

Recreational Craft Directive RYA Compliance Guide

Appendix 2



Virtually all recreational craft built since 16 June 1998 and intended for sport and leisure use, may only be placed on the EEA market or put into service within the EEA if they meet the essential safety requirements set out in the Recreational Craft Directive – 2003/44/EC as amended by Directive 2003/44/EC. These regulations apply to all recreational craft between 2.5 and 24 meters in hull length whatever the means of propulsion. They may be fully built or partly completed; constructed within, or imported from without the EEA. The builder, importer or owner, or the person putting the craft into EEA service, (*the responsible person*) has a legal obligation to ensure that the craft meets the relevant requirements and to carry out the appropriate CE marking.

Does the boat need to comply with the RCD?

A boat does need to comply with the RCD if it is not one of the exclusions below and if:-

- It was/is first placed on the EEA market **after 16 June 1998**
- It was/is put into service in the EEA **after 16 June 1998 (this included boats imported from outside the EEA)**
- It is a home built boat placed on the market within five years of completion
- It is an experimental or racing boat being redesigned for compliance with the RCD

A boat does not need to comply with the RCD if:-

- It is one of the exclusions listed in Appendix 2
- It was built in the EEA **prior to 16 June 1998**
- It was in use in the EEA **prior to 16 June 1998**
- It is only visiting the EEA for reasons of tourism or in transit (*time scales are undefined*)

Exclusions from the Directive

The following is an extract from the RCD and Commission Comments concerning Boats.

For Engine emission exemptions please see the RCD itself.

3. The following shall be excluded from the scope of this Directive:

Paragraph 3 contains a list of craft, which are excluded from the scope of the Directive: Whilst it is for the manufacturer to decide whether a boat is covered by the Directive or not, advice may be sought from the Member State Administration, in order, perhaps, to give greater validity to the decision. The Commission's Comments to the Directive may be used for guidance. If a Member State Administration is, at the end of the day, still unsure, even after consultation with a notified body, then advice may be sought from the Commission. In

this case advice would be sought on a wider basis using the services of the standing committee referred to in Article 6 of the Directive or other groups created under the Directive. There is no provision for this information to be notified to the Commission or for the Commission to keep a list of excluded craft.

(a) craft intended solely for racing, including rowing racing boats and training rowing boats labelled as such by the manufacturer;

The exclusion in (a) concerns craft intended solely for racing and designated as such by their builder. These include rowing racing boats and boats intended for rowing training, that are designed exclusively for racing. Some racing boats are by their very design so extreme in their racing profile that they could in no way be examined against the requirements of the Directive. It is these designs for which this exclusion was drafted. In the remaining majority of craft, examination against the requirements of the Directive could be feasible. That said, a manufacturer who decides, as it is his decision, to label the boat “intended solely for racing” is demonstrating the intended prime purpose of the boat to adequately compete with other boats (perhaps employing minimalist internal fittings). Such a labeling should be clearly visible affixed to the boat. If, in the future this boat is placed on the EEA market not as a racing boat, perhaps because the design is no longer competitive, the boat then falls under the requirements of the Directive as this would constitute the “first placing on the market” as a recreational craft.

(b) canoes and kayaks, gondolas and pedalos;

The exclusions in (b) concern types of watercraft, which are by nature incompatible with some of the essential requirements but whose inclusion in the Directive might be debatable. Canoes and kayaks, gondolas and pedalos are considered to be craft designed to be propelled by human power excluding rowing. Rowing is considered to be the use of more than one oar. If canoes are so designed and constructed that they can be fitted with an engine and placed on the market as such, they are covered by the directive.

(c) sailing surfboards;

The exclusion in (c) concerns craft whose design is incompatible with the essential requirements of the directive.

(d) powered surfboards and other similar powered craft;

The exclusion in (d) is intended to exclude powered surfboards or similar powered craft. This does not exclude Personal Water Craft /Jet skis which became subject to the RDC as from 1 January 2006.

(e) Original, and individual replicas of, historical craft designed before 1950, built predominantly with the original materials and labeled as such by the manufacturer;

The exclusion in (e) is intended to exclude from the scope of the Directive craft designed before 1950. In addition this exclusion is also intended to exclude craft and/or types or

classes of craft which were designed or developed before 1950 and which are individually constructed predominantly but not exclusively using the original materials. Builders of historical craft are able to build the same authentic bygone design, one boat after another. These boats are still unique and individual, when built using methods and materials consistent with the original design, and retain their aesthetic charm and characteristics. In this respect, predominantly means using the original material for both the hull and the deck, but allowing contemporary use of materials e.g. plywood instead of solid timber, laminated frames, modern adhesives, paints, sealant and fastenings. Series production by means of moulds (e.g. GRP production) shall not be possible in these cases.

It is noted that some classes of boat that were designed before 1950 that were originally made exclusively of wood are now produced of modern plastics. These contemporary constructions are considered to fall within the scope of the Directive as the criteria regarding “predominantly of original materials” is not fulfilled.

NB: All Member States have individual boat designs that are peculiar to that State or region thereof, e.g. “pattini” in Italy or “treehandiri” in Greece. These boats are generally:

- of a design pre-dating 1950,
- built in specialist yards of original materials.

Of the two bullets above, the first takes predominance. The Member State must be satisfied that such an exclusion from the Directive would not give carte blanche for series production.

(f) experimental craft, provided that they are not subsequently placed on the Community market;

The exclusion in (f) concerns experimental craft. Such craft may be placed on the EEA Market only if their design and construction is subsequently certified in conformity with the Directive.

(g) craft built for own use, provided that they are not subsequently placed on the Community market during a period of five years;

The exclusion in (g) concerns craft built by their future user, provided that they are not placed on the EEA market within five years of being put into service. This does not preclude the sub-contracting, by the builder, of specialists in certain aspects of the fitting out of the boat e.g. electrical or electronic engineers.

A kit boat bought by its end user, from the kit boat manufacturer, not completed in accordance with the kit manufacturers instructions [i.e. modified⁽¹⁾] but to the “desires” of the end user is considered to be a “boat built for own use”.

If, for whatever reason, a boat built for own use is intended to be placed on the Community market, whether completed or partly completed, within the 5 year period, then certification by a person or persons fulfilling the role of manufacturer would be required in a similar manner to (f) above. These persons would take the responsibility for the appraisal of the design, construction and any necessary modification of the boat. This appraisal, with regard to compliance with essential requirements of the Directive, involves the procedures necessary for conformity assessment.

NB:

A member of the general public building his own boat (in his garage or garden, for example), from materials bought on the open market is deemed to be “building a boat for his own use”. This boat lies outside of the Directive and does not require compliance with the essential requirements and thus CE Marking. If for whatever reason this situation changes then the provisions detailed above would be seen to apply.

It should be made clear that a private person who enters into a contractual arrangement with a professional company, yard or individual constructor to build a one off boat (be-spoke) is deemed to have entered into an arrangement where there will be a transfer of ownership. Such a boat is deemed to fall under the Directive and will have to comply with the Essential Requirements of the Directive and applicable conformity assessment procedures. Reference is made to text expanding Article 4. Boats built for own use have the concept that a person is building their own boat and not having it built by others.

(h) craft specifically intended to be crewed and to carry passengers for commercial purposes, without prejudice to paragraph 2, in particular those defined in Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels (2), regardless of the number of passengers;

The exclusion in (h) concerns craft specifically intended to be crewed and to carry passengers for commercial transport purposes. This means that recreational craft, which are crewed and are used for sports and/or leisure purposes, are not excluded.

NB:

Council Directive 82/714/EEC of 4 October 1982, which lays down technical requirements for inland waterway vessels, excludes recreational craft from its scope but does not define them. However, it does exclude and define passenger boats as follows:

“Passenger boat” means any vessel built and fitted out to carry more than 12 passengers.

As a result of this definition, the phrase “regardless of the number of passengers” had to be added to Directive 94/25/EC.

(i) submersibles;

(j) air cushion vehicles;

(k) hydrofoils.

The above three exclusions lie outside of the Directive, as their physical characteristics are not consistent with the Essential Requirements.