



# British Waterways Act 1995

## 1995 CHAPTER i

### PART III

#### REGULATION AND MANAGEMENT OF INLAND WATERWAYS

#### 16 General terms of houseboat certificates

- (1) A houseboat certificate issued or renewed after the passing of this Act under the Act of 1971 shall, unless the certificate or some other document referred to in the certificate provides otherwise, be subject to the general terms set out in Schedule 1 to this Act in addition to such conditions (if any) as the Board may determine under section 14 (Registration of houseboats) of the Act of 1971.
- (2) The Board shall on demand provide a copy of the general terms for the time being in force under this section to any person requiring the same and to the holder on the issue or renewal of the certificate.
- (3) A houseboat certificate shall contain or refer to some other document containing the general terms and any conditions to which it is subject.
- (4) The following provisions of the Act of 1971 shall cease to have effect—
  - (a) in section 17 (Duration of boat certificates) (which applies to the undertaking of the Board in Scotland)—
    - (i) the words “and a houseboat certificate” in subsection (1); and
    - (ii) the words “or a houseboat certificate” in subsection (2);
  - (b) in section 19 (Registration of transfers of pleasure boats and houseboats)—
    - (i) the words “or a houseboat”, “or a houseboat certificate, as the case may be” and “or houseboat certificate” in subsection (1);
    - (ii) the words “or houseboat certificate, as the case may be” and “or houseboat” in subsection (2); and
    - (iii) the words “or houseboat, as the case may be” in subsection (3).

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## 17 Conditions as to certificates and licences

(1) In this section—

“houseboat certificate” means a houseboat certificate issued under the Act of 1971;

“insurance policy” means an insurance policy complying with Part I of Schedule 2 to this Act;

“licence” means a licence issued by the Board in respect of any vessel allowing the use of the vessel on any inland waterways;

“pleasure boat certificate” means a pleasure boat certificate issued under the Act of 1971;

“relevant consent” means a houseboat certificate, a licence or a pleasure boat certificate; and

“standards” means standards for the construction and equipment of vessels prescribed under this section and Part II of the said Schedule 2.

(2) Part I of Schedule 2 to this Act shall have effect with respect to insurance policies and Part II of that Schedule shall have effect with respect to standards.

(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).

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- (5) If the holder of the relevant consent does not comply with any notice served pursuant to subsection (4) above then the relevant consent shall determine on the date the notice expires.
- (6) Where prior to the grant of a relevant consent a certificate (“the boat safety certificate”) has been issued by a person authorised by the Board so to do in respect of a vessel confirming that the vessel complies with the standards applicable to it at the date upon which the boat safety certificate is issued, subsection (4) (a) above shall have effect throughout the period for which the boat safety certificate is expressed to be valid as if for reference to the date when the consent was granted there were substituted reference to the date when the boat safety certificate was issued.
- (7) (a) In this subsection—
- “designated vessel” means any vessel in respect of which a relevant consent has been in force at any time during the qualifying period other than—
- (i) a houseboat registered under the Act of 1971 for the first time after 31st December 1979; or
  - (ii) any hire pleasure boat, that is, any pleasure boat which is let, lent, hired or engaged for gift, pay, hire or reward or promise of payment or carries or conveys passengers for a charge or payment; or
  - (iii) any pleasure boat (not being a hire pleasure boat) adapted or used for the carriage or conveyance of passengers, being a vessel in respect of which the Board are satisfied that a multi-user licence would be appropriate; and
- “the qualifying period” means the period commencing twelve months before the date of the passing of this Act and ending six months before the date of the passing of this Act.
- (b) The Board shall not—
- (i) before the first anniversary of the passing of this Act, in the case of any designated vessel constructed after 31st December 1970; or
  - (ii) before the second anniversary of the passing of this Act, in the case of any designated vessel constructed before 1st January 1971;
- refuse or withdraw a relevant consent in respect of the vessel on the grounds that the vessel does not or has ceased to comply with the standards applicable to it.
- (8) The Board shall not within the period expiring at the end of the sixth month after the month current at the date of the passing of this Act refuse or withdraw a relevant consent in respect of any vessel on the grounds that a mooring or other place such as is referred to in subsections (3) (c) (i) and (4) (c) (i) above is not available for the vessel.
- (9) Nothing in this section shall affect any power of the Board under any other enactment to refuse or withdraw a relevant consent.
- (10) Section 3 (Construction and equipment of vessels) of the Act of 1983 shall cease to have effect.
- (11) (a) The refusal or withdrawal by the Board of a relevant consent in respect of any vessel on the grounds that the vessel does not comply with the standards applicable to that vessel shall not preclude the movement or use of the vessel

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with the consent of the Board (which shall not be unreasonably withheld) and subject to such reasonable conditions (if any) as they may determine.

- (b) Without prejudice to the generality of paragraph (a) above, the Board shall not withhold their consent under this subsection to the movement or use of a vessel for the purpose of taking it to a place where it may be repaired or modified so as to comply with the standards applicable to it, or for the purpose of taking the vessel to be destroyed, unless such movement or use would give rise to the risk of obstruction or danger to navigation or to persons or property.
- (c) Nothing in this section shall affect the operation of section 7 (Control of unsafe vessels) of the Act of 1983.

## **18 Obstruction by vessels**

- (1) No person shall moor or otherwise leave a vessel on an inland waterway so as to cause obstruction or hindrance to navigation or to the free passage of persons or vehicles over and along the towing path beside the inland waterway.
- (2) Any person who without reasonable excuse contravenes subsection (1) above in such a way as to cause, or give rise to the risk of, injury to any person or damage to property shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Any vessel moored or allowed to remoor in contravention of subsection (1) above shall be deemed to be a relevant craft for the purpose of section 8 (Removal of vessels) of the Act of 1983 or, in Scotland, a vessel for the purposes of section 19 (As to vessels sunk, stranded or abandoned) of the British Transport Commission Act 1958.

## **19 Removal of vessels to permit works, etc**

- (1) When any vessel is moored or lying in such a position as is likely to interfere with any dredging, repairs, maintenance works, or any other works or operations of the Board, or any works or operations proposed to be carried out by any other authority or body in pursuance of any statutory functions, the Board may serve on the owner of such vessel a notice requiring him within 28 days of the date upon which the notice is served to remove the vessel for such time as the Board or such other authority or body may reasonably require for the completion of such works or operations.
- (2) Where any vessel is moored or allowed to remain in contravention of a notice served under subsection (1) above the Board may without further notice remove the vessel.
- (3) Where any vessel is removed by the owner or the Board pursuant to this section, the Board shall if the vessel was lawfully moored at the time of the removal make available a suitable temporary mooring for the vessel until the completion of the works or operations which required its removal.
- (4) If the Board remove a vessel pursuant to subsection (2) above they shall if it was lawfully moored provide a suitable temporary mooring for the vessel and replace the same as soon as practicable after the completion of the works or operations which required its removal.
- (5) (a) If the Board in exercise of the powers of this section remove a vessel to a place not readily visible from the place from which it was removed they shall serve on the owner—

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- (i) as soon as practicable after the removal, a notice that they have exercised the powers of this section stating the place to which the vessel has been removed; and
    - (ii) as soon as practicable after the replacement of the vessel, a notice that the vessel has been replaced.
  - (b) This subsection shall not have effect if the Board after reasonable inquiry are unable to establish the name and address of the owner or for any other sufficient reason are unable to serve the notice; and subsection (2) (d) of section 17 (Notices) of the Act of 1983 shall not apply to notices under this subsection.
- (6) The removal or replacement by the Board under this section of any vessel which at the time of the removal was lawfully moored shall be at the cost and risk of the Board, and if any person suffers loss or damage in consequence of the exercise of the powers of this section in relation to any hire pleasure boat within the meaning of section 3 of the Act of 1971, he shall be entitled to recover compensation for the loss or damage from the Board.
- (7) Any dispute as to a person's entitlement to compensation in pursuance of subsection (6) above or as to the amount of the compensation shall be determined by arbitration.
- (8) For the purposes of this section a vessel shall not be deemed to be unlawfully moored solely by virtue of its being moored or allowed to remain in contravention of a notice served under subsection (1) above.

## **20 Provisions as to private moorings**

- (1) Conditions attached to a certificate granted under section 21 (Control of moorings, etc.) of this Act may regulate the exercise of private rights of mooring on any inland waterway but in exercising the said powers the Board shall have due regard to the desirability of refraining from interference with private rights and established mooring practices and shall not prevent the mooring of any vessel which could lawfully have been moored pursuant to any such private right but for the exercise of such powers.
- (2) A notice under section 19 (Removal of vessels to permit works, etc.) of this Act shall have effect notwithstanding any private rights of mooring.
- (3) In this section "private rights of mooring" include any rights conferred by the Board or (in England or Wales) enjoyed as an incident of an interest in land.

## **21 Control of moorings, etc**

- (1) As from such day as the Board may by resolution appoint, no person shall, in an inland waterway specified in that resolution, construct or maintain any structure being a mooring post, gangway, landing stage or other erection or installation for any vessel unless there is in force in relation to that structure a certificate granted by the Board under this section.
- (2) An application for the grant or renewal of a certificate under this section shall be made in writing and shall—
  - (a) give the name and address of the person responsible for the structure;
  - (b) specify the type of structure and its precise location;

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- (c) contain such other particulars as the Board may reasonably require.
- (3) Upon receipt of an application made in accordance with the requirements of this section the Board shall grant, or as the case may be, renew a certificate under this section for such period not being less than 5 years as they may determine.
- (4) It shall be a condition of every certificate granted under this section that the structure shall be maintained in good repair and not allowed to become unsafe or an obstruction or danger to navigation.
- (5) The Board may at any time, upon giving written notice in accordance with subsection (6) below, refuse to grant or renew a certificate or, as the case may be, revoke a certificate if they are satisfied that the structure which is the subject of the application or certificate, or any part of it, is not in good repair, or is or will become unsafe or an obstruction or danger to navigation.
- (6) For the purposes of subsection (5) above, written notice shall be given to the applicant for the certificate as applied for or granted and, where different, the person named in the application or, as the case may be, certificate as the person responsible for the structure.
- (7) Any dispute between the Board and any applicant for, or person named in, a certificate as responsible for the structure respecting a failure or refusal by the Board to grant or renew a certificate or respecting a decision by the Board to revoke a certificate shall be determined by arbitration.
- (8) Pending the determination of any reference to arbitration under this section in relation to an existing structure, there shall be deemed to be a certificate in force in relation to that structure and any failure or refusal by the Board to grant or renew a certificate in relation to the structure or a revocation of the certificate in relation to a structure shall be ignored.
- (9) Nothing in this section, or in any certificate under this section, shall relieve any person of the obligation to obtain consent under section 109 of the Water Resources Act 1991 (which requires the consent of the National Rivers Authority to the erection of any structure in, over or under a watercourse which is designated as a main river).
- (10) Nothing in this section shall apply to—
- (a) any item of equipment designed to secure or to afford access to or from a vessel which when not in use is normally carried on board the vessel;
  - (b) any mooring post, erection or installation no part of which is situated on, in, under or over the waters of any inland waterway;
  - (c) any structure or apparatus belonging to or required by the National Rivers Authority.
- (11) Nothing in this section, or in any certificate under this section, shall—
- (a) entitle a person to construct or maintain any mooring post, gangway, landing stage or other erection or installation for any vessel on land in respect of which he does not hold such rights as are necessary to enable him to exercise the powers of the certificate;
  - (b) require the Board to grant any right or interest in any land; or
  - (c) prejudice the right of the Board to require any payment for any right or interest granted by them in any land to enable the said powers to be exercised.
- (12) The Board may by notice require a person who contravenes this section—

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- (a) to remove or abate within a reasonable time specified in the notice any works to which the contravention relates and to restore the site thereof to its former condition; or
- (b) in the case of any contravention of subsection (4) above, to repair or alter the structure so as to avoid such contravention;

and, if the person to whom the notice is given fails to comply with the notice, the Board may carry out the work required by the notice and recover the cost of so doing from that person.