ISAF Sailor Classification Disciplinary Rules (the “Rules”)

Effective 1 January 2011

Definitions

1 In these Rules, the following definitions apply:

“Classification” as the context requires, has the meaning set out in the Code.

“Code” means ISAF Regulation 22 (ISAF Sailor Classification Code)

“Competitor” means a competitor who is the subject of a Report.

“Commission” means the ISAF Sailor Classification Commission established under ISAF Regulation 8.10

“Executive Committee” means the ISAF Executive Committee established by Article 67 of the ISAF Constitution

“ISAF Eligibility” has the meaning set out in ISAF Regulation 19 (ISAF Eligibility Code)

“Gross Misconduct” means a gross breach of the RRS, good manners or sportsmanship or conduct that has brought the sport into disrepute (as set out in RRS 69.2)

“MNA” has the meaning set out in Article 1 of the ISAF Constitution

“Panel” means a panel of the Tribunal appointed under Rule 22 to hear and determine a Report.

“Panel Chairman” means the member of the Tribunal appointed under Rule 22 to chair a Panel, or in his absence, another member of a Panel nominated by the Tribunal Chairman.

“Provisional Suspension” means the Competitor is barred temporarily from participating in any racing organized under RRS 89.1 prior to the final decision of the Tribunal.

“Report” means a report by the Commission alleging that a Competitor has committed Gross Misconduct in relation to the application, use or compliance with the Code.

“RRS” means the ISAF Racing Rules of Sailing as in force from time to time.

“Rules” means these rules

“Secretary General” means the ISAF Secretary General or a member of ISAF staff nominated by him.

“Tribunal” means the classification disciplinary tribunal established by these Rules

“Tribunal Chairman” means the chairman of the Tribunal appointed under Rule 13.1, in his absence, the vice-chairman of the Tribunal.

“in writing” means by hard copy, fax or email.
General

2 These Rules are made by the Executive Committee to govern the investigation, hearing and determination of reports made to ISAF under RRS 69.2 regarding the classification of competitors.

3 The Executive Committee delegates its authority by these Rules to suspend a competitor’s ISAF Eligibility under ISAF Regulation 19 to the Tribunal (acting in accordance with these Rules).

4 The Chairman of the ISAF Constitution Committee, the Chairman of the Commission and the Tribunal Chairman shall review the Rules annually and report back to the Executive Committee.

5 The Commission is responsible for informing all competitors applying for a classification or holding a current classification of the contents and application of the Rules.

Obligations of Competitors

6 A competitor is guilty of Gross Misconduct (as set out in RRS 69.2) if he commits a gross breach of a rule of the RRS (which includes the provisions of the Code), good manners or sportsmanship or whose conduct has brought the sport into disrepute.

7 The following actions by a Competitor, which are obligations imposed by the Code on all competitors holding a Classification, may be taken as evidence of Gross Misconduct:

   7.1 holding, or applying for, more than one Classification;
   7.2 taking any action or acting in a manner which is contrary to the spirit of the Code or which is a subterfuge for the purposes of circumventing the Code;
   7.3 failing to fully and freely disclose relevant information to ISAF (whether or not specifically asked for);
   7.4 providing ISAF with information which is false, misleading or potentially misleading;
   7.5 failing to notify ISAF immediately of any change in his circumstances which affects, or may affect, his Classification status; or
   7.6 whilst a Group 1 competitor, engaging in activities which are incompatible with Group 1 status unless ISAF has been notified of a potential change of Classification.

Allegations of Gross Misconduct

8 Allegations of Gross Misconduct in relation to the application, use or compliance with the Code from any source shall be sent to the Secretary General in writing and shall set out all relevant details of the allegation. The Secretary General shall acknowledge receipt and shall forward the allegation to the Commission for investigation. For the avoidance of doubt, this does not limit the application of RRS 69.1 (the reporting of gross misconduct to protest committees at events).

Role of the Commission

9 The Commission is responsible for the investigation of complaints received by ISAF concerning the Classification of competitors and potential breaches of the Code.
Upon receipt of a written allegation of or Gross Misconduct and/or upon its own decision, the Commission may inquire immediately into the facts and circumstances alleged or believed to constitute Gross Misconduct.

10 A competitor holding a Classification (or an applicant for a Classification) shall cooperate fully with the Commission in a timely manner and shall produce any records and documents requested by the Commission or attend an interview with a member of the Commission. The competitor shall not provide false or misleading evidence to the Commission.

11 When the Commission is satisfied that there is a realistic prospect that the conduct of a competitor has constituted Gross Misconduct, it shall Report him.

Classification Disciplinary Tribunal

12 The Tribunal is established to hear and determine Reports on behalf of the Executive Committee. No member of the Commission may be appointed to the Tribunal.

13 The Executive Committee, after consulting with the Chairman of the Commission, shall appoint:

13.1 a chairman and vice-chairman of the Tribunal (who shall be from different MNAs); and

13.2 sufficient members of the Tribunal to enable it to discharge its functions.

14 When appointing the members of the Tribunal, the Executive Committee shall have regard to the nature of Classification, the geographical location of Tribunal members, the expertise and skills required by the Tribunal and the experience of Tribunal members in sailing, Classification and dispute resolution.

15 The Executive Committee may remove a member of the Tribunal for good cause.

Reports

16 A Report from the Commission, signed by the Chairman or his nominated representative, shall be sent in writing to the Secretary General.

17 The Report shall set out:

17.1 the name of the Competitor and his registered address for the purposes of Classification;

17.2 the current Classification of the Competitor (or the one applied for);

17.3 a statement of the reasons for the Report, and in particular, why the Commission believes the Competitor has committed Gross Misconduct;

17.4 any evidence upon which the Commission wishes to rely;

17.5 a summary of the rules and regulations that the Commission believes apply; and

17.6 any other information the Commission believes is relevant.

18 The Secretary General shall acknowledge the receipt of the Report and shall forward it to the Tribunal Chairman. At the same time the Secretary General shall cause the Report to be served on the Competitor.
Service of documents

19 Any notice or Report under these Rules may be served on a Competitor by one or more of the following methods:

19.1 by hand;

19.2 by post; or

19.3 by telex, facsimile or e-mail to him at his registered address or to the address or electronic address, if any, supplied by him in connection with his classification or application for classification.

20 Notices sent by telex, facsimile or e-mail shall be deemed to have been served two hours after they are sent.

21 Notices sent by post shall be deemed to have been served on the seventh day following that on which the letter containing the same is put into the post, and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed to the address supplied by the Competitor in connection with his Classification (or application for Classification) and was put into the post office as a prepaid first class airmail letter.

Appointment of a Panel

22 The Tribunal Chairman shall appoint a panel of three Tribunal members to hear and determine the Report. The Tribunal Chairman shall appoint one of the members to chair the Panel. The Tribunal Chairman shall only appoint:

22.1 three Panel members from three different MNAs; or

22.2 two Panel members from one MNA and one member from a different MNA (who is to be the Panel Chairman).

23 In the event of illness, recusal or other unavoidable absence of a member of a Panel, the Tribunal Chairman may appoint a replacement.

24 The Commission or the Competitor may object to the appointment of a member of a Panel. The Tribunal Chairman shall rule on any objection as soon as reasonably possible. If, the Tribunal Chairman upholds an objection, he shall replace the affected Panel member. If the Tribunal Chairman himself is objected to, the vice-chairman of the Tribunal shall make the ruling.

Provisional suspension

25 After filing a Report with the Secretary General, the Commission may apply to the Tribunal for the Provisional Suspension of the Competitor so Reported. The Secretary General shall cause notice of the application to be served on the Competitor as required by Rules 19 to 21 above.

26 An application for Provisional Suspension shall be referred to the Tribunal Chairman who shall assign a single member of the Tribunal to determine the application. That member shall not be a member of the MNA of the Competitor.

27 If the member of the Tribunal considers it appropriate, he may conduct a hearing using the procedures in Rules 41 to 47 below before determining the application.

28 The member of the Tribunal shall determine whether or not to Provisionally Suspend the Competitor after considering the nature and extent of the Report, any information contained in the Commission's application, any submissions of the Competitor and
any other relevant information. The member of the Tribunal may impose conditions on the Provisional Suspension.

29 The decision of the member of the Tribunal shall be final except that the Competitor shall either be given an opportunity for:

29.1 a provisional hearing (if one has not already been held under Rule 27) before imposition of the Provisional Suspension or on a timely basis after imposition of the Provisional Suspension; or

29.2 an opportunity for an expedited hearing in relation to the Report in accordance with Rule 48 after imposition of a Provisional Suspension.

30 After determining the Report, a Panel shall lift the Provisional Suspension (but without prejudice to any penalty a Panel may impose).

Admission of guilt

31 The Competitor may waive his right to a hearing by acknowledging that he has committed Gross Misconduct and will accept the determination of the Panel with respect to the penalty to be imposed on him (after consideration of any representations from the Commission or the Competitor). A Competitor does this either:

31.1 expressly in writing; or

31.2 by his failure to challenge the allegations in the Report that he has committed Gross Misconduct within 21 days of the date of service of the Report.

Summary Cases

32 If the Commission has Reported a Competitor and believes that the alleged conduct of the Competitor, if proved, would not result in the penalties set out in 53.5, 53.6 or 53.7, it may make an application to the Tribunal Chairman for the Report to be dealt with under Rule 33.

33 If the Tribunal Chairman is satisfied, having reviewed the Report and the Commission’s application under Rule 32, that the alleged conduct of the Competitor, if proved, would not result in penalties set out in 53.5, 53.6 or 53.7, he may direct that the Report be heard and determined by a single member of the Tribunal sitting alone (who shall not be from the same MNA as the Competitor and who shall be legally qualified).

34 The Tribunal member determining a Report under Rule 33 shall consider the Report and any written representations from the Commission or the Competitor and shall then:

34.1 determine whether or not the Report is proved; and

34.2 set out what action or penalty he feels is appropriate in respect of the Gross Misconduct concerned.

35 The Tribunal member may impose any penalty available to the Tribunal, except those set out in 53.5, 53.6 or 53.7. If the Tribunal member, after consideration, believes the penalty would be too lenient he may refer the case back to the Tribunal Chairman requesting the case be referred to a Panel and heard in accordance with Rules 39 to 42.
The Tribunal member shall notify the Competitor and the Commission in writing of the penalty he recommends is imposed. If the Commission believes the recommended penalty is too lenient, it shall have the right to request the Tribunal member to reconsider the decision or may make an application to the Tribunal Chairman requesting the case be referred to a Panel and heard in accordance with Rules 39 to 42.

If within 14 days of being notified of the Tribunal member's decision, the Competitor has not requested a hearing before the Tribunal, then the recommended penalty shall be confirmed in writing and shall be binding on the Competitor.

Should the Competitor request a hearing within 14 days then the Report shall be heard in accordance with Rules 39 to 42.

Hearing

The function of the Panel shall be to determine whether the Competitor has committed Gross Misconduct, and if so, what penalty (if any) should be imposed.

The Competitor may, in his sole discretion, elect for the Report to be determined:

40.1 by way of correspondence; or

40.2 by way of hearing.

Where the Competitor elects for a hearing, the Panel shall, after considering any submissions from the Commission and the Competitor, determine what form the hearing shall take. The Panel may determine that the hearing shall be held by electronic means (by telephone, videoconference etc.) provided that:

41.1 at all times the Panel and all parties can hear and communicate with each other; and

41.2 the Panel is satisfied the Competitor is being treated fairly and justly.

The Panel shall determine the procedure for hearing and for the determination of the Report and, in particular, shall:

42.1 as an overriding principle, act fairly and in accordance with the principles of natural justice at all times;

42.2 have regard to any directions issued by the Tribunal Chairman with respect to the conduct of cases generally;

42.3 allow the Competitor the right to be represented (including by counsel) at his own expense;

42.4 ensure the Competitor has been informed in a fair and timely manner of the Report and any evidence relied on by the Commission;

42.5 allow the Competitor to respond to the Report and the potential resulting consequences;

42.6 allow the Commission and the Competitor to:

42.6.1 present evidence;

42.6.2 question each other;
42.6.3 call and question witnesses (subject to the Panel’s discretion to accept testimony by telephone or written submission); and

42.6.4 make opening and final statements;

42.7 conduct the case in the official language of ISAF (English) provided the Competitor shall have the right to an interpreter at the hearing, with the Panel to determine the identity (and responsibility for the cost) of the interpreter; and

42.8 provide a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any penalty imposed.

43 The Panel may adjourn the hearing to such time and such place as it thinks fit.

44 The Commission shall have the right to appoint a member to attend the hearing and make representations to the Panel in support of the Report and all other related matters.

45 If a Competitor, having been duly notified of the date, time and location of the hearing fails to attend, the Panel may hear and determine the Report in the Competitor’s absence if it is reasonable to do so.

Burden and standard of proof

46 The burden of proof lies with the Commission, except that when the Competitor wishes to establish specific facts or circumstances, the burden of proof lies with Competitor.

47 The standard of proof shall be whether the Commission has established that Gross Misconduct has occurred to the reasonable satisfaction of the Panel, or Tribunal member (as appropriate), bearing in mind the seriousness of the Report. This standard of proof in all cases is greater than the mere balance of probabilities but less than proof beyond a reasonable doubt. Where the Competitor wishes to establish specified facts or circumstances, the standard of proof shall be the balance of probabilities.

Expeditied hearings

48 Hearings pursuant to this Rule shall be completed expeditiously and within three months of the filing of the Report. The procedures in Rules 49 and 50 shall apply.

49 If the completion of the hearing is delayed beyond three months, the Tribunal Chairman may direct that the Panel shall thereafter consist of a single member of the Tribunal, who shall not be from the MNA of the Competitor and shall be legally qualified.

50 A Competitor entitled to an expedited hearing under Rule 29.2 may object to it and may require a full hearing to be held.

Decisions and penalties

51 The decision of the Panel shall be made by a majority vote of its members. In the event of a tie, the Panel Chairman shall have a second or casting vote.

52 Decisions of the Panel shall be public, except that the Panel may determine that its decision (or any part of it) shall not be published and remain confidential if it believes there is good reason to do so. If the Panel directs that the full decision is not to be published, it may issue a short statement for publication confirming the offence
committed, the penalty imposed on the Competitor and the reasons for not publishing the full decision.

53 The Panel or Tribunal member (as appropriate) may impose one or more of the following penalties:

53.1 no penalty;
53.2 a written warning or admonishment;
53.3 a fine not exceeding any relevant maximum set by the Executive Committee from time to time;
53.4 the suspension or cancellation of the Competitor's Classification;
53.5 a direction that the Competitor is ineligible to hold a Classification for a set amount of time (which may be unlimited); or
53.6 a direction that the Competitor shall not compete in a certain event or class(es) (or type of events or class) which uses the Code to determine crew limitations, either permanently or for a specified period of time; or
53.7 the suspension of the Competitor's ISAF Eligibility, either permanently or for a specified period of time.

54 The implementation of any penalty may be suspended subject to conditions.

55 When a fine is imposed, the full amount of the fine shall be paid to the Secretary General within 28 days of the decision being published.

Appeals and reconsiderations

56 Except as provided for below, there is no appeal from the decision of the Panel.

57 The Competitor or the Commission may request that the Panel reconsider its decision within 30 days of its decision being published. The Panel may amend its decision if it believes it has good reason to do so.

58 A Panel appointed by the Tribunal Chairman in accordance with Rule 22 may review, amend or revoke a direction made by a Panel under Rule 53.6 on application by the Competitor. Before making its decision, the Commission shall be entitled to make any representations it considers appropriate.

59 The Competitor may appeal the suspension of his ISAF Eligibility to the ISAF Review Board in accordance with ISAF Regulation 19.5.

Interpretation

60 The Rules shall be interpreted:

60.1 during the consideration of a case, by the Panel determining the case; or
60.2 at any other time, by the Tribunal Chairman in consultation with the Chairman of the ISAF Constitution Committee.

61 A Panel considering a case shall have regard to any interpretations made by the Tribunal Chairman under Rule 60.2.
**Amendment**

62 The *Executive Committee* may amend these *Rules* at any time, either of its own motion or on proposal from the *Tribunal Chairman* or the *Commission*.

63 The *Secretary General* is authorised to amend these *Rules* solely to reflect any changes in the cross-references to the ISAF Regulations, the ISAF Racing Rules of Sailing or to *Rules*.

**Arbitration**

64 Any dispute arising from or related to the operation of these *Rules* will be submitted exclusively to the Court of Arbitration for Sport in Lausanne, Switzerland, and resolved definitively in accordance with the Code of sports-related arbitration. The language of the arbitration shall be English.