

RYA 2011/1

Rule 14, Avoiding Contact

Rule 19, Room to Pass an Obstruction

An inside boat that reasonably believes that she is at an obstruction and acts accordingly is entitled to room from an outside boat. The inside boat is not required to endanger herself in order to claim her entitlement to room. If the outside boat disputes the inside boat's entitlement to room, she must nevertheless give room, and then, if she wishes, protest.

SUMMARY OF THE FACTS

During the Round the Island Race 2010, both boats were reaching on port tack and were in the process of rounding the southernmost tip of the Isle of Wight, which was to windward. *Profile* was ahead and to windward. *Tilt* approached from clear astern and was sailing on a higher course than *Profile*. When the boats became overlapped, there were more than 2 boat lengths between them. *Profile* believed that there was insufficient depth of water to windward to allow her to sail any higher. *Profile* held her course and *Tilt* continued sailing a higher course. As the boats converged, there was contact causing damage. *Profile* protested *Tilt*.

The protest committee decided that *Profile* was not 'at an obstruction' and was therefore not entitled to room under rule 19.2(b). It disqualified *Profile* under rule 11. The protest committee also stated there was nothing *Tilt* could have been expected to do to avoid contact and therefore she did not break rule 14 as a result. *Profile* appealed.

DECISION

The appeal is upheld. *Profile* is to be reinstated to her finishing position and *Tilt* is to be disqualified.

When there is a dispute over an entitlement to room due to differing views on whether a boat is at an obstruction or not, the proper course of action is for the outside boat to give room and then to protest. The inside boat is not required to endanger herself in order to claim her entitlement to room. The principles applicable are similar to those in ISAF Case 50.

At a protest hearing, it is for the right-of-way boat to establish that contact would have occurred if she had held her course and therefore that she needed to take avoiding action. It is then for the inside boat to present sufficient evidence to establish that she was at an obstruction and that she was entitled to room. If, after considering all the evidence, a protest committee finds that the inside boat had a reasonable belief that she was at an obstruction and required room, it should dismiss the protest. If the protest committee is satisfied that the inside boat's belief was not reasonable in all the circumstances, it should uphold the protest and disqualify her.

The RYA accepts that *Profile* genuinely believed she could not sail any higher and that, given the depth of water, the size of boats and the wind strength at the time of the incident, that belief was a reasonable one to have. *Profile* was accordingly entitled to room under rule 19.2(b) and was compelled to break rule 11 by *Tilt*'s failure to give room. *Profile* is therefore exonerated from her breach of rule 11 under rule 64.1(c) and *Tilt* is to be disqualified for breaking rule 19.2(b). *Profile* did not avoid contact with *Tilt*, but under rule 14(a) was not required to act to do so until it was clear that *Tilt* was not giving room, at which point there was no safe possibility for *Profile* to avoid the contact. *Tilt*, however, could have avoided contact and is, therefore, also disqualified under rule 14 because the contact resulted in damage.