

GARRIGUES

THE NEW BALEARIC ISLANDS YACHT CHARTERING DECREE

Last Saturday June 18th the Balearic Islands Government submitted for hearing process and public consultation the future Decree that will regulate the activity of yacht chartering. The text of the Decree has received input from the National Association of Nautical Employers (ANEN), to which I am a tax adviser, as well as from the Spanish Association of Large Yachts (AEGY), with which joint work has been done under the cooperation agreement signed in Palma on July 23, 2015, as well as with AENIB, member of ANEN.

This is good news for the industry, as the new legislation will be an important step towards simplifying, streamlining and unifying the procedure to be able to engage in chartering.

The first advantage of this Decree is that it fully regulates in a single legal text the previous legislation on this activity, which was spread among various texts and out of date from a terminological standpoint, in particular since the entry into force on September 25, 2014 of Maritime Shipping Law 14/2014, of July 24, 2014.

In addition to the above, the key features of the new Decree (which will enter into force in a couple of months, after the analysis of the allegations to be filed in the hearing process) are as follows:

- It maintains, as was to be expected, the possibility of chartering yachts registered in countries that do not belong to the European Union or are not signatories to the Agreement on the European Economic Area (EEA) on the same terms as those established in the preceding legislation.

This measure, which at the time entailed the adaptation of Spanish legislation to that of its neighbors such as France or Italy—Spain's main competitors—is now raised to the legislative rank of Decree.

- It generalizes the statement of responsibility regime, which will now also apply to yachts that do not belong to the European Union or are not signatories to the EEA Agreement.

Until the Decree takes effect, these yachts will require a license expressly granted by the Directorate-General of Ports and Airports of the Balearic Islands Government. Consequently, the procedure has been simplified and unified, thereby shortening the time frames required to be able to engage in chartering.

- The documents that the owner will need to charter the yacht have not changed, although it is important to note that, given the generalization of the statement of responsibility regime, the transaction of documents drafted in a foreign language will not be necessary in principle.



Only where the authorities conduct inspections will they be able, at their discretion, to require a translation of these documents. Where the documents are public documents, the translation must be sworn and the documents previously certified by apostille.

- Both statements of responsibility and their renewals requested after January 1, 2017 will be valid for two years, compared with the one year of validity established in the former legislation, which is a significant improvement. It is important to note that licenses or renewals requested before January 1, 2017 will continue to be valid for one year, which also means to a large extent to delay the applicability of the main provisions of the Decree until 2017, desirable to not alter the summer season.
- While it is accepted that it is not strictly a charter, the Decree admits the possibility to market the yachts as a whole and also on a passenger basis.
- The new legislation introduces the hitherto unavailable possibility for yachts registered on the Special Register of Vessels and Shipping Companies (Canary Islands) to engage in chartering.
- Finally, the Decree will create the Balearic Registry of Charterers and Yachts, a regional administrative public registry where yacht-owning companies that have filed a statement of responsibility and yachts that have been declared will be registered. This registry, which will need to be implemented, is aimed at controlling the illegal chartering that occurs mostly in the small lengths, not in superyachts.

In short, good news for the industry which furthers the positive trend promoted by ANEN in October 2013 by eliminating the maximum length of 15 meters to be able to qualify for the exemption from registration tax when it comes to yachts that engage exclusively in chartering in Spanish territory. This was a key issue that explains why is possible today for superyachts to charter in Spanish waters.

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