



## **General Provisions for Swiss Seagoing Small Craft**

### **General remarks**

The Swiss 'Proof of Registration for Small Craft' (for coastal and inland waters) has been designed to allow owners of craft not suitable for navigating the high seas to fly the Swiss flag in foreign territorial waters. In all territorial waters of those states, local law applies first and foremost. The proof of registration entitles the craft to fly the Swiss flag within 12 respectively 24 nautical miles from the nearest shore, according to the respective boundaries of the foreign territorial waters. This limitation may be lifted only for specific events, such as regattas, with permanent assistance nearby.

The following explanations refer to the most important provisions of the Swiss federal regulations for seagoing yachts (Swiss Yachts Ordinance; SR 747.321.7, ref. as YO) which must be adhered to by all Swiss Seagoing Small Crafts, their owners, skippers and crew.

Switzerland is a member of the International Maritime Organization (IMO) and has ratified a substantial number of international treaties on maritime navigation. These constitute a part of Swiss law. Most of these treaties refer only to merchant shipping, however certain international regulations apply also to pleasure craft.

The guidance on the Swiss yacht regulations and the relevant international regulations is for illustrative purposes and reference only, and cannot be considered exhaustive. It is the obligation of all skippers and owners of Swiss pleasure craft to know and adhere to all relevant regulations when navigating, including those of other countries in their respective areas of jurisdiction.

### **1. Display of the Swiss flag at sea, home port and name of the craft (Art. 1 para. 3 YO)**

The Swiss flag to be displayed at sea is rectangular: Length = 1 1/2 x Width (Art. 3 para. 2 & Annex I of the Federal Act on Navigation under the Swiss Flag (Navigation Act [SR 747.30, ref. as NA])). The name of the home port Basel – in one of the official Swiss languages (Basel, Bâle, Basilea) – and the name of the craft must be labelled as per customary use, clearly visible on the stern of the boat (Art. 1 para. 2 and Art. 9 YO).

### **2. Changes to the certificate of registry (Art. 3 para. 3 YO)**

Every change in particulars mentioned in the proof of registration must be reported and the certificate sent to the SMNO immediately. Amendments may only be made by the SMNO. The certificate cannot be transferred to new owners. In case of change(s) in ownership a new certificate must be applied for.

### **3. Renewal of registration (Art. 12 YO)**

The proof of registration certificate is valid for a maximum period of three years. Applications for a renewal for one, two or three years can be sent to the SMNO. The relevant forms may be downloaded from the SMNO's website. The necessary documentary evidence must be submitted.

Vessels with an expired certificate of registry are no longer entitled to fly the Swiss flag at sea. The period of validity cannot be interrupted, even if the craft is not used or stored ashore.

#### **4. Liability (Art. 15 YO)**

Owners of Swiss pleasure craft are subject to the provisions for liability under Articles 48, 49 and 121 NA and Article 41 ff. of the Swiss Code of Obligations [SR 220].

#### **5. Operation and command of craft (Art. 16 YO)**

Owners of Swiss pleasure craft must either skipper them themselves or designate a qualified skipper for the task. Clubs/associations must do the latter. The appointment of a non-Swiss citizen for this task is only allowed if the regulations regarding the nationality of owners are not circumvented by this. All regulations of the NA which apply to Swiss pleasure craft apply also to their skippers and owners, unless the latter have designated a skipper on their behalf.

#### **6. Skipper (Art. 19 YO)**

Every skipper of a Swiss pleasure craft must be duly qualified. The Swiss certificate of competence for operators of pleasure craft on the high seas can be obtained from the examination bodies authorised by the SMNO. Equivalent foreign certificates are also recognised by the SMNO.

Information on the examination bodies authorised and the foreign certificates of competence recognised by the SMNO is available for download on the SMNO's website.

#### **7. Commercial use (Art. 17 YO)**

The commercial transport of persons or goods on Swiss pleasure crafts is prohibited. Within the scope of the Yachts Ordinance, the commercial transport of persons or goods is deemed to occur if any form of remuneration is paid for such transport which is intended to cover more than the proportional ordinary costs of operation during the period of transport. Any kind of compensation, including, but not limited to, a payment in cash or benefit in kind, shall be deemed to be remuneration.

#### **8. Use by third parties (Art. 18 YO)**

A Swiss pleasure craft may be lent to foreign users on an occasional basis, as long as the regulations regarding the nationality of owners are not circumvented by this.

Commercial letting is prohibited. Commercial letting is deemed to occur if a payment (rent) is made in any form intended to cover more than the ordinary costs of operation during the period of letting.

Owners remain responsible and liable for all operations. They shall be liable in accordance with the provisions of the Navigation Act and the Yachts Ordinance.

#### **9. Documentation to be permanently carried aboard (Art. 20 para. 2 YO)**

- The certificate of registry and these general provisions
- The certificate of competency of the skipper (ref. Pt. 6)
- Proof of third-party liability insurance coverage
- If more than 6 co-owners: the contract / bill of co-ownership (rec. in English language)
- For coastal voyages: the logbook, which must be duly filled in by and signed by the skipper on a daily basis and on each page whenever navigating, and which must contain at least the following information:
  - Name and number of the certificate of registry of the craft
  - Name, address and nationality of the skipper

- Type, number, date and place of issuance, and issuing authority of the skipper's certificate of competency
- Personal details including nationality of all other persons present aboard, their role and duties aboard, place and date of their embarkation and disembarkation
- Working language aboard
- Voyage report (meteorological information, sea state and current, courses, log and depth readings, use of sails and/or engine(s), positions, port entries and departures, anchorages etc.)
- Any particular events and/or observations, such as incidents, groundings etc.
- In case of more than 6 co-owners: contract of co-ownership (recommended in English)

A logbook is also recommended for inland voyages. The carrying of further documents is subject to the international and national regulations applicable in the respective navigated waters. It is the responsibility of the ship's command to obtain the relevant information.

### **10. Structural safety (Art. 12a para. 2 let. c YO)**

Boats that are registered in a cantonal register on the basis of the Federal Act of 3 October 1975 on Inland Navigation (SR 747.201) and are registered in the name of the current owner do not require a further safety inspection if the valid certificate of registry is presented.

For boats that are permanently abroad and do not have a cantonal licence, an expert opinion in accordance with the documents "Safety certificate for proof of registration" or "Safety certificate in case of renewal of the proof of registration" must be submitted with the application for the issue or renewal of a flag confirmation for a small and coastal boat and/or a valid foreign safety certificate. These should confirm that the boat in its current condition complies at least with the existing regulations for coastal navigation and/or inland waters in the country concerned and is equipped accordingly.

For new boats straight from the shipyard, a copy of the corresponding type certificate and/or the construction certificate may also be submitted as a safety certificate for the initial issue of the flag confirmation. Alternatively, compliance with the regulations for sports and pleasure vessels on Swiss inland waters can also be demonstrated.

### **11. Safety equipment (Art. 7 para. 1 YO)**

For small boats and coastal boats, the regulations of the corresponding countries and categories are applicable. As a minimum, the safety equipment required by the Swiss Inland Navigation Act must be carried (Art. 132 or Annex 15 of the Ordinance of 8 November 1978 on Navigation on Swiss Waters; SR 747.201.1).

### **12. Hired crew (Art. 21 YO)**

If owners of a Swiss pleasure craft **below 300 GT** hire a skipper and/or a crew to operate it or assist in operating it, the provisions as stipulated in Art. 21 para. 1 YO referring to the NA and the Ordinance from 20 November 1956 implementing the Federal Act on Navigation under the Swiss Flag (Navigation Ordinance [SR 747.301, ref. as NO]) shall apply. In addition, the provisions of the Swiss Code of Obligations (SR 222) relating to contracts of employment also apply.

For pleasure craft of **300 GT and above**, all regulations of the NO and NA regarding employment contracts and maritime labour apply.

### **13. Deletion from registry (Art. 13 YO)**

If change(s) in ownership occur, owners immediately have to request the deletion of the craft from the registry respectively the corresponding amendments, by sending the current certificate of registry to the SMNO. The relevant forms can be downloaded from the SMNO's website.

In order to register a pleasure craft previously registered in Switzerland with a foreign registry, often a certificate of deletion will be required. Upon application for deletion this can be requested from the SMNO by ticking the corresponding box in the relevant form.

In case one or several requirements for registration are no longer met, the proof of registration will be cancelled by the SMNO. This namely includes permanent unseaworthiness, non-disposal of the craft by its owners, a long-time expired certificate of registry and severe or repeated violations of applicable provisions of Swiss and international maritime law, such as commercial use, no or insufficient liability insurance, command without due qualification etc.

#### **14. Applicable international regulations (Art. 16 YO)**

The provisions of all international maritime treaties and customs as ratified and/or declared applicable by Switzerland apply also to the operation of Swiss registered pleasure craft insofar as these are concerned. (Art. 16 para. 3 YO)

##### **A. COLREG**

The Convention on the International Regulations for Preventing Collisions at Sea (COLREG; SR 0.747.363.321) applies to all vessels navigating the high seas and the navigable coastal waters adjoining them, and is consequently to be adhered to by all vessels operating in these areas.

##### **B. SOLAS**

The International Convention for the Safety of Life at Sea (SOLAS, SR 0.747.363.33) stipulates minimum standards to provide for the safety of human life at sea.

SOLAS mainly focuses on commercial navigation respectively merchant shipping. The fifth chapter (SOLAS V) however contains provisions for the safety of navigation for all seagoing vessels, and consequently also for seagoing Swiss registered pleasure craft.

##### **Namely the following rules are to be followed:**

- 29 the watch must dispose of a graphic table showing distress- and emergency signals
- 31/32 Obligation to report dangers to the safety of navigation
- 33 Obligation to assist in cases of distress
- 34 Obligation to duly plan the voyage, safely handle the ship, avoid dangerous situations and to duly protect the environment
- 35 Prohibition to use distress signals unless in an actual situation of distress

Rules 15-28 of SOLAS V do not apply to seagoing vessels below 150 GT, only for those of 150 GT and above.

##### **C. MARPOL**

The International Convention for the Prevention of Pollution from Ships of 1973 and its protocol of 1978 (MARPOL; SR 0.814.288.2) applies to all vessels, hence also to seagoing pleasure craft.

Annex I (MARPOL I) addresses marine pollution by oil. The applicability of the individual regulations varies widely. Some provisions apply also to smaller craft, e.g. Art. 14 para. 4, Art. 15 para. 6. Most regulations however apply to vessels of **400 GT and above** or only certain types of vessels, such as tankers.

Annex IV (MARPOL IV) regulates the prevention of pollution **waste waters**. The provisions apply to all vessels **of 400 GT and above** or carrying **15 or more persons**.

Annex V (MARPOL V) contains regulations for the **prevention of pollution by garbage from ships**. Some provisions already apply to ships of all types and sizes (Art. 3 ff.). Above certain sizes, additional special equipment regulations apply (Art. 10; above 12 metres: Placard; above 100 GT or 15 or more persons: Garbage Management Plan and Garbage Record Book).

Annex VI (MARPOL VI) **contains provisions to prevent air pollution by ships**. These apply also to pleasure craft, particularly regarding ozone-depleting substances, nitrous and sulphuric oxides, particulate matter, volatile organic substances and garbage incineration; **diesel engines of 130 kW or more and vessels of 400 GT and above** must further comply with certain requirements regarding energy efficiency.

#### **D. Tonnage Convention**

The International Convention on Tonnage Measurement of Ships 1969 (SR 747.305.412 [Tonnage Convention]) requires vessels exceeding certain dimensions to be measured according to these rules.

For seagoing small boats and coastal boats with an overall length of 24 metres or more, a tonnage certificate issued in accordance with international rules must be submitted to the SMNO. The overall length is determined according to the definition of the Tonnage Convention (Art. 2 No. 8).

A ship's measurement in accordance with international rules along with issuance of the associated tonnage certificate is provided by all classification societies recognised by the SMNO and by various foreign port and maritime authorities, including the German Federal Maritime and Hydrographic Agency ([www.bsh.de](http://www.bsh.de)).

The list of classification societies recognised by the SMNO can be downloaded from the SMNO's website.

#### **E. Other potentially applicable international treaties (non-exhaustive list)**

- International Convention on the Control of Harmful Anti-Fouling Systems on Ships (SR 0.814.295; AFS Convention)
- Nairobi International Convention on the Removal of Wrecks (SR 0.747.363.5; Nairobi Convention)
- Ballast Water Management Convention (SR 0.814.296; BWM Convention)
- International Convention on Civil Liability for Bunker Oil Pollution Damage (SR 0.814.294; CLC - Bunker Oil Convention)