

REGULATION 2 – YACHTING QUEENSLAND MARINE INCIDENT ENQUIRY COMMITTEE

(10 APRIL 2007)

Background

1. Yachting Queensland has established a standing marine safety incident enquiry committee, to be called the Yachting Queensland Marine Incident Enquiry Committee (YQ MIE) to advise it on safety issues where the public interest requires that an impartial examination should be undertaken into the circumstances surrounding:
 - a. the loss of (or severe damage to) a yacht;
 - b. the loss of (or serious injury to) a crew;
 - c. any incident where a crew goes overboard;
 - d. any incident where there was a real danger that one or more of the crew might have drowned; and
 - e. any incident concerning the conduct of a rescue boat

during any race organised by a member club or class association for any sailing vessel ranging from off the beach dinghies to offshore racing yachts.

Principal Objectives

2. The YQ MIE has four principal objectives. These are:
 - a. to find out what actually happened;
 - b. identify what might be learned from what happened;
 - c. to promote informed discussion about what steps might be taken to lessen the chances of incidents of that kind happening again; and
 - d. to make such recommendations as may be appropriate to ensure that the ISAF Rules are complied with.

Establishment of Standing Committee

3. The YQ Board has resolved:
 - a. to establish such a standing committee to be known as the YQ Marine Incident Enquiry (YQ MIE), followed by the name of the event, if YQ considers that appropriate in the circumstances;
 - b. that the YQ MIE:
 - (1) must meet as quickly as practicable after a matter is referred to it by YQ;
 - (2) may meet and adjourn as it thinks proper.

YQ MIE Composition

4. The QYA MIE shall:
 - a. comprises not less than three, nor more than five, members;
 - b. remain alive and responsive to the rules of natural justice;
 - c. ensure that no adverse finding is made unless the person or organisation against whom such a finding might be considered, has first had an opportunity to consider any response it might wish to make to such a proposed finding;
 - d. deal with submissions and witnesses through the mechanism of a secretary provided by YQ; and
 - e. as individuals, have no direct, or indirect, contact with any witness, such contact shall be through the secretary for the time being of any specific enquiry.
5. The members for any specific YQ MIE shall comprise such persons, already appointed by YQ to that standing committee, who are nominated by the YQ Board and agreed to by the Chairman, for the time being, of the YQ MIE.
6. Any person who has any direct or indirect interest in any possible recommendation that might arise from any YQ MIE is not eligible to sit on any such QYA MIE.;

Membership Criteria

7. The YQ Board has resolved that:
 - a. no person shall be eligible to be appointed to any YQ MIE unless that person:
 - (1) is a member in good standing of an affiliated yacht club;
 - (2) has been actively involved as a sailor in ocean racing for 15 years or five years for dinghy sailing events; and
 - (3) has served in the administration of the sport of sailing for at least five years.

Term of Office

8. Appointment to the YQ MIE shall be for a term of three years.
9. Any member may be re-appointed.

Confidentiality

10. No member may take part in any YQ MIE unless that proposed member has signed a confidentiality agreement in terms satisfactory to YQ, by which that person agrees to keep strictly confidential any notes, discussions, reports, or observations of YQ and any of its officers and fellow YQ MIE members.
11. All documents coming into a members hands must be kept confidential unless and until the YQ MIE or YQ otherwise resolves.

Removal from YQ MIE

12. Any member of the YQ MIE may be removed for cause, by a unanimous resolution of the YQ Board.

Operation of YQ MIE

13. Any persons giving evidence, making submissions or appearing before it, shall be entitled to a fair and impartial hearing, and to be treated courteously, and have their evidence, submissions or arguments carefully considered, before any recommendations are made.
14. Oral evidence and submissions, shall, where practicable, be recorded, and the tapes retained by YQ after the YQ MIE has heard a matter referred to it, and made written recommendations to YQ.
15. The YQ MIE has the powers necessary to enable it to implement its terms of reference.
16. If any member who is sitting becomes aware of any potential conflict of interest and duty that person shall forthwith inform the Chair of the YQ MIE, who shall, if he concurs, so inform the YQ Board.
17. Any YQ MIE so affected shall continue to complete the enquiry on which it has embarked notwithstanding that it has lost the services of such a member.
18. No enquiry may be commenced while any protest is in the course of being heard and determined.
19. No witness, club, class association or sailor is permitted to lobby any member of any specific YQ MIE.
20. Any affiliated club or class association that becomes aware that, during a race arranged by that club or class association, a yacht was lost or sustained severe damage, or in which a crew was lost or sustained severe injury, or a crew went overboard, shall promptly:
 - a. inform YQ in writing of what has occurred; and
 - b. pass on to YQ the written results of any enquiry instigated by the club or class association concerned within 28 days of being aware of the incident.

Terms of Reference

21. The Terms of Reference (TOR) for any enquiry will be raised by the Chairman of the YQ MIE. An example TOR is attached at Annex A to this Regulation.

Written Report

22. The YQ MIE must deliver each of its written reports to the YQ Board within 14 days after the close of each enquiry.

(EXAMPLE ONLY)

YQ MARINE INCIDENT ENQUIRY COMMITTEE

TERMS OF REFERENCE

**“ON COURSE” AND THE
BRISBANE TO GLADSTONE RACE 2007
ENQUIRY COMMENCING**

19 APRIL 2007 at 6pm

at YQ BOARD ROOM

Manly Marina

1. The YQ MIE will embark upon an enquiry into the circumstances surrounding the 'man overboard incident' covering the yacht 'On Course' during the 2007 Brisbane-Gladstone Race.
2. The purpose of the enquiry is:
 - a. to find out what actually happened;
 - b. to identify what might be learned from what happened;
 - c. to promote informed discussion about what steps might be taken to lessen the chances of incidents of that kind happening again; and
 - d. to make such recommendations as may be appropriate to ensure that the ISAF Rules are complied with.
3. The YQ MIE committee will take, as its starting point, the Report provided by the club organising the race dated 1 April 2007, complete with its relevant annexures.
4. The YQ MIE will give notice to:
 - a. the race organiser (affiliated club);
 - b. the skipper of the yacht concerned and invite the organising club to pass on the notice to any crew who sailed on the yacht 'On Course';
 - c. the YQ Offshore and Safety Committee; and
 - d. any other person or organisation having a legitimate interest in identifying the facts surrounding the crew overboard incident.

to appear and to lay evidence before it; to allow examination and, where appropriate, cross-examination but only with a view to identifying facts or circumstances that may assist other clubs, class associations, skippers or crew in minimising the risk of losing a person overboard.

Davey Jones
Chairman
YQ MIE
April 2007