

Racing Rules of Sailing 2017-2020

PART 5 PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS

SECTION A PROTESTS; REDRESS; RULE 69 ACTION

60 RIGHT TO PROTEST; RIGHT TO REQUEST REDRESS OR RULE 69 ACTION

60.1 A boat may

- (a) protest another boat, but not for an alleged breach of a rule of Part 2 or rule 31 unless she was involved in or saw the incident; or
- (b) request redress.

60.2 A race committee may

- (a) protest a boat, but not as a result of information arising from a request for redress or an invalid protest, or from a report from a person with a *conflict of interest* other than the representative of the boat herself;
- (b) request redress for a boat; or
- (c) report to the protest committee requesting action under rule 69.2(b).

60.3 A protest committee may

- (a) protest a boat, but not as a result of information arising from a request for redress or an invalid protest, or from a report from a person with a *conflict of interest* other than the representative of the boat herself. However, it **may protest** a boat
 - (1) if it learns of an incident involving her that **may** have resulted in injury or serious damage, or
 - (2) if during the hearing of a valid protest it learns that the boat, although not a *party* to the hearing, **was involved in the incident** and may have broken a rule;
- (b) call a hearing to consider redress;
- (c) act under rule 69.2(b); or
- (d) call a hearing to consider whether a support person has broken a rule, based on its own observation or information received from any source, including evidence taken during a hearing.

60.4 A technical committee may

- (a) protest a boat, but not as a result of information arising from a request for redress or an invalid protest, or from a report from a person with a conflict of interest other than the representative of the boat herself. However, it **shall protest** a boat if it decides that
 - (1) a boat has broken a rule of Part 4, but not rules 41, 42, 44 and 46, or
 - (2) a boat or personal equipment does not comply with the class rules;
- (b) request redress for a boat; or
- (c) report to the protest committee requesting action under rule 69.2(b).

60.5 However, neither a boat nor a committee may protest for an alleged breach of rule 5, 6, 7 or 69

61 PROTEST REQUIREMENTS

61.1 Informing the Protestee

- (a) A boat intending to protest **shall inform** the other boat at the first reasonable opportunity. When her protest **will** concern an incident in the racing area that she was involved in or saw, she **shall hail 'Protest' and conspicuously display a red flag** at the first reasonable opportunity for each. She **shall display** the flag until she is no longer racing. However,
 - (1) if the other boat is beyond hailing distance, the protesting boat need not hail but she **shall** inform the other boat at the first reasonable opportunity;
 - (2) if the hull length of the protesting boat is less than 6 metres, she need not display a red flag;
 - (3) if the incident was an error by the other boat in sailing the course, she need not hail or display a red flag but she shall inform the other boat either before or at the first reasonable opportunity after the other boat finishes;
 - (4) if as a result of the incident a member of **either crew** is in danger, **or there is injury or serious damage that is obvious to the boat intending to protest**, the requirements of this rule do not apply to her, but she **shall** attempt to inform the other boat within the time limit of rule 61.3.

(b) If the race committee, technical committee or protest committee **intends** to protest a boat concerning an incident the committee **observed in the racing area**, it **shall** inform her after the race within the time limit of rule 61.3. In other cases the committee shall inform the boat of its intention to protest as soon as reasonably possible.

(c) If the protest committee **decides** to protest a boat under rule 60.3(a)(2), it **shall** inform her as soon as reasonably possible, **close the current hearing**, proceed as required by rules 61.2 and 63, and hear the original and the new protests together.

61.2 Protest Contents

A protest **shall** be in writing and identify

- (a) the protestor and protestee;
- (b) the incident;
- (c) where and when the incident occurred;
- (d) any rule the protestor believes was broken; and
- (e) the name of the protestor's representative.

However, if requirement (b) is met, requirement (a) **may** be met at any time **before** the hearing, and requirements (d) and (e) **may** be met **before or during** the hearing.

Requirement (c) **may** also be met **before or during** the hearing, **provided** the protestee is allowed reasonable time to prepare for the hearing.

61.3 Protest Time Limit

A protest by a boat, or by the race committee, technical committee or protest committee about an incident the committee **observed in the racing area**, **shall** be delivered to the race office within the protest time limit stated in the sailing instructions. If none is stated, the time limit is two hours after the last boat in the race finishes.

Other race committee, technical committee or protest committee protests **shall** be delivered to the race office no later than two hours after the committee receives the relevant information.

The protest committee **shall extend the time** if there is good reason to do so.

62 REDRESS

62.1 A request for redress or a protest committee's decision to consider redress **shall** be based on a claim or possibility that a **boat's score or place in a race or series has been or may be, through no fault of her own, made significantly worse** by

- (a) an **improper action** or omission of the race committee, protest committee, organizing authority or technical committee for the event, but not by a protest committee decision when the boat was a party to the hearing;
- (b) **injury or physical damage** because of the action of a boat that **was breaking a rule of Part 2** or of a vessel not racing that was required to keep clear;
- (c) giving help (except to herself or her crew) in compliance with rule 1.1; or
- (d) an action of a boat, or a member of her crew, that resulted in a penalty under rule 2 or a penalty or warning under rule 69.2(h).

62.2 A request **shall** be in writing and identify the reason for making it.

If the request is based on an incident in the racing area, it **shall** be delivered to the race office within the protest time limit or two hours after the incident, whichever is later.

Other requests **shall** be delivered as soon as reasonably possible after learning of the reasons for making the request.

The protest committee **shall** extend the time if there is good reason to do so.

No red flag is required.

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, 64.3(d), 69, 78.2, A5 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 **shall** be made available to them, and they **shall** be allowed reasonable time to prepare for the 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 the hearing of a protest or request for redress does not come to the hearing, the protest committee **may** nevertheless decide the protest or request. If the party was unavoidably absent, the committee **may** reopen the hearing.

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.

63.6 Taking Evidence and Finding Facts

The protest committee **shall** take the evidence of the parties present at the hearing and of their witnesses and other evidence it considers necessary. A member of the protest committee who saw the incident shall, while the parties are present, state that fact and may give evidence. A **party** present at the hearing **may** question any person who gives evidence. The committee **shall** then 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 Protests Between Boats in Different Races

A protest between boats sailing in different races conducted by different organizing authorities **shall** be heard by a protest committee acceptable to those authorities.

64 DECISIONS

64.1 Penalties and Exoneration

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) when as a consequence of breaking a rule a boat has compelled another boat to break a rule, the other boat **shall** be exonerated.
- (b) 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.**
- (c) if the race is restarted or resailed, rule 36 applies.

64.2 Decisions on 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 A10 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.

64.3 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.

64.4 Decisions Concerning Support Persons

(a) When the protest committee decides that a *support person* who is a party to a hearing 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 competitor** 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, when the protest committee **decides** that

- (1) the competitor **may** have gained a competitive advantage as the result of the breach by the *support person*, or
- (2) the support person commits a further breach after the competitor has been warned by the protest committee that a penalty may be imposed.

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 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

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.

A *party* to the hearing **may** ask for a reopening no later than 24 hours after being informed of the decision.

On the last scheduled day of racing the request **shall** be delivered

- (a) within the protest time limit if the requesting party was informed of the decision on the previous day;
- (b) no later than 30 minutes after the *party* was informed of the decision on that day. When a hearing is reopened, a majority of the members of the protest committee **shall**, if possible, be members of the original protest committee.

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.

69 MISCONDUCT

69.1 Obligation not to Commit Misconduct; Resolution

- (a) A competitor, boat owner or *support person* **shall not** commit an act of misconduct.
- (b) Misconduct is:
- (1) conduct that is a breach of good manners, a breach of good sportsmanship, or unethical behaviour; or
 - (2) conduct that may bring the sport into disrepute.
- (c) An allegation of a breach of rule 69.1(a) **shall** be resolved in accordance with the provisions of rule 69. It **shall not** be grounds for a *protest* and rule 63.1 does not apply

69.2 Action by a Protest Committee

- (a) A protest committee acting under this rule **shall** have at least three members.
- (b) When a protest committee, from its own observation or from information received from any source, including evidence taken during a hearing, believes a person may have broken rule 69.1(a), it **shall** decide whether or not to call a **hearing**.
- (c) When the protest committee needs more information to make the decision to call a hearing, it **shall consider** appointing a person or persons to conduct an investigation. These investigators **shall not** be members of the protest committee that **will** decide the matter.
- (d) When an investigator is appointed, all relevant information he gathers, favourable or unfavourable, **shall be disclosed to the protest committee, and if** the protest committee decides to call a hearing, to the *parties*.
- (e) If the protest committee **decides** to call a hearing, it **shall** promptly inform the person **in writing of the alleged breach and of the time and place of the hearing and follow the procedures in rules 63.2, 63.3(a), 63.4 and 63.6** except that:
- (1) unless a person has been appointed by World Sailing, a person **may** be appointed by the protest committee to present the allegation.
 - (2) a person against whom an allegation has been made under this *rule* **shall** be entitled to have an advisor and a representative with him who may act on his behalf.
- (f) If the person is unable to attend the hearing and
- (1) provides good reason, the protest committee **shall** reschedule it; or
 - (2) does not provide good reason and does not come to it, the protest committee **may** conduct it without the person present.
- (g) The standard of proof to be applied is **the test of the comfortable satisfaction of the protest committee**, bearing in mind the seriousness of the alleged misconduct. However, if the standard of proof in this rule conflicts with the laws of a country, the national authority **may**, with the approval of World Sailing, change it with a prescription to this rule.
- (h) When the protest committee decides that a competitor or boat owner has broken rule 69.1(a), it **may** take one or more of the following actions
- (1) issue a warning;
 - (2) change their boat's score in one or more races, including disqualification(s) that may or may not be excluded from her series score;
 - (3) exclude the person from the event or venue or remove any privileges or benefits; and
 - (4) take any other action within its jurisdiction as provided by the *rules*.
- (i) When the protest committee decides that a *support person* has broken rule 69.1(a), rule 64.4 applies.

(j) **If** the protest committee

(1) imposes a penalty greater than one DNE;

(2) excludes the person from the event or venue; or

(3) in any other case if it considers it appropriate, it **shall report its findings**, including the facts found, its conclusions and decision to the national authority of the person or, for specific international events listed in the World Sailing Regulations, to World Sailing. If the protest committee has acted under rule 69.2(f)(2), the report **shall** also include that fact and the reasons for it.

(k) If the protest committee **decides** not to conduct the hearing without the person present, or if the protest committee has left the event and a report alleging a breach of rule 69.1(a) is received, the race committee or organizing authority **may** appoint the same or a new protest committee to proceed under this rule. If it is impractical for the protest committee to conduct a hearing, it **shall** collect all available information and, if the allegation seems justified, make a report to the national authority of the person or, for specific international events listed in the World Sailing Regulations, to World Sailing.

69.3 Action by a National Authority and World Sailing

The disciplinary powers, procedures and responsibilities of national authorities and World Sailing that apply are specified in World Sailing Regulation 35, Disciplinary Code. National authorities and World Sailing may impose further penalties, including suspension of eligibility, under that regulation.

70 APPEALS AND REQUESTS TO A NATIONAL AUTHORITY

70.1 (a) Provided that the right of appeal has not been denied under rule 70.5, a party to a hearing may appeal a protest committee's decision or its procedures, **but not the facts found**.

(b) A boat may appeal when she is denied a hearing required by rule 63.1.

70.2 A protest committee may request confirmation or correction of its decision.

70.3 An appeal under rule 70.1 or a request by a protest committee under rule 70.2 **shall** be sent to the national authority with which the organizing authority is associated under rule 89.1.

However, if boats **will** pass through the waters of more than one national authority while racing, the sailing instructions **shall** identify the national authority to which appeals or requests are required to be sent.

70.4 A club or other organization affiliated to a national authority **may** request an interpretation of the rules, provided that no protest or request for redress that may be appealed is involved. The interpretation **shall not** be used for changing a previous protest committee decision.

70.5 There **shall be no appeal from the decisions of an international jury** constituted in compliance with Appendix N. Furthermore, if the notice of race and the sailing instructions so state, the right of appeal **may** be denied provided that

(a) it is essential to determine promptly the result of a race that will qualify a boat to compete in a later stage of an event or a subsequent event (a national authority may prescribe that its approval is required for such a procedure);

(b) a national authority so approves for a particular event open only to entrants under its own jurisdiction; or

(c) a national authority after consultation with World Sailing so approves for a particular event, provided the protest committee is constituted as required by Appendix N, except that only two members of the protest committee need be International Judges.

70.6 Appeals and requests shall conform to **Appendix R**.

71 NATIONAL AUTHORITY DECISIONS

71.1 A person who has a conflict of interest or was a member of the protest committee shall not take any part in the discussion or decision on an appeal or a request for confirmation or correction.

71.2 The national authority may **uphold, change or reverse** a protest committee's decision **including a decision on validity or a decision under rule 69**.

Alternatively, the national authority **may order that a hearing be reopened**, or that **a new hearing be held** by the same or a different protest committee.

When the national authority decides that there **shall** be a new hearing, it **may** appoint the protest committee.

71.3 When from the facts found by the protest committee the national authority **decides** that a boat that was a *party* to a protest hearing broke a rule and is not exonerated, it **shall** penalize her, whether or not that boat or that *rule* was mentioned in the protest committee's decision.

71.4 The decision of the national authority **shall be final**. The national authority **shall** send its decision **in writing** to **all parties** to the hearing and the protest committee, who shall be bound by the decision.

*This appendix is **advisory only**; in some circumstances changing these procedures may be advisable. It is addressed primarily to protest committee chairmen but may also help judges, protest committee secretaries, race committees and others connected with protest and redress hearings.*

In a *protest* or redress hearing, the protest committee should weigh all testimony with equal care; should recognize that honest testimony can vary, and even be in conflict, as a result of different observations and recollections; should resolve such differences as best it can; should recognize that no boat or competitor is guilty until a breach of a rule has been established to the satisfaction of the protest committee; and should keep an open mind until all the evidence has been heard as to whether a boat or competitor has broken a rule.

M1 PRELIMINARIES (may be performed by race office staff)

- Receive the protest or request for redress.
- Note on the form the time the protest or request is delivered and the protest time limit.
- Inform each party, and the race committee when necessary, when and where the hearing will be held.

M2 BEFORE THE HEARING

M2.1 Make sure that

- each party has a copy of or the opportunity to read the protest or request for redress and has had reasonable time to prepare for the hearing.
- only one person from each boat (or *party*) is present unless an interpreter is needed.
- all boats and people involved are represented. If they are not, however, the committee may proceed under rule 63.3(b).
- boats' representatives were on board when required (rule 63.3(a)). When the parties were in different races, both organizing authorities must accept the composition of the protest committee (rule 63.8).

In a protest concerning **class rules**, obtain the current class rules and identify the authority responsible for interpreting them (rule 64.3(b)).

M2.2 Determine if any members of the protest committee saw the incident. If so, require each of them to state that fact in the presence of the parties (rule 63.6).

M2.3 Assess *conflicts of interest*.

- Ensure that all protest committee members declare any possible *conflicts of interest*. At major events this **will** often be a formal written declaration made before the event starts that **will** be kept with the protest committee **records**.
- At the start of any hearing, ensure that the *parties* are aware of any *conflicts of interest* of protest committee members. Ask the *parties* if they consent to the members. If a party does not object as soon as possible after a *conflict of interest* has been declared, the protest committee **may** take this as consent to proceed and **should record it**.
- If a party objects to a member, the remainder of the protest committee members need to assess whether the *conflict of interest* is significant. The assessment will consider the level of the event, the level of the conflict and the perception of fairness. It **may** be acceptable to balance conflicts between protest committee members. Guidance may be found on the World Sailing website. **Record the decision and the grounds for that decision.**
- In cases of doubt it may be preferable to proceed with a smaller protest committee. **Except for hearings under rule 69, there is no minimum number of protest committee members required.**

- When a request for redress is made under rule 62.1(a) and is based on an improper action or omission of a body other than the protest committee, **a member of that body should not be a member of the protest committee.**

M3 THE HEARING

M3.1 Check the **validity** of the protest or request for redress.

- Are the contents adequate (rule 61.2 or 62)?
- Was it delivered in time? If not, is there good reason to extend the time limit (rule 61.3 or 62.2)?
- When required, was the protestor involved in or a witness to the incident (rule 60.1(a))?
- When necessary, was **'Protest' hailed** and, if required, a **red flag** displayed correctly (rule 61.1(a))?
- When the flag or hail was not necessary, was the protestee informed?
- **Decide** whether the protest or request for redress is **valid** (rule 63.5).
- Once the validity of the protest or request has been determined, do not let the subject be introduced again unless truly new evidence is available.

M3.2 Take the evidence (rule 63.6).

- Ask the protestor and then the protestee to tell their stories. Then allow them to question one another. In a redress matter, ask the *party* to state the request.
- Invite questions from protest committee members.
- Make sure you know what facts each party is alleging before calling any witnesses. Their stories may be different.
- Allow anyone, including a boat's crew, to give evidence. It is the *party* who normally decides which witnesses to call, although the protest committee may also call witnesses (rule 63.6). The question asked by a *party* 'Would you like to hear N?' is best answered by **'It is your choice.'**
- Call each party's witnesses (and the protest committee's if any) one by one. Limit parties to questioning the witness(es) (they may wander into general statements).
- **Invite the protestee to question the protestor's witness first (and vice versa)**. This prevents the protestor from leading his witness from the beginning.
- Allow members of the **protest committee who saw the incident to give evidence** (rule 63.6), but only while the parties are present. Members who give evidence may be questioned, should take care to relate all they know about the incident that could affect the decision, and may remain on the protest committee (rule 63.3(a)).
- Try to prevent leading questions or hearsay evidence, but if that is impossible discount the evidence so obtained.
- **Accept written evidence** from a witness who is not available to be questioned only if all parties agree. In doing so they forego their rights to question that witness (rule 63.6).
- **Ask** one member of the committee to note down evidence, particularly times, distances, speeds, etc.
- **Invite** first the protestor and then the protestee to make a final statement of her case, particularly on any application or interpretation of the *rules*.

M3.3 Find the facts (rule 63.6).

- Write down the facts; resolve doubts one way or the other.
- Call back parties for more questions if necessary.
- When appropriate, draw a diagram of the incident using the facts you have found.

M3.4 Decide the protest or request for redress (rule 64).

- **Base the decision on the facts found (if you cannot, find some more facts)**.
- **In redress cases**, make sure that no further evidence is needed from **boats that will be affected** by the decision.

M3.5 Inform the parties (rule 65).

- Recall the parties and **read them the facts found, conclusions and rules that apply**, and the decision. When time presses it is permissible to read the decision and give the details later.
- Give any party a copy of the decision on request. File the protest or request for redress with the committee records.

M4 REOPENING A HEARING (rule 66)

M4.1 When a party, within the time limit, has asked for a hearing to be reopened, hear the party making the request, look at any video, etc., and decide whether there is any **significant** new evidence that might lead you to change your decision. Decide whether your interpretation of the rules may have been wrong; be open-minded as to whether you have made a mistake. If none of these applies refuse to reopen; otherwise schedule a hearing.

M4.2 Evidence is 'new'

- if it was not reasonably possible for the party asking for the reopening to have discovered the evidence before the original hearing,
- if the protest committee is satisfied that before the original hearing the evidence was diligently but unsuccessfully sought by the party asking for the reopening, or
- if the protest committee learns from any source that the evidence was not available to the parties at the time of the original hearing.

M5 MISCONDUCT (rule 69)

M5.1 An action under this rule is not a protest, but the protest committee gives its allegations in writing to the competitor before the hearing. The hearing is conducted under rules similar to those governing a protest hearing but the protest committee must have at **least three members** (rule 69.2(a)). Use the greatest care to protect the competitor's rights.

M5.2 A competitor or a boat cannot protest under rule 69, but the protest form of a competitor who tries to do so may be accepted as a report to the protest committee, which can then **decide** whether or not to call a hearing.

M5.3 Unless World Sailing has appointed a person for the role, the protest committee may appoint a person to present the allegation. This person might be a race official, the person making the allegation or other appropriate person. When no reasonable alternative person is available, a person who was appointed as a member of the protest committee **may** present the allegation.

M5.4 When it is desirable to call a hearing under rule 69 as a result of a Part 2 incident, it is important to hear any boat-vs.-boat protest in the normal way, deciding which boat, if any, broke which rule, before proceeding against the competitor under rule 69.

M5.5 Although action under rule 69 is taken against a competitor, boat owner or *support person*, and not a boat, a boat **may** also be penalized (rules 69.2(h)(2) and 64.4).

M5.6 When a protest committee upholds a rule 69 allegation it will need to consider if it is appropriate to report to either a national authority or World Sailing. Guidance on when to report may be found in the World Sailing Case Book. When the protest committee does make a **report** it may recommend whether or not further action should be taken.

M5.7 Unless the right of appeal is denied in accordance with rule 70.5, a party to a rule 69 hearing may appeal the decision of the protest committee.

M5.8 Further guidance for protest committees about misconduct may be found on the World Sailing website.

M6 APPEALS (rule 70 and Appendix R)

When decisions can be appealed,

- retain the papers relevant to the hearing so that the information can easily be used for an appeal. Is there a diagram endorsed or prepared by the protest committee? Are the facts found sufficient? (Example: Was there an overlap? Yes or No. 'Perhaps' is not a fact found.) Are the names of the protest committee members and other important information on the form?
- comments by the protest committee on any appeal should enable the appeals committee to picture the whole incident clearly; the appeals committee knows nothing about the situation.

M7 PHOTOGRAPHIC EVIDENCE

Photographs and videos can sometimes provide useful evidence but protest committees should recognize their limitations and **note the following points**:

- The party producing the photographic evidence is responsible for arranging the viewing.
- View the video several times to extract all the information from it.
- The depth perception of any single-lens camera is very poor; with a telephoto lens it is non-existent. When the camera views two overlapped boats at right angles to their course, it is impossible to assess the distance between them. When the camera views them head on, it is impossible to see whether an overlap exists unless it is substantial.
- Ask the following questions:
 - Where was the camera in relation to the boats?
 - Was the camera's platform moving? If so in what direction and how fast?
 - Is the angle changing as the boats approach the critical point? Fast panning causes radical change.
 - Did the camera have an unrestricted view throughout?

See rule 70. A national authority may change this appendix by prescription but it shall not be changed by sailing instructions.

R1 APPEALS AND REQUESTS

Appeals, requests by protest committees for confirmation or correction of their decisions, and requests for interpretations of the rules **shall** be made in compliance with this appendix.

R2 SUBMISSION OF DOCUMENTS

R2.1 To make an appeal,

(a) no later than 15 days after receiving the protest committee's written decision or its decision not to reopen a hearing, the appellant **shall** send an appeal and a copy of the protest committee's decision to the national authority. The appeal **shall** state **why** the appellant believes the protest committee's decision or its procedures were incorrect;

(b) when the hearing required by rule 63.1 has not been held within 30 days after a protest or request for redress was delivered, the appellant **shall**, within a further 15 days, send an appeal with a copy of the protest or request and any relevant correspondence. The national authority **shall** extend the time if there is good reason to do so;

(c) when the protest committee fails to comply with rule 65, the appellant **shall**, within a reasonable time after the hearing, send an appeal with a copy of the protest or request and any relevant correspondence. If a copy of the protest or request is not available, the appellant **shall** instead send a statement of its substance.

R2.2 The appellant shall also send, with the appeal or as soon as possible thereafter, all of the following documents that are available to her:

(a) the written protest(s) or request(s) for redress;

(b) a diagram, prepared or endorsed by the protest committee, showing the positions and tracks of all boats involved, the course to the next mark and the required side, the force and direction of the wind, and, if relevant, the depth of water and direction and speed of any current;

(c) the notice of race, the sailing instructions, any other conditions governing the event, and any changes to them;

(d) any additional relevant documents; and

(e) the names, postal and email addresses, and telephone numbers of all parties to the hearing and the protest committee chairman.

R2.3 A request from a protest committee for confirmation or correction of its decision **shall** be sent no later than 15 days after the decision and **shall** include the decision and the documents listed in rule R2.2. A request for an interpretation of the rules **shall** include assumed facts.

R3 RESPONSIBILITIES OF NATIONAL AUTHORITY AND PROTEST COMMITTEE

Upon receipt of an appeal or a request for confirmation or correction, the national authority shall send to the *parties* and protest committee copies of the appeal or request and the protest committee's decision. **It shall ask** the protest committee for any relevant documents listed in rule R2.2 not sent by the appellant or the protest committee, and the protest committee **shall** promptly send them to the national authority. When the national authority has received them it **shall** send copies to the *parties*.

R4 COMMENTS AND CLARIFICATIONS

R4.1 The *parties* and protest committee **may** make comments on the appeal or request or on any of the documents listed in rule R2.2 by sending them in writing to the national authority.

R4.2 The national authority **may** seek clarifications of rules governing the event from organizations that are not *parties* to the hearing.

R4.3 The national authority **shall** send copies of comments and clarifications received to the parties and protest committee as appropriate.

R4.4 Comments on any document **shall** be made no later than 15 days after receiving it from the national authority.

R5 INADEQUATE FACTS; REOPENING

The national authority **shall** accept the protest committee's finding of facts except when it decides they are **inadequate**. In that case it **shall** require the committee to provide additional facts or other information, or to reopen the hearing and report any new finding of facts, and the committee shall promptly do so.

R6 WITHDRAWING AN APPEAL

An appellant **may** withdraw an appeal before it is decided by accepting the protest committee's decision.