



## Implications of Brexit for UK workboat operators

*Brexit is having a significant impact on UK workboat operators. In particular, UK operators in this sector are experiencing difficulties arising out of changes to applicable cabotage rules, visas and work permits, and recognition of UK crew certificates, writes [Helen McCormick](#), Director of CTRL Marine Solutions Limited and Senior Associate at CJC. [CJC has recently acquired CTRL from The Shipowners' Club.](#)*



There has been much discussion about the implications of Brexit for the trade in goods between the UK and the EU, but much less attention has been paid to the provision of services. Brexit has particular implications for workboats, which spend long periods of time operating in territorial waters with highly specialised crews.

The "four freedoms" – free movement of goods, services, capital and people – is a fundamental tenet of the EU. Prior to Brexit, UK workboat operators could provide services in the waters of other EU member states as of right.

From 1 January 2021, the UK is no longer a member of the EU. The UK has left the single market and the customs union, and EU law no longer applies in the UK. The relationship between the UK and the EU is now governed by the Trade and Cooperation Agreement. This allows for tariff-free, quota-free access to each other's markets for goods, but not services. It also covers issues such as fishing rights, security and future competition.

### Implications for workboats

#### Cabotage

"Cabotage" means the provision of shipping services in inland or territorial waters. Some countries allow vessels flying the flag of other nations to operate in their waters while others have a more restrictive regime. UK service providers can no longer operate across national borders in the EU as they did before, which means UK shipping companies no longer have blanket rights to provide cabotage and workboat services throughout the EU on the same terms.

Operations now depend on the rules of the relevant member state for the particular service in question. It may be that UK flagged ships are not permitted to provide that service, or may only provide the service on obtaining a licence or under certain conditions. Owners and operators will need to seek specific advice from the jurisdiction in which they hope to operate. This can pose difficulties and increases costs when operators are tendering for work on projects in EU member states.

#### Visas and work permits

With the UK's exit from the EU, UK nationals' freedom of movement within the EU came to an end as well. UK citizens are still able to travel within the Schengen Area without a visa, but they are now subject

to the Schengen Area's visa-waiver stay limitation of 90 days within any 180 days throughout the entire zone.

For workboat operators who have EU citizen crew members working in the UK, the Frontier Worker permit allows EU citizens who have worked in the UK prior to 31 December 2020 to enter the UK. It also provides them with rights to work, rent property and access benefits and services, including NHS healthcare. However, operators should be aware that this scheme is not reciprocated by the EU for UK workers in a similar position. Their right to live and work in the EU outside of the Schengen Area's visa-waiver rule will depend on rules of the immigration rules of the relevant member state.

For crew members who are not eligible for a frontier worker permit (for example, if the crew member is an EU citizen wishing to work in the UK but was not working in the UK before 31 December 2020), operators can consider the Skilled Worker visa, which allows the employee to come to the UK to do an eligible job with an approved employer. This visa has replaced the Tier 2 (General) work visa. However, there are costs associated with this process and specific advice on eligibility should be sought.

### **Crew certificates and equivalence**

Again, UK operators can no longer rely on across the board rules on recognition of UK issued certificates in EU member states. It is now up to each member state whether and how they recognise UK crew certificates. Anecdotally, we are hearing from our clients that assistance and guidance varies from state to state. Again, owners and operators will need to seek specific advice from the jurisdiction in which they hope to operate, with implications for tenders for work on projects in EU member states.

### **CJC Perspective**

UK operators form a major part of the European workboat industry, dominating the windfarm sector in particular. Since the UK's departure from the EU, UK operators now require specific guidance on whether they can offer particular services in each member state, whether crew members require visas and how they can be obtained, and whether crew certificates and qualifications are recognised in that jurisdiction. UK operators can no longer rely on blanket rules across the EU or the principles of free movement of people or services. This is making it difficult for UK operators to tender for projects, particularly at short notice, and accurately anticipate their operating costs. Drawing on our extensive network of trusted EU law firms, CTRL has been assisting UK operators to obtain specific guidance on the requirements for continuing workboat operations in EU member states.

We are aware of many UK operators who feel that there was no adequate guidance prior to Brexit. We can expect this to have a knock-on effect on investment and growth in the sector until these uncertainties are resolved.

One solution being considered by many operators is reflagging their vessels in EU states, but this carries implications for the UK flag and UK crews. There are also difficulties arising for operators who rely on EU citizens to crew their vessels. Current advice is to train UK seafarers to make up for the shortfall in crew, but this will inevitably take time and will not provide a solution in the immediate term.

Some of these problems will be solved with time and experience as issues in individual member states are encountered and resolved, and operators develop their experience of operating under the new regime. However, in the long term, a divergence of the UK and EU law and regulatory environments might make some of these problems (in particular the recognition of UK certificates in EU member states) more rather than less acute.

Helen McCormick joined CJC in August 2021 as part of CJC's acquisition of CTRL Marine Solutions from Shipowners' Mutual Protection Ltd. The acquisition underlines the importance of P&I work to CJC, whilst further enhancing the firm's position at the forefront of providing bespoke legal and technical services to P&I Clubs and their members. The press release is available here: <https://www.cjclaw.com/site/news/cjc-acquires-ctrl-marine-solutions-from-the-shipowners-club>

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