



the **crew**
REPORT **.com**

THE
REFIT &
MAINTENANCE
ISSUE

INTERIOR TRAINING | SPANISH CRUISING | MLC
& CREW SPACE | KITewing

NO. 49 | JUN 11

AN INSPECTOR CALLS

WORDS ESTHER BARNEY & WILL MATHIESON

For more on the **NIR**, visit <https://portal.emsa.europa.eu/web/thetis/home>

NIR: THE THREE LETTERS REGARDING PORT STATE CONTROL OF WHICH ANY CAPTAIN CRUISING IN THE MED OR CANADA SHOULD NOW BE AWARE. **MULTIPLE YACHT ARRESTS** SO FAR THIS YEAR ARE PROOF THAT PARIS MOU MEANS BUSINESS.

PARIS MOU (Memorandum of Understanding), the authority responsible for port state control inspections in European and Canadian ports, has implemented the New Inspection Regime (NIR) as per EU Directive 2009/16/EC, which came into force on 1 January 2011.

In the event of an inspection, the new regime sets out clear minimum standards for all the vessels that fall under its remit: "All ships, ordinarily engaged in commercial activities whose gross tonnage is 500 or more." Any vessel that falls significantly short of this standard will be detained with immediate effect, while vessels with lesser discrepancies will be given 16 days to correct them or face detention themselves.

As an interesting twist, the NIR marks a figurative "year zero" for yachts and, from now on, all vessels are due for inspection as a matter of priority with the aim of quickly establishing a comprehensive database of vessels' records, THETIS (see <https://portal.emsa.europa.eu/web/thetis/home>), which can be used to manage inspections in the future. Once this is achieved, the priority of inspections will be established based on a number of variables specific to each vessel. To check your vessel's risk level of an inspection, a risk calculator has been set up online. This can be found at <https://portal.emsa.europa.eu/web/thetis/ship-risk-profile-calculator>.

For Robert Aldous, surveyor for reg4ships, it is a significant development, and one that is already having consequences for superyachts, with three Italian yachts already detained (see right) and a further four identified as defective. But he also feels it is a development that the



industry should welcome:

"All vessels are built to internationally recognised standards and have been certified to those standards, with full verification from their respective flag states. It is expected that the vessel passes when under scrutiny and I think this is fair because they know that their survey is going to be on a specified date and it gives them time to prepare for

that date. But what it also does is ensure a readiness to keep them on their guard all the time. It's a fallout of SOLAS [Safety Of Life At Sea regulations] and care for the environment."

Superyacht managers, fairly or unfairly, have developed a reputation as being comparatively relaxed about safety and maintenance compared with other maritime sectors. It is those who fall into this category that should heed this warning, as Adrian McCourt, managing director at Watkins Marine Management Services explains:

"Guys who come from commercial management, [have] been hit forever by port state control. We're ready for it. You're meant to be ready for it all the time. If one line item's off, maybe the inspector won't detain a yacht, but he can certainly raise a defect. The superyacht world has been missed by port state control until now, and that's wrong. I tell crew all the time: The paperwork is >

THE DEFICIENCIES LISTED BY THE PORT STATE CONTROL OFFICERS THAT DETAINED THREE VESSELS IN GENOA

YACHT A (418GT)

Entry missing from oil record book
Oil drums improperly stowed in bilge well
Flag state endorsement of chief engineer's certificate of competence missing
SOPEP: list of national contacts missing
Self closing valve on sludge tank tied open
Bilge well dirty
Bilge high level sensor disconnected
Quick-closing valve on fuel day tank not operative
15ppm sensor not operative
Oily water separator not operative

YACHT B (692GT)

ISM not operating correctly
Charts not corrected
Two emergency escape breathing apparatus had pressure gauges showing red
Some ship's papers incorrectly amended with new name by class, not flag
Original certificate of competence for master and mate not onboard, only copies
No passage plan for voyage just completed
Some nautical publications out of date

YACHT C (613GT)

Charts not corrected
Gyrocompass not operative
SOPEP: list of national contacts not up to date
Nautical publications not up to date
Crew less than required by safe manning document
Annual test of emergency position indicating radio beacon not carried out
Ship's papers: long range identification and tracking system not recorded on Form E
Oily water separator not operative
ISM not operating correctly
Emergency fire pump not operative



The **NIR risk calculator** can be found at <https://portal.emsa.europa.eu/web/thetis/ship-risk-profile-calculator>

> the job, not something that gets in the way of your job, and it's really easy once adhering to compliance is structured into what you do."

There is a degree of accountability for both managers and registries but, as with all matters aboard a vessel, the responsibility for certification and compliance with Paris MoU requirements lies with the yacht's captain. As significant compliance failures can result in detention, this could mean the immediate shutting down of a charter midway and serious implications for the master.

The inspecting officers are executors, they are not there to discuss your particular situation or negotiate, says Jörg Wendt of D and B Services. If your vessel is subject to exemptions, an individual inspector in a particular port may not be aware of this and in order to be careful, they will likely take the most cautious approach. Applications to flag state for exemptions after the inspecting officers have boarded can take time – time that may fall in the middle of a charter or guest trip. In order to prepare for such an eventuality, Wendt recommends prevention over finding a cure:

"Even if the law does not oblige your particular vessel, have onboard all the certificates of compliance or the exemption certificates in advance from your flag state," he recommends. These can include safe manning documents or, for the future, the documentation necessary for proof of compliance to the Maritime Labour Convention 2006 (MLC 2006) when this comes into force. Make sure you look at the regulations to know where you stand or what might be needed.

Despite the concerns that this legislative development will inevitably raise, Aldous, McCourt, Wendt and others within the industry emphasise that it is only negligent or ignorant

parties who will suffer detentions or detaining orders. Vessels are expected to comply with the Paris MoU guidelines regardless of whether they face inspections or not and, as long as this is the case, captains and managers have nothing to worry about.


The NIR should have no real impact upon diligent captains, and will instead force the minority who don't keep their houses in order to address the problems or face the consequences.

Brendan O'Shannassy, captain of the recently launched *Vava II*, says that the initiative is undoubtedly a good thing:

"Any review of the detention list shows that it is targeting 'ships-of-shame' that are still trading and posing a risk

to themselves, other ships and to the environment. There is not one detention from any of the first tier maritime administrations used in yachting and many of the ships are repeat detainees.

"Scaremongering about the impact of the inspection scheme should be avoided by responsible yacht service providers. Just a glance at the Ship Risk Profile table (MoU Annex 7) would show that most yachts would be assessed as low-risk across all metrics. All mariners operating safe and compliant vessels should embrace the MoU as a mechanism for providing consistency and transparency of port state inspections."

O'Shannassy's instruction to yacht crews is stark but straightforward: "Be prepared to be boarded and show the inspecting officials the information that is within the scope of their inspection. Put very simply, a yacht must be what [it] says [it is] and be able to support this through presentation of certifications and records." 

"ANY VESSEL THAT FALLS SIGNIFICANTLY SHORT OF THIS STANDARD WILL BE DETAINED WITH IMMEDIATE EFFECT."

PARIS MOU, PSC & THE MLC 2006

During the 2011 Antibes Yacht Show, at the invitation of D and B Services and Nautilus, Deputy PSC Coordinator Captain François Beaugrand gave a presentation on how the MLC 2006 implementation will fit into the NIR framework in relation to the yacht fleet.

Beaugrand noted that, although all commercial vessels over 500gt are at risk of inspection, those under this threshold "may be inspected in case of commercial activities". Depending on a vessel's risk profile it will be inspected every 6, 12 or 36 months, he highlighted.

With regards to certification for compliance with MLC 2006, when it comes into force 12 months after ratification by the ILO, Beaugrand commented that, although this is not mandatory for vessels under 500gt, it is possible to receive one, if requested from flag state. If a vessel being inspected is not able to produce a certificate, in case of a deficiency the situation will escalate to a "more detailed inspection". Regarding the on-shore seafarer complaint handling procedures (MLC 2006 5.2.2), if a complaint is found to be justified, this will trigger a more detailed inspection. Although discussions are still underway for "substantial equivalence" to MLC 2006 in yachting, the Paris MoU stance appears firm and Beaugrand went so far as to say that Article 5 of MLC 2006 will be *amplified* by the NIR.

To download the Paris MoU presentation visit thecrewreport.com/parismoumlcparismou.org