

**THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS
AT SEA
AND THE MARINE SAFETY ACT 1998
AND THE MARINE SAFETY (GENERAL) REGULATIONS 2009.**

Amendments to the Act and Regulations named above came into operation on the 30th March 2009.

They may be accessed at www.legislation.nsw.gov.au

Under the Marine Safety Act 1998 section 10(1) the International Regulations for Preventing Collisions at Sea, (the Col Regs) apply at sea and to all NSW navigable waters.

Under section 10(3) of the Act it is an offence to fail to comply with the Col Regs.

The Act section 10(2) also specifies an important power of the Government to enact special rules attaching to the Col Regs. These contain important rules for sailing vessels and racing yachts.

The text of the Col Regs and NSW Special Rules are adopted by Regulation 5 and are set out in Schedule 2 of the Regulations.

The Col Regs do not apply to Racing yachts

NSW Special Rule paragraph (2) to Col Reg 2 is a new rule and of particular importance.

Provided the yachts are racing pursuant to the provisions of an Aquatic Licence, the Col Regs DO NOT apply between the racing yachts. This NSW Special Rule will have particular importance in insurance claims or claims for damages in a court as to the standard of care which is relevant and will make the provisions of the racing rules paramount.

This NSW Special Rule clarifies the previous situation which was contained only as a condition in Aquatic Licences.

There are other legal consequences, but discussion of these are beyond the scope of this article.

The NSW Special Rule will cause Clubs to re-consider when and if the Col Regs are to apply between racing yachts in races it conducts. RRS Preamble to Part 2 also refers to this situation.

The Col Regs continue to apply between a racing yacht and one that is not racing.

Narrow Channels

Col Reg 9 requires all vessels to keep to the starboard side of a narrow channel. NSW Special Rule to this regulation requires all vessels to stay to the starboard side of all channels and fairways regardless of width.

The Orange Diamond Rule

Col Reg 18 sets out the responsibilities between vessels. NSW Special Rule thereto refers to the 'priority over sail signal' which is colloquially called the Orange Diamond rule. Not all ferries are permitted to display the Orange Diamond. Only those vessels which have Ministerial consent may do so.

The Orange Diamond rule only obligates sailing vessels.

The wording of the NSW Special Rule does not state the vessel displaying the Orange Diamond has 'right of way' nor that the sailing vessel must 'give way'. Rather the rule requires the sailing vessel to 'keep out of the way and a safe distance' from the vessel displaying the signal. If the sailing vessel is unable to do so, the NSW Special Rule requires the sailing vessel to signal the fact that she is unable to comply.