a) A **representative** of each *party* to the hearing has the **right to be present** throughout the hearing of all the evidence. When a *protest* claims a breach of a rule of Part 2, 3 or 4, the representatives of boats shall have been on board at the time of the incident, unless there is good reason for the protest committee to rule otherwise. Any witness, other than a member of the protest committee, shall be excluded except when giving evidence.

(b) If a *party* to a hearing **does not come to the hearing**, the **protest committee may** nevertheless **proceed** with the hearing. If the *party* was unavoidably absent, the committee may reopen the hearing.

Ok, true confessions. I find this next section important but dry and low likelihood of me participating. I treat it as reference material and have highlighted some of the big thoughts, topic sentence, etc. It is all a pretty straightforward accounting of the procedures. I think I would suggest reading the titles of the paragraphs, reading the read font, and then reading what interests you. Then know there is a quick reference on the website along with the actual rule book since this is verbatim .

**PART 5 PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS continued:****63.4 Conflict of Interest**

(a) A protest **committee member** shall **declare** any possible **conflict of interest** as soon as he is aware of it. A *party* to the hearing who believes a member of the protest committee has a *conflict of interest* shall object as soon as possible. A *conflict of interest* declared by a protest committee member shall be included in the written information provided under rule 65.2.

(b) A member of a protest committee with a *conflict of interest* shall not be a member of the committee for the hearing, unless

(1) all *parties* consent, or

(2) the protest committee decides that the *conflict of interest* is not significant.

(c) When deciding whether a *conflict of interest* is significant, the protest committee shall consider the views of the *parties*, the level of the conflict, the level of the event, the importance to each *party*, and the overall perception of fairness.

(d) However, for World Sailing major events, or for other events as prescribed by the national authority of the venue, rule 63.4(b) does not apply and a person who has a *conflict of interest* shall not be a member of the protest committee.

**63.5 Validity of the Protest or Request for Redress**

At the beginning of the hearing the **protest committee** shall take any evidence it considers necessary to **decide** whether **all requirements for the protest or request for redress have been met**. If they have been **met**, the *protest* or request is **valid** and the **hearing** shall be **continued**. **If not**, the committee shall declare the *protest* or request invalid and **close the hearing**. If the *protest* has been made under rule 60.3(a)(1), the committee shall also determine whether or not injury or serious damage resulted from the incident in question. If not, the hearing shall be closed.

## **PART 5** PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS continued:

### **63.6 Taking Evidence and Finding Facts**

- (a) The protest committee shall take the evidence, including hearsay evidence, of the *parties* present at the hearing and of their witnesses and other evidence it considers necessary. However, the **committee may exclude evidence** which it considers to be **irrelevant** or unduly repetitive.
- (b) A member of the protest committee who saw the incident shall, while the *parties* are present, state that fact and may give evidence.
- (c) A *party* present at the hearing may question any person who gives evidence.
- (d) The committee shall then give the weight it considers appropriate to the evidence presented, find the facts and base its decision on them.

### **63.7 Conflict Between Rules**

If there is a conflict between two or more *rules* that must be resolved before the protest committee makes a decision, the committee shall **apply the rule** that it believes will provide the **fairest result** for all boats affected. Rule 63.7 applies only if the conflict is between rules in the notice of race, the sailing instructions, or any of the other documents that govern the event under item (g) of the definition *Rule*.

### **63.8 Hearings Involving Parties in Different Events**

A hearing involving *parties* in different events conducted by different organizing authorities shall be heard by a **protest committee acceptable to those authorities**.

**PART 5 PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS continued:****63.9 Hearings under Rule 60.3(d) — Support Persons**

If the protest committee decides to call a hearing under rule 60.3(d), it shall promptly follow the procedures in rules 63.2, 63.3, 63.4 and 63.6, except that the information given to the *parties* shall be details of the alleged breach and a person may be appointed by the protest committee to present the allegation.

**64 DECISIONS****64.1 Standard of Proof, Majority Decisions and Reclassifying Requests**

- (a) A protest committee shall make its **decision based on a balance of probabilities, unless provided for otherwise in the rule** alleged to have been broken.
- (b) Decisions of the protest committee shall be by **simple majority vote** of all members. When there is equal division of votes cast, the chairman may cast an additional vote.
- (c) The protest committee shall proceed with each case, as a *protest*, request for redress or other type of request, based on the information in the written request or allegation and testimony during the hearing. This permits the type of case to be changed if appropriate.

**64.2 Penalties**

When the protest committee decides that a boat that is a *party* to a protest hearing has broken a *rule* and is not exonerated, it **shall disqualify her unless some other penalty applies**. A **penalty shall be imposed whether or not the applicable rule was mentioned in the protest**. If a boat has **broken a rule when not racing**, her **penalty shall apply to the race sailed nearest in time to that of the incident**.

However,

- (a) if a **boat has taken an applicable penalty, she shall not be further penalized** under this rule **unless the penalty for a rule she broke is a disqualification** that is not excludable from her series score;
- (b) if the race is restarted or resailed, rule 36 applies.

**PART 5 PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS continued:****64.3 Decisions on Redress**

Rule 62: Redress

When the protest committee decides that a boat is entitled to redress under rule 62, it shall make as **fair an arrangement as possible for all boats affected**, whether or not they asked for redress. This may be to adjust the scoring (see rule A9 for some examples) or finishing times of boats, to *abandon* the race, to let the results stand or to make some other arrangement. When in doubt about the facts or probable results of any arrangement for the race or series, especially before *abandoning* the race, the protest committee shall take evidence from appropriate sources.

**64.4 Decisions on Protests Concerning Class Rules**

(a) When the protest committee finds that deviations in excess of tolerances specified in the class rules were caused by damage or normal wear and do not improve the performance of the boat, it shall not penalize her. However, the boat shall not *race* again until the deviations have been corrected, except when the protest committee decides there is or has been no reasonable opportunity to do so.

(b) When the protest committee is in doubt about the meaning of a class rule, it shall refer its questions, together with the relevant facts, to an authority responsible for interpreting the rule. In making its decision, the committee shall be bound by the reply of the authority.

(c) When a boat is penalized under a class rule and the protest committee decides that the boat also broke the same rule in earlier races in the same event, the penalty may be imposed for all such races. No further *protest* is necessary.

(d) When a boat penalized under a class rule states in writing that she intends to appeal, she may compete in subsequent races without changes to the boat. However, if she fails to appeal or the appeal is decided against her, she shall be disqualified without a further hearing from all subsequent races in which she competed.

(e) Measurement costs arising from a *protest* involving a class rule shall be paid by the unsuccessful *party* unless the protest committee decides otherwise.

## **PART 5** PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS continued:

### **64.5 Decisions Concerning Support Persons**

(a) When the protest committee decides that a *support person* who is a *party* to a hearing under rule 60.3(d) or 69 has *broken a rule*, it may

- (1) issue a *warning*,
- (2) *exclude the person* from the event or venue or remove any privileges or benefits, or
- (3) *take other action* within its jurisdiction as provided by the *rules*.

(b) The protest committee *may also penalize a boat that is a party* to a hearing under rule 60.3(d) or 69 for the breach of a *rule* by a *support person* by changing the boat's score in a single race, up to and including disqualification, when the protest committee decides that

- (1) the *boat may have gained a competitive advantage* as the result of the breach by the *support person*, or
- (2) the *support person* committed a further breach after the protest committee warned the boat in writing, following a previous hearing, that a penalty may be imposed.

### **64.6 Discretionary Penalties**

When a boat reports within the protest time limit that she has broken a *rule* subject to a discretionary penalty, the protest committee shall decide the appropriate penalty after taking evidence from the boat and any witnesses it decides are appropriate.

## **PART 5 PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS continued:**

### **65 INFORMING THE PARTIES AND OTHERS**

**65.1** After making its decision, the protest committee shall **promptly inform the *parties*** to the hearing of the facts found, the applicable *rules*, the decision, the reasons for it, and any penalties imposed or redress given.

**65.2** A *party* to the hearing is entitled to receive the above information in writing, provided she asks for it in writing from the protest committee no later than seven days after being informed of the decision. The committee shall then promptly provide the information, including, when relevant, a diagram of the incident prepared or endorsed by the committee.

**65.3** Unless there is good reason not to do so, after any hearing, including a hearing under rule 69, the **protest committee may publish the information set out in rule 65.1**. The protest committee **may direct** that the information is to be **confidential(ity)** to the *parties*.

**65.4** When the protest committee penalizes a boat under a class rule, it shall send the above information to the relevant class rule authorities.

### **66 REOPENING A HEARING**

**66.1** The **protest committee may reopen a hearing** when it decides that it **may have made a significant error**, or when significant **new evidence** becomes available within a reasonable time. It shall reopen a hearing when required by the national authority under rule 71.2 or R5.

**66.2** A *party* to the hearing **may request a reopening** in writing no later than 24 hours after being informed of the decision.

(a) However, on the last scheduled day of racing the request shall be delivered

(1) within the protest time limit if the requesting *party* was informed of the decision on the previous day;

(2) no later than 30 minutes after the *party* was informed of the decision on that day.

**PART 5** PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS continued:

**66.3** The protest committee shall **consider all requests to reopen**. When a request to reopen is being considered or the hearing is reopened,

(a) when based only on **new evidence**, a majority of the members of the protest committee shall, **if practicable**, be members of the **original committee**;

(b) when based on a **significant error**, the protest committee shall, **if practicable**, have **at least one new member**.

**67 DAMAGES**

The question of damages arising from a breach of any *rule* shall be **governed by the prescriptions, if any**, of the national authority.

*Note: There is no rule 68.*