



## DISCRETIONARY PENALTY POLICY

Rev. May 21, 2018

(This document provides additional detail on discretionary penalties available to the International Jury per the Sailing Instructions.)

### 1. GENERAL

- 1.1 The Sailing Instructions permit the International Jury to apply a discretionary penalty ("DP"), up to and including a DSQ, for a breach of certain *rules*. In determining the DP, the Jury shall be guided by this document (the "DPP").
- 1.2 This document establishes base penalties for a range of *rules* relating to the safety and inspection requirements for the Newport Bermuda Race — both pre- and post-race — as well as conduct during the race itself. These base penalties may be increased or decreased by the International Jury depending on the circumstances and as described in DPP 1.5-1.6.
- 1.3 When more than one band is suggested, the Jury will refer to the general factors in DPP 1.5-1.7 to determine the appropriate band. For infractions not specifically included in the tables below, the Jury will refer to DPP 1.5-1.7 and the Organizing Authority to determine the appropriate DP band. A "0" indicates the OA recommends no penalty be imposed.
- 1.4 Penalties are divided into five bands with the midpoint being the normal "base penalty":
  - a. **Band 1** – 0-4% (midpoint 2%)
  - b. **Band 2** – 4-6% (midpoint 5%)
  - c. **Band 3** – 6-24% (midpoint 15%)
  - d. **Band 4** – 24-46% (midpoint 35%)
  - e. **Band 5** – DSQ
- 1.5 The International Jury may consider decreasing the penalty based on a positive answer to any or all of the following questions:
  - a. Was the breach genuinely accidental?
  - b. Was there a good reason or justification for the breach?
  - c. Was the breach reported by the competitor?
  - d. Did a person not part of the boat's crew or support team contribute to the breach?
- 1.6 The International Jury may consider increasing the penalty based on a positive answer to any or all of the following questions:

- a. Was the breach repeated or continue for some length of time?
  - b. Was the breach deliberate as opposed to a misjudgment or carelessness?
  - c. If the breach resulted from the Captain's misjudgment or carelessness, was it unreasonable?
  - d. Was there any attempt to conceal the breach?
  - e. Was another person affiliated with the event inconvenienced?
  - f. Did the breach compromise the safety of competitors, race organizers or other mariners?
  - g. Did the breach result in injury or damage (including but not limited to other boats or any part of the natural marine environment)?
- 1.7 The Jury may use other questions to determine if a DP should be increased or decreased. These questions include, but are not limited to: Did the breach allow for a competitive advantage? Could the breach bring the sport or the organizing authority into disrepute? Was the breach careless or indicate cavalier disregard of the rules?
- 1.8 If the Jury is satisfied that the breach was deliberate, it will also consider action under Rule 2, Fair Sailing, or Rule 69, Gross Misconduct.
- 1.9 To calculate and apply the penalty:
- a. Percentage penalties are a percentage of and are added to a boat's corrected time.
  - b. Percentage penalties are calculated to the nearest second of corrected time.
  - c. The DP may not make a boat's score worse than retirement or disqualification.
  - d. The penalty must exceed any possible gain.
- 1.10 The written decision from the International Jury will include the penalty applied and the rationale for either increasing or decreasing the penalty from the base level.
- 2. CLASSIFICATION PROTESTS**
- The Jury will also use the following guidelines in protests involving classification.
- 2.1 The Captain's ignorance or misrepresentation of a crewmember's Sailor Classification status or group, as published by World Sailing and reflected on the boat's entry forms at the time of starting, should not be a defense to a protest under NoR 7 or World Sailing Regulation 22.
- 2.2 The Captain should be presumed to possess a general familiarity with his or her crew, including but not limited to personal details that may have an impact on the crewmember's Sailor Classification status or group, but such presumption shall be rebuttable.

**TABLES**

The following abbreviations are used for cites to specific rules.

N – paragraph in the Notice of Race.

S – paragraph in the Sailing Instructions.

R – rule in the *Racing Rules of Sailing*.

O - paragraph in the Offshore Racing Rule (ORR).

mo – paragraph in the NBR SR for Monohulls only.

mu – paragraph in the NBR SR for Multihulls only.

<b>NBR SR</b>	<b>SAFETY (Post-race inspection deficiencies.)</b>	<b>Band</b>
<b>1.0</b>	General Requirements	1-3
<b>2.0</b>	Hull and structure construction and design guidelines	1-2
<b>2.1.1a (mu)</b>	Two Exits in each hull	5
<b>2.1.1b (mu)</b>	Escape Hatches	5
<b>2.1.3</b>	Watertight cockpit	4-5
<b>2.1.6</b>	Opening below the waterline (seacocks)	4-5
<b>2.2.1</b>	Stability (mo), Watertight features (mu)	3-5
<b>2.3.3</b>	Stove installed without fuel shutoff	5
<b>2.4.1</b>	Enclosed deck	5
<b>2.5</b>	Bilge pump	5
<b>2.6</b>	Mast step unsecured or not sufficiently secured	4-5
<b>2.8-11 (mu)</b>	Inadequate netting	2-4
<b>3.1.1</b>	Lifejackets --	3-5
	- Insufficient quantity	5
<b>3.1.4</b>	Safety Harnesses --	
	- Insufficient quantity of harnesses and/or tethers	5
<b>3.2.1</b>	Jack lines	5
<b>3.2.3 (mu)</b>	Underside jack lines and nonskid pathways	3-5
<b>3.9</b>	AIS	4-5
<b>3.11</b>	Satellite Phone	4-5
<b>3.14-15</b>	GPS	3
<b>3.16.1</b>	EPIRB	5
<b>3.25</b>	First Aid Gear	4-5
<b>3.33.5 (mu)</b>	Mainsheet Release	4
<b>3.39</b>	Inflatable life raft	5
	- Overweight or improper stowage of valise type raft	3
<b>5.2</b>	SAS Seminar Attendance	5
	- Insufficient quantity of crew with hands-on training	4
<b>5.6</b>	First Aid and CPR	4-5

<b>START</b>		
S-	Failures related to pre-start requirements, starting area, Press Alley, check-in, class flags, etc.	1-2
<b>CREW AND CLASSIFICATION</b>		
S, N	Crew classification.	4-5
N-7.2-5	Exceeded classification crew limits.	4-5
N-7	Raced with a sailor not classified as Group 1 after the Classification Deadline or not listed on the crew list	2-3
<b>COMMUNICATIONS</b>		
R-41, S-	Broke rule 41 or failed to follow stated Communications requirements	0-3
N-2.1(b)	Received private forecast or tactical advice or information customized for a particular boat or group of boats and/or her/their situation	3-5
<b>SEAMANSHIP</b>		
R-55-	Disposed trash deliberately	3-5
S-	Failed to wear a safety harness and lifejacket	3-5
<b>EQUIPMENT/SAILS OUTSIDE MEASUREMENT (excluding wear and tear)</b>		
N, S, O		1-3, 5
<b>ENTRY</b>		
N, S	Late documents, missed meetings or other deadlines	1-4
N, S	Failed to appear at Registration	5
<b>INSPECTIONS</b>		
N, S, NBR SR	Failed to present boat for inspection before or after the race, on time and without an exception	2-3
<b>ADVERTISING (INCLUDING WORLD SAILING REG 20.2.3)</b>		
N, S		1-2
<b>SAILING THE COURSE</b>		
RRS 28.1, S 8, S 12		2-5

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<b>AFTER FINISHING</b>		
<b>S</b>	Failure to meet post-race requirements, communicate with Bermuda Radio, check in at RBYC, clear customs	1-2