

13+ guests: yacht or passenger ship?

Introduction



What is a 'guest'?

Broadly speaking, a guest onboard a yacht is either a:

- Charter guest (fee-paying individual, or guest of)
- Private guest (the owner, a family member or friend)

The international Conventions treat charter yachts (commercial vessels) and private yachts very differently

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Yachts with 13+ *charter* guests

- A yacht carrying 12 or fewer charter guests must comply with either the Load Lines and the Cargo Ship requirements of SOLAS and STCW, or a Large Commercial Yacht Code (e.g. LY2)
- A yacht carrying 13 or more charter guests must comply with Load Lines and the Passenger Ship requirements of SOLAS and STCW
- Therefore a 13+ *charter* guest yacht is a Passenger Ship

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Yachts with 13+ *private* guests

- SOLAS, Load Lines, STCW all make exceptions for *“pleasure yachts not engaged in trade”*, therefore private yachts (regardless of guest numbers) are exempted
- SOLAS, however, goes on to define a *“passenger”* as *“every person other than ... the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship”* and,
- *“Passenger ship”* as *“a ship which carries more than twelve passengers.”*

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Working with this ambiguity in SOLAS

- Is a private yacht carrying 13 or more guests exempted from all the international requirements?
- Or must it be subjected to the most onerous (Passenger Ship) requirements?
- Who decides – the IMO, flag State, Class Societies, us?

Approaches of different flag States

- Some insist on SOLAS Passenger Ship requirements
- Some use the provisions to exempt pleasure yachts
- Some are not sure or don't understand the conundrum

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Why not just register the yacht with a 'friendly' flag?

- The yacht cannot charter
- It cannot be registered as a 'commercial vessel' to capitalise on the associated tax benefits
- It may not be welcomed in the waters of those countries that *do* have requirements for this type of yacht (Port State Control)
- No safety requirements are being enforced by a regulatory authority, thus giving the designer, builder, owner/manager and crew ultimately a free reign

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Why not comply with SOLAS and satisfy everyone?

The Passenger Ship requirements of SOLAS that are perceived to be difficult to meet for yachts are:

- Watertight subdivision
- Emergency escape routes
- Provision of lifeboats
- Use of non-combustible materials
- Management for the ISM & ISPS Codes

Additionally, STCW requirements prevent MCA 'Yacht' qualified crew from working onboard

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Summary

- Yachts carrying 13+ *charter* guests (or commercially registered yachts) must comply with SOLAS's Passenger Ship requirements
- The application of SOLAS to yachts carrying 13+ *private* guests is not clear
 - ▶ Some flag States require such yachts to fully comply with SOLAS's Passenger Ship requirements
 - ▶ Others exempt them from all the requirements, but there appears to be inherent risks

∴ prudent to treat a 13+ guest yacht as a 'passenger ship'