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
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’