



08 December 2020

**GUIDANCE FOR RECREATIONAL VESSELS FOLLOWING THE END OF THE BREXIT
TRANSITION PERIOD AT 2300GMT ON 31 DECEMBER 2020**

Background.

This note is targeted at Hamble River Users' likely circumstances as we approach the end of the Transition Period. Its purpose is to highlight that certain changes will take place at the end of the year which will affect a good number of River Users. In the interests of brevity and clarity, it is an abridged note and not intended to be comprehensive. It reflects the situation at the time of writing and is issued as guidance only. Further, more detailed and definitive advice, updated on a regular basis can be obtained on Government and RYA web pages. These should be followed.

River Users may be aware that the Transition Period for leaving the European Union will end at 2300GMT on New Year's Eve 2020. This has important implications for both for those with boats remaining in the United Kingdom and for those who may intend travelling overseas in their craft.

The Rules will be updated as negotiations between the United Kingdom and the EU develop over the coming weeks. It will be important to note the current implications both for taxation purposes and for proof, where required, of qualifications held.

Tax – specifically VAT on boats.

Where your vessel is located at 2300hrs on 31 December matters because it will determine your VAT and customs status. It will be important that you can prove where your vessel was at this time. It will be an individual's responsibility to acquire and retain in a safe place documentary evidence of his or her vessel's location. It is recommended that this evidence is kept in case of challenge in the future for any Relief that may be in question.

Recreational boats lying in the Hamble (or anywhere else in Great Britain) at the time the Transition Period ends will cease to be in what is termed 'Free Circulation' in the Customs Territory of the EU. That means they will no longer have 'Union Status' and will be treated by the UK as 'Domestic Goods'. The need to prove 'Domestic Goods' status in respect of boats will become apparent later in this note.

In order to evidence 'Domestic Goods' status in the future the owner will need to continue to retain evidence of the boat's VAT paid status and also obtain and keep evidence to demonstrate the boat's location at the end of the Transition Period as indicated above.

If any vessel lying in the UK at 2300GMT on 31 December 2020 is taken out of the UK (exported) the owner will need to be able to demonstrate eligibility for Returned Goods Relief (RGR) in the future.

HMRC has confirmed that where VAT was paid in the EU 27 rather than the UK, if a boat which has domestic [UK] status as a result of being in Free Circulation in the UK at the end of the Transition Period, leaves the UK (i.e. is exported from the UK) on its return the owner will be eligible for RGR on the basis that EU VAT had been paid.

It is important to note that VAT payment on a boat will not necessarily be considered as a 'one-off' event when entering countries in the European Union. Further, more detailed advice on Returned Goods Relief can be found on the RYA website:

<https://www.rya.org.uk/knowledge-advice/current-affairs/Pages/eu-rgr-ta.aspx>

The concept of 'EU Temporary Admission' which will allow UK registered recreational vessels VAT free access (provided they are able to satisfy certain specified requirements) is likely to be in place after the Transition Period has ended. This has not yet been confirmed.

EU Temporary Admission.

Temporary Admission, if and when confirmed, will allow non-EU (eg UK) recreational vessels, used for private purposes to enter the EU customs territory (which includes territorial waters) for a limited period of time without payment of VAT and, if applicable, import duty as long as they:

- are intended for re-export; and
- are not intended to undergo any change, except normal depreciation.

Although the EU VAT Directive states that a chargeable event for VAT occurs when a boat is imported into the EU, if the boat is placed under Temporary Admission with total relief from import duty, VAT only becomes chargeable when the boat ceases to be covered by those arrangements.

Conditions that must be met require that the boat:

- is registered outside the customs territory of the Union; and
- is registered in the name of a person established outside customs territory of the Union or if the boat is not registered it must be owned by a person established outside the customs territory of the Union; and
- must be used by a person established outside the customs territory of the Union (although there are a few exceptional situations in which this requirement does not apply).

A person established outside the customs territory of the Union is someone who has his or her habitual residence outside the customs territory of the Union or in the case of a legal person or an association of persons, having its registered office, central headquarters or a permanent business establishment outside the customs territory of the Union.

Although the UK has left the EU, until the end of the Transition Period, the UK is still treated as part of the customs territory of the Union. This means that a UK registered boat or a boat owned by a person who is established in the EU (including for the moment the

UK) is currently not eligible for Temporary Admission. Thereafter, unless the future relationship between the UK and the EU determines otherwise, a UK registered boat owned by somebody who is established outside the customs territory of the Union (eg in the UK) will be eligible for Temporary Admission.

The time limit for the discharge of the Temporary Admission procedure in the case of a privately used vessel is 18 months. There is scope within the Union Customs Code (UCC) for the period of Temporary Admission to be extended, but only in exceptional circumstances.

Documentary Evidence.

It must be noted that, until the future UK – EU relationship has been finalised, it is not absolutely certain that UK boats will be eligible for Temporary Admission. Assuming they are, after the end of the Transition Period, some UK flagged boats within the customs territory of the Union will have ‘Union Status’ and some will have been allowed to enter the EU under Temporary Admission for a limited period with total relief from VAT and import duty. The boat’s flag state and the nationality of the owner might then become triggers which lead to increase interest in the customs status of UK flagged and / or UK owned boats.

If this is the case, it will be important to have the relevant documentary evidence to demonstrate the boat’s status, if requested.

In correspondence, the European Commission has advised that, the Union Customs Code states “The relief from import duty shall be supported by information establishing that the conditions for the relief are fulfilled”.

Whether your boat will be in the EU27 for an unlimited duration of stay on the basis of it having Union Status or you intend to rely on a Temporary Admission arrangement to go boating in the EU27, we encourage all to whom this may apply to retain evidence to ensure that it can be demonstrated that all of the applicable criteria, detailed above, are met.

Additionally it is recommended that evidence of the location of the boat at the end of the Transition Period, is obtained and retained, to evidence eligibility for RGR in the future.

Validity of the RYA International Certificate of Competence (ICC) and other Certificates¹.

Non-Professional Use.

For countries (most) which are signatories to the United Nations’ Convention of the Laws of the Sea (UNCLOS), vessels must comply with any requirements of the Coastal State. Whether acceptance of UK certificates issued by the RYA will change with the end of the transition period, when the UK ceases to be treated as an EU Member State, will be determined by the legislation of the country in which the boat is registered (in our case the UK) and the country in the waters of which the boat is being used.

¹ The RYA <https://www.rya.org.uk/knowledge-advice/current-affairs/Pages/brexit-what-happens-next.aspx>

The ICC is not an EU document. It is issued under the authority of the United Nations Economic Commission for Europe (UNECE) Inland Transport Committee Working Party under Inland Water Transport Resolution 40. This Resolution details how and to whom the ICC may be issued, the syllabus requirements, the layout of the certificate and also lists the countries which have accepted the Resolution. The UK Government has accepted Resolution 40 and has authorised the RYA to issue the ICC on its behalf. At this stage the RYA has no reason to suspect that acceptance of the ICC, in countries that have adopted Resolution 40, might change as a direct consequence of the transition period ending.

Professional Use.

RYA professional qualifications (e.g. commercially endorsed certificates of competence) are accepted by the UK Government for use on UK-flagged commercial yachts but such qualifications are not, and never have been, STCW²-compliant certificates.

RYA professional qualifications are not subject to the mutual-recognition mechanism envisaged in the STCW convention and do not fall within the scope of the EU Directive on the mutual recognition of seafarers' certificates issued by member states which in particular states that "Every Member State shall accept [STCW] certificates of proficiency and documentary evidence issued by another Member State, or under its authority, in hard copy or in digital format, for the purpose of allowing seafarers to serve on ships flying its flag".

RYA professional qualifications are accepted by several non-UK national administrations for use on vessels flying their flags but this is a matter for each of those administrations individually and there is no obligation on them to do so. The UK leaving the EU will not of itself necessarily change this position, nor will it have any impact on the acceptability of RYA professional qualifications to the UK Government for use on UK-flagged commercial yachts.

Questions on the use of RYA qualifications should be addressed to the RYA.

J A Scott
Marine Director and Harbour Master

² International Convention on Standards of Training, Certification and Watchkeeping for Seafarers