

## NOTICE TO COMPETITORS

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**Subject:** Discretionary Penalty Policy

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### I. Discretionary Penalty Policy for Breaches by Boats

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

However, DNE may be given if it is made clear that the boat also broke RRS 2.

2. 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 reduce the penalty depending on the circumstances.
3. Suggested base penalties are listed in the attached two tables, namely [Tables 1 and 2](#).

[Table 1](#) suggests the base band for common specific breaches.

[Table 2](#) suggests the answers to some general questions to be used when there is no specific breach listed in [Table 1](#). When a range of bands is suggested for a specific breach in [Table 1](#), [Table 2](#) is to be used to determine the band for the specific breach.

4. Penalties are divided into 4 bands.

Band 1 : 00 – 10% (mid-point 5%)

Band 2 : 10 – 30% (mid-point 20%)

Band 3 : 30 – 70% (mid-point 50%)

Band 4 : DSQ

5. Start by using [Tables 1 and 2](#) 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 decrease or increase the penalty within the band or to change the band.
6. A positive answer to these questions below would lead to decreasing the penalty
  - (a) Was the breach accidental?

- (b) Was there a good reason or justification for the breach?
  - (c) Was the breach reported by the competitor in accordance with Basic Principle "Sportsmanship and the Rules"?
  - (d) Did anyone who was not part of the boat's crew or support team contribute to the breach?
7. A positive answer to these questions below would lead to increasing the penalty.
- (a) Was the breach repeated?
  - (b) Was the breach deliberate as opposed to a misjudgment or carelessness?
  - (c) Was there any attempt to conceal the breach?
  - (d) Was anybody inconvenienced?
8. The Protest Committee may use other questions than those listed in 7 and 8 above to determine if a penalty should be decreased or increased.
9. To calculate and apply the penalty
- (a) The discretionary penalty may not make a boat's race score worse than retirement or disqualification.
  - (b) Percentage penalties are calculated to the nearest tenth of a point (0.05 to be rounded upward).
  - (c) When the breach affected racing performance, it should be applied to all races sailed that day, provided any protest is valid for all races.
  - (d) 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 64.2.
10. When writing a decision or notice about applying a discretionary penalty, include the following statements.
- (a) "Using the DP Policy a starting penalty of xx% was decided."
  - (b) "The penalty was decreased because ..... based on DP Policy xx", or "There were no circumstances to justify decreasing the penalty."
  - (c) "The penalty was increased because ..... based on DP Policy xx", or "There were no circumstances to justify decreasing the penalty."
  - (d) "The penalty applied is xx% applied to [all races of the day] or [race numbers yy]"

**Table 1. The base band for common specific breaches by boats**

NoR6 SI2	<b>Event sponsor advertisement and identification</b>	
	Failing to apply event sponsor advertisement or bow number as required.	2-4
	Applied them, but they failed to stay in place (0% if applied by OA).	1
	Failing to apply fleet ribbon as required.	2-4
	Applied it, but it failed to stay in place.	1
	Failing to wear bib as required.	1-2
SI4	<b>Radio Communication (SI4.5)</b>	
	Making or receiving radio or text or cell phone message not available to all boats	3
SI5	<b>Code of conduct</b>	
	Failing to comply with a reasonable request by Race Committee	2-4
	Failing to follow instructions, failing to take proper care of, or interfering with the function of supplied equipment	1-4
SI6	<b>Remaining ashore (SI6.4)</b>	
	Failing to remain ashore until Flag D is displayed.	1-4
SI20	<b>Informing RC when staying ashore (SI20.3.1)</b>	
	Failing to inform at the regatta office in writing.	1
	Non-compliance resulted / might result in initiation of search and rescue.	4
	<b>Check-out and check-in (SI20.2)</b>	
	Failing to check-out	1
	Failing to check-in, failing to check-in in time.	1-2
	Non-compliance resulted / might result in initiation of search and rescue.	4
	<b>Reporting retirement (SI20.3)</b>	
	Failing to notify a Race Committee when possible.	2
	Failing to submit a 'Retiree Report', failing to submit it in time.	1
Non-compliance resulted / might result in initiation of search and rescue.	4	
SI7	<b>Avoiding the starting area (SI13.2)</b>	
SI13	Failing to avoid the starting area, not interfering with a racing boat nor an official vessel.	1
SI20	Interfering with a boat racing (breaking RRS 23.1).	4
	Interfering with an official vessel.	2-4
	<b>Remaining clear of boats racing (SI20.4)</b>	
	Failing to remain clear, not influencing a racing boat.	1
	Failing to remain clear and influencing a racing boat.	2
	Interfering with a boat racing (breaking RRS 23.1).	4
SI 21	<b>Replacement of crew or equipment</b>	
	Replacing crew or equipment w/o approval – good reason or justification	1
	Replacing crew or equipment w/o approval – no good reason or justification	3
	Replacing crew or equipment with non-compliant crew or equipment	4

SI 22	Complying with instruction for inspection (SI22.2)	
	Failing to comply with instructions – good reason or justification	1
	Failing to comply with instructions – no good reason or justification	3
RRS 47	Trash Disposal	
	Intentional trash disposal	4
NoR9	Measurement certificate (NoR9.1)	
EMR1	Failing to present a valid certificate	To be decided as per RRS 78.2.
NOR16	Berthing (NoR16.1)	
	Boat not in assigned place but has notified the OA.	1
	Boat failing to promptly notify the OA.	2
NOR19	Positioning device, camera (NoR19.2, SIs 2.4, 27.1)	
SI2	Failing to collect or return equipment as required.	1
SI27	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
	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 subject to RRS 64.4(a))	
	○ No possible effect on boat speed	1
	○ Possible but not significant effect on performance	2
	○ Any significant effect on performance	4

**Table 2. General questions and base penalty bands for other breaches by boats**

<b>Could the breach compromise safety?</b>	
No.	1
Possibly but not certainly.	2-3
Yes.	4
<b>Can the boat prove it has not obtained a competitive advantage?</b>	
Yes, no advantage is possible.	1
No, possible advantage but not certain.	2-3
No, certain advantage.	4
<b>Could the breach bring the sport into disrepute?</b>	
No.	1
Possibly but not certainly. (Protest committee to consider action under RRS 69).	2-3
Yes. (Protest committee to consider action under RRS 69.)	4
<b>Could the breach result in damage or injury?</b>	
No.	1
Possibly but not resulted in.	2-3
Yes, resulted in.	4

## II. Discretionary Penalty Policy for Breaches by Support Persons

### 1. General

When a protest committee decides in a hearing that a support person has broken a rule (including RRS 69.1(a)), RRS 64.5 provides for penalties to the support person and penalties to a boat in specific instances. 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 decrease or increase the penalty depending on the circumstances.

In case of misconduct, the penalty to support persons and boats will be determined according to RRS 69.

### 2. Base Penalty to a Support Person

#### 2.1. Penalties are divided into 5 levels as follows:

Level 1: Warning.

Level 2: Exclude the person from going afloat for one race or more.

Level 3: Exclude the person from going afloat for one day or more.

Level 4: Exclude the person from the venue for one day or more.

Level 5: One of or both the following two:

- Exclude the person from the venue for the rest of the event.
- Charge the support person with misconduct under RRS 69.

#### 2.2. Suggested base penalties are listed in the attached two tables, namely [Tables 3 and 4](#).

[Table 3](#) suggests the base band for common specific breaches. However, the penalty for a “breach” listed in [Table 3](#) but not a breach of any rule that apply to the event shall be zero point (no penalty).

[Table 4](#) suggests the answers to some general questions to be used when there is no specific breach listed in [Table 3](#). When a range of levels is suggested for a specific breach in [Table 3](#), [Table 4](#) is to be used to determine the level for the specific breach.

### 3. Base Penalty to a Boat

#### 3.1. Penalties are divided into 4 bands as follows:

Band 1: 00 – 10% (mid-point 5%)

Band 2: 10 – 30% (mid-point 20%)

Band 3: 30 – 70% (mid-point 50%)

Band 4: DSQ

- 3.2. For a penalty based on RRS64.5(b), [Table 4](#) is to be used to determine the band.
  - 3.3. For a penalty based on RRS64.5(a), only the first question in [Table 4](#) is to be used. The band one below the band determined by the answer to the question is to apply. If the band turns out to be band “zero”, the penalty to the boat shall be zero point (no penalty).
  - 3.4. Consider the ‘base penalty’ to be at the mid-point of the band.
4. Determining Penalty to a Support Person and a Boat
    - 4.1. A positive answer to these questions would lead to decreasing the penalty.
      - (a) Was the breach accidental or could not be avoided?
      - (b) Was there a good reason or justification for the breach?
      - (c) Did anyone who was not part of the support team contribute to the breach?
      - (d) Did the support persons admit to the breach and contribute in the investigation?
    - 4.2. A positive answer to these questions would lead to increasing the penalty.
      - (a) Was the breach repeated?
      - (b) Was the breach deliberate as opposed to a misjudgment or carelessness?
      - (c) Was there any attempt to conceal the breach?
      - (d) Was anybody inconvenienced?
    - 4.3. The Protest Committee may use other questions than those listed in 4.2 and 4.3 above to determine if a penalty should be decreased or increased.
    - 4.4. To calculate and apply the penalty to the boat(s),
      - (a) The discretionary penalty may not make a boat’s race score worse than retirement or disqualification.
      - (b) Percentage penalties are calculated to the nearest tenth of a point (0.05 to be rounded upward).
      - (c) When the breach affected racing performance, it should be applied to all races sailed that day, provided any protest is valid for all races.
      - (d) 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 64.2.
5. Writing the Decision

When writing a decision or notice about applying a discretionary penalty, include the following statements.

    - (a) “Using the DP Policy a starting penalty of xx was decided.”

- (b) “The penalty was decreased because …… based on DP Policy xx”, or “There were no circumstances to justify decreasing the penalty.”
- (c) “The penalty was increased because …… based on DP Policy xx”, or “There were no circumstances to justify decreasing the penalty.”
- (d) “The penalty applied to boat XX is xx% applied to [all races of the day] or [race numbers yy]”, or “The following penalty is imposed to YYYY (the support person’s name): yyyy (description of the penalty imposed).”

**Table 3. The base level for common specific breaches by support persons**

Safety	
Failing to carry on board all safety equipment.	2-4
Failing to carry on board enough life jackets for all persons on board.	3-5
Failing to comply after being warned.	4-5
Failing to wear life jacket or allowing passenger not to wear life jacket while afloat.	1-3
Failing to comply after being warned.	3-4
Failing to wear kill cord while afloat.	1-3
Failing to comply after being warned.	3-5
Failing to have adequate insurance.	3-5
The designated driver does not have a motorboat driving license.	3-5
Carrying unaccredited personnel on board.	2-4
Leaving any device, piece of equipment, buoy, marker or similar items permanently in the water.	3-5
Failing to display identification as required.	2-4
Failing to comply with local harbour regulations, including speed limits.	1-5
Committing any inappropriate behaviour, dangerous actions or improper practices, or actions affecting the fairness or safety of competition.	3-5
Sailing Venue & Restricted Areas	
Failing to use designated area for launching or returning ashore.	1-2
Parking or leaving trailer in a prohibited area.	1-2
Having an unregistered support boat in the sailing venue.	3-5
Failing to stay outside the restricted area, or failing to stay inside the designated areas.	3
As the result, interfering with boats that are racing	3-5
Failing to minimise wash near boats that are racing.	1-3
Intentionally putting trash in the water.	3-5



<b>Electronics &amp; Communication</b>	
Unauthorized use of VHF radio, tablets, mobile phones or other communication devices.	2-5
Improper communication over VHF (interfering with RC).	1-2
Profane or abusive language (to RC, TC, OA, protest committee or others' support person).	1-5
Operating drone without authorization.	2-5
Technical Doping: the use of unethical methods, technologies, etc. to enhance performance, including information (e.g., meteorology), hardware (e.g., boats), and competitors.	2-5
<b>Others</b>	
Failing to comply with any other instructions.	1-4
Failing to comply with a reasonable request from a race official.	1-5

**Table 4. General questions and base penalty levels for other breaches by support persons**

<b>Could the boat have obtained a competitive advantage</b>	
No advantage is possible.	1
Possible advantage but not certain.	2-3
Yes, certain advantage.	4
<b>Could the breach result in damage or injury?</b>	
No.	1
Possibly but not resulted in.	2-3
Yes, resulted in.	4
<b>Could the breach bring the sport into disrepute?</b>	
No.	1
Possibly but not certainly. (Protest committee to consider action under RRS 69).	2-3
Yes. (Protest committee to consider action under RRS 69.)	4
<b>Could the breach compromise safety?</b>	
No.	1
Possibly but not certainly.	2-3
Yes.	4

Kai Masuda  
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