

This leaflet aims to give you some general information relating to the buying of a boat abroad from a private seller (not a yacht broker). If after reading this leaflet you still have any queries please do not hesitate to get in touch with the Legal Department on 0845 3450373 legal@rya.org.uk.

The most important basic principles are as follows: -

1. Checking title/mortgage status;
2. Checking VAT status;
3. Checking whether the boat is Recreational Craft Directive compliant or exempt;
4. Signing the contract;
5. Survey/seatrial;
6. Completion; and
7. Post completion matters.

These principles are the same regardless of where you buy the boat. However, if you are buying abroad the whole process does become more involved simply because the costs involved in getting it wrong are that much higher.

1. CHECKING TITLE/MORTGAGE STATUS:

You would normally check title by contacting the Registrar of Shipping in the country where the boat is registered and try to establish, by looking at a copy of the documents whether the Vendor owns the boat and whether there are any outstanding mortgages on the boat. However, each registration system operates differently and it is worth checking what information you can receive from the particular Registry concerned. It is therefore important to establish the validity of information on the register i.e. how far back do the registration authorities check title, is an undisclosed mortgage binding on a buyer who buys in good faith and what security does that registration system offer you.

2. CHECKING VAT STATUS:

It is important to check the VAT status of the boat before you proceed with your purchase. If the Vendor is not able to provide the original/copy VAT (receipted) invoice or evidence that the boat is VAT exempt and you decide to proceed with the purchase, you may be potentially liable for VAT on the boat which is based on the current value of the boat. The rates of VAT can differ considerably

in the EU states. This could potentially saddle you with a huge financial liability and it is therefore imperative that you raise the issue of the boat's VAT status early on in your negotiations with the Vendor.

3. CHECKING THE BOAT'S RECREATIONAL CRAFT DIRECTIVE STATUS:

Since 16th June 1998 all recreational craft with few exceptions, between 2.5 and 24 metres in length, sold or put into service in the European Economic Area (EEA) for the first time must comply with the essential safety requirements of the RCD and must be CE marked to certify compliance. This includes imported boats either new or secondhand, and home built boats if placed on the market within five years of completion, intended for sports and leisure purposes. The builder/his agent or the person importing the boat is responsible for compliance and marking.

The EEA includes all EU countries plus Iceland and Norway. A list of EEA countries can be obtained from the Technical Department of the RYA.

A boat that comes within the scope of the RCD must have accompanying documentation. These include a Technical File, and an Owner's Manual which must include a written Declaration of Conformity. The boat should also carry a CE compliance plaque in a prominent place which should include Design category, plus the Manufacturer's Maximum Recommended Load.

Recreational craft built in or put into service within the EEA before 16th June 1998 will be exempt from the requirements of the RCD.

If you are buying a non EEA boat eg from the US check whether it has been in EEA waters before 16/6/98 and there is documentation to prove this.

If you are buying a boat that was built on or after 16th June 1998, you should check with the seller whether or not the boat complies with the RCD and if not whether:

- (a) It should have complied but didn't. If this is the case, do contact the RYA Technical Department; or
- (b) The boat does not need to comply because it is eligible for one of the exceptions under the terms of the Directive. If so, it should display an exemption label.

Further information and advice on the RCD can be obtained from the Technical Department's section of the website or by telephoning the department on 0845 345 0383 or by email to technical@rya.org.uk.

4. SIGNING THE CONTRACT:

The contract is the document that lays out all the terms and conditions that relate to the sale. Those terms must be clearly understood by both parties and it should be clear what legal system governs the transaction.

For example, does the Sale of Goods Act or the equivalent Act in the country where the sale was made cover you? If you are governed by the latter what protection does that offer you and what recourse have you got in the event of there being a breach of contract. Ideally you would not want to get to that point and one of the ways in which you can protect yourself is to make sure that the contract that you do have offers you the best protection possible.

The RYA's standard contract called "Agreement for the sale and purchase of a second hand boat" may not be used in international sales, as its jurisdiction is limited to England and Wales. The only way in which it may be used is if the other person (who will usually be a foreign national) expressly agrees to be bound by UK law. It would be a good precautionary measure to include this express clause in the contract. If the other person does not agree to be bound by UK law then the RYA contract should be amended or a separate contract will need to be used or drawn up. This may mean going to see a solicitor, if the circumstances are such that you consider this a valid course of action. A person buying abroad, particularly if the boat is worth a reasonable amount, would be unwise to attempt a sale without some form of written agreement.

5. SURVEY/SEATRIAL:

The RYA recommends having a survey on the boat. A good surveyor will normally unearth enough defects on the boat to enable you to argue for a reduction in price, which will at least cover the cost of the survey. What happens once you have received the survey report should be incorporated into the contract as it is one of the potential sticking points of the sale, so it is a good idea for all the parties to be clear on what options are available, depending on the findings of the surveyor.

Boats are expensive and liable to deterioration and damage. In most cases the only way to check the boat's condition is to have a

survey done, and the results will often determine whether a sale proceeds smoothly, has its terms renegotiated or is terminated. If a buyer does not have a survey done, but relies on his own experience, and faults are subsequently discovered with the boat, then the chances of the buyer having any form of redress are fairly small. The onus is completely on the buyer to ensure that the boat he is buying is in a satisfactory condition, or that he is fully aware of the condition of the boat, prior to completing the sale. The principle to apply is "Buyer Beware!". This is particularly relevant if you are buying a boat abroad, as the costs involved in bringing a cross jurisdictional dispute are often prohibitive.

If you are planning on putting the boat on the Part 1 Register in the UK then the boat will need to be surveyed by a surveyor who is a member of an organisation that the UK Ship Register (RSS) recognises. For an up to date listing of these organisations please contact the UK Ship Register (RSS) directly on 02920 448800. If you contact the Registry before you organise your pre purchase survey then you may be able to arrange for the surveyor to do both the pre purchase survey and the tonnage and measurement survey (provided that you are reasonably happy with the boats condition, and you do not believe the survey report is going to bring up anything that is going to warrant you pulling out of the sale). For further information on boat registration, see the boat registration section of the website and visit the UK Ship Register (RSS) website: www.ukshipregister.co.uk. or www.mcga.gov.uk then follow the link for online registration.

For further details contact the RYA Technical Department on 0845 345 0383 or the YBDSA on 01730 710425 who can supply the names and addresses of surveyors in a few countries abroad.

It is also worth checking whether your surveyor carries personal indemnity insurance and what his qualifications are and the YBDSA should be able to inform you of this.

It is important to check on your surveyor's area of specialisation. Some surveyors specialise in wooden boats, others in GRP. It is important that the surveyor you instruct is familiar with that type of boat.

It may be appropriate for you to negotiate into the contract an option for you to conduct a sea trial prior to your accepting the boat. Such a trial would undoubtedly be at your own expense and you may well have to insure for any risks that the boat may be exposed to during the trial. The clause should make provision for faults that come to light as a result of the trial. It may be

appropriate to have your surveyor/engineer join you on the sea trial.

Contact details for surveyors can be found under the survey section of the website.

6. COMPLETION:

On completion you should receive:

- Receipt for purchase monies
- A Bill of Sale, which may need to be translated and signed by a notary public before you can use it to register your boat in the UK (you will need to check this with the UK Ship Register by contacting them on 02920 448800 before you complete the sale.) The seller will need to use the Bill of Sale issued by the registration authority where the boat is registered, so unless the boat is registered in the UK you will not be able to use a UK Bill of Sale.
- A Certificate of Registry (if the boat is registered);
- A de-registration certificate. A boat cannot be on two registration systems at the same time. Therefore, before you can register the boat in the UK it will need to be taken off the foreign register by the current owner.
- VAT paperwork, original/copy (receipted) invoice or a exemption paperwork. There are a number of different VAT scenarios that may apply if you are buying a boat abroad, for example, if you are buying a boat second hand, from an EU national and the boat is lying within the EU; if you are buying a new boat abroad; if you are buying a boat outside the EU. For guidance on the VAT rules that may be applicable see the VAT section of the website also contact HM Revenue & Customs on 0845 010 9000 or visit the HMRC website at www.hmrc.gov.uk
- Bills of Sale tracing ownership from the very first owner of the boat to the current Vendor;
- Builder's certificate;
- Builder's invoices;
- Evidence of date of arrival in the European Community;

- Confirmation of RCD compliance;
- Any other documents in the Vendor's possession relating to his acquisition of the boat, which may include:
 - Equipment manuals;
 - Service records;
 - Receipts for repair work;
 - Racing Certificates;
 - Mooring charges;
 - Harbour dues.

7. POST COMPLETION MATTERS:

Before you bring the boat back to the UK it should be insured. This is not a legal requirement but it is advisable.

If you are intending to sail your boat to the UK from abroad you will need to register it. **This is a legal requirement.** There are 4 ways of doing this:

- a) Before the sale is completed the boat is taken to the UK by the present owner, the sale is completed in the UK, the previous owner then takes the ferry back, and you can register the boat at your leisure; or
- b) The boat is taken off the foreign register (de-registered), you then re-register her while she is still abroad, and once registered you can sail her to England;

or

- c) You apply to transfer the registration details in the registered flagged state to your name (if indeed you are permitted to do so by that country), sail her to the UK under her foreign flag and then de-register the boat from the foreign register and then register it under the British Register. This is likely to prove the more costly out of the 3 methods.
- d) Provisional Part I Registration:

The provisional Part I Registration is only available to vessels that are currently outside of UK waters where it is intended to bring the vessel into UK waters. It is available where it is not possible to register the vessel on the Part I Register because not all of the paperwork is available, for example the tonnage

measurement survey.

You may wish therefore to apply for a provisional Part I Registration, which is valid for 3 months.

In order to apply you will need to submit to the Registry:

- (a) The usual Part I application form;
- (b) Declaration of eligibility;
- (c) Letter confirming the vessel is outside the UK;
- (d) For companies, a Certificate of Incorporation; and
- (e) The appropriate fee.

Provided your vessel arrives in the UK within the 3 month timescale and you have all the necessary paperwork you can apply to upgrade your provisional Registration to a full Part I Registration. A further fee will be payable for this.

For further details contact the UK Ship Register (RSS).

It is quite common for people who are planning to put the boat on the Part I Register, to put her initially on the Small Ships Register, which is fairly quick, cheap and easy and which does not require a tonnage measurement certificate, then sail the boat back to the UK using her SSR papers. Once the boat is back in the UK it is a lot cheaper and easier to sort out tonnage measurement surveys and the travel costs of the surveyor are a lot less.

If you intend to transport your boat to the UK from abroad on a trailer there is no need requirement to register it.

For further details on boat registration, including registration forms and guidance notes visit the UK Ship Register (RSS) website www.ukshipregister.co.uk or Tel: 02920 448800 or www.mcga.gov.uk then follow the link for online registration.

For more information kindly contact the Legal Team on 0845 3450373 or legal@rya.org.uk

Disclaimer:

The RYA Legal Department provides generic legal advice for its members, affiliated clubs and RTCs. This leaflet represents the RYA's interpretation of the law. It takes all reasonable care to ensure that the information contained in

this leaflet is accurate. The RYA cannot accept responsibility for any errors or omissions contained in this leaflet, or for any loss caused or sustained by any person relying on it. Before taking any specific action based on the advice in this leaflet, members are advised to check the up to date position and take appropriate professional advice.

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