

SOME BRIEF ADVICE

BW **CAN** enforce the 14-day rule. However, this should begin with giving you 28 days to move the boat (Section 17, British Waterways Act 1995).

BW **SHOULD NOT** force boats without a home mooring to wider their cruising area or to be on a progressive journey. The *Mooring Guidance for Continuous Cruisers* is not part of the law. We believe BW is acting beyond its powers if it does this.

If you live on your boat BW **MUST** take you to court so that you can defend yourself against removal of your boat under Section 8 of the British Waterways Act 1983 (Articles 6 and 8, Human Rights Act/ European Convention on Human Rights).

BW has issued between 100 and 200 patrol notices and threatening CC1 or CC2 letters to boats in the Bath to Bradford on Avon area since June 2009. Many boaters without a mooring who do move every 14 days have had these letters telling them their cruising area is too small and threatening them with Section 8.

BW do pressurise boaters to take (winter or permanent) moorings in order to make money.

If you make any verbal agreement with BW in person or by phone, it is a good idea to write and ask BW to confirm it in writing. If BW refuse, write again saying you will not abide by the verbal agreement unless you have it in writing. Make notes of all conversations and phone calls.

If you're not satisfied with the way BW has treated you, make a complaint. Address your complaint to John Ward, Acting General Manager, BW South West (address below). Write to: British Waterways South West, The Dock Office, Commercial Rd, GLOUCESTER GL1 2EB. Address your letter to the person you made the agreement with. If you have internet access, the complaints procedure is on the BW web site: <http://www.britishwaterways.co.uk/listening-to-you/if-you-have-a-complaint>

Here is a suggested reply to patrol notices and CC1 letters:

"I have always complied with British Waterways' legal requirements regarding movement of my boat and I intend to continue complying with these legal requirements. I have always cruised in compliance with Section 17 (3) (c) of the British Waterways Act 1995 and with Condition 2 (Use of the Boat) of the General Terms and Conditions for Boat Licences. I do not understand why you think I have not done so. You mention the Mooring Guidance for Continuous Cruisers. This states quite clearly that it is guidance, that it is an interpretation of the law, and "does not have the force of law" (Note 1). Therefore, it is not a legal requirement. The 1995 Act and Condition 2 of the boat licence do not require boats to conform to a particular cruising pattern."

SECTION 17 (3) and (4) of the British Waterways Act 1995 –

(3) Notwithstanding anything in any enactment but subject to subsection (7) below, the Board may refuse a relevant consent in respect of any vessel unless—

- (a) the applicant for the relevant consent satisfies the Board that the vessel complies with the standards applicable to that vessel;
- (b) an insurance policy is in force in respect of the vessel and a copy of the policy, or evidence that it exists and is in force, has been produced to the Board; and
- (c) either—

- (i) the Board are satisfied that a mooring or other place where the vessel can reasonably be kept and may lawfully be left will be available for the vessel, whether on an inland waterway or elsewhere; 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.

(4) If—

- (a) (subject to subsection (6) below) the vessel does not comply with the standards applicable to the vessel on the date when the consent was granted; or
 - (b) an insurance policy is not in force in respect of the vessel; or
 - (c) either—
 - (i) (in the case of a vessel in respect of which a relevant consent is issued pursuant to subsection (3) (c) (i) above) it appears to the Board that a mooring or other place such as is referred to in subsection (3) (c) (i) above is not available for the vessel; or
 - (ii) (in the case of a vessel in respect of which a relevant consent is issued pursuant to subsection (3) (c) (ii) above) the vessel has not in fact been used bona fide for navigation in accordance with the said subsection (3) (c) (ii);
- the Board may give notice requiring the holder of the relevant consent to remedy the default within such time as may be reasonable (not being less than 28 days).