
GUIDANCE ON APPLICABLE RULES AND OBLIGATIONS WHEN SAILING OR RACING BOATS WITH LIMITED VISIBILITY

Introduction

This paper is produced in response to the following comment from an insurer about an incident between an RS800, a 4.8m twin-trapeze dinghy flying an asymmetric spinnaker, and a Flying Fifteen, a 6.1m racing keelboat:

"It is becoming increasingly apparent in a lot of the asymmetric classes that the right of way boat is required to shout much earlier than normal and to take earlier action to keep clear as asymmetric boats (especially the likes of the RS800 with twin trapeze) often are unable to see leeward boats and cannot take avoiding action as easily as traditional classes."

The above comment indicates a serious misunderstanding of the relevant sailing rules and of the obligations of each boat. The RYA is concerned that this view may be more widely held.

This paper addresses the obligations of a boat that may have a limited field of view when sailing downwind, particularly skiff type dinghies that are flying an asymmetric spinnaker, and the consequent obligations of other boats sailing in the vicinity.

This paper relates only to sailing boats that are not under power.

Relevant Rules

When both boats are subject to the ISAF Racing Rules of Sailing (RRS) these rules govern the rights and obligations of each. In most other cases on coastal waters the relevant rules are the International Regulations for Preventing Collisions at Sea (IRPCAS). Government, harbour authority or water board regulations or other local rules may also apply.

In good visibility, when a boat is sailing with a spinnaker up and is approaching a boat to leeward of her there is no significant difference between the RRS and the IRPCAS.

Application of the Rules

Both the IRPCAS and the RRS require the boat to windward, invariably the boat with the spinnaker up, to keep clear of the other boat unless she is on starboard tack and the other boat is on port tack.

A boat, whether or not she is a boat required to keep clear, cannot fulfil her obligations under the rules if she is unable to see where she is going or other boats approaching her on convergent courses. IRPCAS rule 5 is specific and states that

"Every vessel shall at all times maintain a proper look-out by sight and hearing"

The equivalent requirement in the RRS is explained in case 107¹ of the International Sailing Federation (ISAF) which states

"Rule 14 begins 'A boat shall avoid contact with another boat if reasonably possible.' This requirement means a boat must do everything that can reasonably be expected of her in the prevailing conditions to avoid contact. This includes keeping a good lookout"

The fact that the design of a boat or its sails may restrict the crew of a boat in fulfilling their obligation to keep a proper look-out does not in any way relieve them of their responsibilities for so doing.

In order for the rules to work effectively they restrict the changes of course that a right-of-way boat may make. Both the IRCAS in rule 17(a)(i) and the RRS in rule 16.1 require the stand-on or right-of-way boat to sail so as not to obstruct the other boat in keeping clear and potentially prevent her from doing so. Only when it is apparent that the give-way boat is not taking the required action is the right-of-way boat obliged to take avoiding action, in the IRCAS under rule 17(a)(ii) and in the RRS under rule 14.

When a dinghy or small keelboat flying an asymmetric spinnaker is approaching a right-of-way boat to leeward, the time at which it becomes clear that the give-way boat is not keeping clear is likely to be too late for the other boat to respond effectively to avoid a collision. Hailing, whilst desirable, may be of limited effect as the boat flying the asymmetric spinnaker will be upwind and probably subject to considerable noise from the water and spray.

Summary

Both the IRCAS, explicitly in rule 5, and the RRS, by virtue of rule 14, require a boat to keep a proper look-out. The use of a sail which may limit visibility does not in any way reduce the responsibility of a boat for so doing and this is a pre-requisite for compliance with the right-of-way rules.

If a boat is involved in a collision when she was not keeping a proper look-out, her failure to keep a look-out would be regarded by the courts as clear negligence and therefore a contributory cause, or possibly the only cause, of any resulting damage.

¹ ISAF Case Book; available at www.sailing.org. This was previously RYA Case 2004/6.