

## Section C: Discretionary Penalty Policy for Competitors

### 1 General

- 1.1 When the Jury 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 Jury will be guided by this document.
- 1.2 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 decrease the penalty depending on the circumstances.
- 1.3 Suggested base penalties are listed in the attached two tables. These suggest the base bands 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.
- 1.4 Penalties are divided into 4 bands with the mid-point being the normal base penalty:
  - (a) Band 1 – 0 - 10% (mid-point 5%)
  - (b) Band 2 – 10 - 30% (mid point 20%)
  - (c) Band 3 – 30 - 70% (mid point 50%)
  - (d) Band 4 – DSQ / DNE (starting point DSQ)
- 1.5 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.
- 1.6 A positive answer to these questions would lead to reducing 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?
  - (d) Did anyone who was not part of the boat's crew or support team contribute to the breach?
- 1.7 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?
- 1.8 The Jury may use other questions to determine if a penalty should be increased or decreased.

1.9 To calculate and apply the penalty:

- (a) The discretionary penalty may not make a boat's 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.

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

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

## 2 Base Penalty Bands for Discretionary Penalties

2.1 Generally, the base penalty will be the mid-point of the band.

2.2 If the specific breach is not listed or a range of bands is suggested, go to second table.

2.3 Be sure that a discretionary penalty is authorized for the specific breach.

<b>Safety</b>	
• Failing to notify the Race Office when staying ashore	1
• Failing to comply with requirements for reporting retirement (failing to notify, not filling the form, filling the form later than the protest time limit or failing to sign out or to sign in)	1
• When non-compliance results in initiation of search and rescue	4
• Berthing – Boat not in assigned place but has notified the OA	1
• Berthing – Boat failing to promptly notify the OA	2
• Failing to avoid commercial traffic	1-4
• Removal of PFD for a more extended period while not racing	1-2
<b>Code of Conduct</b>	
• Failing to comply with a reasonable request by an official	2-4
• Failing to follow instructions, failing to take proper care of, or interfering with the function of supplied equipment	1-4
<b>Leaving the Shore</b>	
• Failing to comply with an instruction to remain ashore (e.g. AP over H, D flag)	1-4

<b>The Start</b>	
• Failing to avoid the starting area not interfering with a racing boat	1
• Failing to avoid the starting area and breaking RRS 23.1.	4
<b>Equipment Inspection</b>	
• Failing to comply with instructions – good reason or justification	1
• Failing to comply with instructions – no good reason or justification	3
<b>Replacement of Crew or Equipment</b>	
• Failing to comply with instructions – good reason or justification	1
• Failing to comply with instructions – no good reason or justification	3
• Replacing crew or equipment with non-compliant crew or equipment	4
<b>Identification and Advertising</b>	
• Failing to apply event stickers as required (e.g. advertising, bow numbers, sail dots etc.).	2-4
• Applied event stickers, but they failed to stay in place (0% if applied by OA)	1
• Failing to wear bib as required	1-2
• National Flag not applied	1
• National Flag applied but fails to stay in place	1
• National Flag applied but is not produced by an approved manufacturer as required by the Class Rules	1
<b>Radio Communication</b>	
• Making or receiving radio or text or cell phone message not available to all boats	3
<b>Trash Disposal</b>	
• Intentional trash disposal	1-4
<b>Positioning Equipment</b>	
• 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
<b>Class Rules</b>	
• 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
• <b>Equipment outside measurement tolerances (excluding wear and tear)</b>	
o No possible effect on boat speed	1
o Possible but not significant effect on performance	2
o Any significant effect on performance	4

### 3. General Questions

3.1 To be used when there is no specific breach in the table above, or when the table above suggests more than one band.

<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> <i>(Note: if the Jury considers that the sport may have been brought into disrepute, it should consider action under RRS 69, especially if no other rule is available.)</i>	
No	1
Possibly but not certainly	2 - 3
Yes	4
<b>Could the breach result in damage or injury?</b>	
No	1
Possibly but not certainly	2 - 3
Yes	4

# Section D: Discretionary Penalty Policy for Support Persons & Boats

## 1 General

When a protest committee decides in a hearing that a support person has broken a rule or as required by local regulations, RRS 64.5 provides for penalties to the support person and penalties to a boat in specific instances. 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. In case of Misconduct, the penalty to support persons and boats will be determined according to RRS 69.

## 2 Discretionary Penalties to 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: Exclude the person from the venue for the rest of the event and/or take other action within the protest committee's jurisdiction as provided by the rules, including charging the support person with misconduct under RRS 69

2.2 Base Penalty for Discretionary Penalties

Safety	Level
<ul style="list-style-type: none"><li>● Failing to carry on board all safety equipment</li></ul>	2-4
<ul style="list-style-type: none"><li>● Failing to comply after support person has been notified</li></ul>	4-5
<ul style="list-style-type: none"><li>● Failing to carry on board enough life jackets for all persons on board</li></ul>	3-5
<ul style="list-style-type: none"><li>● Failing to wear life jacket or allowing passenger not to wear life jacket while afloat, for the first time</li></ul>	1-3
<ul style="list-style-type: none"><li>● Failing to comply after being warned, either afloat or ashore</li></ul>	3-4
<ul style="list-style-type: none"><li>● Failing to wear kill cord while afloat, for the first time</li></ul>	1-3
<ul style="list-style-type: none"><li>● Failing to comply after being warned, either afloat or ashore</li></ul>	3-5
<ul style="list-style-type: none"><li>● Failing to have adequate insurance</li></ul>	3-5
<ul style="list-style-type: none"><li>● The designated driver does not have a motorboat driving license</li></ul>	3-5
<ul style="list-style-type: none"><li>● Carrying unaccredited personnel on board</li></ul>	2-4
<ul style="list-style-type: none"><li>● Leaving any device, piece of equipment, buoy, marker or similar items permanently in the water</li></ul>	3-5

<ul style="list-style-type: none"> <li>● Failing to display MNA identification on both sides of a boat's engine, or hull</li> </ul>	2-4
<ul style="list-style-type: none"> <li>● Failing to comply with local harbour regulations, including speed limits</li> </ul>	1-5
<ul style="list-style-type: none"> <li>● Committing any inappropriate behaviour, dangerous actions or improper practices, or actions affecting the fairness or safety of competition</li> </ul>	3-5

<b>SAILING VENUE &amp; RESTRICTED AREAS</b>	Level
<ul style="list-style-type: none"> <li>● Failing to use designated area for launching or returning ashore. Parking or leaving trailer in a prohibited area</li> </ul>	1-2
<ul style="list-style-type: none"> <li>● Having an unregistered support boat in the sailing venue</li> </ul>	3-5
<ul style="list-style-type: none"> <li>● Failing to stay outside the restricted area, or failing to stay inside the designated areas</li> </ul>	3
<ul style="list-style-type: none"> <li>● Interfering with boats that are racing</li> </ul>	3-5
<ul style="list-style-type: none"> <li>● Failing to minimise wash near boats that are racing</li> </ul>	1-3
<ul style="list-style-type: none"> <li>● Intentionally putting trash in the water</li> </ul>	3-5
<b>ELECTRONICS &amp; COMMUNICATION</b>	
<ul style="list-style-type: none"> <li>● Unauthorized use of VHF radio, tablets, mobile phones or other communication devices</li> </ul>	2-5
<ul style="list-style-type: none"> <li>● Improper communication over VHF (Interfering with RC)</li> </ul>	1-2
<ul style="list-style-type: none"> <li>● Profane or abusive language (to RC, TC, OA, protest committee or others' support person)</li> </ul>	1-5
<ul style="list-style-type: none"> <li>● Operating drone without authorization</li> </ul>	2-5
<ul style="list-style-type: none"> <li>● Technical Doping: the use of unethical, methods, technologies, etc. to enhance performance, including information (i.e. meteorology), hardware (i.e. boats) and competitors</li> </ul>	2-5
<b>OTHERS</b>	
<ul style="list-style-type: none"> <li>● Failing to comply with any other instructions</li> </ul>	1-4
<ul style="list-style-type: none"> <li>● Failing to comply with a reasonable request from a race official</li> </ul>	1-5

### 3 Discretionary Penalties to a Boat

3.1 The protest committee may also penalize a boat that is a party to a hearing under RRS 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 DSQ. In determining the penalty, the protest committee will be guided by this document.

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

- (a) Band 1 – 0 - 10% (mid-point 5%)
- (b) Band 2 – 10 - 30% (mid-point 20%)

(c) Band 3 – 30 - 70% (mid-point 50%)

(d) Band 4 – DSQ

- 3.3 Start by using the questions in tables below to find which band applies. The protest committee may use other questions to determine if a penalty should be increased or decreased. Consider the 'base penalty' to be at the mid-point of the band.

<b>Could the boat have obtained a competitive advantage?</b>	Band
No advantage is possible	1
Possible advantage	2-3
Yes, certain advantage	4
<b>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.</b>	
<b>Could the breach result in damage or injury?</b>	
No	1
Possible but not certainly	2-3
Yes	4
<b>Could the breach compromise safety?</b>	
No	1
Possible but not certainly	2-3
Yes	4
<b>Could the breach bring the sport into disrepute?</b>	
No	1
Possible but not certainly	2-3
Yes	4

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 competitive advantage, it should be applied to all races affected.
- When the breach does not affect competitive advantage, the penalty should be applied to the race sailed nearest in time to that of the incident as specified in RRS 64.2.

- 3.4 The protest committee has discretion to decide the appropriate penalty for a breach, from issuing a warning to excluding the person from the event or removing any privileges or benefits, or taking other action within its jurisdiction as provided by the rules.

The answers to the questions below determine if there is cause to increase or decrease the penalty.

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

- Was the breach accidental or could not be avoided?
- 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?

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

- (a) Was the breach deliberate as opposed to a misjudgment or carelessness?
- (b) Was there any attempt to conceal the breach?
- (c) Was anybody inconvenienced?
- (d) Did the support person commit a further breach?

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

#### **4 Writing up the decision**

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

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