

A GUIDE TO THE MANDATORY CHARTER YACHT RULES AND REGULATIONS



1. INTRODUCTION

Due to their commercial nature, charter yachts must comply with various different rules and regulations in order to operate legally. These can be broken down into four main categories:

- International conventions (and Large Yacht Codes)
- National regulations
- Port State regulations
- Classification Society rules and regulations

Some of these requirements also apply to private yachts, but this guide concentrates purely on those applicable to charter yachts, especially those in excess of 500 GT. The crews of charter yachts in excess of 500GT are required, by the International Safety Management (ISM) Code, to be familiar with these requirements.

The sole purpose of this guide is to provide a **basic** introduction into the requirements. Please do not hesitate to contact Manta Maritime if further information, guidance or training is required in this area.

2. GLOSSARY

Class, Class Society or Classification Society refers to a non-governmental body that promotes the safety and protection of the environment of ships and offshore structures. This is achieved by setting technical rules, confirming that designs and calculations meet these rules, surveying ships and structures during the process of construction and commissioning, and periodically surveying vessels to ensure that they continue to meet the rules. The six Class Societies most common in yachting are: the American Bureau of Shipping (ABS), Bureau Veritas (BV), Det Norske Veritas (DNV), Germanischer Lloyd (GL), Lloyd's Register (LR) and Registro Italiano Navale (RINA). A ship or yacht is said to be "**classed**" when it is in possession of a valid Certificate of Class issued by a Class Society. Contrary to popular belief, there is no such thing as "MCA Class", because the MCA is a Flag State and not a Classification Society.

Flag, Flag State or Flag Administration refers to that governmental authority under which a country exercises regulatory control over the vessels which is registered under its flag. This involves the inspection, certification and issuance of safety and pollution prevention documents in accordance with the international conventions and national regulations. For example, the MCA is the Flag State of the UK, and is the authority which regulates and certificates all vessels registered in the UK. To certify vessels in accordance with the international conventions, a Flag State must be a signatory to the conventions and also ratify the convention in their domestic merchant shipping law. Note: the Bermuda, Cayman Islands, Gibraltar and Isle of Man Flag States are not signatories to the conventions, but have ratified them by proxy via the UK's MCA, which is a signatory to them as the mother Flag State of the Red Ensign Group (the group of British shipping registers – please see www.redensingroup.org for more information).

IMO refers to the International Maritime Organization, a specialized agency of the United Nations (UN) founded in 1959 to develop and maintain a comprehensive regulatory framework for shipping. Its remit today includes safety, environmental concerns, legal matters, technical co-operation, maritime security and the efficiency of shipping. Within yachting, IMO is best known as the body that maintains and updates the main conventions: SOLAS, Load Lines, MARPOL, STCW and COLREGS.

Port State refers to that governmental authority under which a country exercises regulatory control over the vessels which are registered under other countries' Flags whilst they are operating within its territorial waters. For example, the Spanish Port State authority regulates foreign shipping engaged on voyages in Spanish territorial waters.

3. INTERNATIONAL CONVENTIONS (AND LARGE YACHT CODES)

The following requirements apply to charter yachts of all Flag States unless otherwise stated. A certificate issued under the provisions of these requirements is generally valid for five years, but must be re-validated every year by means of a periodic survey by a Flag State inspector or duly authorised Class surveyor. The certificate will be re-issued after a satisfactory renewal survey every five years.

Set of requirements

International Convention for the Safety of Life At Sea, 1974, as amended (SOLAS)

Applicability

Chapter I, General: All charter yachts over 500GT

Chapter II, Construction: All charter yachts over 500GT

Chapter III, Life-saving appliances: All charter yachts over 500GT

Chapter IV, Radio (GMDSS): All charter yachts over 300GT

Chapter V, Safety of Navigation: All yachts

Chapter IX, ISM Code: All charter yachts over 500GT

Chapter XI, ISPS Code: All charter yachts over 500GT

Summary of content

The main objective of the SOLAS convention is to specify minimum standards for the construction, equipment and operation of ships (and charter yachts), which are compatible with their safety. Flag States are responsible for ensuring that ships under their flag comply with its requirements, and a number of certificates are prescribed in the convention as evidence that compliance has been satisfactorily achieved.

The SOLAS convention in its successive forms is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The first version was adopted in 1914 in response to the Titanic disaster, and the current version of the convention which entered into force in 1980 (having been “adopted” (agreed by the IMO’s contracting governments) in 1974) is referred to as ‘SOLAS 74, as amended’.

Amendments can be made to SOLAS without the need to re-publish it or create a new version; this is achieved by the International Maritime Organization publishing Marine Safety Committee circulars that contain the amendments.

Private yachts (or “pleasure yachts not engaged in trade”, as they are defined in the convention) need not comply with the requirements of SOLAS (except for Chapter V which is mandatory for all vessels), but charter yachts carrying up to 12 passengers must comply with its Cargo Ship requirements, whilst those carrying 13 or more passengers must comply with the Passenger Ship requirements.

Some countries will permit compliance with large commercial yacht codes as an alternative to meeting the requirements of SOLAS and, in order to do so, the countries have formally informed IMO that they are applying national rules as an equivalent to SOLAS’s international rules, as discussed later in this section.

Set of requirements

International Convention for the Prevention of Pollution from Ships (MARPOL 73/78)

Applicability

Annex I - Oil: All yachts. Additional requirements for those over 400 GT

Annex IV - Sewage: All yachts over 400 GT or which carry 15 or more persons

Annex V - Garbage: All yachts. Additional requirements for those over 400 GT or carrying ≥ 15 persons

Annex VI - Air: All yachts over 400 GT

Summary of content

The MARPOL Convention is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes. It is a combination of two treaties adopted in 1973 and 1978 and updated by amendments over the years.

Similar to SOLAS, the MARPOL Convention came about as a result of a shipping disaster, in this case the Torres Canyon disaster in 1967 in which the oil tanker spilled 120,000 tons of crude oil into the English Channel after running aground. The convention’s requirements set minimum standards for the prevention of pollution of the marine environment in all forms, although the only four that affect yachts are oil (from the engine room), sewage, garbage and air (sulphur and nitrogen oxides from the combustion of fuel oil).

The current version of the convention is still MARPOL 73/78 although changes are regularly made to it by means of Marine Environment Protection Committee circulars from IMO.

Set of requirements

International Regulations for Preventing Collisions at Sea, 1972 (COLREGs)

Applicability

All yachts

Summary of content

COLREGs' sole objective is to set out the rules of the road for vessels engaged on voyages on the high seas. The current version of the convention entered into force in 1977 (having been adopted in 1972) and contains rules for steering and sailing, the conduct of vessels in sight of each other and the conduct of vessels in restricted visibility, which includes prescriptive requirements for the carriage of signs, sounds and shapes. The main addition to the current version of COLREGS is the recognition of traffic separation schemes.

Set of requirements

Large Commercial Yacht Codes (UK (MCA), Marshall Islands, Malta, France, Italy)

Applicability

All charter yachts in excess of 24 metres in length

Summary of content

As already mentioned in this section, some Flag States in the mid-1990s decided to develop equivalent sets of requirements to the major shipping conventions for application to large commercial yachts, i.e. charter yachts, to circumvent the need to comply with prohibitively onerous merchant shipping requirements.

The best known and seemingly most popular of these is the Large Commercial Yacht Code, written, maintained and enforced by the Category 1 Registers of the British Red Ensign Group whose members are the UK (MCA), Bermuda, Cayman Islands, Gibraltar and Isle of Man. This code is often incorrectly referred to as The MCA Code, largely because the MCA's logo appears on the front cover, but it is actually the collective work of all the aforementioned British Flag States. Both the original version of this code and its latest revision, LY2, contain equivalent standards to the SOLAS, Load Lines and STCW conventions.

Since the launch of the original British code, and having seen its widespread success all over the world, other Flag States have now developed their own large yacht codes, but all are based closely to the original.

4. NATIONAL REGULATIONS

As mentioned in the previous section, it is a Flag State's responsibility to enforce the international conventions. Additionally, as each Flag State is a governmental body, they also enforce their own national requirements, which are usually published by means of Merchant Shipping Acts, Laws and Regulations.

These requirements apply to ships registered in that country, and some will also be applicable to visiting (foreign) ships. For example, Bermuda's Merchant Shipping Act, 2002, has sections that are applicable to vessels registered in Bermuda and some that are applicable to foreign ships engaged in operations within Bermuda's territorial waters. This section concentrates on the former requirements.

Most contracting governments to the international conventions have a modest set of national requirements, many simply echoing the requirements of the international requirements, whereas others have quite substantial amounts of domestic legislation, such as the MCA and particularly the US Coast Guard.

Whilst national requirements are often the same or very similar to international requirements, some can be very different or cover aspects not addressed in the conventions. For example, there are currently no international requirements for the design, construction, certification, manning and operation of submersible craft*, yet various Flag States, such as the Cayman Islands, have very prescriptive requirements for submersible craft operating within the waters of the Cayman Islands, and more importantly for large yachts, for submersible craft operating from yachts and ships registered in the Cayman Islands.

Many companies and individuals in the large yacht industry who have a responsibility or a need to meet any national requirements sometimes do not realise it. It is therefore strongly recommended that copies of the relevant domestic legislation are acquired and read in advance, or the advice of the relevant Flag State is sought directly; please visit www.mantamaritime.com/useful for a list of contact details of the most popular yachting Flag States or call us for further assistance.

* IMO has published its Guidelines for the Design, Construction and Operation of Passenger Submersible Craft, but compliance with them is not mandatory.

5. PORT STATE REGULATIONS

As well as regulating the vessels that are registered in its country, a contracting government to the international conventions is also obligated to regulate visiting vessels that are registered in foreign countries. This local regulation of vessels is achieved by means of Port State inspections, which are carried out by the same surveyors that conduct Flag State inspections or sometimes by dedicated teams of inspectors, depending on the size of the country, port and Flag/Port State organizations.

Charter yachts should be prepared to be visited by Port State inspectors, and in readiness ensure that they continue to comply with the international conventions and also by the crew acquainting themselves with the local laws that are applicable to the waters in which they are operating. A simple example of the repercussions of breaking a local law is a case from 2000 when a motor yacht anchored in a protected marine park in the Cayman Islands, resulting in the yacht's Master being fined in excess of US\$100,000.

It can be difficult to remain abreast of all the Port State requirements, but most yachts do not visit a vast number of different countries so obtaining a copy of the local legislation and scanning it for relevant requirements should not be an insurmountable task. Alternatively, the yacht's management company can make enquiries and conduct research on its behalf, or the assistance of Manta Maritime can be sought.

If time is not in abundance, it is strongly recommended that Masters familiarise themselves with at least the following local requirements when entering a new country or port:

- Pollution requirements (oil, garbage and sewage in particular)
- Navigation, especially any deviations from COLREGs (e.g. the reversal in US domestic waters of red and green markers for entering and leaving a navigational channel).
- Ballast requirements
- Anchoring/berthing requirements

6. CLASSIFICATION SOCIETY RULES AND REGULATIONS

Historically, compliance with the rules and requirements of a Classification Society was not mandatory. Back in the early 1800s when Lloyd's Register developed its first rules, ship owners chose to comply with them in the absence of any other rules or standards, to demonstrate to charterers that their vessels were safe and their goods would be in good hands with them for the duration of the voyage.

However, in the more recent versions of SOLAS and in most of the Large Yacht Codes, compliance with the rules and regulations of a recognized classification society has become a necessity. Whilst there are over a hundred Class Societies in the world today, the top three (ABS, DNV and LR) between them class approximately 90% of world shipping.

Whereas the international conventions, SOLAS in particular, set standards of safety in terms of life-saving appliances, fire prevention, detection and extinguishing, stability, etc., Class rules are more concerned with the integrity and strength of the hull, machinery, control engineering and electrical arrangements. Most Class Societies have either removed or significantly reduced their rules that relate to life-saving and fire-fighting to minimise the overlap with the conventions.

For a vessel to be Classed, it must be designed, constructed, tested, operated and maintained in accordance with Class rules and regulations, with a Certificate of Class issued to a new vessel upon completion of its newbuild surveys. Similarly to the certificates showing compliance with the international requirements, a Certificate of Class is generally valid for five years, and is re-validated each year by means of an annual survey. After five years the certificate is re-issued upon the satisfactory completion of a very thorough Special Survey, the extent of which is dependent on the type, material and age of the vessel. Additionally, twice during a five year period a Classed vessel must be dry-docked so the shell plating, shafting, propellers and rudders can be closely examined.

Some of the surveys required to maintain the international convention certificates are often carried out by Class surveyors, due to the degree of overlap between the Class and international requirements in areas such as ship construction and weathertightness. However, Flag State inspectors cannot carry out surveys on behalf of Class. The extent to which a Flag State is prepared to delegate surveys to Class depends on the Class Society, the Flag State and, particularly in the case of yachts, the location of the vessel when the survey is due. Because there is no general rule or pattern for the division of surveys between Class and Flag, it is prudent to seek clarification from the relevant Flag State before arranging the surveys.

Some Class Societies such as RINA have different rules for charter and private yachts.