

RACING RULES

Modified Alternative disputes resolution based on the RYA

RACING BEST PRACTICES – RULES DISPUTES – Version 2009/1

INTRODUCTION

If an incident on the water in fleet racing is not resolved by a boat taking a penalty (one turn for touching a mark, two turns for breaking a rule of Part 2 of the Racing Rules of Sailing, retiring in other cases), then the normal outcomes are:

- 1 a protest hearing which may result in a disqualification: this appears to be becoming less common
- 2 a boat retires after finishing: this can happen
- 3 nothing happens, because there is no protest, and no retirement: this is becoming too frequent

The RYA understands a reluctance to take matters to protest hearings, but no one in the sport should condone disregard of the rules. The RYA therefore wishes to recommend that clubs should consider adopting The club has (therefore) decided to adopt:

- 1 (a) an Exoneration Penalty which is less severe than disqualification, and is available after racing for many infringements; and
- 2 (b) An alternative disputes resolution system based on the RYA Advisory Hearing and Arbitration, hereafter referred to as Advisory Hearing.

EXONERATION PENALTY

- 1 a 30% scoring penalty as stated in rule 44.3(c) (except that the minimum penalty is two places).
- 2 it may be accepted after finishing and before the start of any protest hearing
- 3 when it is accepted, a protest committee cannot penalise that boat further over the same incident
- 4 once accepted, it cannot be withdrawn even if a protest committee later decides no rule was broken
- 5 It is available for breaches of the rules of Part 2 (rules 10-23) and of rule 31, if a penalty could have been taken for the infringement at the time of the incident: and for breaking rule 42.

PUTTING THE EXONERATION PENALTY INTO EFFECT

The Exoneration Penalty is an essential part of the Advisory Hearing. It may be decided that making the Exoneration Penalty available for a boat to accept will be sufficient. However, the use of the new methods for resolving disputes is recommended, and can be stated to apply in the notice of race and in the sailing instructions. :

1. AN ADVISORY HEARING

Its purpose is to discuss incidents with an adviser and resolve them promptly in an informal but positive way, so that competitors understand the rules better. It is available only where there is no injury, serious damage, or related protest.

When an Advisory Hearing is requested, and if all parties agree to this procedure, an adviser will quickly hear what the parties have to say, decide whether the issues are clear enough without further evidence, and, if so say whether any boat broke a rule, and, in that case, which and why. The advisor will then invite a boat that appears to have broken a rule to accept an Exoneration Penalty. When a penalty is accepted, this will normally conclude the matter – a boat that takes a penalty shall not be penalised further with respect to the same incident. When it is not accepted, the protest hearing will follow if requested by either party. Redress is available provided the issue is not complicated. A race committee may agree to correct a mistake if it comes to light. When redress is offered and accepted, the protest committee or race committee may ask for a full hearing. When it is offered and not accepted, or not offered at all, the boat may proceed with her request at a full hearing before a protest committee.

	ADVISORY HEARING	PROTEST HEARING
Initiation	Oral request	Protest form
Validity of protest notification	Not required	Required
Time limit for a boat to ask for a hearing	Normal protest time limit	Normal protest time limit
Applicability	Breaches of rules of Part 2, rule 31.1, rule 42. The facts must be agreed by both parties if not before the hearing then soon after it begins	Breach of any rule
If one boat does not agree to participate	The hearing will not take place	The protest committee will normally proceed.
Penalty	A boat may accept an exoneration penalty but is not required to do so	Normal disqualification or other applicable penalty
If there was damage or a boat gained a significant advantage	The boat should retire	Disqualification for not retiring
Redress	Full range of redress options where the issue is not complicated	Full range of redress options
Further options	May call for a full hearing of the protest or request for redress by a protest	The decision may be appealed

However, when an exoneration penalty is accepted,

- 1 (a) Neither the boat nor a protest committee may then revoke or remove the penalty.
- 2 (b) The boat shall not be penalised further in a protest hearing when the protest committee decides that it was appropriate to the facts found and the applicable rules.

ADVISORY HEARING PROCEDURE

- 1 1. Competitor asks the race office for an Advisory Hearing, and tells the other competitor(s).
- 2 2. The race office tells the adviser, who checks that all competitors concerned are willing to attend. Their request must be registered with reference to the race involved and the time the request was lodged (very tortuous). A hearing is convened.
- 3 3. Each competitor takes a few minutes to say what happened. Normally, only the adviser may call witnesses.
4. The adviser asks questions and announces the outcome. If the facts are clear, the adviser uses the rule book to explain the rules that apply, and whether a rule was broken. If a rule was broken, and a boat accepts this, she should consider accepting an Exoneration Penalty if it is available for the rule considered broken, or otherwise consider retiring. She is not obliged to do this.
5. If the facts are not clear, the adviser will recommend a full protest hearing.
6. This procedure can be used instead of a request for redress to seek correction of a boat's score, in which case a race committee representative will attend. The race committee is not obliged to accept the decision of the adviser.
7. When the Advisory hearing proceeds to a full protest hearing, there is no objection in principle to the advisor being a member of the protest committee, but a protest committee may decide not to have the advisor as a member.