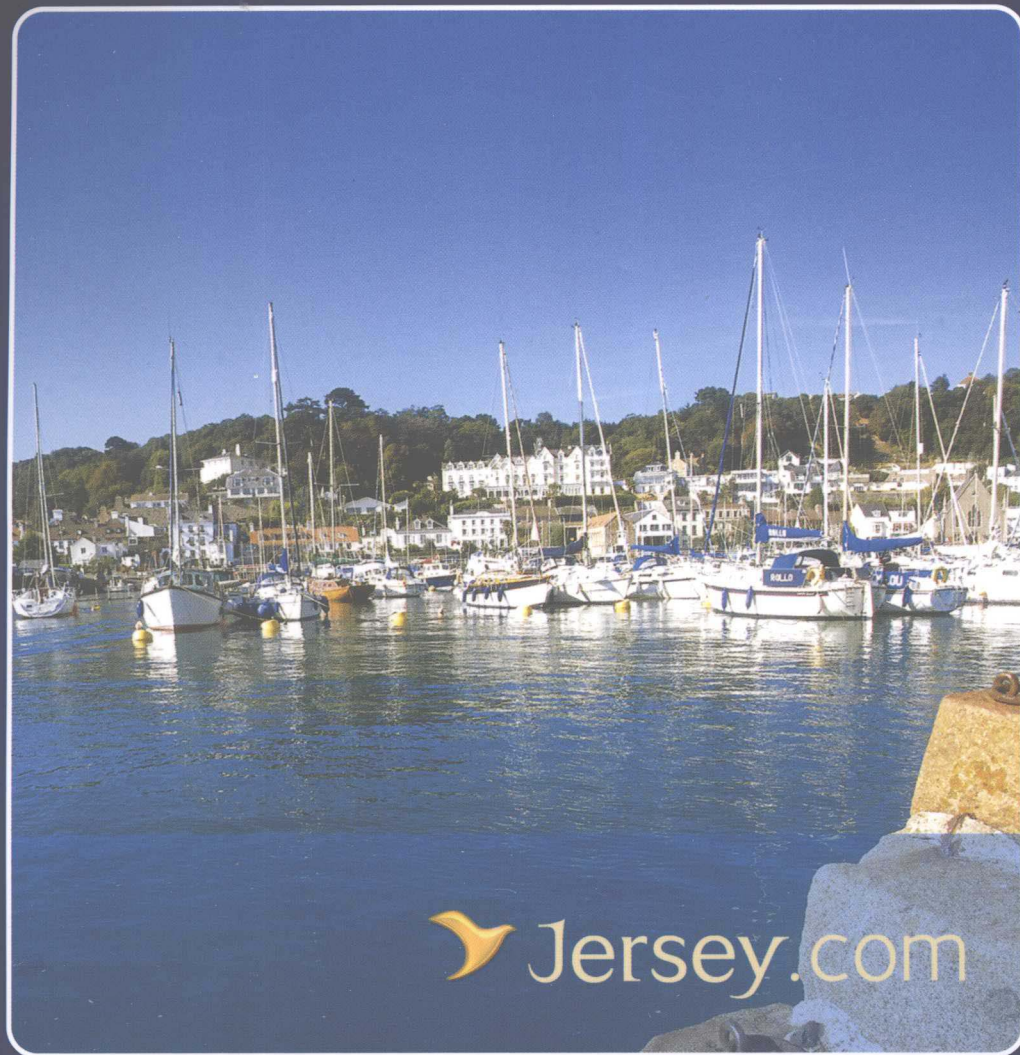


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**EDITORS Neville Featherstone, Andy Du Port**

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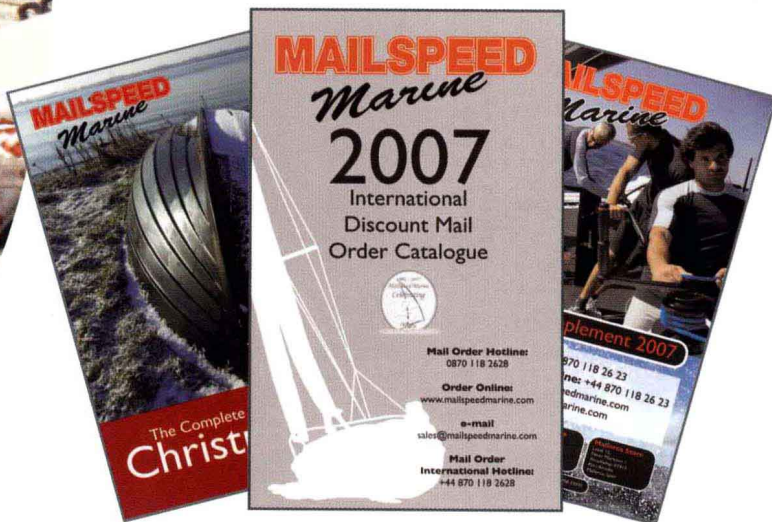
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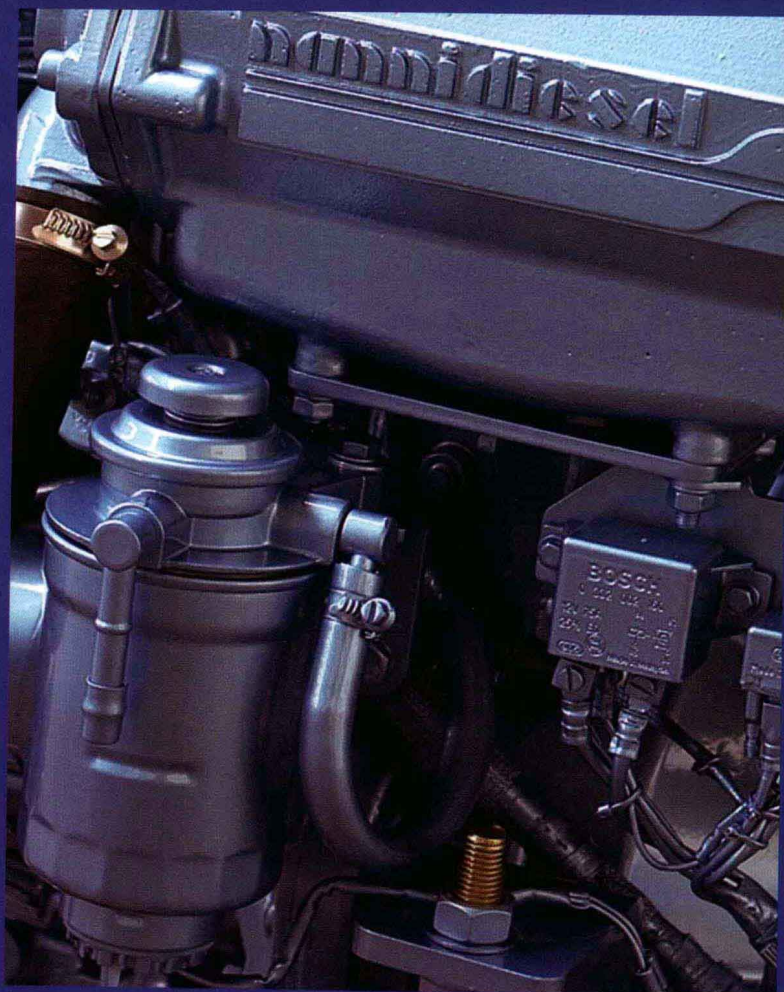
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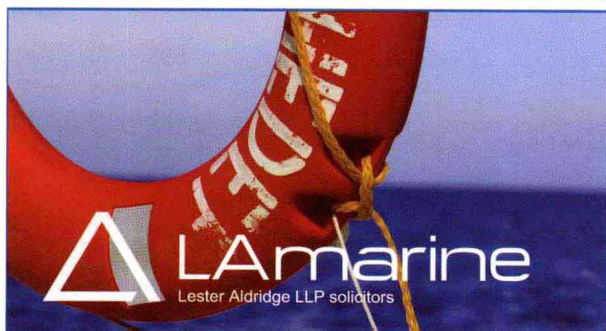


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# Yacht Insurance

Nothing is ever certain at sea and, however careful a skipper may be, a boat is always at risk of being seriously damaged, even becoming a total loss or causing damage to third parties.

Owners should insure their boat for her full value, not necessarily the same as the purchase price. Any appreciable discrepancy between price paid and proposed insured value should however be explained to the insurer and agreed with them as, in the event of a claim, they may repudiate on the grounds of mis-disclosure of material facts. A reasonable basis for the insured value is that in normal market conditions how much would you have to pay for a boat that is the same and of similar age and condition? In any case you should read the proposal form carefully, and answer the various questions accurately and truthfully. Remember that answers to questions such as where is the boat normally kept? What fuel is used? etc, if altered, become a material fact. Otherwise insurers may subsequently be entitled to avoid liability in the event of a claim.

A policy normally covers the boat for a certain period in commission each year. If you need to extend the period, be sure to tell the company beforehand. Similarly cover is arranged for a certain cruising area. Make certain that the agreed limits are kept to, or make special arrangements when necessary.

The policy contains a number of warranties and conditions, either implied or expressed. These can be identified by reading the various sections carefully, and usually include the following important points:

1. If any loss or damage occurs the owner must take all steps necessary to minimise further loss, and the underwriters will contribute to charges properly incurred in taking such steps.
2. Charter or hire of the boat is not covered, except by special arrangement.
3. If an incident may give rise to a claim, prompt notice must be given to the underwriters.
4. The amount payable for a claim may be reduced for fair wear and tear of sails, rigging etc.
5. Theft of equipment is only covered where forcible entry or removal can be shown. Outboards must be locked to the boat. Check that there is no exclusion for outboard falling overboard.
6. Sails which are split by the wind are not generally insured, unless caused by the yacht being stranded or in collision. Also excluded is damage to sails while racing, unless caused by the boat being stranded, sunk, on fire or in collision.

7. Damage to or loss of an engine or other mechanical or electrical items is only covered if caused by the yacht being flooded, sunk, stranded, burned or in collision; or by theft of the entire boat; or by theft following forcible entry; or by malicious acts.
8. Personal effects can be included, if specially arranged.
9. Boats with a maximum designed speed of 17 knots or more are subject to 'Speedboat Clauses' which specify certain conditions and generally attract higher premiums.
10. Cover for at least £1,000,000 Third Party Liability is recommended. Normally somebody using the boat with the consent of the owner is covered, but this should be confirmed.
11. When in transit or trailing by road, a boat may be covered for accidental loss or damage, but the policy excludes all third party liabilities or offences against the road traffic legislation.
12. If no claim is made under the policy, most insurers will grant a no-claim bonus.
13. In the case of yachts over 15 years old, most underwriters require a recent survey on first insurance and after a change of ownership, followed by periodic surveys thereafter.
14. A Marine policy is not assignable. The moment the ownership changes the old policy is dead and should be cancelled.

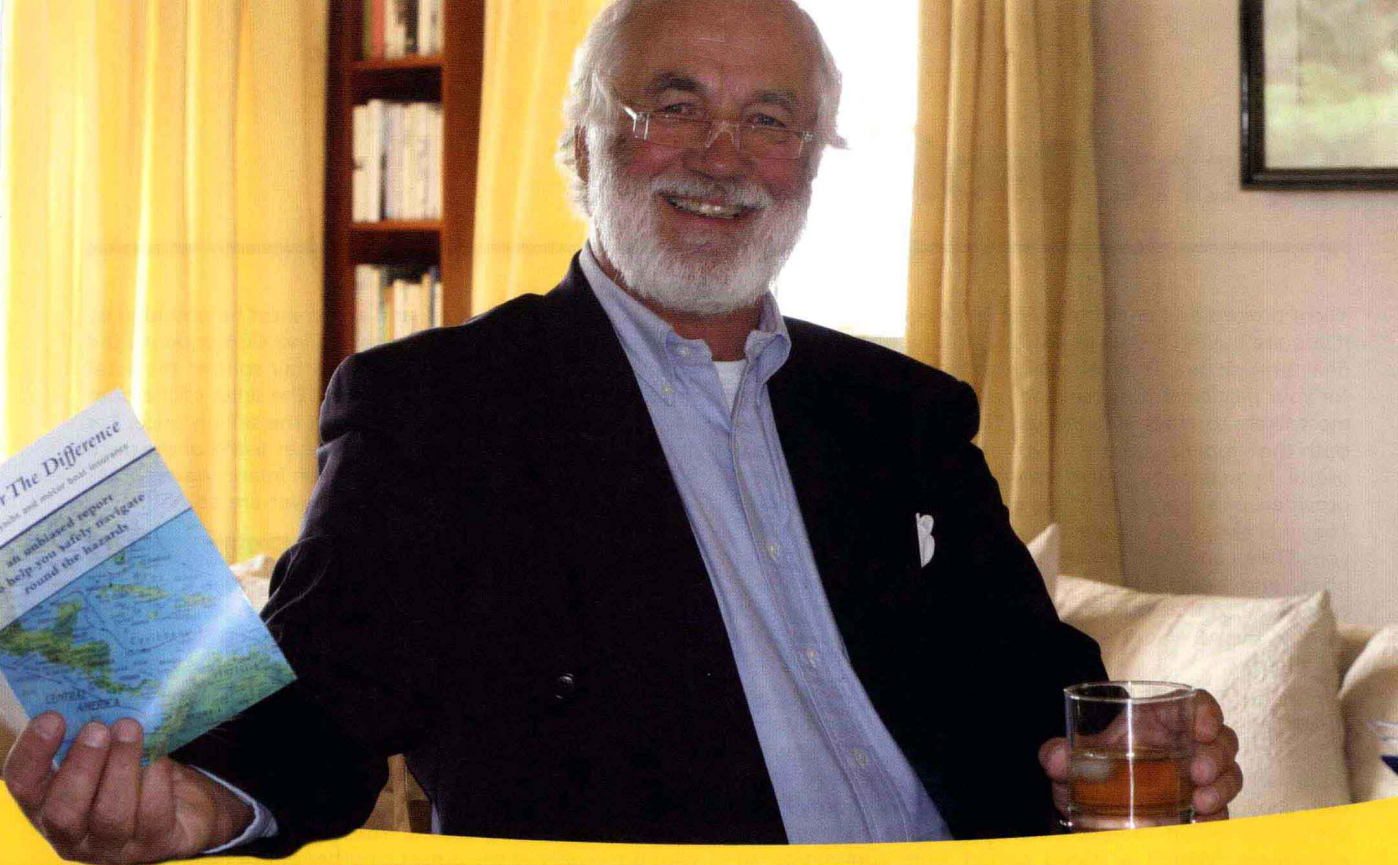
Marine Insurance policies contain 'conditions' which usually includes that the owner must keep the boat and its equipment in seaworthy condition and in a proper state of repair.

Some insurers argue that single handed sailing infers under manning and therefore the boat is not seaworthy. Failure to disclose on the proposal that the yacht is habitually sailed single or short-handed may be held as failure to disclose material facts, so tell your insurer and get it agreed.

Marine insurance is a specialised business. Either deal with a broker or intermediary who is experienced in yacht insurance or get proposal forms from several established firms who advertise in the yachting press; it will be apparent that some insurers give wider cover than others. Return those forms which best seem to meet your needs, and then compare the quotations. However, firms with the lowest premiums are not necessarily the best at settling claims. Useful information is given in RYA booklet G9 *The Yachtsman's Lawyer* and *Marine Law for Boat Owners* by Edmund Whelan.

Extract from the *Reeds Yachtsman's Handbook*  
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"I would like to thank Pantaenius and especially yourself for the way in which you have dealt with things, as losing one's boat, especially in such dangerous circumstances is quite a traumatic event. I was very grateful for both the immediate help and advice that I received and the subsequent help with managing the situation and the rapid settlement of the insurance issues."

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# Yacht Brokers

Yacht brokers and agents provide an important service and if you are buying a boat of any size, it is highly advisable to deal through one. They can advise on the suitability of a boat for your particular purpose, and can then track down those most likely to meet your needs. They can help to arrange both the slipping and the survey of the selected boat (very useful if you happen to live elsewhere), and information on providers of a marine mortgage if required, and insurance. They will also show prospective purchasers over the boat for you. They can check details such as the inventory of the boat, and ensure that the documentation is properly completed so that title is fully transferred. ABYA members work to the ABYA Code of Practice which has recently been up-dated.

A standard form of agreement is used, setting out various terms including: the agreed purchase price; 10% deposit which is paid when the agreement is signed, allowing the purchaser to have the yacht lifted out and surveyed at his own expense; the fact that the survey should normally be completed within 14 days, although this can be longer, by agreement. Within a stated period from completion of survey, if any material defects (generally this is taken to mean *significant* cost) have been found, the purchaser may either reject the yacht (giving notice of the defects discovered), or ask the seller either to make good such shortcomings or reduce the price. The form also details the obligations of the two parties, default by the purchaser, the transfer of risk, and arbitration procedure in the event of a dispute.

If the sale proceeds, the agreement states that the yacht is considered to have been accepted by the buyer and the balance of the agreed price is due if:

- a) a period of 14 days elapses, and no survey has been made; or
- b) after an agreed time after the survey the purchaser has not acted; or
- c) the seller remedies any specified defects to the satisfaction of the surveyor; or
- d) an agreed reduction in price is made.

The buyer should also be aware that if the seller is a private individual, ie he or she is not selling the boat in the course of trade or business (and that business does not have to be selling boats), and if that fact is known to the buyer, there is no question of any guarantee on the sale of a second-hand boat because the buyer is quite at liberty to inspect the craft and to satisfy himself as to her condition – either personally or by employing a surveyor. Unquestionably a survey should always be made, except perhaps in the case of a very small and cheap boat where the buyer has enough knowledge and experience to detect any serious faults. A boat sold in the course of business has implied warranties under the Sale of Goods Acts.

Buying yachts can be a complex business, particularly when the boat, the seller and the buyer are all miles apart. Two

brokers are often involved, and access must be provided by the yard or marina where the boat is lying. Consequently the ABYA Guidance Notes provides for a fair split of the total commission between those involved. The seller of the boat pays an agreed commission based on the selling price. For guidance the normal rates (plus VAT) are: 6–8% of the price for vessels in the UK; 10% for vessels on inland waters. 10% also applies if the vessel, owner or buyer are abroad.

## SELLING THROUGH A YACHT BROKER

Selling a yacht through a yacht broker may be a useful and appropriate course of action for a number of people. It eliminates most of the work and problems involved with a private sale, and because a broker has access to a wide market it may enable a higher price to be obtained or a quicker sale to be achieved.

When instructing a broker to sell a boat, the owner will be asked to complete a form which requires full particulars of the boat and of her material condition. It is important that these are accurately stated. The vendor must also agree with the broker at the outset whether or not he is to be the sole agent. It is important that the vendor provides the broker with documentation proving he has legal title, of the VAT paid status of the vessel, and of RCD compliance if she was built after June 1998 or is coming into the EU market for the first time.

A broker acts as a go-between for buyers and sellers of yachts all over the world. If a broker is appointed as sole agent he may pass full details of the boat to other selected brokers, who will usually receive half of the eventual commission if they produce a sale. These central listing facilities allow the interchange of information about all the boats for sale between all the various participating brokerage firms, so that the net is spread as wide as possible.

Very importantly, a broker is able to advise on the correct price at which a boat should be offered – a price that is likely to attract response, but which will be fair to the seller. It is in the broker's interest to obtain the best price, as his commission is based on it.

Any advertising copy or materials produced by the broker must be accurate because he is liable under the Trade Descriptions Act, although he is often dependent upon the vendor for his information. He will advertise the boat and handle all enquiries and inspections. When a potential buyer appears the broker will prepare a Sale Agreement on a standard form of contract. If the sale proceeds after survey, he can advise the owner regarding any defects that may have been found in order to negotiate a fair price. Finally the broker prepares the Bill of Sale, and ensures that title is not transferred until the purchase money has been received. He also arranges for VAT paid status and RCD compliance documentation to be passed to the new owner, as applicable.

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# BROKERS GUIDE

## Next Port of Call

Boat buying and selling made easy

### Buying a boat?

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- Draw up a short list for you
- Negotiate with the seller on your behalf
- Check who has legal 'title' to the boat
- Check if there is any outstanding finance on the boat
- Deal with VAT
- Deal with all paperwork

### Selling a boat?

Your ABYA broker will:

- Advertise the boat
- Find potential buyers
- Deal with all enquiries & arrange viewings
- Negotiate the sale with the purchaser
- Get the best price
- Deal with all paperwork

Whether you are buying or selling a boat, make ABYA your next port of call. ABYA members are all professionals with a track record of experience and competence.

To find out more please call 01730 710425 or visit: [www.abya.co.uk](http://www.abya.co.uk)



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# Yacht Surveyors

The idea of getting a boat surveyed usually arises when you are thinking about buying a boat or you've had a collision or a serious grounding. Alternatively your insurers might have asked for one or you are trying to get Part I British Registry. Perhaps you have become involved in a dispute and need an expert witness. Whatever your reason, it is essential to select a surveyor with the proper qualifications who has been personally recommended by someone experienced that you trust.

There are several different types of survey available, and which one you select will depend on what you need. The best known is the Full Condition Survey which will tell you the condition of the boat you are considering buying. Certainly it would be very foolish to buy a second-hand boat without having a proper survey done, with the boat out of the water. It is also often appropriate to have your boat surveyed before selling her, so that you can discover and rectify any problems before the buyer discovers them and demands an overgenerous discount to cover them.

The purpose of a Full Survey is to determine the condition of the entire yacht: hull, machinery, gear and all the equipment relating to her operation. A competent surveyor should report on every aspect of the boat's structure, depending on the materials concerned. He should comment on whether the condition of the various items is attributable to fair wear and tear, or whether other factors such as poor design, inferior materials, bad workmanship or lack of maintenance are involved. His examination should include all items such as fastenings, chain plates, shafting, steering gear and rudder fittings.

The surveyor will not usually provide an Engine Survey, and the engine itself may need to be surveyed separately as this is the province of the marine engineer. However the surveyor should certainly be able to assess its general condition. If you have any concerns about the engines, ask the surveyor or broker to help you find a local marine engineer. Similarly surveyors are not usually insured to go up the mast and tell you about the masthead fittings. There are modern rigging testing techniques and equipment which will give you information about this. Again, you should ask for a specialist report if you are concerned, or if this is of particular importance to you.

A Hull Condition Survey is just that, and is clearly more limited in scope. As well as Full and Hull Condition Surveys, surveyors assess accident damage for insurance purposes, and oversee repairs or modifications.

Insurers need surveys for accident reports and for when you insure your boat. These are two different types of survey -

the accident report may need to be very detailed, giving insurers the information they need to assess the level of damage and whether it is repairable, etc. If, for instance, the accident was due to fire, they will want to know how the fire started. A Full Condition Survey will often be requested before an insurance policy is provided.

For Part 1 Registration a tonnage measurement is a much quicker survey and does not relate to the condition of the boat. It is simply a measurement and verification of the boat.

In cases where a dispute arises, some of the more senior members of the YDSA are experienced in providing expert witness reports for the Court, and others can act as arbitrators to settle technical disputes. Some surveyors specialise in particular types of boat, such as steel inland waterways boats, or old wooden boats.

The surveyor will ask you for information on the boat before he agrees to do the survey for you. Be clear what it is that you are asking for so that you get what you intended. Instruct the surveyor in writing; the details are important as they will form the basis of a contract with him.

To get a proper survey you need a professional surveyor, and sadly a small minority of surveyors lack the knowledge and experience required. Members of the Yacht Designers and Surveyors Association (YDSA) submit documentation for assessment before being accepted as members (there is an up-grading exam from Affiliate to Associate grade) and hold Professional Indemnity insurance.

The names of all members are listed on the YDSA website at [www.ydsa.co.uk](http://www.ydsa.co.uk) or telephone 01730 710425; email [info@ydsa.co.uk](mailto:info@ydsa.co.uk); or fax 01730 710423 for a list.

Other organisations, dealing partly with yachts and commercial vessels, are:

The International Institute of Marine Surveying, Stone Lane, Gosport, Hants PO12 1SS: tel 023 9258 8000; fax 023 9258 8002; email [iims@compuserve.com](mailto:iims@compuserve.com); [www.iims.org.uk](http://www.iims.org.uk)

The Society of Consulting Marine Engineers and Ships Surveyors, c/o 202 Lambeth Rd, London SE1 7LQ: tel 0207 261 0869; fax 0207 261 0871; email [sec@scmshq.org](mailto:sec@scmshq.org)

The Institute of Marine Engineering, Science & Technology, 80 Coleman Street, London EC2R 5BJ: tel 0207 382 2600; fax 0207 382 2670; email [ssg@imarest.org](mailto:ssg@imarest.org); [www.imarest.org](http://www.imarest.org)

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