

CASE 123

Rule 10, On Opposite Tacks

Rule 14, Avoiding Contact

When it would be clear to a competent, but not expert, sailor at the helm of a starboard-tack boat that there is substantial risk of contact with a port-tack boat, the starboard-tack boat breaks rule 14 if contact occurs and there was still time for her to change course sufficiently to avoid the contact.

Facts for Question 1

1. In a fleet race with 10 knots wind, two one-design dinghies, each 5 metres in length, are approaching each other on close-hauled courses.
2. S is on starboard tack and P is on port tack. Both boats hold their course and speed.
3. There is contact between S's bow and P's starboard quarter, about 20 cm from P's stern, causing damage.
4. Neither boat takes a penalty.
5. S protests P.

Question 1: How do the rules apply to this incident? In particular, did S break rule 14?

Answer 1:

1. In this situation P judged incorrectly that she would cross ahead of S without breaking rule 10. P could have tacked to leeward of S and thereby kept clear of S and avoided the contact. Because P failed to do so, she broke both rule 10 and rule 14 and is disqualified.
2. Rule 14 requires a boat, including a right-of-way boat, to avoid contact if reasonably possible. However, rule 14(a) also states that a right-of-way boat need not act to avoid contact until it is 'clear' that the other boat is not keeping clear. In the conditions described, when P's bow crossed in front of S's bow it would be clear to a competent, but not expert, sailor at the helm of S that there was substantial risk of contact and therefore that P was not keeping clear. **At that moment there was still time for S to bear away sufficiently to avoid the contact, and therefore S broke rule 14.**
3. Because the contact caused damage, S is disqualified and is not exonerated (RRS 14(b)).

Facts for Question 2: The facts are the same as those for Question 1, except that just before the contact occurs S bears away slightly in an attempt to avoid P. However S misjudges the manoeuvre and there is contact that causes damage.

Question 2: Did S break rule 14?

Answer 2:

As noted in Answer 1, at the time it became clear that P was not keeping clear, there was still time for S to bear away sufficiently to avoid the contact. Therefore, it was reasonably possible for S to have done so. She failed either to bear away sufficiently or to begin to bear away early enough, but that does not mean that it was not reasonably possible for her to have avoided the contact. Therefore, S broke rule 14 despite having borne away slightly before the contact occurred. Because the contact caused damage, S is disqualified and is not exonerated.

CASE 50

Definitions, Keep Clear

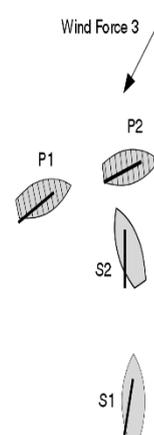
Rule 10, On Opposite Tacks

Rule 14, Avoiding Contact

When a protest committee finds that in a port-starboard incident S did not change course and that there was not a genuine and reasonable apprehension of collision on the part of S, it should dismiss her protest. When the committee finds that S did change course and that there was reasonable doubt that P could have crossed ahead of S if S had not changed course, then P should be disqualified.

Facts

1. On a windward leg, P met S and sailed a course to cross ahead of S.
2. S bore away, displayed a protest flag, and hailed P her intent to protest.
3. Both boats were identical 27-foot (8m) keel boats, and the wind strength was Force 3.
4. S protested under rule 10, stating that she had to bear away to avoid colliding with P.
5. The protest committee dismissed the protest by S, stating that 'The need to change course could not be substantiated by the conflicting testimony of the two helmsmen.' S appealed.



Decision

1. Rule 10 protests involving no contact are very common, and protest committees tend to handle them in very different ways. Some place an onus on the port-tack boat to prove conclusively that she would have cleared the starboard-tack boat, even when the latter's evidence is barely worthy of credence. No such onus appears in rule 10. Other protest committees are reluctant to allow any rule 10 protest in the absence of contact, unless the starboard-tack boat proves conclusively that contact would have occurred had she not changed course. Both approaches are incorrect.
2. S's diagram, later endorsed by the protest committee, shows that S bore away to avoid contact.
3. P's diagram, which was not endorsed by the protest committee, showed a near miss if S did not bear away. P did not deny or confirm that S bore away but said that, if she did, it was unnecessary.
4. A starboard-tack boat in such circumstances need not hold her course so as to prove, by hitting the port-tack boat, that a collision was inevitable. Moreover, if she does so she will break rule 14.
5. At a protest hearing, S must establish either that contact would have occurred if she had held her course, or that there was enough doubt that P could safely cross ahead to create a reasonable apprehension of contact on S's part and that it was unlikely that S would have 'no need to take avoiding action' (definition *Keep Clear*).
6. In her own defence, P must present adequate evidence to establish either that S did not change course or that P would have safely crossed ahead of S and that S had no need to take avoiding action.
7. When, after considering all the evidence, a protest committee finds that S did not change course or that there was not a genuine and reasonable apprehension of collision on her part, it should dismiss her protest.
8. When, however, it is satisfied that S did change course, that there was reasonable doubt that P could have crossed ahead, and that S was justified in taking avoiding action by bearing away, then P should be disqualified.
9. On the facts, as shown in the diagram and the report of the protest committee, the ability of P to cross ahead of S was doubtful at best.
10. S's appeal is upheld, and P is disqualified.