

MOORING GUIDANCE FOR CONTINUOUS CRUISERS

April 2004

If a boat is licensed on a 'continuous cruising' basis it must move on a regular basis. This guidance¹ seeks to explain in day to day terms the nature of the compulsory movement that must take place. There are three key legal² requirements :-

- the boat must genuinely be used for navigation throughout the period of the licence.
- unless a shorter time is specified by notice the boat must not stay in the same place for more than 14 days (or such longer period as is reasonable in the circumstances); and
- it is the responsibility of the boater to satisfy BW that the above requirements are met.

“Navigation”

The law requires that the boat “will be bona fide used for navigation throughout the period of [the licence]”. ‘Bona fide’ is Latin for “with good faith” and is used by lawyers to mean ‘sincerely’ or ‘genuinely’. ‘Navigation’ in this context means travelling on water i.e. making a journey³. A “cruise” is a journey or series of journeys “making for no particular place or calling at a series of places”.⁴

Therefore, subject to stops of permitted duration, those using a boat licensed for continuous cruising must genuinely be engaged on a journey or series of journeys. Such journey or cruise must take place “throughout the period of [the licence]” and therefore requires progression around the network, or at least a significant part of it.

Thus short trips within the same area, “bridge hopping” and shuttling backwards and forwards along a smaller part of the network does NOT meet the legal requirement for continuous cruising. The law requires a genuine progressive journey (a cruise) around the network or significant part of it.

“Place”

The law requires that stops during such a journey should not be “in any one place for more than 14 days”. “Place” in this context means a neighbourhood or locality, NOT simply a particular mooring site or position⁵.

Therefore to remain in the same neighbourhood for more than 14 days is not permitted. The necessary movement from one neighbourhood to another can be done in one step or by short gradual steps. What the law requires is that, if 14 days ago the boat was in neighbourhood X, by day 15 it must be in neighbourhood Y. Thereafter, the next movement must normally be to neighbourhood Z, and not back to neighbourhood X (with obvious exceptions such as reaching the end of a terminal waterway or reversing the direction of travel in the course of a genuine progressive journey).

What constitutes a ‘neighbourhood’ will vary from area to area – on a rural waterway a village or hamlet will be a neighbourhood and on an urban waterway a suburb or district within a town or city will be a neighbourhood. A sensible and pragmatic judgement needs to be made.

It is not possible (nor appropriate) to specify distances that need to be travelled, since in densely populated areas different neighbourhoods will adjoin each other and in sparsely populated areas they may be far apart (in which case uninhabited areas between neighbourhoods will in themselves usually be a locality or ‘place’). Exact precision is not required or expected – what is required is that the boat is used for a genuine progressive journey (i.e. a cruise).

“14 days or such longer period as is reasonable in the circumstances”

Circumstances where it is reasonable to stay in one neighbourhood or locality for longer than 14 days are where further movement is prevented by causes outside the reasonable control of the boater. Examples are illness, family emergency, mechanical breakdown, emergency navigation stoppage etc.

Such reasons should be made known to local BW people so that they can be noted (see below about boaters responsibilities). Reasonable steps (where possible) must be taken to remedy the cause of the longer stay – e.g. repairs put in hand where breakdown is the cause. Also a longer stop at an approved winter mooring outside the summer cruising season is permitted, subject to the payment of the local winter mooring fee.

Unacceptable reasons for staying longer than 14 days in a neighbourhood or locality are a need to stay within commuting distance of a place of work or of study (e.g. a school or college).

Boater's Responsibility

The law requires the boater to satisfy BW that the continuous cruising requirements are met and not the other way around.

This is best done by keeping a cruising log, though this is not a compulsory requirement. If however, BW has a clear impression that there has been limited movement insufficient to meet the legal requirements, it can ask for more information to be satisfied in accordance with the law. Failure or inability to provide that information may result in further action being taken, but only after fair warning⁶.

Summary

- Continuous cruisers must be engaged in a genuine progressive journey (a cruise) around the network, or a significant part of it.
- They must not stay moored in the same neighbourhood or locality for more than 14 days (unless special reasons prevent onward movement).
- It is the boater's responsibility to satisfy BW that they keep to the rules.

Notes

¹ This guidance does not have the force of law but seeks to interpret the law as set out in s.17 British Waterways Act 1995. The language of the Act is generic and, as with all statutes, requires interpretation. The guidance is based on professional legal advice and is believed to reflect the interpretation a court of law would apply.

² Section 17(3)(c) British Waterways Act 1995 states that BW may refuse a licence ("relevant consent") unless

(i) BW is satisfied the relevant vessel has a home mooring or:

"(ii) the applicant for the relevant consent satisfies the Board that the vessel to which the application relates will be used bona fide for navigation throughout the period for which the consent is valid without remaining continuously in any one place for more than 14 days or such longer period as is reasonable in the circumstances."

³ The relevant meaning of the noun 'navigation' given in the Shorter Oxford Dictionary is "the action or practice of travelling on water"; and the relevant meaning of the verb 'travel' is given as "make a journey, esp. of some length".

⁴ Shorter Oxford Dictionary.

⁵ The Shorter Oxford Dictionary gives some 8 separate principal meanings for the noun 'place'. Therefore the rules of legal interpretation require the meaning that most appropriately fits the context to be used. Since 'navigation' means travelling by water and 'travel' means a journey of some distance, the word 'place' in this context is used by the Act to mean an "area inhabited or frequented by people, as a city, town, a village etc" (meaning 4b in the Shorter Oxford Dictionary).

⁶ Enforcement of the legal requirements will be based on observations by BW. If initial observations indicate insufficient movement to meet the legal requirements, the boater(s) will be advised why the observed movement is considered insufficient and be asked thereafter to keep adequate evidence of future movements. Failure then to meet the movement requirements, or to provide evidence of sufficient movement when requested by BW, can be treated as a failure to comply with s.17 of the 1995 Act. After fair warning the boat licence may then be revoked (or renewal refused). Unlicensed boats must be removed from BW waters, failing which BW has power to remove them at the owners cost.