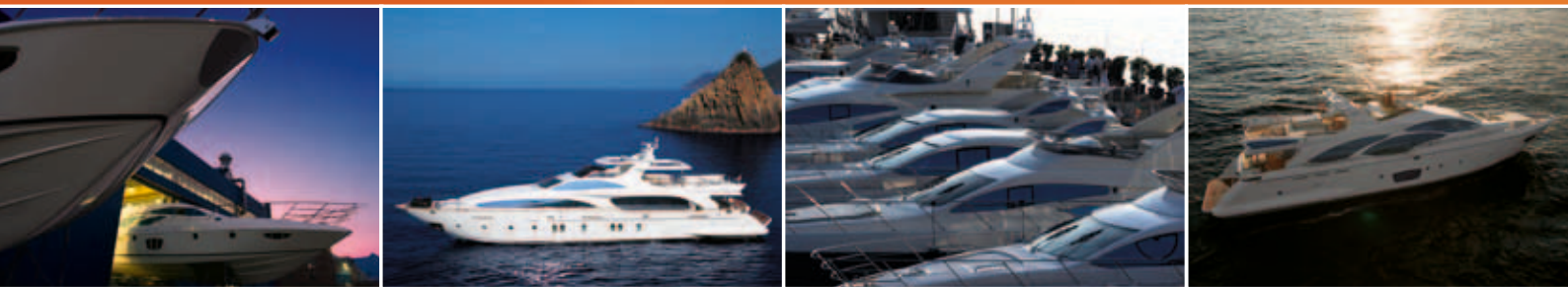


The Shipowners' Club Yacht Liability Insurance

Policy 2011/12



The Shipowners' Club

Yacht Liability Insurance Policy 2011/12

Who we are

We are the Shipowners' Mutual Protection and Indemnity Association (Luxembourg), a marine liability insurer, protecting the interests of yacht owners and operators on a mutual basis. This means that we operate as a non-profit making club and all surplus funds are retained or distributed for the benefit of *our* Members.

Your policy documentation

All Members receive a Certificate of Insurance, setting out the scope of cover and risks insured. Subsequent amendments to cover will be documented by way of endorsements.

The protection we provide

When you become a Member you can expect *us* to respond to all marine liability claims made against you, other than those we list under "What is not covered" and those which are unrelated to owning and operating the insured yacht.

Your *crew members* are also insured for claims made against them as a result of carrying out their professional duties.

If you purchase a new yacht or sell your current yacht we will cover your liability to your *crew* during pre-delivery and/or post-delivery periods, providing these are of a short duration. Whilst you are insured for your liability to the *crew* during such periods you are not insured for any liability you may have due to the negligent actions of your *crew* during such periods and you will need to advise *us* in advance and obtain *our* agreement to cover you.

Your insurance extends to cover people whom you allow to use your yacht by informal, non-commercial agreement, such as family and friends.

We cover your liabilities whilst your yacht is chartered out on a fully crewed basis, including claims made against you due to the activities of charterers or their guests. However, your charterers will need to arrange insurance separately for their own liabilities.

Claims arising from the use of *tenders* and water sports equipment are covered, providing these arise from activities connected with the yacht we insure for you.

To obtain cover for *tenders* which are registered separately from your yacht, you must declare them to *us* and if we agree to insure them they will be covered under their own policy.

Your cover

The liabilities we insure you against include:

Crew compensation

Claims for *crew compensation and sickness benefits*.

Crew, guests and others

Claims from your *crew*, guests or others for personal injury, illness or death. Related costs and expenses, including medical costs, are also covered.

Collision and property

Claims for collision damage or for loss of or damage to piers, wharves, jetties, pontoons or any property belonging to others.

Enquiries and proceedings costs

The reasonable costs and expenses of attending formal enquiries and proceedings following a *casualty* and the cost of engaging legal representation for these purposes.

Fines

Fines for breach of *pollution*, smuggling or immigration laws, providing these were accidental or caused by your *crew's* independent, deliberate actions or omissions. If your yacht is subject to the provisions of *MARPOL*, *SOLAS*, the ISM code or the ISPS Code, it must comply with the provisions of those conventions and codes for a *fine* to be recoverable. We also cover *fin*es due to an inadvertent breach of statutory health and safety regulations applying to your yacht.

Investigation and defence costs

The reasonable costs of investigating and defending insured claims.

Pollution

Pollution from your yacht, including the cost of clean up and reasonable measures taken to prevent an imminent risk of *pollution*.

Stowaways and life salvage

Costs and expenses arising from stowaways and the saving of life at sea.

Water sports

Claims arising from the use of water sports equipment belonging to and carried by your insured yacht.

Wreck removal

Wreck removal, marking or lighting costs following the loss of your yacht. The residual value of any property recovered may be offset against your claim.

Contractual liabilities

You are covered for any contractual indemnities which you are required to accept under a club, marina, boatyard or supplier's standard terms and conditions. We will also agree to waive rights of subrogation if this is required by these standard terms and conditions. If you charter your yacht to others and enter into contracts or agreements with them which increase the liability that you would otherwise have, you need to refer these contracts to us for our review and approval unless they appear on a list of Approved Contracts which may be obtained from our offices or via our website: www.shipownersclub.com

Piracy

You remain covered for any of the claims listed here under 'Your cover' which arise following acts of piracy against your yacht. Please note our exclusion in respect of kidnap and ransom demands contained in 'What is not covered' - Exclusion 15 below.

Racing cover

We cover sailing yachts participating in casual racing events or those organised by yacht clubs, sailing associations or racing events governed by an internationally recognised sailing federation. If your yacht's principal purpose is competitive racing or you intend to undertake any form of professional ocean racing, you need to talk to us in advance so that we can determine whether we can offer cover. We do not provide racing cover for motor yachts, unless we have been advised of the racing in advance and you have obtained our written agreement to insure it.

Uninsured or underinsured boaters

If an *Uninsured or Underinsured third party vessel* is responsible for you, your crew or your guests sustaining personal injury whilst on board your yacht or its tenders, we agree to meet any medical costs or expenses which are not recoverable from them.

War risks

We insure marine liability claims arising from *war risks* unless you have separate cover under a *war risks* policy which includes marine liability, in which case we pay claims only in excess of the US\$ equivalent of the insured value of your yacht (which is deemed not to exceed US\$100 million) or the amount recoverable from your *war risk* underwriters, whichever is the greater.

The *war risks* cover we provide is subject to special conditions:

1. We do not cover claims arising from *incidents* within any of the areas listed under the current Hull War, Strikes, Terrorism and Related Perils Listed Areas. A full list is available from our office and included on our website: www.shipownersclub.com
2. We may cancel your cover for *war risks* by giving you 7 days' notice of cancellation at any time.
3. Your cover for *war risks* will terminate automatically should war break out between any of the following counties: the United Kingdom, United States of America, France, the Russian Federation and the People's Republic of China.

What is not covered

Your cover is subject to certain exclusions. **We do not insure the following:**

1. Claims resulting from your or your employees' or agent's failure to maintain your yacht in a seaworthy condition or to keep or operate it in accordance with the requirements of her flag state, certifying authority or classification society.
2. Claims resulting from your *wilful misconduct*, including your infringement of any law, rule or regulation, or from permitting any activity on board or in connection with your yacht which is unsafe or unduly hazardous.
3. Wreck removal claims which result from lack of maintenance or repair.
4. Loss of or damage to property you own or have leased.
5. Claims arising from *bare-boat chartering* your yacht. We do however continue to cover you for any strict liabilities which attach to vessel owners, such as *pollution* liabilities arising under Bunker Blue Cards.
6. Claims arising as a result of towing other vessels unless it is your own *tender* or a vessel in distress and you are providing emergency assistance.
7. Any claim arising from an *incident* which falls outside the period of insurance stated on your Certificate of Insurance.
8. Claims arising from commercial diving or the use of submarines, mini-sub's or diving bells.
9. Claims arising from the use of mechanically powered vehicles whilst ashore, which would ordinarily be insured under a motor vehicle policy.
10. Claims recoverable under hull and machinery or aviation policies, unless we have agreed in writing to insure risks which would otherwise fall under those policies. If you do not have hull and machinery cover in place, we reserve the right to adjust the amount recoverable from us, in the event that we are prejudiced by its absence.
11. Claims recoverable under a *war risks* policy extended to include marine liability risks.
12. *Deductibles* which you are required to bear under other policies. These are not considered to be liabilities for the purposes of collecting a claim under this policy.

13. Claims which we consider to be in the nature of a dispute with *crew*, guests or others, rather than a liability claim arising from the ownership and operation of your yacht. Cover for the costs incurred in the handling of a dispute may be available from the Club as an Optional Additional cover. We suggest that you contact *us* for details of *our* Legal Assistance and Defence cover.
14. Personal injury compensation recoverable under mandatory state or national insurance schemes.
15. Ransom demands, extortion, blackmail, bribery or any form of illegal payments or any associated costs or expenses.
16. Any claim in respect of *nuclear risks* or radioactivity.

It is a requirement of this policy that you use your vessel for lawful purposes; otherwise your liabilities may not be covered.

General conditions

Cancellation

You may cancel cover at noon on the renewal date of any year by giving *us* not less than 30 days' prior written notice of cancellation. We may, at any time, cancel this policy by giving you not less than 30 days' notice in writing.

Termination

The insurance which we provide to you will terminate upon the date shown on your Certificate of Insurance or upon an earlier date should any of the following events occur: the sale or transfer of your yacht to new owners or your bankruptcy or insolvency. You will be entitled to a daily pro rata return of premium providing that no claims have been made under the current policy.

Material facts

You must tell *us* all facts that may influence whether or not we wish to insure you and upon what terms. This is a continuing obligation that applies both before and during the period that you are insured with *us*. Failure to do so may result in *our* refusal to pay your claim.

Assignment

You cannot assign your policy to any other person.

Premium

Your insurance premium will be fixed annually and no further premium will be payable, unless you ask *us* to extend your insurance cover or the material facts upon which we base the cover change. You must pay your premium in such instalments and on such dates as we have specified, otherwise we will not pay claims and we may cancel your insurance policy.

Claims

If a claim is made against you, you must follow the claims handling procedure set out at the end of this document. If you fail to do so your ability to claim may be affected.

Lay up

We do not return premium for periods of lay up notified in arrears.

Surveys

You have a duty to ensure that your yacht is seaworthy at all times. We may at any time appoint a surveyor, at our cost, to inspect your yacht. If such an inspection identifies defects in your yacht, we may require that you remedy them as directed at that time.

Law and jurisdiction

Your policy is governed by and will be construed in accordance with English law. It is subject to the exclusive jurisdiction of the English courts. It incorporates the provisions of the Marine Insurance Act 1906 and all amendments to it. It is not intended that rights should be acquired by any third party through the operation of the Contracts (Rights of Third Parties) Act 1999 or similar legislation.

Complaints

We take all complaints seriously. If you are dissatisfied with our handling of your claim or any other aspect of your insurance or the service we provide, please contact us. Our complaints handling policy is detailed on our website at: www.shipownersclub.com/other/complaints-handling-policy

Dispute resolution

In the unlikely event that we cannot resolve your complaint satisfactorily, the matter will be referred to The London Maritime Arbitrators Association (LMAA) arbitration in London and will be carried out in accordance with their rules and subject to the provisions of the Arbitration Act 1996.

Definitions

When used in this policy, the following words have a special meaning assigned to them, as follows:

Bare-boat chartering means making your yacht available for hire or reward to other parties, unconnected to you, without your crew on board. Inter-company arrangements in which your yacht is chartered from one related company to another within a company group or otherwise, is not considered to be *bare-boat chartering* for the purposes of this policy.

Casualty means an *incident* affecting the physical condition of your yacht so as to render it incapable of safe navigation to its intended destination, or which creates a threat to the life, health or safety of your crew or guests. Engine breakdown is not a *casualty* for the purposes of this policy.

Crew or crew member means any person engaged or employed in any capacity in connection with your yacht, whether on board or proceeding to or from your yacht or on yacht's business. This includes day workers, but the total number of day workers engaged on or around the vessel at any one time must not exceed 50% of your yacht's normal crew complement unless we have been advised and agreed in writing, in advance. *Crew or crew member* does not mean yacht brokers or yacht agents or those supplying services to your yacht.

Crew compensation and sickness benefits are those payable under your crew contracts, collective bargaining agreements or where the state requires employers to pay compensation or sickness benefits for personal injuries in the absence of a mandatory state scheme. Death, disability or benefit payments you provide under individually negotiated and agreed crew contracts should be reasonable and appropriate for the duties and position held by the crew member when viewed against the prevailing compensation regime. *Our* policy does not cover annuities or pension contributions or any other form of contractual obligation to make lump sum payments for agreed fixed periods or in perpetuity to one or more beneficiaries.

Deductible means the initial amount you have to pay yourself before the insurance policy will respond to a loss under a policy. Some policies refer to this as an excess. For the purposes of this policy, the words *deductible* and *excess* in this context have the same meaning.

Fines include civil penalties, penal damages and other impositions similar in nature to *fin*es, but not punitive damages.

Incident means an accident or occurrence relating to the operation or use of your yacht. A series of *incidents* which have the same cause will be treated as one *incident* and for the purpose of claims' settlements one claim's excess will apply.

MARPOL means the International Convention for the Prevention of *Pollution* from Ships 1973 and its protocols and, as modified by the Protocol of 1978, or and as modified or amended by any subsequent protocol, or the legislation of any state giving effect to that Convention.

Nuclear risks means any loss, damage or expense due to or arising out of, directly or indirectly, nuclear reaction, radiation or radioactive contamination regardless of how it was caused.

Pollution means the accidental discharge or escape of oil or other substances from your yacht.

SOLAS means the International Convention for the Safety of Life at Sea.

Tender means the boat or boats which are carried on board your yacht.

Uninsured third party vessel means a third party vessel which collides with your yacht and which fails to stop and identify itself afterwards or a vessel whose owner or operator has no vessel liability insurance or whose liability insurer denies cover or becomes insolvent.

Underinsured third party vessel means a third party vessel whose owner or operator has insufficient insurance to cover medical costs and expenses of your crew or guests.

War risks means liabilities incurred as a result of war, civil war, revolution, rebellion, insurrection or resultant civil strife or any hostile act by or against a belligerent power or by any act of terrorism; capture, seizure, arrest, restraint or detainment; mines, torpedoes, bombs, rockets, shells, explosives or similar weapons of war; any chemical, biological, bio-chemical or electromagnetic weapon; the use or operation, as a means of inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

Wilful misconduct means an intentional act or deliberate omission done by you either with knowledge that the act or omission is likely to result in loss, or in such a way as to allow an inference of reckless disregard for the probable consequences.

We or **our** or **us** means The Shipowners' Mutual Protection and Indemnity Association (Luxembourg), the insurer.

You or **your** means the person named as the Member in the Certificate of Insurance. If more than one person is named as the Member in the Certificate of Insurance we will treat an act, omission, statement or a claim by any one of those persons as an act, omission, statement or a claim by all of them.

Please note that the use of *italic* text in this policy indicates that the word or phrase is defined in the clauses. Words in the singular shall include the plural and vice versa.

Optional additional cover

We also provide Legal Assistance and Defence cover, Personal Accident cover and Charterer's Liability insurance. Please contact *us* should you require these additional covers.

Claims handling procedure

If you are involved in an *incident* which could give rise to a claim you should contact *us* immediately at:

The Shipowners' Protection Limited
St Clare House, 30-33 Minories
London EC3N 1BP

Tel: +44 (0)20 7488 0911

Fax: +44 (0)20 7480 5806

E-mail: info@shipowners.co.uk

Immediate advice and local assistance is also available from *our* correspondents who are listed at www.shipownersclub.com/correspondents

It is important that you contact *us* or *our* local correspondent promptly, so that we can assist you. The earlier we are involved the better. We recommend that you act prudently and as if you are uninsured until such time as we have taken over the handling and management of the *incident*.

When reporting a claim it will help *us* if you include your yacht's name, the *incident* date, the nature of the *incident*, the location of your yacht and location of the *incident* (if different). If an injury or collision is involved you may be required to notify the appropriate authorities.

We have the right to handle, settle or compromise claims or proceedings as we see fit. We may appoint lawyers, surveyors or other persons when we consider these are necessary. They may report to *us* and provide documents or information to *us*, without prior referral of these matters to you.

You must not admit liability for any claim and you must not settle a claim without *our* prior approval. You must also preserve any rights you may have to limit your liability. If you admit liability, settle or fail to preserve your limitation rights, your claim may be rejected or reduced. If we pay the claimant, you or your nominated broker, manager, agent or some other person whom you nominate, *our* liability shall be fully discharged.