

GUIDANCE NOTE 03/2022 (Rev 1)

SEAFARER REST AND FITNESS FOR DUTY

To: OWNERS, OPERATORS, MASTERS, AND ALL SEAFARERS SERVING ON CAYMAN ISLANDS YACHTS, AND YACHT BUILDERS.

1. BACKGROUND

1.1 Fatigue is recognized as an important contributing factor to maritime casualties and to health problems of seafarers. Excessive hours of work, insufficient rest or insufficient manning have been addressed through MLC 2006, aiming to minimize fatigue of seafarers.

1.2 STCW Reg VIII/2 and Code A-VIII/2 also lays down minimum limits for the daily rest hours of seafarers whose duties involve watch keeping or designated safety, prevention of pollution or security duties.

1.3 In some cases however, the yacht's operating profile, and either the manning capacity or manning resource application have been found not to align. This Administration recognises that insufficient rest has been a notable factor in recent recorded incidents involving its own flagged yachts.

1.5 There is a general recognition that any failure to enforce existing rules on board may seriously affect seafarers' health, safety, and cognitive performance, and that decision-making impaired by fatigue may lead to serious accidents 'and', 'or' environmental damage in such scenarios. Recognition of the risks and compliance levels are already well-embedded within the merchant fleet sector of the maritime industry, but the yacht industry sector is a notable outlier.

1.6 Malpractices in excessive hours of work, abuse of 'emergency' call-out derogation and related 'over-use' of compensatory rest, and a cultural acceptance by some of poor implementation of the legislative requirements within the industry, is not an acceptable status quo. Statutory responsibilities have been placed on Owners, Operators and Masters in particular, to ensure suitable working schedules for the crew are posted and that fundamental adherence to them is being continuously achieved.

1.7 Within the superyacht industry, luxury and high service levels are standard and only to be expected, but the temptation to regularly go beyond the permitted working hours (i.e. a hero culture) should be discouraged at the highest levels

2. APPLICATION

2.1 MLC,2006 applies *"to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, and does not apply to ships of traditional build such as dhows and junks."* It applies to all seafarers on these ships, including those on yachts.

2.2 For the purpose of the Conventions the term of “seafarer” means any person who is employed or engaged or works in any capacity on board a ship to which MLC 2006 applies.

2.4 STCW Regulation VIII/1 separately applies to all persons who are assigned duty as an officer in charge of a watch, or as a rating forming part of a watch, and those whose duties involve designated safety, prevention of pollution and security duties.

3. REST REQUIREMENTS

3.1 All persons are required to be provided with a rest period of not less than:

(i) A minimum of 10 hours of rest in any 24-hour period; and

(ii) 77 hours in any 7-day period.

3.2 The hours of rest may be divided into not more than two periods, one of which shall be at least 6 hours in length, and the intervals between consecutive periods of rest shall not exceed 14 hours.

3.3 Any interruption or extension of normal hours may only occur in ‘exceptional’ circumstances (e.g., an emergency call-out). This excludes servicing normal guest activities (which is a general service which should be actively managed by routine work ‘scheduling’ and reviews). In the exceptional circumstances only, temporary derogations from MLC 2006 requirements may be accepted but compensatory rest should be provided at the earliest opportunity. In such cases the reasons should be recorded by the seafarer and formally accepted through line management. Such derogation must not be over-used and should be the exception rather than the rule.

3.4 Other exceptions to minimum hours of rest under MLC may only be considered in accordance with [CISN 05/2014](#) Section 7, and by formal acceptance of the Administration.

3.4 Records of work and rest are also a statutory requirement and should be kept and made available for inspection as required. It is important that precise records meeting the ILO standard are provided to ensure resources can be accurately reviewed for scheduling, or for inspection.

3.5 Records of work and rest should not be regarded by the seafarer as being for the purpose of providing a ‘hero chart’, to demonstrate a hard-working individual regularly in excess of rest limits. ‘Effective’ follow-up action should be taken by Master’s, Operators and Owners to regularise any deviations in such cases and ensure a suitable culture for rest and fitness for duty exists on board.

3.6 Further guidance on recording hours of work and rest can be found in [CISN 05/2014](#) (as may be amended from time to time).

4. VESSELS IDENTIFYING DEVIATIONS FROM THE STATUTORY REST REQUIREMENTS

4.1 Regular deviations from the rest requirements are not permitted by the legislation and should be urgently addressed by Owners, Operators and Masters. Deviations should be transparently tracked as formal internal ISM Non-Conformities and ‘effective’ Rectification Action Plans adopted to avoid PSC deficiencies, statutory deficiencies, statutory non-conformities, or escalation towards enforcement. Rectification Action Plans should also ensure ‘sustainable’ compliance. Owners, operators, and masters are all encouraged to recognise their responsibilities for ensuring compliance by fulfilling Rectification Action Plans within an appropriate timescale, on identification of deviations.

4.2 Where the scale and regularity of any deviation being observed is significant, consideration should be given to the direct involvement of the Operators and Owners responsible, in addition to the Master, to ensure resource, work expectations and scheduling can be properly reviewed and appropriate ‘decisions’

can be taken to regularise the situation within an appropriate timescale. Experiences have shown that support from owner/ owner's representative is generally essential in such cases. It should be recognised that effective solutions can often only be achieved with buy-in from the ultimate decision-makers associated with the ship's ownership and operation.

4.3 The scope of change required for significant deviations should not be under-estimated. It is likely to be insufficient to simply record the deviation or re-iterate the non-conformity without 'effective' follow-up actions by the Owner, Operator and Master and active control measures being imposed.

5. NEWBUILD AND EXISTING YACHTS

5.1 It is recommended for newbuild yachts that the manning capacity is always specially considered and analysed at the outset, in relation to the ship's intended operational profile, including its service offering, and not necessarily on just the basis of the 'minimum' flag-state manning policy requirements for a generic vessel of that size. Sufficient cabins and berths should be made available to crew to cover all 'intended operations' on board, and overall manning should be defined based upon all the facilities being provided and resources required to manage them daily. Maximising guest "area" and "facilities" shall not be made, at the expense of manning level requirements beyond the human resources required to fulfil the provision in compliance with seafarer rest requirements.

5.2 Operational service levels on board should be fully assessed by Owners, Operators and Masters on all vessels to determine human resource capacity of the vessel and ensure manning proposals to the Administration for MSMDs are practicable for all intended operations. In assessing the appropriate crew manning levels for a yacht, due regard shall be given to the IMO's guiding principles in IMO Resolution A.1047(27). Regard should also be given to the limitations associated with only 'minimum manning' (as required by statute) that will cover only essential operations to safeguard the ship, and that may not necessarily be fully compatible with the wider daily service profile of the yacht and its equipment and that may also affect crew rest.

5.3 Any proposed alterations or additions to a yacht or its equipment should be assessed to determine the impact on human resource levels and on the margins of rest, and any additional manning provision made accordingly where required or arrangements revised.

6. RECTIFICATION ACTION PLAN CONTENT IN ADDRESSING DEVIATIONS

6.1 24/7 guest offering may not be practicably achievable on some yachts with only limited manning capacity. A yacht's practicable 'operational profile' will be inherently dependent upon its overall manning capacity and structure of the labour available vs. services being offered. Ships with more limited capacity will inevitably require a more structured approach to their operation and services, to achieve compliance within the bounds of overall crew capacity.

6.2. The following is a non-exhaustive list of additional points that should be considered at Master, Owner, and Operator level, to pro-actively address or avoid potential deviations from seafarer statutory rest requirements:

- Formally analyse the labour required across the range of services being offered and general operation, to identify the daily operational labour and service requirements and overall capacity.
- Develop a more formal 'structure' for guest activities, to align with the labour available.
- Develop specific and accurate daily crew work schedules in accordance with the range of services and ship operation, aligned with hours of rest limits.
- Reduce complexity in work schedule patterns as far as practicable
- Consider crew 'shift' patterns around busy periods in the crew work schedules

- Hold periodical meetings (daily if necessary) on board to review labour provision, the work schedules, and compliance records.
- On board management policy should be proactive rather than reactive, Masters and departmental heads should be predicting extra demands on resources wherever practicable (i.e. Fog, heavy weather, extended boat operation/ galley operation etc).
- Review the labour provision together with Owner and Operator, at suitable intervals.
- It is recommended that special attention always be given to scheduling requirements for specialist-skill services (e.g., galley, boat operations etc.)
- Seek to manage guest expectations through 'more-defined' guest facility/ activity structures and publicised available periods. 24/7 guest service levels are not always possible within a yacht's manning capacity.
- Consider additional manning options where practicable to increase the service provision.
- Consider adopting enhanced crew certification for greater flexibility and to provide dual purpose staff.
- Actively drive a cultural change from the top tier of responsible persons (Owner, Operator and Master together) to ensure rest requirements are met. Close management oversight and formal permissions for crew to deviate have previously been adopted by some operators to good effect.
- Continuously monitor and swap-out crew at their rest limit as circumstances dictate.

6.3 Some recent examples of 'feedback' to this Administration relating to successful rectification actions taken to regularise hours of rest deviations are shown below as follows:

"Clarity in the priority order for 'safe ship operation' has been formally established in looking at labour requirements – priority for safe navigation and engineering primarily, cascading to guest services"

"On board Work Schedules have been fully aligned with HoR requirements and are being regularly monitored and altered as necessary"

"Duty Schedule 'shifts' have been established around busy periods"

"Now utilising enhanced certification for officers and crew for more flexibility and dual purpose"

"Have reduced (or re-organised) guest facility 'availability' periods"

"Now scrutinising work schedules and records more closely"

"Guest 'expectations' are now being more-actively managed"

"Additional persons have been provided in the galley"

"All crew members are now clearing up after themselves following mess periods to reduce galley workload"

"Room-service has been re-structured to reduce the number of times in a day the guest cabins are turned down"

"Close oversight has been required to drive change and drive a 'culture' change in the crew"

"Labour problems have been analysed to breakdown the labour available vs services offered in individual areas on board. An analysis spreadsheet has been created and is in regular use."

“Developed a shipboard Working Hours spreadsheet to identify and track daily labour and service requirements”

“A daily guest activities timetable structure has been developed”

“A Mini-cruise-ship type operational organisation of the ship has been developed”

“Support from owner/ owner’s representative has been essential”

“Previously the operation was always left always ‘open’ with everything available. Now it is more structured to cope with a complex operation.”

“We found that our guests often prefer a semi-structured itinerary and they have not objected to certain boundaries being set”

“Ship now has Nil non-conformances with hours of rest”

7.0 MANNING RESOURCE AND REST POLICIES (SAFETY MANAGEMENT SYSTEMS)

7.1 It is recommended that Operators develop a clear policy on manning resource and seafarer rest within their Safety Management Systems. This should include practicable provisions that take account of the guidance herein and the mechanisms by which consistent procedures and responses in this area may be followed by Owners, Operators, Masters, and Seafarers.