

**ISAF Case Book**

## New Case

A submission from the Royal Yachting Association

**Proposal:****Part 2      Preamble**

The interpretation and enforcement of the IRPCAS and of government right-of-way rules is a matter for the bodies empowered by national law to do so, unless such a regulation is explicitly applicable to the event, or unless a boat that is racing may have broken such a regulation in respect of a vessel not racing. Only then does a protest committee have competence under the RRS to consider IRPCAS and government right-of-way rules.

When sailing instructions say that the rules of Part 2 are replaced by the IRPCAS, the rules that now apply are Part B of IRPCAS, subject to the general provisions of Part A. RRS 48 makes Part C applicable even if Part B is not applicable. It is not possible to replace only some Part 2 rules with only some Part B IRPCAS rules.

An IRPCAS or government right-of-way rule can be made to apply to boats racing in addition to the RRS, as a document governing the event.

The IRPCAS or government right-of-way rules apply between a boat that is racing and a vessel that is not, but only the race committee or protest committee can protest the boat for breaking such a rule. A boat can protest under those rules only for an incident between boats that would be, were or had been racing, and then only when the rule concerned was made explicitly applicable in the notice of race and sailing instructions. She cannot protest under rule 2 independently of this. She may however lodge a report concerning an incident between a boat that was racing a vessel that was not, which might lead the protest committee to begin action under rule 69.1(a).

**Question 1**

When boats are racing under the Racing Rules of Sailing, does any rule of the International Regulations for Preventing Collisions at Sea (IRPCAS) also apply between them?

**Answer 1**

The Racing Rules Committee of the RYA (the RYA) can answer this only within its competence, derived from the International Sailing Federation (ISAF), under the Racing Rules of Sailing (RRS). This question is asked under RRS 70.3, as a request for an interpretation of the *rules*, which are listed in the definition Rule. RRS 3(a) says that, by participation in a race conducted under the RRS, each competitor and boat owner agrees to be governed by the *rules*. The definition does not refer to the IRPCAS as a *rule*.

The preamble to Part 2 makes the IRPCAS or equivalent government right-of-way rules applicable and enforceable between boats that are racing and vessels that are not, as discussed further below. As between boats that are racing, one element of the IRPCAS is made explicitly enforceable by a racing rule as between boats that are racing, namely the requirement under rule 48, when safety requires, to sound fog signals and show lights as required by the IRPCAS.

The preamble to Part 2 also makes clear that sailing instructions can say that the rules of Part 2 can be replaced by the IRPCAS, which will then apply between boats that are racing. This is commonly

done in respect of racing at night, and indeed at most times in oceanic races other than when starting and finishing, even though it may be less necessary today, now that the RRS places a greater emphasis on collision avoidance (rule 14) and deters potentially dangerous manoeuvres (rules 15 and 16).

The definition Rule also includes: ‘(g) any other document governing the event.’ The IRPCAS would be, for this purpose, a ‘document’. To govern an event, a document must be listed in the notice of race (RRS J1.1(3)), stating where or how it may be seen; and in the sailing instructions (RRS J2.1(2)).

Therefore, if rule 48 is not relevant, and in the absence of an explicit reference in the notice of race and the sailing instructions to one, some or all of the rules of IRPCAS as applying to the event, no rule of the IRPCAS can be found by a protest committee to be applicable enforceable as between boats that are racing.

The same principle applies to what are referred to in the RRS as ‘government right-of-way rules’, which include the rules of navigation authorities for inland waters and the rules of harbour authorities that restate, replace, modify or add to the IRPCAS, as foreseen by IRPCAS rule 1(b). A well-known example is the Southampton Harbour Byelaws, as applicable in case RYA 2003/4. See also case RYA 1989/6.

It should be noted that the IRPCAS apply only to the high seas and in waters connected therewith navigable by seagoing vessels. In waters where the IRPCAS do not apply and where there are no government right-of-way rules, the question of the application of such rules to boats that are racing does not arise.

The question of the interpretation and enforcement of the IRPCAS and of government right-of-way rules is therefore a matter for the bodies empowered by national law to do so, unless such a regulation is explicitly applicable to the event, or unless a boat that is racing may have broken such a regulation in respect of a vessel not racing. Only then does a protest committee have competence under the RRS to consider IRPCAS and government right-of-way rules.

## **Question 2**

Which rules of Part 2 are replaced by which rules of the IRPCAS, and do any other rules of the IRPCAS also apply automatically, when the sailing instructions state generally that the right-of-way rules of the IRPCAS apply in place of the right-of-way rules of the RRS?

## **Answer 2**

The preamble to Part 2 of the RRS says that, when stated in the sailing instructions, the whole of RRS Part 2 is replaced by the right-of-way rules of IRPCAS or by government right-of-way rules. The IRPCAS Part B contains the right-of-way rules: these may be changed by government right-of-way rules. IRPCAS Part B must be read in conjunction with the whole of IRPCAS, particularly Part A. As in question 1, RRS 48 and therefore the relevant IRPCAS or government rules governing lights and fog signals will also apply automatically.

## **Question 3**

Is it possible for the notice of race and sailing instructions to provide for a wider or narrower range of replacements?

### **Answer 3**

No. The preamble to Part 2 of the RRS permits only the complete replacement of the rules of Part 2 of the RRS. RRS 86.1 prevents sailing instructions changing Part 2, which includes its preamble. See also RYA case 2002/14.

### **Question 4**

May the notice of race and sailing instructions validly provide that either all or a specified set of IRPCAS rules will apply to racing as well as the RRS?

### **Answer 4**

Yes. If the RRS apply to an event, the notice of race and sailing instructions may include rules additional to the RRS provided that such rules do not conflict with a racing rule that RRS 86.1 does not permit to be changed. See Answer 1.

### **Question 5**

Does the sentence 'However, an alleged breach of those rules shall not be grounds for a protest except by the race committee or protest committee' preclude a boat from protesting for a breach of a rule of the IRPCAS in all circumstances, or only in respect of another boat that is racing which meets a vessel that is not'?

### **Answer 5**

The restriction on protesting applies only to a right-of-way incident between a boat subject to the racing rules and another vessel that is not. When the IRPCAS or government right-of-way rules apply between boats that are racing because the notice of race and sailing instructions say so, a boat can protest another boat for breaking them.

### **Question 6**

When a boat is precluded from protesting because of the sentence referred to in question 5, is the protest committee or race committee allowed, on the basis only of a report from her, to protest the other boat?

### **Answer 6**

A race or protest committee may protest only in accordance with RRS 60, which precludes protests arising from a report by an interested party: if the boat lodging the report could gain as result of the other boat being penalized, she is an interested party, and no-one may now validly protest. However, a race committee may report the incident, as an alleged breach of good manners or sportsmanship, to the protest committee, which may then act under RRS 69.1(a). Likewise, a protest committee, learning of such an incident from its own observation, may decide to act under RRS 69.1(a).

### **Question 7**

Despite the limitation on protests referred to in question 5, whatever its extent, is a boat ever precluded from protesting another boat under RRS 2 for a gross breach of a rule of the IRPCAS?

### **Answer 7**

RRS 2 does not provide directly for protests for the gross breach of a rule. It permits a protest for failure to comply with recognised principles of sportsmanship and fair play. Action for a gross

breach of a rule is reserved to the protest committee, under rule 69.1(a). A boat may lodge a report for the purposes of rule 69.1(a), alleging a gross breach of a rule, but it is for the protest committee to decide whether to proceed with an action.

A claim that RRS 2 was broken because rule of the IRPCAS (or a government right-of-way rule) was broken can be found to be a valid protest only when the relevant rule of the IRPCAS (or a government right-of-way rule) applies to the event because the notice of race and the sailing instructions say so, and then only when the rule was alleged to have been broken in an incident between two boats that were racing. See Answer 1 and the following reasons.

If the incident was between a boat that was racing and a vessel that was not, a protest under RRS 2 by another boat that was racing could succeed only by the protest committee deciding whether recognised principles of sportsmanship and fair play had been infringed. That would make the alleged underlying breach of an IRPCAS or government rule a ground for the protest, which is not permitted by the preamble to Part 2. The protest committee may however treat the invalid protest as a report from which it can consider action under rule 69.1(a).

If the incident was between two boats that were racing, and if the relevant rule of the IRPCAS (or a government right-of-way rule) was not cited in the notice of race and sailing instructions as applying to the event, then one boat cannot protest another boat that is racing in respect of an incident between boats that were racing, for a breach, gross or otherwise, of such a rule. See Answer 1.

If the relevant rule of the IRPCAS (or a government right-of-way rule) applied to the event because the notice of race and the sailing instructions say so, a boat can protest another boat for breaking that rule, either with respect to the protestor, or to a third competing boat (even if the protestor was not involved in the incident or did not see it if no rule of part 2 was also involved, since the limitation in rule 60.1(a) would not apply). There is no reason why the protest may not cite, or the protest committee may not consider, rule 2 as well if compliance with the recognised principles of fair play and sportsmanship may have been compromised.

Care should be taken to distinguish between RRS 2, which is a rule of Part 1, and the rules of Part 2, which contain only RRS 10 to 22.

RYA 2005/1

*Current Position:*

None

*Reason:*

To clarify the relationship between the IRPCAS and the RRS.