

# EXPERT ON BOARD

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## The rules you can ignore... AND THOSE YOU CAN'T



It's hard to apply the rules in the same way for a yacht as you would for a container vessel, but we all share the same water

Andy Du Port explores which rules need to be followed to the letter to avoid collisions at sea

Saying 'International Regulations for the Prevention of Collisions at Sea' is something of a mouthful, let alone learning all of them verbatim. Commonly called the 'Colregs', they are a fine example of comprehensive, logical and unambiguous rules which have been adopted worldwide by almost all countries with coastlines (the only two which have not are the Western Sahara and Taiwan). In case you are yawning already – 'Not another sermon on the Colregs!' – this article is not about the rules themselves. Instead, it is more of a discussion about some of the rather perplexing wording which is open to interpretation and allows for some discretion.

As yachties we are near the bottom of the pecking list as far as the Colregs are concerned. We are required to give way to most other craft, even to fishing vessels and to other power-driven vessels if they are in narrow channels, traffic separation schemes

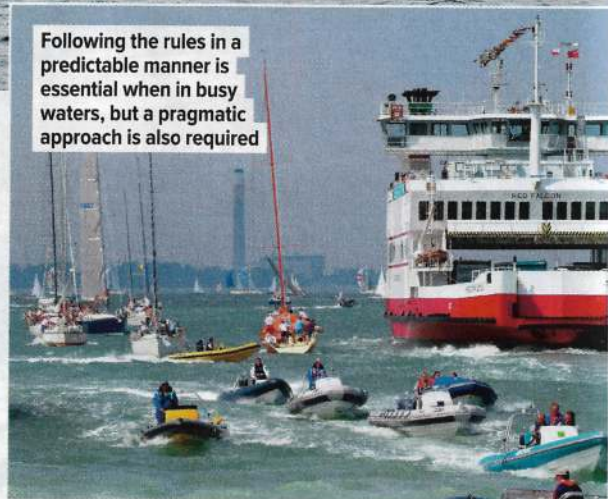
or constrained by their draught. Compared with most 'big ships', our boats are small, slow and difficult to detect. They are also susceptible to rough seas and strong winds, and tend to be shorthanded, often with no more than two people on board.

Nevertheless, we have to share both the open seas and crowded coastal waters with everyone else including, of course, other yachts and leisure craft.

AIS has, to a great extent, made detection and collision avoidance much easier, but not everyone is fitted with it and it doesn't yet appear in the Colregs.

The reason for this is because an AIS readout gives courses and speeds over the ground (COG and SOG) whereas collision avoidance is based on the relative movement between vessels: courses and speeds relative to each other.

Following the rules in a predictable manner is essential when in busy waters, but a pragmatic approach is also required



Given our unique status, we need to intelligently 'translate' the Colregs. Luckily, they allow for their varied customers, and Rule 2 is the key. It is worth quoting here (in abbreviated form) as it is fundamental to many decisions made to prevent collisions:

'Nothing in these rules shall exonerate any vessel [...] from the consequences [...] of any neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.'

'In complying with these Rules due regard shall be had to [...] the limitations of the

vessels involved.' In other words, we are told to use our knowledge and experience as seafarers to augment the Colregs, and not to blindly follow them regardless of what we judge to be the best course of action in the circumstances.

The second part applies as much to us as to large vessels. We must understand that a 100,000-tonne container ship has very limited manoeuvrability. She must appreciate that a yacht is relatively tiny, very slow and may be limited by the wind and sea state when taking avoiding action.

Although there is never any excuse for deliberately contravening the Rules, some of the terms used are not quite as clear as they might be at first sight, and we need to be aware of them. For example, while the word 'shall' in the Colregs is non-negotiable, 'keep clear', 'do not impede' and 'close quarters' intentionally allow for an element of judgement.

## DEFINITIONS

Let's start with a few definitions of those words which might not be obvious.

**VESSEL** Rule 1 (a) is quite clear: the Colregs apply to all vessels. But what is a vessel? Rule 3 (a) says that a vessel is, 'every description of watercraft capable of being used as a means of transportation on water'. That seems abundantly clear to me, but some years ago a court rather bizarrely ruled that personal watercraft (PWCs) were not 'vessels'. I'm glad to say that the law has now been amended to make any powered craft subject to the Colregs. This does not mean that sailing yachts are now exempt!

But the status of some 'vessels' remains debatable. Paddleboards, windsurfers and lilos are all capable of being used for transportation on water, but understandably their 'skippers' may not even be aware that the Colregs exist, let alone how to apply them. On the other hand I think it is reasonable to treat sailing dinghies as 'vessels', but I'm not so sure about rubber dinghies being rowed. Are they 'propelled by machinery' (Rule 3)? I have never been totally convinced that a pair of oars constitutes a machine.

I was once gently berated by a young lad rowing his dinghy in the marina at St Peter Port, Guernsey. He was approaching on my starboard bow, but the fact that I was manoeuvring a 44ft yacht into a tight berth didn't concern him. He seemed to have read the Colregs and was exercising his



Jetskis, or 'personal watercraft' were previously exempt, but now fall under the Colregs

The perspective from the bridge of a ship is vastly different. Tracking small vessels is no easy task



Whether a rowing dinghy is subject to the rules is open to debate



Paddleboards aren't operated by machinery, so the rules don't apply



While racing yachts might count a few inches as keeping clear, the same won't be true of cruising sailors, let alone commercial vessels

status as the stand-on vessel, but Rule 2 must have escaped his attention. The dinghy bounced clear.

**SHALL** The Highway Code says that all its rules, which are legal requirements, are identified by 'must/must not'. In the Colregs, 'shall' has exactly the same meaning.

**SHOULD** As far as I know, this only appears once in the Colregs (except for a couple of mentions regarding lights and whistles). It is in Rule 8 which says that small alterations of course and/or speed 'should' be avoided. It comes close to 'shall', and you would be hard-pressed to justify ignoring it.

**MAY** This crops up all over the place, but the most pertinent instance is in Rule 17 (action by stand-on vessel). It allows for much more discretion than 'shall' and 'should' when deciding what action to take.

**KEEP CLEAR & KEEP OUT OF THE WAY** This is where judgement and experience come into play. Essentially, both terms mean 'don't get too close', but how close is too close? A racing skipper may think that not actually colliding with another racing yacht is good enough, but cruising sailors should take it to mean passing at a more comfortable distance. When dodging another yacht this might be a couple of boat lengths, while for a large ship a prudent skipper will probably not pass less than a

mile ahead, perhaps rather closer abeam or astern, depending on the circumstances.

**DO NOT IMPEDE** This is a rather obscure term which is best translated by us as keep out of the way. However, the two are not exactly the same. If you are required to keep clear of another vessel, that's exactly what you must do. Rule 8 (f), though, tells us not to impede the safe passage of vessels in certain circumstances, but a vessel 'not to be impeded' still has to obey the Steering and Sailing Rules (Part B of the Colregs) if a risk of collision develops.

I would hope not to get into a situation where the other vessel might even think I am 'impeding' her safe passage; just keep well clear.

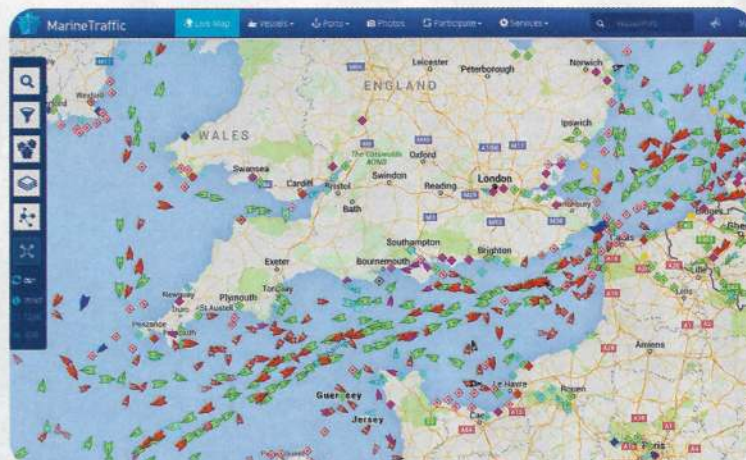
**CLOSE QUARTERS** I take this term to mean that you are so close that either a risk of collision exists, or that you are likely to be causing serious concern in the other vessel. In very restricted or congested waters, you will inevitably find yourself close to other craft, but so long as you (and everyone else) stick rigidly to Section II of the Colregs, all will be well.

# ACTIONS TO AVOID COLLISIONS

We all have a continuous duty to prevent collisions at sea. Sometimes we will be the 'stand-on' vessel, at other times we will be obliged to 'give way', but you never have a 'right of way'. How long should you 'stand-on' and when should you 'give way' even if you are not required to?

Rule 17 gives some clues to these knotty questions, but puts the onus firmly on you to decide. At first the rule says that the stand-on vessel 'should' keep her course and speed, but then says that the same vessel 'may' take action (ie, alter her course and/or speed) if it becomes apparent that the give-way vessel is not taking appropriate action herself.

As the stand-on vessel it is very difficult to decide when an action is not being taken, and when you are thus justified in bringing Rule 17 into play. However, with good



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ABOVE: Shipping tends to follow standard routes in the English Channel even when not in a TSS

seamanship and judgement you should never allow things to deteriorate to the extent that both vessels need to take emergency action to avoid a collision.

Rule 17 actually says '... as soon as it becomes apparent...'. So one question to ask yourself is: 'Would I be taking action now if I were in the give-way vessel?' If the answer is no, you should hold your course and speed. As soon as the answer is 'probably', it is time to take action.

It can be a very difficult decision, and was brought home to me on a dark, calm night

about five miles south of St Alban's Head. I was in command of HMS *Alderney*, an offshore patrol vessel heading east, and a coaster of similar size was seen approaching on our port bow. She was on a steady bearing, so had our attention. She continued to close, and eventually we sounded five short blasts backed up with a flashing light. There was still no reaction and things were getting critical. We had no idea if she had seen us, so a turn to port to pass down her starboard side could have been disastrous if she woke up at the last minute and turned to



The autopilot was helping in pleasant if breezy conditions when Kate and Andy were caught unawares by a vessel overtaking from astern

## NEARLY CAUGHT OUT

My wife, Kate, and I were sailing back from the Isles of Scilly on a clear bright day with a good southerly breeze. We had left St Mary's in a bit of a hurry as the early forecast was for strengthening winds, and the tide served for a passage to Newlyn. Consequently, and very unusually for us, we saved some time by leaving the sprayhood up as we slipped the buoy.

When we were a couple of miles north of Wolf Rock and having a mid-morning cup of coffee in the cockpit, Kate exclaimed, '\*\*\*\* me!' as she spotted a large car carrier about quarter of a mile on our starboard quarter. The ship had clearly altered course, quite correctly, to pass astern of us and was then shaping up for the north-bound lane of the Land's End TSS.

Both vessels were proceeding entirely in accordance with the Colregs except that we hadn't seen the car carrier until she was very close. In other words, we were in gross breach of Rule 5! I blamed the sprayhood – we were both sitting well forward and the autohelm was engaged – but actually there was absolutely no excuse for us not keeping a better lookout.



Yachts may be slow but they are manoeuvrable, unlike ships which are fast but cumbersome

starboard in accordance with Rule 15. Instead, I decided that the time had come to implement Rule 17 (b), and we turned hard to starboard through 360° to pass under her stern. As we drew clear, we called her on VHF but received no reply.

Another option is to take action so early that a 'risk of collision' never exists. I don't think this is in the spirit of the Colregs, and it could cause confusion in give-way vessels where your actions might be seen to be erratic rather than prudent. A noteworthy example is that of crossing busy shipping lanes which are not designated as Traffic Separation Schemes (TSS).

Between the western end of the Dover TSS and the eastern end of the Off Casquets TSS there are no special rules, but big ships don't necessarily see it that way. Or you might simply wish to show consideration by not obliging the Officer of the Watch to steer 100,000 tonnes round your 5 tonnes. So long as you act early and obviously, my advice is to invoke Rule 17 earlier rather than later. Yachts are so manoeuvrable that a 90° turn to parallel the other vessel's course can be done in a matter of seconds and will be very apparent – particularly at night. The bottom line is that whatever you do must, in accordance with Rule 8, be 'positive', 'in ample time' and 'with due regard to the observance of good seamanship'.

As for fishing vessels, I don't think I have ever seen one which is not showing her 'engaged in fishing' shapes and lights, whether she is actually fishing, on passage or even alongside in harbour. Be very wary and give all of them a suitably wide berth!

Finally, firmly resist the temptation to call the other vessel on VHF. Negotiating a course of action which is not in accordance with the Colregs can, and often does, lead to misunderstanding and confusion. Even calling to check you have been detected is not without risk of misidentification, especially if there are several other yachts around. I have occasionally called a merchantman to thank her for altering course in order to pass astern of me, but only when she is well past and clear.

**Do not be tempted to discuss alterations of course over the radio as it is more likely to cause confusion rather than clarify things**

**Most fishing vessels display their day shapes and lights regardless of whether they are fishing or not**



Graham Snook / YM

## TRAFFIC SEPARATION SCHEMES

As yachties we are unlikely ever to follow a TSS, but those of us who sail in the English Channel and southern North Sea will be only too well aware of them. They are invaluable for keeping large ships safely apart, but they can be a frustrating obstacle for yachts. Happily, Rule 10 does give us some discretion which, if used wisely, can save a few passage miles.

There are three requirements for yachts, but only one is non-negotiable: a vessel of less than 20m in length or a sailing vessel 'shall not impede the safe passage of a power-driven vessel following a traffic lane.' 'Not impede' should be taken to mean 'give way'.

Rule 10 (h) tells us to avoid a TSS by 'as wide a margin as is practicable'. Up to you, but I think that a diversion for this reason is rarely 'practicable'.

The crucial bit is open to quite wide discretion. It is in clause (c), which basically and sensibly encourages us to get across the TSS as quickly as possible. To achieve this, we should cross on a heading 'as



**Operating in designated traffic separation schemes is governed by a set of rules enforceable with hefty fines**

nearly as practicable' at 90° to the flow of traffic. Clearly, the spirit of the Rule outranks our convenience; it is in everyone's interest to avoid cluttering up the traffic lanes unnecessarily. If you are motoring in a light wind, there can be little excuse for not obeying the requirement (within, say, 10° or so if that would save time and distance).

When beating against the wind, you should choose the tack which most nearly satisfies the rule. This will invariably be more than 45° to the traffic flow, but even that may not be sufficient in areas of high traffic density. In which case it might be prudent to motor-sail and steer a course which more closely complies with the Rule.

Even if you are lucky enough to be able to sail at 90° to the traffic flow, you may still be adding unwelcome miles to your passage if your track would otherwise be at a significant angle to the TSS. So how far off 90° to steer? Again, it depends on the traffic and what you think you can safely get away with.

I have sailed across the Dover Strait TSS with hardly a ship in sight, at other times it has been like crossing the M25 on foot (which I have not actually tried).

Be aware that in the Dover Strait, Dover Coastguard (aka the Channel Navigation Information Service) will be keeping tabs on you and will not hesitate to bring you up with a round turn if you step too far out of line. The fines can be eye-watering, I'm told.



Andy du Port

Theo Stocker

Graham Snook / YM



If you get it wrong, a ship is unlikely to be able to take last-minute evasive action

The red lateral mark shows this ship is in a narrow channel. As long as you stay outside the channel, you will be fine



Graham Snook / YM

**NARROW CHANNELS**

Narrow channels (Rule 9) present less of a problem because the requirement is to keep clear of ships following the channel. See my definition of 'do not impede' above. The secret is to think like a big ship.

What may seem to be wide open water to you – the Solent or Thames Estuary, for example – may be very constraining to large vessels. Such ships will not be able to alter course for you, nor can they slow down much without losing steerage way. Listen to the local VTS/Harbour Control and keep a very good lookout. If you remain outside the main shipping channels, you will be safe.

**OVERTAKING**

Yes, we all know that Rule 13 tells us that the overtaking vessel shall keep out of the way of the vessel being overtaken. Fine in theory, but not so clear in practice if you are the one being overtaken. In our yachts, we might typically be making 5 knots through the water while a large overtaking ship might be travelling at three to five times that speed and keen to arrive at her next port on time.



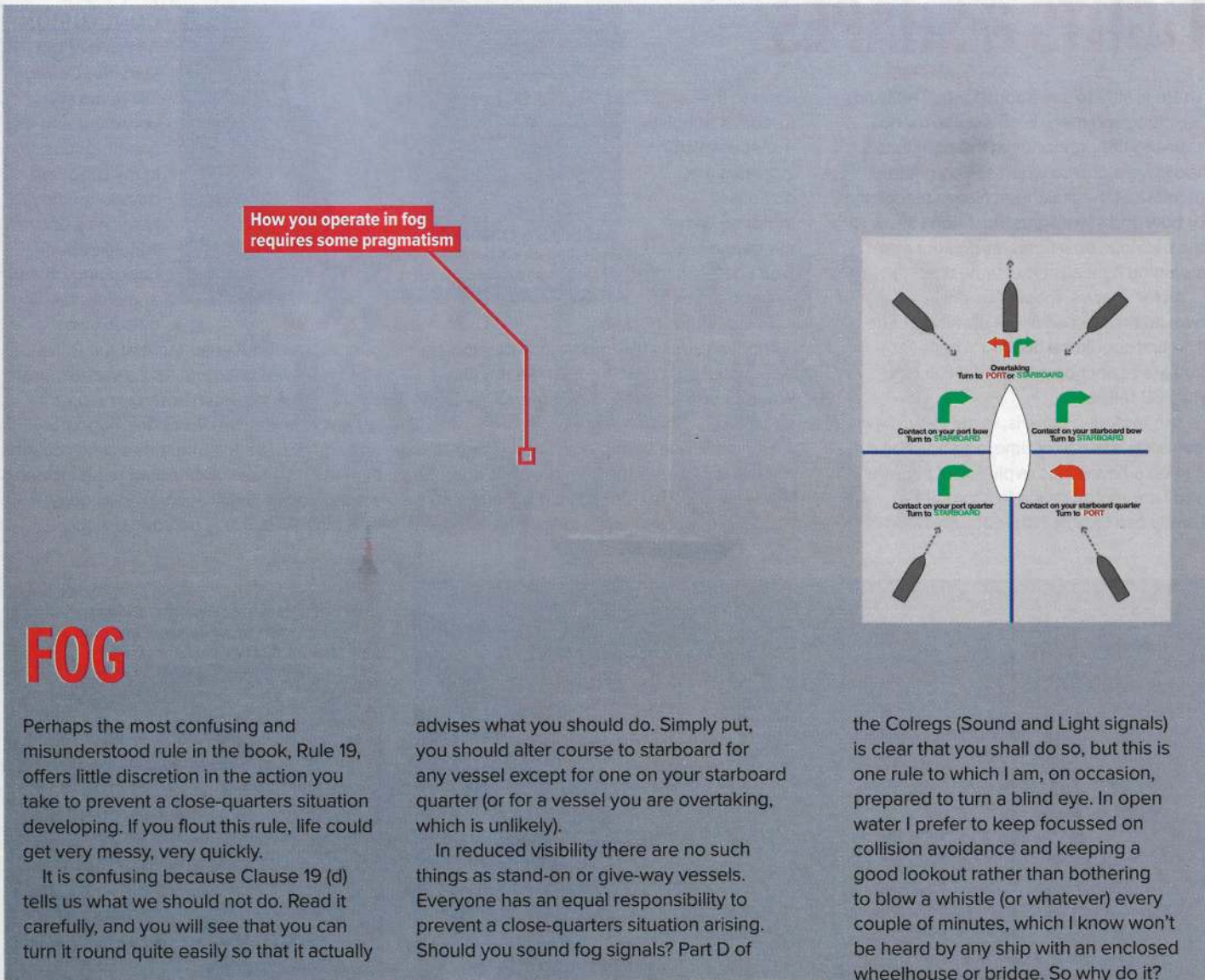
If you are concerned, use any means necessary to ensure you have been seen by an overtaking vessel if keeping clear is not possible

Once again, this is where Rule 2 comes to our aid: use your common sense. If you can make your intentions perfectly clear – perhaps by a substantial alteration of course – you should be able to increase the CPA (closest

point of approach) without worrying the overtaker. If not, you just have to make sure that you have been detected. By night, you could illuminate your sails; by day, this is the one time when a VHF call (preferably by DSC) might possibly be justified. You are not suggesting a course of action, just making sure you have been seen.

Dick Durham / YM

How you operate in fog requires some pragmatism



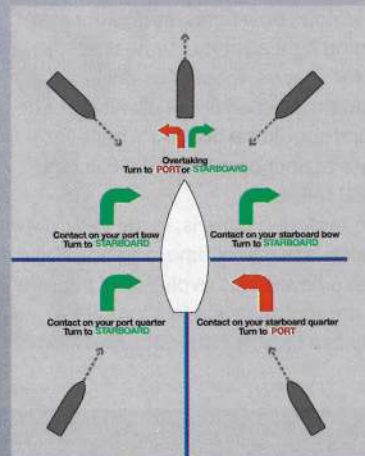
# FOG

Perhaps the most confusing and misunderstood rule in the book, Rule 19, offers little discretion in the action you take to prevent a close-quarters situation developing. If you flout this rule, life could get very messy, very quickly.

It is confusing because Clause 19 (d) tells us what we should not do. Read it carefully, and you will see that you can turn it round quite easily so that it actually

advises what you should do. Simply put, you should alter course to starboard for any vessel except for one on your starboard quarter (or for a vessel you are overtaking, which is unlikely).

In reduced visibility there are no such things as stand-on or give-way vessels. Everyone has an equal responsibility to prevent a close-quarters situation arising. Should you sound fog signals? Part D of



the Colregs (Sound and Light signals) is clear that you shall do so, but this is one rule to which I am, on occasion, prepared to turn a blind eye. In open water I prefer to keep focussed on collision avoidance and keeping a good lookout rather than bothering to blow a whistle (or whatever) every couple of minutes, which I know won't be heard by any ship with an enclosed wheelhouse or bridge. So why do it?

The weakness of this approach is that other yachts or small craft, if close enough, will hear your signals, which may be the only indication they have of your presence if they are not fitted with radar and/or AIS. At an enquiry into an incident, you might wish to consider how you would answer the question, '... and were you making the appropriate fog signals?' Gulp.

Incidentally, many yachts use a horn powered by a gas canister. It makes a good noise but can be hard to distinguish one from another. I use a referee's whistle. It is loud and very distinctive.

# SMALL BOAT CHANNEL

The Small Boat Channel (SBC) on the western side of the entrance to Portsmouth Harbour is only 50m wide and all vessels under 20m LOA are obliged to use it. We were entering the harbour on a very busy summer's afternoon with the usual swarm of yachts returning after a weekend away, and a few other vessels making a dash out of the harbour to catch the first of the west-going tide in the Solent.

One of these was a bright yellow 9m fishing vessel. As soon as she was past the watchful eyes of the Harbour Patrol, she started making small alterations of course to port in order, it seemed, to cut across the main channel to the east – well before No4 Bar buoy which marks the southern limit of the SBC and which must be left to port. We were comfortably on the starboard (eastern) side of the

SBC but the Colregs required us to alter course to starboard to keep the FV on our port bow. She continued to alter to port; we continued to alter to starboard. Eventually, by the time we were outside the SBC and therefore in the Main Approach Channel, I decided to turn to port and leave the FV on my starboard side. In the circumstances, it was a perfectly safe manoeuvre as I knew I could turn very much more quickly than the FV – even if she had decided to do so – and a turn to starboard would have taken me even further into the Approach Channel.

However, did I contravene Rule 14 (head-on situation)? Yes. Did I contravene Rule 17(c) (don't alter to port for a vessel on your port side)? Yes. Was there imminent risk of collision (Rule 17(b))? No. So how can I justify my actions? See Rule 2. I believe that both parts of the rule were applicable.



The small boat channel in the Portsmouth Harbour entrance doesn't allow much wiggle room for manoeuvring



A referee's whistle makes a loud, distinctive sound and is easy to blow for the required time

# LIGHTS & SHAPES

There is little to say about lights. The Rules are clear, and there is no excuse for not showing the right ones at the right time. You have a choice when sailing of the tricolour at the masthead (saves electricity) or bow and stern lights. Just don't show the tricolour, bow lights, stern light and steaming light all at the same time!

As for shapes, most of us only carry two: an anchor ball and a motoring cone. The first should be hoisted whenever you are at anchor. It is not difficult, and Rule 30 tells us to.

The motoring cone is, in my view, generally a waste of time, and hoisting it can be a hazardous evolution. If my wife and I are motor-sailing in a lumpy sea, I really can't justify either of us making

a trip to the foredeck to hoist a shape which indicates the obvious. If motoring with the genoa set, it won't be seen to leeward anyhow.

Some harbour authorities stress the importance of showing a cone, but I am prepared to take the risk. Whether you accept this argument is entirely up to you.

However, one sailing area I have faithfully hoisted my cone is the inland waters of the Netherlands. The Dutch take it seriously, and I'm not prepared to cross them.

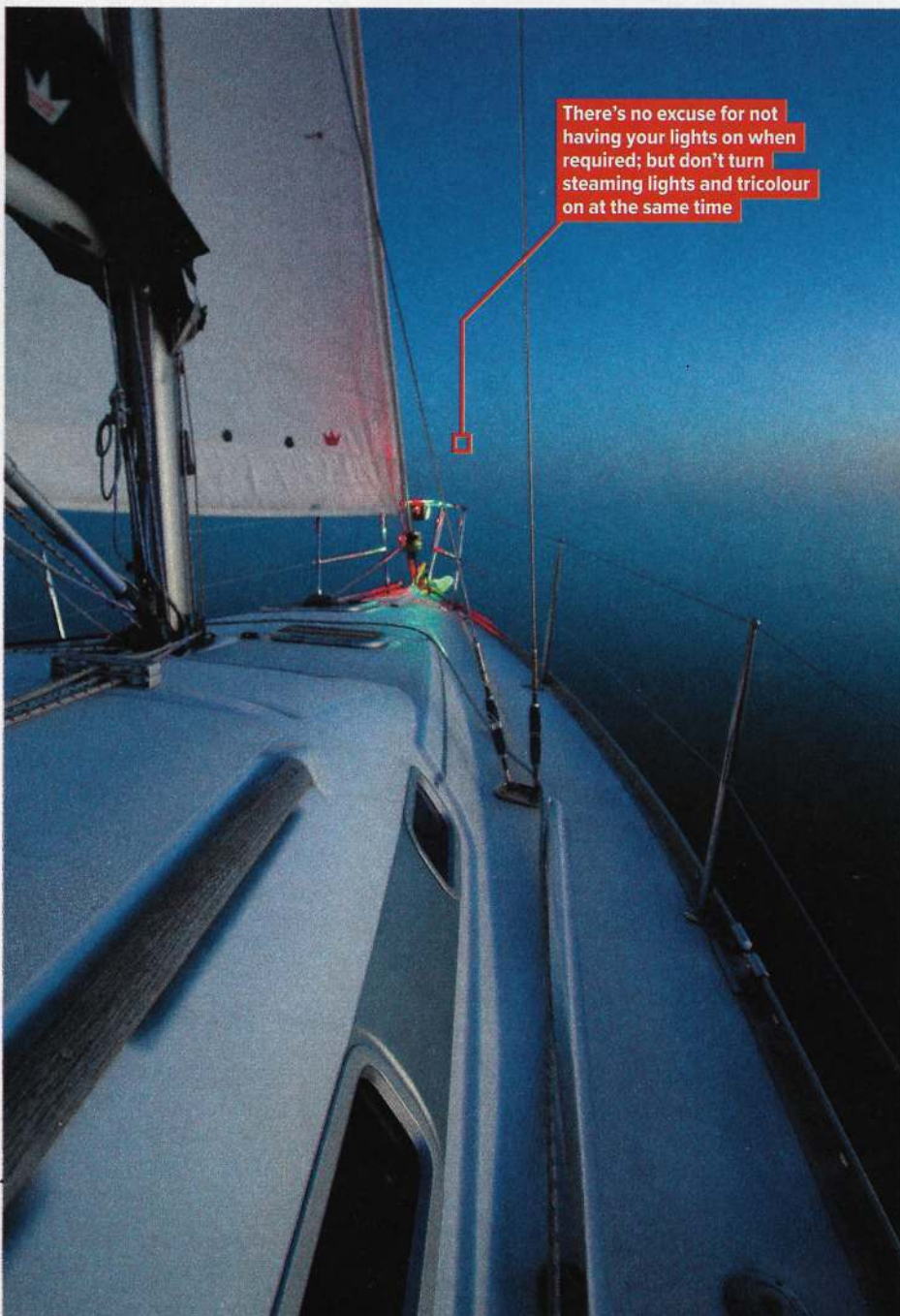


Setting an anchor ball is always easy and wise to do

**CONCLUSION**  
As I said at the start, the Colregs are generally very clear and unambiguous. In my seagoing days in the Royal Navy, as a bridge watchkeeper, navigating officer and commanding officer, I was

punctilious about ensuring that the Rules were followed unerringly. As a yachtsman, I opt for some intelligent interpretation.

Nevertheless, the Rules are mandatory, and any divergence from them which could be shown to have contributed to an incident would require justification at an enquiry. If all else fails, Rule 2 may be your saviour.



There's no excuse for not having your lights on when required; but don't turn steaming lights and tricolour on at the same time



This light is obscured by cracking and crazing due to UV damage, and may prevent the lights meeting the rules

## EQUIPPED AND ABLE TO COMPLY

Some readers will remember the tragic case of the loss of the yacht *Ouzo* and her three crew off the Isle of Wight in 2006.

One factor which contributed to the incident was the poor state of her navigation lights. The lenses were found to be cracked and cloudy, significantly reducing the visible range of her lights. I have often asked myself what I would do in the same situation: a large ship bearing down on me at night without apparently being aware of my existence.

A white 'ship scarer' flare might work, but when speed is of the essence, I think I would flick on all my lights – navigation, masthead, steaming, deck light and anything else I could find on the switchboard. A situation this serious could justify you jettisoning Part C of the Colregs and instead falling back on Rule 2 – again.