

THE LAW OF YACHTS AND YACHTING

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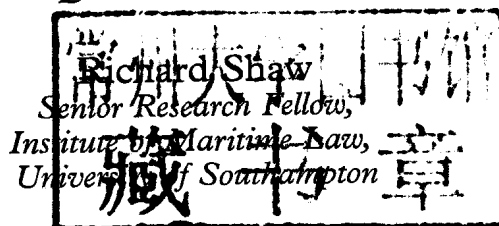
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Preface

The Law of Yachts and Yachting is the first comprehensive and detailed monograph entirely dedicated to the study of the English law relating to the ownership and operation of yachts. It does not focus on the leisure market or competitive yacht racing, but is primarily intended for use by lawyers, yacht-brokers, yacht-builders, researchers and others concerned with the legal aspects of the construction, operation and use of professionally crewed motor and sailing yachts: the specialist world of superyachts.

Although for most of the nineteenth and twentieth centuries the large yacht world was the exclusive preserve of a rich and famous elite, the last three decades have witnessed a massive growth in this market and huge investment in technical research, design, dedicated infrastructure and specialist service providers. International, regional and national regulators, industry associations and lawyers have followed suit. The result is a complex and somewhat fragmented legal picture which, very much like a cubist painting, may be thoroughly understood only when looked at in its entirety and in a proper context by an expert eye. This is what *The Law of Yachts and Yachting* aims to do.

The law discussed in some chapters of this book will appear vaguely predictable to a mainstream maritime lawyer; others may contain surprises, and traps for the unwary are exposed, discussed and explained as peculiarities of the sector. As commonly happens in other sectors of maritime law, this particular market has developed a number of standard form contracts, all of which have a marked yachting twist. For that reason this work contains a detailed analysis of the MYBA Memorandum of Agreement used in the sale and purchase of yachts and the MYBA Charter Agreement, both of which are widely used within the yachting industry, well beyond British shores. It also explains the Institute Yacht Clauses in their specialist context and discusses a typical loan agreement for the financing of a large yacht.

Yachts, like any other type of vessel, are subject to international maritime Conventions that are incorporated into English and European law. The application of most of these international and regional rules is limited to vessels of a certain length or gross tonnage. These “milestones” come as second nature to the yachting industry expert, but may be less familiar to maritime law researchers and practitioners who advise clients in the commercial shipping sector. This book makes a point of highlighting them. One of the most fascinating aspects of the large yacht and superyacht sectors is the way the domestic law and the provisions of the underlying international Conventions have been modified to allow the Load Line, SOLAS and STCW Conventions to be adapted to the requirements of the yachting industry. So

important is the Large Commercial Yacht Code (more commonly known as the “LY2”), that it is easily forgotten that the original version of the Code came into force as recently as 1998. It will fall to a future edition of this work to consider the long-awaited LY3 and the Passenger Yacht Code when both of those Codes have come into force.

Most discussions about yachts sooner or later turn to the thorny issue of Value Added Tax and it will come as no surprise to the reader that the tax chapter is one of the longest in the book, such is the complexity of the subject.

This monograph on *The Law of Yachts and Yachting* is intended as a unique and important step towards the establishment of yachting law as an independent subject with its own general principles, its own connectors and its own business common sense. Albeit conservative in style and firmly intended as a key source for yachting practitioners, this work breaks new ground in defining an industry sector with its own needs, its own voice and its own legal environment.

To achieve this very ambitious task we have pulled together some of the most experienced lawyers in the field to form a fully integrated research team whose constant exchange of thoughts over the past few years is reflected clearly in the comprehensive table of contents, the rigour of the cross-disciplinary analysis and the concern shown for the impact on current and proposed legislation on everyday yachting practice. We are grateful to all of our contributors and the colleagues who have supported them. Among the latter, we are particularly grateful to Francesco Cimmino of Studio Cimmino in Milan, Patrick Danis of CMS Bureau Francis Lefebvre in Paris and Alex Chumillas Amat of Taxmarine in Barcelona whose assistance enabled the VAT chapter to include an essential foreign perspective, and to Tony Allen, Doug Frame, Sarah Marshall-Ellison, Laura Pearson and Alexander Teji at Hill Dickinson LLP, who provided valuable input to the chapter on Employment and Manning.

It would not have been possible to reproduce the MYBA forms, the Institute Yacht Clauses and the Green Passport material without the permissions and encouragement of MYBA, the Worldwide Yachting Association, the Institute of London Underwriters and Lloyd’s Register, to whom we give our thanks.

We are grateful to friends and colleagues at the Institute of Maritime Law at the Southampton Law School for their unconditional continuous support and encouragement to explore a new area of legal research, and to the Yacht Team at Gateley LLP in London. We mention in particular Anita Rogers-Ballanger, Jennifer Lavelle, Debo Awofeso and Tobi Seriki at the IML, without whose patience, accuracy and efficiency this treatise would still be far from finished, and Cindy Adams, Siobhan Creely and Chris Onn for their conscientious and efficient support at Gateley.

Lastly, we are all very grateful to Vicky Ophield for agreeing with genuine enthusiasm to publish a book “off the shipping mainstream” as she would put it, to Nicola Whyke for her remarkable patience, and to Chris Betney and Liz Dittner for the excellent quality on the production side.

Filippo Lorenzon and Richard Coles
July 2012

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