



# Broads Authority Act 2009

## 2009 CHAPTER i

An Act to confer further powers on the Broads Authority; to make other provisions as to that Authority; and for related purposes. [2nd July 2009]

WHEREAS—

- (1) The Broads Authority (hereinafter called “the Authority”) was incorporated by the Norfolk and Suffolk Broads Act 1988(c. 4) and now exists for the purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of the Norfolk and Suffolk Broads, promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public, and protecting the interests of navigation:
- (2) It is expedient that further provisions should be made for the regulation and management of the navigation area of the Authority:
- (3) It is expedient that the other provisions contained in this Act should be enacted:
- (4) The objects of this Act cannot be attained without the authority of Parliament:
- (5) In relation to the promotion of the Bill for this Act the Authority has complied with the requirements of section 239 of the Local Government Act 1972 (c. 70) as applied to the Authority by the Norfolk and Suffolk Broads Act 1988:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART 1

### PRELIMINARY

#### 1 Short and collective titles

- (1) This Act may be cited as the Broads Authority Act 2009.

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- (2) The 1988 Act and this Act may be cited together as the Broads Authority Acts 1988 and 2009.

## 2 Interpretation

- (1) In this Act, unless the context otherwise requires, words and expressions to which meanings are given by the 1988 Act have the same respective meanings, and—

“the 1907 Act” means the Public Health Acts Amendment Act 1907 (c. 53);

“the 1988 Act” means the Norfolk and Suffolk Broads Act 1988 (c. 4);

“the 1991 Act” means the Water Resources Act 1991 (c. 57);

“the 2006 byelaws” means the Broads Authority (Boat Safety Standards) Byelaws 2006;

“adjacent waters” has the meaning given by subsection (2);

“authorised officer” means an officer or other person duly authorised in writing by the Authority to exercise powers conferred by this Act or the 1988 Act;

“the Authority” means the Broads Authority;

“harbour authority” has the meaning given by section 221 of the 1991 Act;

“the Lower Bure” means all that part of the Lower Bure upstream of Vauxhall Bridge;

“master”, in relation to a vessel, means any person whether the owner, master, hirer or other person lawfully or unlawfully having or taking command or charge or management of the vessel for the time being;

“motor vessel” means any ship, boat, lighter, yacht, houseboat, launch or craft of any kind propelled by any form of power whether mechanical or otherwise and includes any craft propelled by a detachable outboard engine, but does not include any sea-going vessel used as a tug or exclusively for the carriage of animals, fish or goods or any vessel for the time being proceeding solely by or under sail, oar or paddle;

“the navigation committee” means the navigation committee appointed under section 9(1) of the 1988 Act;

“navigation authority” has the meaning given by section 221 of the 1991 Act;

“the navigation officer” means the navigation officer appointed under section 10(7) of the 1988 Act and includes any person appointed by the Authority to act as deputy to the navigation officer;

“personal water craft” has the meaning given by section 33;

“standards” means standards and specifications imposed under section 12(1);

“toll” means a charge levied by the Authority under section 26 of the Harbours Act 1964 (c. 4) and includes any charge levied in respect of a vessel moored, used or navigated on any adjacent waters;

“vessel” includes—

- (a) every description of craft, including a personal water craft, used or capable of being used for transportation by water;
- (b) a sailboard;

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- (c) any raft, pontoon or similar floating or submersible structure capable of being moved under its own power or under tow, but does not include any raft or pontoon which is permanently fixed.
- (2) For the purposes of this Act “adjacent waters” means any broad, dyke, marina or other substantially enclosed waters connected to the navigation area and from which a vessel may be navigated (whether or not through a lock, moveable barrier or any other work) into the navigation area but does not include—
- (a) the river Waveney upstream of Geldeston lock; or
  - (b) the river Tas upstream of Trowse Bridge; or
  - (c) any waters under the jurisdiction of Associated British Ports or the Great Yarmouth Port Authority; or
  - (d) any waters which are used, for mooring or navigation, only by the owner of the land upon which those waters are situated; or
  - (e) any waters which are used, for mooring or navigation, only by an occupant of an adjoining residential dwelling.
- (3) Nothing in this Act shall have the effect of constituting the Authority as harbour authority or navigation authority for any adjacent waters.

### **3 Appointed day**

- (1) For the purposes of any provision of this Act, and of any provision of the 1988 Act which is amended by this Act, “the appointed day”, in relation to that provision, means such day (not earlier than 3 months after the passing of this Act) as may be fixed for the purposes of that provision in accordance with subsection (2) by resolution of the Authority.
- (2) The Authority shall publish in a newspaper circulating in the area of the Broads and in the London Gazette notice—
- (a) of the passing of any such resolution and of the day fixed thereby; and
  - (b) of the general effect of the provision for the purposes of which the day has been fixed;
- and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice in the London Gazette.
- (3) A photostatic or other reproduction certified by the proper officer to be a true reproduction of a page or part of a page of any such newspaper or London Gazette, being a page or part of a page bearing the date of its publication and containing the notice mentioned in subsection (2), shall be evidence of the publication of the notice and of the date of publication.

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## PART 2

### REGULATIONS AND MANAGEMENT OF NAVIGATION AREA

#### *Directions to vessels, etc.*

#### **4 General directions to vessels**

- (1) The Authority may give directions under this section (“general directions”) in respect of vessels in, or proposing to enter, or leaving, the navigation area for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the navigation area.
- (2) Without prejudice to the generality of subsection (1) the Authority may give general directions for any of the following purposes—
  - (a) for designating areas, routes, fairways or channels in the navigation area which vessels are to use, or refrain from using, for movement, mooring or anchorage;
  - (b) for securing that vessels move only at certain times, or during certain periods;
  - (c) for limiting the speed of motor vessels;
  - (d) for requiring the use of any equipment (including engines) forming part of or carried on the vessel;
  - (e) for prohibiting or regulating—
    - (i) entry into the navigation area by a vessel which for any reason would be or would be likely to become a danger to other vessels or to persons or property, in or near the navigation area; or
    - (ii) entry into, or navigation within, any designated fairway or channel during any temporary obstruction thereof;
  - (f) for prohibiting or regulating entry into or movement in the navigation area by vessels at times of poor visibility due to the weather or to the presence of dust or smoke, or at times of high winds;
  - (g) for requiring the master of a vessel to give to the navigation officer information relating to the vessel or the qualifications of the master reasonably required by the navigation officer for effecting any of the purposes of this subsection;
  - (h) for prescribing the action to be taken in relation to vessels which have become adrift, or sunk, or run aground;
  - (i) so far as is necessary for the safety of navigation, for requiring or regulating the use of tugs in relation to a vessel.
- (3) Subject to subsections (4) and (5), a general direction may apply—
  - (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction; or
  - (b) to the whole of the navigation area or to a part designated, or the designation of which is provided for, in the direction; or
  - (c) at all times, or at times designated, or the designation of which is provided for, in the direction,

and every direction under this section shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c).

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- (4) A general direction relating to any matter referred to in subsection (2)(e) or (f) shall not apply to any pleasure craft.
- (5) A general direction relating to any matter referred to in subsection (2)(g) shall not require the master of a pleasure craft to give information as to his qualifications except where the craft is one in relation to which qualifications for masters are required by or under general legislation.
- (6) The Authority may revoke or amend any general direction.

## **5 Procedure for making general directions, etc.**

Schedule 1 shall have effect.

## **6 Special directions to vessels**

- (1) Subject to subsection (3) the navigation officer may give directions under this section (“special directions”) for any of the following purposes—
  - (a) for requiring a person to comply with a requirement in relation to a vessel made in or under a general direction;
  - (b) for regulating the time at which and the manner in which any vessel may enter, leave or lie or navigate within the navigation area;
  - (c) for regulating or requiring the movement, berthing, mooring or unmooring of any vessel in the navigation area;
  - (d) for regulating the position, or placing, of any vessel while it is in the navigation area;
  - (e) for regulating the position in which any vessel may, while in the navigation area, take in or discharge cargo or ballast or take in or land passengers;
  - (f) for regulating the manner in which any vessel entering the navigation area may be dismantled, either for the safety of the vessel or for preventing injury to other vessels or property or to any part of the navigation area;
  - (g) for requiring the removal from any part of the navigation area of any vessel if—
    - (i) it is on fire; or
    - (ii) it is unserviceable; or
    - (iii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink, or to constitute a danger to life or property or to cause pollution; or
    - (iv) it is making an unlawful use of, or causing an obstruction to, the navigation area, or interfering with the reasonable use or enjoyment of the navigation area by other vessels or persons exercising a public right of navigation therein; or
    - (v) its removal is necessary to enable maintenance or repair work to be carried out in the navigation area, or to premises adjacent thereto;
  - (h) for requiring the removal outside the navigation area of any vessel, if such removal is considered by the navigation officer to be necessary in order to avoid danger to life or to property, or to any part of the navigation area;
  - (i) for removing obstructions to navigation from the navigation area and keeping it clear for the passage of vessels;

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- (j) for prohibiting the mooring or anchoring of any vessel in any particular part or parts of the navigation area;
  - (k) for regulating the loading, discharging, storing and safeguarding of the cargo of any vessel, or its fuel, water or stores, and the dispatch of its business in the navigation area;
  - (l) for specifying the precautions to be taken in respect of apparatus, machinery and equipment (including equipment for the prevention of pollution) forming part of or carried on any vessel;
  - (m) for limiting the speed of any vessel in the navigation area;
  - (n) as to the use of the motive power of any vessel;
  - (o) for prohibiting or restricting the use of fires or lights on board vessels within the navigation area.
- (2) In an emergency the navigation officer may give special directions applicable to all vessels, or to a particular class of vessels, for any of the purposes mentioned in subsection (1).
- (3) Nothing in this section shall authorise the navigation officer to give a special direction otherwise than for the purpose of ensuring the ease, convenience or safety of navigation or the safety of persons or property in the navigation area.
- (4) A special direction may be given in any manner considered by the navigation officer to be appropriate.
- (5) The navigation officer may revoke or amend a special direction.

## **7 Failure to comply with directions**

- (1) The master of a vessel who fails to comply with a general direction or special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) It shall be a defence for the master of a vessel charged with an offence under subsection (1) to prove that he took all reasonable precautions and exercised due diligence to avoid the commission of the offence or that he had a reasonable excuse for the act or for the failure to act.

## **8 Enforcement of special directions**

- (1) This section shall have effect in relation to a vessel if a special direction is not complied with within a reasonable time.
- (2) For the purposes of subsection (1) a special direction shall be deemed not to have been complied with within a reasonable time if there is no one on board the vessel to attend to the special direction and the navigation officer after making reasonable enquiries has been unable to discover the whereabouts of the master.
- (3) In determining whether a master of a vessel has had a reasonable time in which to comply with a special direction, the navigation officer shall have regard to—
- (a) the risk of serious harm arising from non-compliance;
  - (b) the time in which it would ordinarily take a competent master to comply with such a direction; and

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- (c) any knowledge which the navigation officer has of the personal circumstances of the master which might affect his ability to comply with a special direction.
- (4) Where this section has effect the navigation officer may put persons on board the vessel to carry out the special direction, or may otherwise cause the vessel to be handled in accordance with the special direction.
- (5) Subject to subsection (6), if any person authorised by the navigation officer under subsection (4) is refused entry to the vessel the navigation officer may apply to a justice of the peace who may by warrant authorise the navigation officer to exercise the powers of subsection (4) if he is satisfied on sworn information in writing that the special direction is not being complied with and that non-compliance gives rise to danger to persons or property.
- (6) If any person referred to in subsection (4) is refused entry to the vessel and in his reasonable opinion non-compliance with the special direction gives rise to grave and imminent danger to persons or property, that person may exercise the powers of subsection (4) without a justice's warrant.
- (7) Any person authorised by the navigation officer under subsection (4) to carry out the special direction may break open the wheel house, cabin or other enclosed area for the purpose of gaining access to the controls, engine, or any equipment forming part of the vessel if the vessel is unoccupied and if in his reasonable opinion non-compliance with the special direction gives rise to grave and imminent danger to persons and property.
- (8) A person who exercises the powers of subsection (7) shall leave the vessel as effectually secured against trespassers as he found it.
- (9) The Authority shall pay reasonable compensation to the owner of any vessel in respect of any damage which is caused to the vessel by the exercise of the powers of subsection (7), but nothing in this subsection shall require the Authority to pay compensation—
  - (a) to the extent that the damage necessarily results from such exercise in any case where the direction is lawfully and reasonably given; or
  - (b) in respect of any damage to the extent that it results from the act or default of the master, owner or any other person (not being an employee or agent of the Authority).
- (10) Expenses reasonably incurred by the Authority in the exercise of the powers conferred by this section shall be recoverable by it as if they were a charge of the Authority in respect of the vessel.
- (11) This section is without prejudice to any other remedy available to the Authority.

## **9 Master's responsibility in relation to vessels**

The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, to persons on board the vessel, to the cargo or to any other person or property.

## **10 Directions as to loading or unloading of vessels, etc.**

- (1) The Authority may designate any part of the navigation area for the loading and unloading of any goods to which this section applies.

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- (2) As soon as reasonably practicable after designating any part of the navigation area under subsection (1) the Authority shall publish details of the designation on the Authority's website and shall take such other reasonable steps as it considers appropriate to publicise the designation.
- (3) Where pursuant to subsection (1) the Authority has designated a place for the loading or unloading of goods of any description the navigation officer may direct that goods of the description, intended to be loaded onboard or unloaded from a vessel, shall not be deposited or received elsewhere than at the place so designated.
- (4) If any person disobeys a direction given under subsection (3)—
  - (a) the Authority may remove the goods to the place so designated and recover the reasonable expenses incurred by it in so doing from that person;
  - (b) the removal shall be at the risk of that person.
- (5) A person acting on behalf of the Authority who removes goods in accordance with subsection (4) may remove any equipment which is provided for the handling of the goods.
- (6) The goods to which this section applies are goods which are loaded or unloaded in connection with any trade or business, goods in bulk and goods the nature or character of which is such as, in the opinion of the Authority, to give rise to special risk of pollution, contamination, taint, stain, injury or danger to other goods or to persons, property or water or to necessitate the provision of special facilities for the handling thereof or for the safety, protection, welfare or accommodation of persons employed in, or in connection with, such handling.
- (7) Nothing in this section shall authorise the Authority to prevent or restrict the lawful use of any staithe within the meaning of section 25 of the 1988 Act.

*Safety of vessels, etc.*

## **11 Byelaws for registration of vessels**

- (1) In this section—
 

“the byelaws” means any byelaws made or deemed to be made under this section and for the time being in force;

“the relevant sections” means section 12 (construction and equipment standards) and section 14 (vessels: insurance requirements) of this Act;

and references to registration are references to the registration of a vessel under the byelaws.
- (2) The Authority may make byelaws for the purpose of providing for the registration of vessels in the navigation area or on adjacent waters, and for the determination and recovery of tolls in respect of vessels moored, used or navigated in the navigation area or on adjacent waters.
- (3) Where any such byelaws are made, the Authority shall set up and maintain the necessary register.
- (4) The byelaws may in particular—
  - (a) provide for the registration of vessels under different categories;



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- (b) make provision as to the display on registered vessels of registration documents or numbers;
  - (c) provide for the exemption of prescribed vessels or classes of vessels from the requirement to register under the byelaws;
  - (d) prescribe the period for which any registration is to remain effective; and
  - (e) determine the procedure to be followed in registering.
- (5) The Authority may require an applicant for registration, on making his application, to pay a reasonable fee in respect of the administrative expenses of dealing with the application; and different fees may be specified in relation to different cases or classes of case.
- (6) The Authority may require an applicant for registration, in the case of a vessel which is subject to standards, or which falls within a category designated under section 14(1), to submit with his application—
  - (a) evidence of compliance with the standards applicable to the vessel (whether in the form of an original document, or a copy);
  - (b) the insurance certificate relating to the vessel, or a copy of it, or other evidence which in the reasonable opinion of the Authority is sufficient to show that a policy complying with the requirements of Schedule 3 is in force; and
  - (c) such other information relating to the vessel as may be reasonably required by the Authority.
- (7) The evidence referred to in subsection (6)(b) may if the Authority sees fit consist of a declaration in writing by the applicant in a form prescribed by the Authority to the effect that the policy is in force.
- (8) Where any person tenders the appropriate fee for registering any vessel under the byelaws, the Authority shall register the vessel in accordance with the provisions of the byelaws unless it appears to it that any requirement made by or under the byelaws or the relevant sections has not been complied with in respect of that vessel.
- (9) Where the Authority refuses to register a vessel on any ground such as is mentioned in subsection (8), it shall notify the applicant in writing of the matters which gave rise to the refusal to register.
- (10) Where the Authority is satisfied that a vessel does not comply with any requirement of the relevant sections, it may cancel the registration of that vessel if—
  - (a) it has given the owner written notice of the non-compliance in question and required him to remedy it within 14 days of the date on which the notice is given; and
  - (b) that period has expired without the non-compliance being remedied;but where the Authority considers that it is necessary to cancel the registration as a matter of urgency, it may do so with effect from the date on which the notice is given.
- (11) The Authority shall give reasons for any decision under subsection (10) to cancel the registration of a vessel.
- (12)
  - (a) Any person who is aggrieved by the refusal of the Authority to register a vessel under the byelaws, or by the cancellation of such registration, may appeal to a magistrates' court.
  - (b) On an appeal to it under this subsection the court may dismiss the appeal, or give such direction to the Authority as it thinks fit.

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- (c) On such an appeal the decision of the court shall be final.
  - (d) This subsection does not confer a right of appeal in relation to any question which in accordance with this Act is to be determined by the standards appeals panel.
- (13) Paragraphs 7 and 8 of Schedule 5 to the 1988 Act shall apply to byelaws made under this section as they apply to byelaws made under section 10(3) of the 1988 Act.
- (14) The Broads Authority Vessel Registration Byelaws 1997 (other than byelaws 23 and 28) shall be deemed to have been made under this section, and shall have effect as though the references in those byelaws to the “navigation area” included adjacent waters.

## **12 Construction and equipment standards**

- (1) As from the appointed day the Authority by resolution may from time to time impose in relation to vessels in the navigation area or on adjacent waters reasonable standards and specifications (in this Act referred to as “standards”) relating to construction and equipment for the purposes of ensuring safety or preventing noise or pollution.
- (2) Where there is in force a scheme imposing standards in relation to vessels on navigable waters under the control of the British Waterways Board and the Environment Agency the only standards which may be imposed or have effect under subsection (1) are—
- (a) standards identical in effect to those identified in the said scheme;
  - (b) additional standards in relation to vessels which are pleasure boats or pleasure vessels to be let for hire, or to be used for carrying passengers for hire, for the purposes of section 94 of the 1907 Act;
  - (c) standards not falling within paragraph (a) or (b), being standards to be imposed pursuant to any agreement (whether made before or after the appointed day fixed for the purposes of this section) between the Authority of the one part and the British Marine Federation, the Inland Waterways Association and the Royal Yachting Association of the other part.
- (3) Before imposing standards such as are referred to in subsection (2)(b) or (c) or which differ materially from those contained in the 2006 byelaws, the Authority shall—
- (a) (subject to subsection (5)) consult such bodies as appear to it to represent boating interests on its intention to do so and inform any such bodies of their entitlement to make representations within 56 days; and
  - (b) publish a notice of its intention to do so in a newspaper circulating in the area of the Broads and on the Authority’s website.
- (4) The notice published under subsection (3) shall—
- (a) summarise the effects of the standards;
  - (b) summarise the material differences between the standards contained in the existing byelaws, or in any scheme such as is referred to in subsection (2), and the standards to be imposed under this section; and
  - (c) state that representations may be made to the Authority in writing on the said differences within 56 days of the date of the notice.
- (5) Nothing in subsection (3)(a) shall require the Authority to consult the bodies referred to in subsection (2)(c) before imposing standards pursuant to any agreement such as is referred to in subsection (2)(c).

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- (6) The Authority shall not impose standards to which subsection (3) refers until it has considered all representations made within 56 days of the date on which any bodies representing boating interests are consulted under subsection (3) and of the date of the newspaper notice published under subsection (3).
- (7) Different standards may be imposed by the Authority under this section in relation to different categories of vessels and in relation to different parts of the navigation area or any adjacent waters.
- (8) Any standards imposed by the Authority may include requirements as to the maintenance, use and operation of appliances, fittings and equipment on a vessel and may extend to anything which is only temporarily installed or used on a vessel.
- (9) The requirements of subsection (1) do not apply in relation to a vessel to the extent that the vessel is excluded from those requirements by any exemption granted by the Authority and for the time being in force.
- (10) The Authority may exempt any vessel from the requirements of subsection (1) to such extent and upon such terms and conditions as it may determine if, having regard to all the circumstances, it considers that the application of those requirements is not justified in the interests of safety or preventing noise or pollution.

### **13 Standards appeals panel**

- (1) A panel, referred to in this Act as “the standards appeals panel”, shall be established and operate in accordance with the provisions of Schedule 2.
- (2) The standards appeals panel is to determine—
  - (a) any question as to whether a vessel complies with any standard which is applicable to the vessel;
  - (b) any question as to whether any standard imposed is applicable to the vessel;
  - (c) any question as to the reasonableness of a standard imposed under section 12; and
  - (d) any question such as is referred to in section 17(11) as to whether a vessel fails materially to comply with any standards applicable to the vessel;if the question is the subject of an application made in accordance with subsection (3).
- (3) An application to refer a question to the standards appeals panel must be made in writing to the Authority and signed by—
  - (a) the owner of the vessel, in the case of a question arising under subsection (2) (a), (b) or (d); and
  - (b) not fewer than 6 persons, each of whom is the owner of any category of vessel to which this section applies, in the case of a question arising under subsection (2)(c).

### **14 Vessels: insurance requirements**

- (1) The Authority may from time to time designate categories of vessels to which this section is to apply.
- (2) The owner or master of a vessel to which this section applies shall not keep, let for hire or use the vessel in the navigation area or on adjacent waters unless there is in

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force in relation to the vessel a policy of insurance complying with the requirements of Schedule 3.

- (3) The requirements of subsection (2) do not apply in relation to a vessel to the extent that the vessel is exempted by the Authority from those requirements.

## **15 Offences as to standards and insurance requirements**

- (1) The owner or master of a vessel who without reasonable excuse and (in the case of a master of a vessel who is not also the owner) knowingly—
- (a) keeps, lets for hire or uses a vessel in the navigation area or on adjacent waters which does not comply with any standards applicable to the vessel; or
  - (b) contravenes the requirements of section 14(2) as to insurance policies,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) It shall be a defence for the owner or master of a vessel charged with an offence under subsection (1) to prove that he had taken all reasonable precautions and exercised due diligence to avoid the commission of any such offence.

## **16 Exemption of certain vessels**

- (1) In this section—
- “medium size unpowered vessel” means any unpowered vessel, not being a small unpowered vessel, having a block area of less than 13 square metres;
- “small unpowered vessel” means any unpowered vessel having a block area of less than 6 square metres;
- “the specified provisions” means—
- (a) any byelaws made or deemed to be made under section 11;
  - (b) section 12 (construction and equipment standards);
  - (c) section 14 (vessels: insurance requirements).
- (2) For the purposes of this section, the block area of a vessel means the area of the vessel in square metres calculated by multiplying the length of the vessel by the breadth of the full beam of the vessel at its widest part, both figures including the length or breadth (as the case may be) of any fixed fendering attached to the vessel.
- (3) Nothing in this Act or the 1988 Act, or in any byelaws made or deemed to be made under section 11—
- (a) shall require the registration of any small unpowered vessel on adjacent waters which does not enter into the navigation area;
  - (b) shall entitle the Authority to require the payment of any toll, due or other similar charge in respect of any small unpowered vessel or any medium size unpowered vessel for the time being on adjacent waters.
- (4) The Authority shall not exercise the powers of section 14 so as to designate any category of small unpowered vessels on adjacent waters.
- (5) Subject to subsection (4) the Authority shall not designate under section 14 any category of small unpowered vessels except in accordance with a resolution of the navigation committee.

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- (6) Nothing contained in or in force or done under the specified provisions shall apply to any vessel which—
- (a) is not for the time being in use for the purposes of navigation, or for residential or commercial purposes;
  - (b) is moored on waters occupied or customarily used by a person carrying on a business; and
  - (c) is so moored for the purposes of being serviced, repaired or stored by that person or of being sold or offered or exposed for sale by that person (whether acting as principal or agent).

*Other provisions as to vessels*

**17 Entry on and inspection of vessels**

- (1) An authorised officer who produces written evidence of his authority may board any vessel in the navigation area or on adjacent waters for the purpose of—
  - (a) ascertaining whether any requirement made by or by virtue of any provision contained in or applied by this Act (other than section 8), or any byelaw made under or deemed to be made under this Act is being complied with; or
  - (b) determining whether any power or duty which is conferred or imposed by or by virtue of any of those provisions should be exercised or performed; or
  - (c) exercising or performing any such power or duty.
- (2) An authorised officer who boards any vessel pursuant to this section may—
  - (a) carry out such inspections, measurements and tests of or in relation to the vessel or of any article found on the vessel;
  - (b) take away such samples of any article or substance,as are reasonably necessary for any purpose mentioned in subsection (1).
- (3) Section 173 of and Schedule 20 (other than paragraph 7 of Schedule 20) to the 1991 Act shall apply with all necessary modifications to the powers of entry which are conferred by subsection (1) as though for references to the Agency there were substituted references to the Authority.
- (4) The master of any vessel subject to boarding and inspection under subsection (1) shall provide reasonable facilities for the boarding, inspection and measuring of the vessel and for the exercise by the authorised officer of the powers of subsection (2).
- (5) Except in an emergency, an authorised officer shall not board any vessel pursuant to this section except with the consent of the owner or master or under the authority of a warrant by virtue of Schedule 20 to the 1991 Act as that Schedule has effect in accordance with subsection (3).
- (6) For the purposes of any inspection under this section, the master of the vessel shall cause the whole of any installation forming part of or on the vessel to be made available for inspection.
- (7) The Authority, if requested so to do by the owner or master of a vessel which is boarded under this section, shall provide a full report of the findings of the authorised officer who boarded the vessel within 28 days of the boarding.

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- (8) Notice in writing of the entitlement to the report referred to in subsection (7) shall be given—
- (a) by the officer who boards a vessel, to the master of the vessel at the time of the boarding; and
  - (b) (if the owner is not the master) by the Authority, to the owner of the vessel as soon as reasonably practicable after the boarding.
- (9) Subject to subsection (10) the costs incurred by the Authority under this section shall be borne by the Authority.
- (10) In any case in which the Authority exercises the powers of this section in relation to a vessel which it determines fails materially to comply with any standards applicable to the vessel, the costs reasonably incurred by the Authority in exercising those powers shall be borne by the owner of the vessel.
- (11) Any question as to whether, for the purpose of subsection (10), a vessel fails materially to comply with any standards applicable to it shall be referred to the standards appeals panel for determination.
- (12) Any person who without reasonable excuse intentionally obstructs an authorised officer acting in accordance with this section or contravenes any requirement of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **18 Meaning of “unsafe vessel”**

For the purposes of this Act a vessel is unsafe if—

- (a) the vessel does not comply with any standards applicable to the vessel; or
- (b) a person has been convicted of an offence under this Act, or the 1988 Act, or any byelaw of the Authority, in respect of the vessel,

and the Authority is satisfied after taking advice where appropriate from a person qualified to examine or assess compliance with any standards imposed under section 12 that the non-compliance or the circumstances which resulted in the conviction, as the case may be, continues or continue to give rise to a danger to any person or to any property, or risk of pollution, from the vessel.

## **19 Powers as to unsafe vessels, etc.**

- (1) An authorised officer may require the master of any unsafe vessel in the navigation area or on adjacent waters—
  - (a) to remove the vessel to a place either within or outside the navigation area or adjacent waters; and
  - (b) where reasonably practicable, to carry out such works to the vessel, or to take such other action, as will remove any imminent danger to the safety of any person or property on or near the vessel, or any imminent risk of pollution.
- (2) An authorised officer who boards a vessel pursuant to section 17 may if the vessel is unsafe carry out such works or take such other action as is referred to in subsection (1) (b); and the Authority may recover the costs reasonably so incurred from the owner of the vessel.
- (3) The master of a vessel who without reasonable excuse fails to comply with a requirement made under subsection (1) and any person who without reasonable excuse

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intentionally obstructs an authorised officer acting under subsection (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (4) The Authority shall pay reasonable compensation to the owner of any vessel in respect of any damage which is caused to the vessel by the exercise of the powers of this section, if it is shown that at the time of such exercise the vessel was not unsafe, but nothing in this subsection shall require the Authority to pay compensation in respect of any damage to the extent that the damage results from the act or default of the master, owner or any other person (not being an employee or agent of the Authority).

## **20 Removal of unsafe vessels, etc.**

- (1) The Authority may exercise the powers of this section in relation to any unsafe vessel in the navigation area or on adjacent waters in any case in which—
- (a) there is no-one on board the vessel; or
  - (b) the master has failed without reasonable excuse to comply with a requirement made under section 19(1).
- (2) The Authority may relocate the vessel on, or remove it from, the navigation area or adjacent waters; and may store the vessel.
- (3) Not less than 28 days before relocating or removing a vessel under subsection (2), the Authority, unless it exercises its powers in an emergency, shall—
- (a) give the owner of the vessel notice in writing of its intention to do so; and
  - (b) affix a copy of the notice to the vessel, or display it in a conspicuous place in the vicinity of the vessel and take reasonable steps to ensure that the notice remains in position for a period of 28 days.
- (4) Subsection (3)(a) shall not apply where the Authority has used all reasonable endeavours to notify the owner of the vessel concerned but has been unable to do so.
- (5) Subject to subsection (9) a vessel relocated or removed by the Authority under this section shall vest in the Authority upon the issue by the Authority of a certificate (“the vesting certificate”).
- (6) The vesting certificate—
- (a) may be issued not less than 3 months after the date of the notice given by the Authority in respect of the vessel under subsection (3), or where subsection (4) applies, 3 months after the date of relocation or removal of the vessel;
  - (b) shall be served on the owner (except in the circumstances referred to in subsection (4)) and displayed at or near the place from which the vessel was removed; and
  - (c) shall be displayed at the principal office of the Authority.
- (7) Subject to subsection (9) and following the issue of the vesting certificate the Authority may deal with the vessel as it thinks fit including the disposal or destruction of the vessel.
- (8) The Authority may recover from the owner of any vessel relocated or removed under this section all expenses reasonably incurred by the Authority in respect of the relocation, removal, storage, disposal and destruction of the vessel, including all administrative and legal costs reasonably incurred by the Authority in the exercise of

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those powers or in connection with any legal proceedings brought by the Authority in relation to the vessel.

- (9) If within 24 months of the date of the issue of the vesting certificate, a claim is made to the vessel by a person who subsequently proves to the satisfaction of the Authority that he is its owner, then the Authority shall—
- (a) if the vessel is unsold and upon payment of the expenses referred to in subsection (8), permit that person to retake it;
  - (b) if it has been sold, pay to that person the amount of the proceeds of such sale after deducting the said expenses and, if those proceeds are insufficient to reimburse the Authority those expenses, the deficiency may be recovered from that person by the Authority.
- (10) Subsection (9)(a) shall not apply to anything attached to or carried in or on the vessel which has been proved to the Authority's satisfaction to belong to another.
- (11) If the Authority satisfies the court that it is entitled to sell a vessel removed under this section the court—
- (a) may authorise the sale of the vessel subject to such terms and conditions, if any, as may be specified by the court;
  - (b) may authorise the Authority to deduct from the proceeds of sale any costs of sale and any amount due from the owner of the vessel to the Authority in respect of the vessel; and
  - (c) may direct the payment into court of the net proceeds of sale, less any amount deducted under paragraph (b), to be held to the credit of the owner of the vessel.
- (12) A decision of the court authorising a sale under subsection (11) shall, subject to any right of appeal, be conclusive, as against the owner, of the Authority's entitlement to sell the vessel, and gives a good title to the purchaser as against the owner.
- (13) In this section the "court" means the High Court or a county court, and a county court shall have jurisdiction in the proceedings.
- (14) References in this section to a vessel include anything attached to or carried in or on the vessel.
- (15) The Authority shall not exercise the powers of subsection (5), (6) or (7) in relation to any vessel which is the subject of an appeal to the standards appeals panel under section 13 until the appeal has been determined.
- (16) The Authority shall pay reasonable compensation to the owner of any vessel in respect of any damage which is caused to the vessel (or loss caused to its owner) by the exercise of the powers of this section and any expenses reasonably incurred by the owner in returning the vessel to the place where it was immediately before the Authority exercised those powers, if it is shown that at the time of such exercise the vessel was not unsafe, but nothing in this subsection shall require the Authority to pay compensation in respect of any damage to the extent that the damage results from the act or default of the master, owner or any other person (not being an employee or agent of the Authority).



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## **21 Request for information as to vessels**

- (1) On a request made by an authorised officer who produces, if requested, written evidence of his authority—
- (a) the master of any vessel in the navigation area or on adjacent waters shall give the officer particulars of his own name and address together with such particulars as are available to him to verify his identity, and (if known to him) the name and address of the owner of the vessel;
  - (b) the master of any vessel in the navigation area or on adjacent waters shall produce for inspection by the authorised officer any registration certificate or plate issued in respect of the vessel;
  - (c) the owner or master of any vessel in the navigation area or on adjacent waters shall give the authorised officer such information as is available to him respecting the construction and equipment of the vessel and its compliance with the requirements of section 12;
  - (d) the owner or master of any vessel in the navigation area or on adjacent waters shall give the authorised officer such information or document as is available to him regarding any policy of insurance in force in relation to the vessel;
  - (e) the owner of any vessel in the navigation area or on adjacent waters shall give the authorised officer particulars of the name and address of, or such other particulars as are available to him to assist the identification of, any person who, at any time specified by the authorised officer, was acting as master of the vessel.
- (2) A request under subsection (1) need not be in writing and may be made in any manner considered by the authorised officer to be appropriate.
- (3) Any person who is unable to give or produce any information or document requested by an authorised officer under subsection (1) must, if then so requested by the authorised officer, give or produce that information or document within 28 days at the principal office of the Authority either in person or by sending the information or document by first class post in a pre-paid envelope properly addressed to the principal office of the Authority.
- (4) A person who—
- (a) fails, without reasonable excuse, to comply with a request made under subsection (1) or (3) above; or
  - (b) in furnishing any information in compliance with such a request makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **22 Notices requiring information from masters and owners, etc. as to vessels**

- (1) Where, with a view to performing a function conferred on the Authority by or under the provisions of this Act, Part II (navigation) of the 1988 Act, or Schedule 5 to the 1988 Act, or by or under any byelaw made under any of those provisions, the Authority reasonably considers that it ought to have information as to any vessel which is or has been in the navigation area or on adjacent waters, or as to the master or owner of any such vessel, the Authority may serve a notice on any person reasonably believed by it to be the master or owner, or to have been the master or owner at any date specified in the notice, requiring the recipient to furnish to the Authority within a period specified

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in the notice (which shall not be less than 28 days beginning with the day on which the notice is served) the information referred to in the notice.

- (2) The information which may be required includes—
- (a) the name and address of any person whom the recipient of the notice believes to be the master or owner of the vessel, or to have been such master or owner at any date specified in the notice; or
  - (b) the capacity in which any person who is or has been or is believed by the recipient of the notice to be or have been the master has or takes command, charge, possession or management of the vessel, or had or took such command, charge, possession or management at any date specified in the notice; or
  - (c) the nature of the interest in or control over the vessel, at any date specified in the notice, of any person who is or has been or is believed by the recipient of the notice to be or have been the owner; or
  - (d) such information as may be available to the recipient of the notice as to whether the vessel complies with any standards applicable to the vessel; or
  - (e) details of any insurance policy applicable to the vessel maintained in compliance with section 14.
- (3) A notice under this section shall—
- (a) name or otherwise identify the vessel in respect of which it is served;
  - (b) specify the function for the purpose of the performance of which the notice is served; and
  - (c) specify the enactment by or under which that function is to be performed.
- (4) A notice shall not be served under this section on any person who, at the date of service, is believed by the Authority to be no longer the master or owner of the vessel named or identified in the notice if the Authority believes that more than 6 months have elapsed since the recipient ceased to be such owner or master.
- (5) A person who—
- (a) fails, without reasonable excuse, to comply with the requirements of a notice served on him under subsection (1) above; or
  - (b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **23 Notices requiring information from landowners, etc. as to vessels**

- (1) A notice served by the Authority under section 16 (power of local authorities to obtain particulars of persons interested in land) of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) in respect of any land comprised in or adjoining the navigation area or adjacent waters may require the recipient of the notice to furnish to the Authority, in respect of any vessel such as is referred to in subsection (3), such information as is referred to in subsection (4) as is available to the recipient of the notice.

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- (2) Section 16 of the said Act of 1976, as extended by subsection (1), shall have effect as though for the reference in subsection (1) to fourteen days there were substituted a reference to twenty-eight days.
- (3) Subsection (1) applies to any vessel which at the date of the service of the notice is moored on or adjoining any land such as is referred to in subsection (1), or which has been so moored at any time within a period of 42 days expiring on the date of the notice, but subsection (1) does not apply to any vessel which is ashore.
- (4) Such a notice may require the recipient to disclose—
  - (a) the name, address, telephone number and email address of the owner of the vessel;
  - (b) details of any person other than the recipient of the notice who has care or charge of the vessel;
  - (c) information as to whether the owner of the vessel pays rent to the recipient of the notice, or whether it is moored free of charge;
  - (d) information as to whether any person other than the recipient of the notice has planning permission to allow the vessel to be moored;
  - (e) information as to whether the recipient of the notice holds keys for the vessel;
  - (f) information reasonably required to enable the Authority to determine whether the mooring of the vessel constitutes a trespass on the land where it is moored;
  - (g) details of the type of fuel used on the vessel, and of its engine;
  - (h) information as to the use made of the vessel.

## **24 Entry on land**

- (1) An authorised officer designated in writing for the purpose by the Authority may enter—
  - (a) any adjacent waters upon which he would have no right of entry otherwise than by virtue of this section; or
  - (b) any land in the vicinity of the navigation area, or of any adjacent waters, being land which affords access to any vessel in the navigation area or on adjacent waters;for the purpose of determining whether, and if so in what manner, any of the powers referred to in subsection (2) should be exercised, or of exercising any of those powers.
- (2) Subsection (1) applies to the powers of—
  - (a) section 17 (entry on and inspection of vessels);
  - (b) section 19 (powers as to unsafe vessels, etc.);
  - (c) section 20 (removal of unsafe vessels, etc.);
  - (d) paragraph 12 of Schedule 5 to the 1988 Actbut does not apply to any vessel which is ashore.
- (3) Section 173 of, and Schedule 20 to, the 1991 Act shall apply with all necessary modifications to the powers of entry which are conferred by subsection (1) as though for references to the Agency there were substituted references to the Authority.
- (4) Except in an emergency an authorised officer shall not exercise the powers of entry of subsection (1) otherwise than with the consent of the relevant person or under the authority of a warrant issued under Schedule 20 to the 1991 Act as that Schedule has effect in accordance with subsection (3).

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- (5) In subsection (4) “relevant person” means—
- (a) in the case of land or adjacent waters belonging to or under the control of a recreational club, an officer of that club;
  - (b) in the case of land or adjacent waters forming part of a commercial boatyard, the owner of the boatyard; and
  - (c) in any other case, the occupier of the land or adjacent waters.

*Water skiing and wake boarding, etc.*

## **25 Coming into force, etc. of provisions as to water skiing and wake boarding**

Sections 26 to 32 shall come into force as from the appointed day.

## **26 Zones for water skiing or wake boarding**

- (1) The Authority may from time to time by resolution designate any part of the navigation area as a zone where water skiing or wake boarding is to be permitted.
- (2) A resolution passed under subsection (1) shall state whether it relates to water skiing or wake boarding, or to both activities.
- (3) A resolution passed under subsection (1) may specify conditions subject to which water skiing or wake boarding is permitted in the zone to which the resolution relates, including conditions as to the hours, days and times of year when water skiing or wake boarding is permitted.
- (4) The Authority may from time to time by further resolution amend or revoke any resolution passed under subsection (1).
- (5) Before passing a resolution under subsection (1) or (4) the Authority—
  - (a) shall consult the navigation committee, such persons who own or occupy residential property, the amenity of which appears to the Authority likely to be affected by the resolution, Natural England and such organisations as appear to the Authority to represent persons likely to be affected by the resolution; and
  - (b) shall publish notice of its intention to pass the resolution in a newspaper circulating in the area of the Broads.
- (6) The notice referred to in subsection (5) shall—
  - (a) identify any existing or proposed zone to which the proposed resolution relates;
  - (b) summarise the effects of the proposed resolution; and
  - (c) state that representations relating to the proposed resolution may be made in writing to the Authority within such period, expiring not less than 28 days after publication of the notice, as may be specified in the notice.
- (7) After considering any representations made in response to the notice referred to in subsection (5) the Authority may if it considers it reasonable to do so pass such a resolution as is mentioned in subsection (1) or (4).
- (8) It shall be the duty of the Authority to exhibit and maintain signs in the vicinity of every zone designated under this section denoting the boundaries of the zone.

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## **27 Permits for water skiing and wake boarding**

- (1) The Authority may on application by any person issue a permit authorising that person and if the Authority thinks fit such other person or persons as is or are named in the application to engage in water skiing or wake boarding in a zone.
- (2) A permit shall state whether it relates to water skiing or wake boarding.
- (3) The applicant for a permit shall provide such information as the Authority may reasonably require as to—
  - (a) the applicant and (where the permit is sought in respect of the applicant and any other person or persons), the other person or persons;
  - (b) the water skis, wake boards, towing vessel and other equipment to be used;
  - (c) (where the permit is required in connection with an event), the event;and such other matters as the Authority may specify.
- (4) A permit may authorise the holder to engage in water skiing or wake boarding within one or more zones (which shall be specified in the permit).
- (5) A permit—
  - (a) shall be valid for such period as may be specified in the permit; and
  - (b) may be issued subject to such reasonable conditions as may be so specified.
- (6) The conditions subject to which a permit is issued may include conditions—
  - (a) requiring the holder to maintain a policy of insurance complying with the requirements of Schedule 3;
  - (b) requiring the holder to supply information (including information as to any policy of insurance) on request to the Authority;
  - (c) requiring the holder to be a member of an organisation which requires as a condition of membership that members observe adequate standards of safety when engaging in water skiing or wake boarding;
  - (d) requiring the holder to observe any conditions specified in a resolution passed under section 26;
  - (e) making requirements as to the manner in which the holder may carry out water skiing or wake boarding, including requirements for the avoidance of danger to the holder or other persons or of damage to land or other property;
  - (f) making requirements as to the design or nature of the vessel or the equipment to be used in carrying out water skiing or wake boarding;and such other reasonable conditions, including conditions making requirements as to the holder of the permit and any person (not being the holder) who navigates, or is towed by, any towing vessel, as the Authority thinks fit.
- (7) The Authority may charge reasonable fees for the issue of permits.
- (8) Without prejudice to the power of the Authority to refuse a permit on any other grounds, the Authority may refuse a permit if the number of permits already in force is equal to or exceeds the maximum number from time to time determined by the Authority for the purposes of this Act.

## **28 Directions as to water skiing and wake boarding**

- (1) The Authority may display signs within or in the vicinity of a zone giving directions to persons engaging in water skiing or wake boarding, or intending to do so.

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- (2) An authorised officer may also give such directions as are mentioned in subsection (1), and such directions need not be in writing, and may be given by any reasonable means.
- (3) A direction under subsection (1) or (2)—
  - (a) may prohibit water skiing or wake boarding temporarily, on the whole or any part of a zone, by any person other than participants in any event;
  - (b) may prohibit water skiing or wake boarding temporarily, on the whole or part of any zone, where in the opinion of the Authority or of an authorised officer such a prohibition is necessary in any emergency;
  - (c) may be given so as to restrict the numbers of persons engaging in water skiing or wake boarding on the whole or any part of a zone where in the reasonable opinion of the Authority or of an authorised officer this is necessary to prevent congestion or in the interests of safety.

## **29 Offences as to water skiing and wake boarding**

Any person who without reasonable excuse—

- (a) engages in water skiing or wake boarding anywhere in the navigation area otherwise than in a zone;
- (b) engages in water skiing or wake boarding in a zone otherwise than in accordance with a permit;
- (c) contravenes any condition of a resolution passed under section 26, or of a permit;
- (d) fails on demand to produce to an authorised officer any permit issued to him by the Authority; or
- (e) contravenes any direction given under section 28,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **30 Cancellation and amendment of permits**

- (1) Subsection (2) shall have effect where a person is convicted of an offence under section 29, or under any byelaw relating to water skiing or wake boarding, or is in breach of any other byelaw of the Authority, or where it appears to the Authority that any condition of a permit as to insurance has not been observed.
- (2) Where this subsection has effect the Authority may cancel any permit, or amend the conditions of any permit, held by or applicable to any person—
  - (a) who has been convicted of any such offence; or
  - (b) in respect of whom any condition as to insurance has not been observed.

## **31 Appeals**

- (1) A panel, referred to in this Act as “the water skiing and wake boarding appeals panel”, shall be established and operate in accordance with the provisions of Schedule 2 and of this section.
- (2) Any person aggrieved by any decision of the Authority—
  - (a) to refuse to issue a permit;
  - (b) as to the conditions subject to which a permit shall be issued; or

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- (c) to cancel or amend any permit under section 30; may appeal to the panel.
- (3) An appeal under subsection (2) may be brought at any time before the expiration of the period of 28 days beginning with the date upon which notification in writing is given of the decision.
- (4) A person desiring to appeal against such decision as is mentioned in subsection (2) shall give a written notice to the Authority specifying the decision against which he wishes to appeal and the grounds upon which such appeal is made.
- (5) On an appeal under this section, the panel may take such decision as it thinks fit.
- (6) It shall be the duty of the Authority to give effect to the decision of the panel taken under subsection (5).

### **32 Water skiing and wake boarding: interpretation**

- (1) In sections 26 to 31 and this section—
  - “the holder” means any person authorised by a permit to engage in water skiing or wake boarding;
  - “permit” means a permit issued under section 27;
  - “towing vessel” means a vessel used or intended to be used for towing a person engaging in water skiing or wake boarding;
  - “wake boarding” means the towing by a vessel of a device ridden by a person, being a device designed to travel on the wake created by the vessel;
  - “water skiing” does not include wake boarding, the use of a personal water craft, or any similar activity;
  - “zone” means a zone designated under section 26.
- (2) References in this Act to a person who engages in water skiing or wake boarding include both the person riding on the water skis or wake board and any person acting as master of, or otherwise concerned in the navigation of, any towing vessel, and “water skiing” and “wake boarding” shall be construed accordingly.

## **PART 3**

### MISCELLANEOUS

### **33 Meaning of “personal water craft”, etc.**

- (1) For the purposes of this Act, the 1988 Act and of any byelaw made by the Authority under this Act or (whether before or after the passing of this Act) the 1988 Act “personal water craft” means any personal water craft, that is, any water craft (not being a structure which, by reason of its concave shape, provides buoyancy for the carriage of persons or goods) propelled by a jet drive or other mechanical means of propulsion and steered either—
  - (a) by means of a handlebar operated linkage system (with or without a rudder at the stern); or
  - (b) by the person or persons riding the craft using his or their body weight for the purpose; or

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- (c) by a combination of the methods referred to respectively in (a) and (b) above.
- (2) The Secretary of State may by order amend the definition set out in subsection (1), and that definition as so amended shall have effect for the purposes of this Act, the 1988 Act and any byelaw such as is referred to in subsection (1).
- (3) An order under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **34 Meaning of “vessel” in certain byelaws**

- (1) The byelaws made under the 1988 Act and referred to in subsection (2) shall have effect as though for the definition of “vessel” there were substituted the definition of that expression in section 25 of that Act as amended by section 43(2) of, and paragraph 9(4) of Schedule 7 to, this Act.
- (2) Subsection (1) applies to the following byelaws—
  - Broads Authority Speed Limit Byelaws 1992;
  - Broads Authority Navigation Byelaws 1995;
  - Broads Authority Vessel Dimension Byelaws 1995;
  - Broads Authority Vessel Registration Byelaws 1997.

### **35 Breydon Water and Lower Bure**

- (1) In this section—
  - “Breydon Water and the Lower Bure” mean the areas described in Schedule 4 and shown edged in red on the deposited plan; and
  - “the deposited plan” means the plan deposited in connection with the Bill for this Act in the office of the Clerk of the Parliaments, the Private Bill Office of the House of Commons and at the principal office of the Authority.
- (2) As from the appointed day Breydon Water and the Lower Bure shall form part of the navigation area for all purposes and accordingly—
  - (a) the 1988 Act and this Act, and any byelaws made or directions given under the 1988 Act, shall apply to Breydon Water and the Lower Bure as they apply to the navigation area as defined in the 1988 Act;
  - (b) the definition of the Haven in section 25 of the 1988 Act shall have effect subject to this section;
  - (c) the Great Yarmouth Port Authority Acts and Orders 1866 to 2005 and any byelaws made thereunder shall not apply to Breydon Water and the Lower Bure.
- (3) As from the appointed day Breydon Water shall form part of the Norwich navigation for all purposes and accordingly the 1988 Act shall apply to Breydon Water as it applies to the Norwich navigation as defined in that Act.
- (4) The Authority shall not fix a day to be the appointed day for the purposes of this section without having obtained the written consent of the Great Yarmouth Port Authority.
- (5) In the event of any discrepancy between the boundaries of Breydon Water and the Lower Bure described in Schedule 4, and the boundaries shown on the deposited plan, the description shall prevail.



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- (6) The Authority and the Great Yarmouth Port Authority may enter into and carry into effect agreements for the purposes of or in connection with the transfer of Breydon Water and the Lower Bure by subsection (2).

### 36 Haddiscoe Cut

- (1) In this section—

“the Act of 1827” means the [Act 7 & 8 Geo. 4 c. xlii](#) intituled “An Act for making and maintaining a Navigable Communication for ships and other vessels between the City of Norwich and the Sea at or near Lowestoft in the County of Suffolk”; and

“Haddiscoe Cut” means the Haddiscoe New Cut authorised by the Act of 1827 from its commencement by a junction with the river Yare to its termination by a junction with the river Waveney.

- (2) As from the appointed day—

- (a) the following provisions shall cease to have effect—
- (i) in the [British Transport Commission Act 1958 \(c. xliv\)](#)—
    - (aa) subsections (3), (4) and (7) of section 17 (as to Haddiscoe Cut);
    - (ii) in the 1988 Act—
      - (aa) subsection (7) of section 8 (the navigation area);
      - (bb) subsection (2) of section 10 (functions of Authority and others in relation to the navigation area);
  - (b) subsection (5) of section 8 and subsection (1) of section 10 of the 1988 Act shall apply to Haddiscoe Cut;
  - (c) the Environment Agency shall cease to discharge any functions in relation to Haddiscoe Cut under the provisions of the said Act of 1958 referred to in paragraph (a).

- (3) The Authority and the Environment Agency may enter into and carry into effect agreements for the purposes of or in connection with subsection (2).

### 37 Agreements with others

- (1) The Authority may enter into agreements with any other person for the purpose of—
- (a) facilitating the administration of any provision of the relevant enactments for the regulation of vessels in the navigation area or on adjacent waters; and
  - (b) integrating such administration with the administration by that person of any powers and controls exercised by that person or other arrangements made by it for the regulation of vessels.
- (2) In particular, any agreement made under subsection (1) may provide—
- (a) for treating registration or other certificates issued by one of the parties to the agreement as certificates issued by the other;
  - (b) for treating distinguishing marks or numbers assigned to vessels registered or certified by one party to the agreement as having been assigned to that vessel by the other; and
  - (c) for apportioning any registration fees or other charges between the parties to the agreement.

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- (3) To the extent provided by any agreement made under subsection (1), any certificate issued by a party to such an agreement shall be deemed for the purposes of the relevant enactments to have been issued by the Authority, and any mark, number or other distinguishing sign displayed on a vessel in accordance with the requirements of a person who is a party to such an agreement shall be treated as complying with the requirements of the relevant enactments.
- (4) In this section, “the relevant enactments” means this Act, the 1988 Act and any byelaw of the Authority.

### **38 Provision of information**

- (1) This section applies to information which is held by or on behalf of the Authority (including information obtained by or on behalf of the Authority before the coming into force of this section) for the purposes of the following provisions of this Act—
  - sections 11 to 15 (provisions as to safety of vessels, etc.);
  - sections 17 to 24 (other provisions as to vessels);
  - sections 25 to 32 (provisions as to water skiing and wake boarding, etc.);
  - section 40 (application of requirements of Public Health Acts Amendment Act 1907), and the provisions thereby applied to the Authority.
- (2) Information to which this section applies may be supplied to a responsible authority for the purposes of facilitating the exercise of any functions of the Authority or of the responsible authority under any enactment.
- (3) Information to which this section applies may be supplied to any person who can show to the satisfaction of the Authority that he has a reasonable cause for wanting the particulars to be made available to him, but nothing in this subsection authorises any disclosure of information which contravenes the Data Protection Act 1998 (c. 29).
- (4) Information obtained by virtue of this section must not be further disclosed except to a responsible authority for the purposes mentioned in subsections (2) and (3).
- (5) In this section “responsible authority” means any of the following—
  - (a) the chief officer of police for any police area in which the navigation area or any adjacent waters are situated;
  - (b) the fire and rescue authority for any area in which the navigation area or any adjacent waters are situated;
  - (c) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 (c. 37) for any area in which the navigation area or any adjacent waters are situated;
  - (d) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c. 8) for any area in which the navigation area or any adjacent waters are situated;
  - (e) the local authority by which statutory functions are exercisable in any area in which the navigation area or any adjacent waters are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health;
  - (f) in relation to a vessel—
    - (i) the Secretary of State;
    - (ii) the Environment Agency;

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- (iii) a harbour authority or a navigation authority; and
- (iv) the British Waterways Board.

(6) For the purposes of this section, “statutory function” means a function conferred by or under any enactment.

### **39 Removal of vegetation, etc.**

- (1) Where it appears to the Authority that any part (including the roots) of a hedge, tree or shrub—
- (a) overhangs or projects into, over or beneath the waters of the navigation area so as to endanger or cause significant obstruction to the passage of vessels, or
  - (b) is dead, diseased, damaged or insecurely rooted, and that by reason of its condition it, or part of it, is likely to cause danger by falling on the waters of the navigation area,
- the Authority may, subject to subsection (3), lop or cut it so as to remove the cause of the danger or obstruction unless the owner or occupier removes the cause of the danger or obstruction within the period of the notice referred to in subsection (3).
- (2) The Authority may enter the land where the hedge, tree or shrub is situated if it is not reasonably practicable to lop or cut it so as to remove the cause of the danger or obstruction without such entry.
- (3) Except in an emergency the Authority shall give not less than 14 days notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is situated of its intention to exercise the powers of this section.
- (4) The notice referred to in subsection (3) shall specify the works which the owner or occupier must carry out in order—
- (a) to remove the cause of the danger or obstruction; and
  - (b) ensure that the Authority does not exercise its powers under subsection (1),
- and if all of those works are carried out within the notice period the Authority shall not exercise those powers.
- (5) The sections of the Public Health Act 1936 (c. 49) mentioned in Schedule 5 to this Act (other than so much of those sections as authorises a local authority to require the person served with a notice to carry out works) shall have effect as if references in those sections to that Act included references to this section and as if the Authority were a local authority.

### **40 Application of requirements of Public Health Acts Amendment Act 1907**

- (1) For the purposes of this section a relevant vessel is any vessel which is a pleasure boat or pleasure vessel for the purposes of section 94 of the 1907 Act.
- (2) As from the appointed day section 94 of the 1907 Act shall apply in respect of a relevant vessel in the navigation area or on adjacent waters as though there were substituted for the expression “the local authority” the expression “the Broads Authority”.

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#### **41 For protection of Network Rail**

- (1) For the protection of Network Rail the following provisions shall, unless otherwise agreed in writing between the Authority and Network Rail, apply and have effect.
- (2) In this section “Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 736 of the Companies Act 1985 (c. 6)) the holding company of Network Rail.
- (3) No general or special direction shall be given so as unreasonably to prevent or delay Network Rail from using any vessel in any emergency for the purpose of inspecting, maintaining, repairing or renewing any lands, works or apparatus forming part of any operational railway of Network Rail; and any question arising under this subsection shall be determined with regard to the need to ensure the safety of members of the public.
- (4) Nothing in section 24 (entry on land) or section 39 (removal of vegetation, etc.) shall authorise the Authority to enter on any operational railway of Network Rail otherwise than with the consent in writing of Network Rail and in accordance with any reasonable conditions subject to which the consent is given.
- (5) Paragraph 21(9) of Schedule 5 to the 1988 Act shall apply to any dispute between the Authority and Network Rail arising under this section.

#### **42 Protection of Crown interests**

- (1) Nothing in this Act affects prejudicially any estate, interest, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—
  - (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
  - (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.
- (2) A consent under subsection (1) may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate.

#### **43 Transitional provisions, amendments, repeals and revocations**

- (1) Schedule 6 contains transitional provisions.
- (2) Schedule 7 contains amendments to the 1988 Act.
- (3) The enactments referred to in Schedule 8, Part 1 shall be repealed on the coming into force of this Act.
- (4) The enactments referred to in Schedule 8, Part 2 shall be repealed as from the appointed day.

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- (5) The byelaws referred to in Schedule 8, Part 3 shall be revoked on the relevant date determined in accordance with paragraph 7 of Schedule 6.

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## SCHEDULES

### SCHEDULE 1

Section 5

#### PROCEDURES AS TO GENERAL DIRECTIONS

- 1 In this Schedule “the statutory consultees” means—
- (a) Associated British Ports;
  - (b) the Great Yarmouth Port Authority;
  - (c) the navigation committee;
  - (d) the British Marine Federation, the Inland Waterways Association and the Royal Yachting Association; and
  - (e) such other bodies (if any) appearing to the Authority to represent boating interests as the Authority considers appropriate.
- 2 The Authority from time to time following consultation with the statutory consultees shall appoint a suitable person to act as the independent person for the purposes of this Schedule, and references in this Schedule to the independent person are references to the person so appointed.
- 3 The Authority shall consult the statutory consultees upon any proposal to give, amend or revoke a general direction and except in a case of emergency shall do so before giving notice of the proposal under paragraph 4.
- 4 Not less than 42 days before giving, amending or revoking a general direction or in a case of emergency as soon as is reasonably practicable the Authority shall—
- (a) publish notice of its intention to do so once in a newspaper circulating in the area of the Broads and on the Authority’s website; and
  - (b) give notice of its intention to do so to the statutory consultees.
- 5 Any notice published under paragraph 4—
- (a) shall state a place where copies of the direction and any proposed amendment to it may be obtained and a place at which such copies may be inspected;
  - (b) shall state that representations may be made to the Authority in writing during the said period of 42 days or such longer period as may be specified in the notice;
- and except in a case of emergency the Authority shall not give, amend or revoke the direction until it has considered all such representations as are made during the period stated in the notice.
- 6 In addition to the requirements of paragraph 4, notice of the giving of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the Authority to be appropriate.
- 7 If any of the statutory consultees within the period allowed for in accordance with paragraph 5(b) objects to the giving, revoking or amending of a general direction the Authority shall refer the matter to the independent person.

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- 8 As soon as reasonably practicable after an objection is referred to the independent person under paragraph 7 the independent person shall invite the Authority and statutory consultee by which the objection was made to put their case by way of written representations.
- 9 Following receipt of any representations made under paragraph 8 the independent person shall as soon as reasonably practicable provide the Authority and the statutory consultee by which the objection has been made with a report containing his conclusions on the direction and on the objection.
- 10 Except in an emergency the Authority shall consider the report of the independent person provided under paragraph 9 before giving, revoking or amending any general direction.

## SCHEDULE 2

Sections 13 and 31

### PROVISIONS AS TO APPEALS PANELS

- 1 In this Schedule “the panel” means the standards appeals panel or the water skiing and wake boarding appeals panel, as the case may require.
- 2 The standards appeals panel shall consist of not less than 1 person appointed by the Authority and 2 persons appointed by such bodies as appear to the Authority to represent boating interests, the appointments in each case to be made at the Authority’s expense and from amongst persons having knowledge or experience of the standards.
- 3 The water skiing and wake boarding appeals panel shall consist of—
- (a) 1 person appointed by the standards committee established by the Authority under section 53 of the Local Government Act 2000 (c. 22) (“the standards committee”) from amongst the members of that committee who are not members or officers of the Authority or of any other relevant authority such as is referred to in section 49(6) of that Act;
  - (b) 2 persons appointed by a body appearing to the Authority to represent water skiing and wake boarding interests nationally;
  - (c) 2 further persons (not being members or officers of the Authority) appointed by the standards committee.
- 4 The Authority shall refer any application duly made under section 13 or section 31 to the panel and provide the panel with reasonable facilities to determine the question which is the subject of the application.
- 5 Subject to the other provisions of this Schedule, the panel shall determine its own procedure (including the quorum for any meeting).
- 6 A determination by the panel in relation to any question referred to it shall be final.
- 7 The reasonable costs incurred in convening the panel in relation to any question referred to it, including the reasonable costs of the Authority in providing facilities to it, shall be paid by such party as the panel may direct.
- 8 The panel may cause the amount of the costs so incurred by it to be certified and any amount so certified and directed by it to be paid by a person may be recovered from that person by or on behalf of the panel summarily as a civil debt.

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- 9           The panel may make orders as to the costs of the parties in relation to any question referred to it and as to the parties by whom the costs are to be paid.
- 10          Any order under paragraph 9 may be made a rule of the High Court on the application of any party named in the order.

### SCHEDULE 3

Sections 14(2) and 27(6)(a)

#### REQUIREMENTS AS TO INSURANCE POLICIES

- 1           A policy required under section 14(2) shall insure the owner of the vessel and such other person, persons or classes of persons (if any) as is or as are authorised by the owner to have control of the vessel, in respect of any liability (other than a liability specified in paragraph 4) which may be incurred by the owner, or any such other person, resulting from the presence of the vessel in the navigation area or on adjacent waters, in respect of death of, or bodily injury to, any person or any damage to property.
- 2           A policy required under section 27(6)(a) shall insure the holder of the policy in respect of any liability (other than a liability specified in paragraph 4) which may be incurred by the holder in respect of the death of, or bodily injury to, any other person or any damage to property, resulting from the carrying out by the holder of water skiing or wake boarding.
- 3           A policy required under section 14(2) or section 27(6)(a) shall be issued by an insurer authorised under the Financial Services and Markets Act 2000 (c. 8) to carry on in Great Britain or in Northern Ireland insurance business of a relevant class or who has corresponding permission under the law of another member state of the European Community.
- 4           A policy shall not by virtue of this Schedule be required—
- (a) to cover liability in respect of the death, arising out of and in the course of his employment, of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment;
  - (b) in the case of a policy required under section 14(2), to cover liability in respect of—
    - (i) damage to the vessel to which the policy relates;
    - (ii) goods carried on or in the vessel to which the policy relates, or any vessel drawn or propelled by such vessel;
  - (c) in the case of a policy required under section 27(6)(a), to cover liability in respect of damage to any water skis, wake board or other equipment used in connection with water skiing or wake boarding;
  - (d) to cover any liability of a person in respect of damage to property in his custody or under his control;
  - (e) to cover any contractual liability; or
  - (f) to provide cover in respect of any one accident for a sum in excess of such sum as may for the time being be prescribed by the Authority for the purposes of this paragraph.



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## SCHEDULE 4

Section 35

### BREYDON WATER AND THE LOWER BURE

The area known as Breydon Water and the Lower Bure as enclosed by notional lines drawn—

- (a) across the river Bure, between grid references TG 5190 1009 and TG 5193 1012;
- (b) across the upstream river Yare, between grid references TG 4700 0511 and TG 4696 0520;
- (c) across the river Waveney, between grid references TG 4722 0379 and TG 4725 0375;
- (d) across the downstream river Yare between grid references TG 5187 0781 and TG 5196 0786;

and on its landward sides by the level of mean high water springs within the area so enclosed.

## SCHEDULE 5

Section 39(5)

### SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED BY SECTION 39(5)

<i>Section</i>	<i>Marginal note</i>
283(1)	Notices to be in writing; forms of notices &c.
285	Service of notices, &c.
287	Powers of entry.
288	Penalty for obstructing execution of Act.
304	Judges and justices not to be disqualified by liability to rates.
341	Powers to apply provisions of Act to Crown property.

## SCHEDULE 6

Section 43(1)

### TRANSITIONAL PROVISIONS

#### PART 1

##### GENERAL PROVISIONS

- 1 In this Part of this Schedule—
- “the appointed day” means the appointed day referred to in paragraph 5, 7 or 14, as the case may be;
  - “the existing enactments” means—
    - (a) the 2006 byelaws;
    - (b) the Broads Authority Speed Limit Byelaws 1992; and
    - (c) section 94 of the 1907 Act.

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- 2 The repeal, revocation or amendment, as the case may be, by this Act of the existing enactments shall not affect the liability of any person for any offence under any provision of the existing enactments committed before the appointed day.
- 3 Any proceedings under the existing enactments (including proceedings for an offence such as is referred to in paragraph 2) may be continued notwithstanding the repeal, revocation or amendment of the existing enactments.
- 4 Any application, approval, certificate, consent, document, exemption, notice or warrant made, submitted, given, granted or issued under any provision of the existing enactments shall continue to have effect after the appointed day as though it had been made, submitted, given, granted or issued under the corresponding provision of this Act until it expires or is revoked or otherwise ceases to have effect in accordance with this Act.

## PART 2

### BOAT SAFETY STANDARDS

- 5 In this Part of this Schedule—
- “the appointed day” means the appointed day fixed for the purposes of section 12 (construction and equipment standards) of this Act;
- “boat standards” means the boat safety standards set out in the 2006 byelaws.
- 6 (a) As from the appointed day the boat standards shall have effect as though they were standards and specifications imposed under section 12; and shall continue to apply to the categories of vessel to which they applied before the appointed day; and shall apply to vessels of those categories on adjacent waters as well as in the navigation area.
- (b) The 2006 byelaws shall be revoked on the appointed day.

## PART 3

### WATER SKIING AND WAKE BOARDING

- 7 In this Part of this Schedule—
- “the appointed day” means the appointed day fixed for the purposes of sections 26 to 32 of this Act;
- “the 1992 byelaws” means the Broads Authority Speed Limit Byelaws 1992;
- “the relevant date” means a date 6 months after the appointed day;
- “the specified waters” means the stretches of water specified in Schedule 2 to the 1992 byelaws;
- “the transitional period” means the period commencing on the appointed day and ending on the relevant date;
- “water ski permit” means a water ski permit issued by the Authority under byelaw 9 of the 1992 byelaws.
- 8 During the transitional period—
- (a) the specified waters shall be deemed to have been designated as zones under section 26; and

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- (b) any water ski permit issued by the Authority shall be deemed to be a permit issued under section 27.
- 9 During the transitional period the Authority shall not be required to exhibit and maintain any signs such as are referred to in section 26(8) in the vicinity of the specified waters.
- 10 Notwithstanding anything in the 1992 byelaws, or any condition of any water ski permit, every person who immediately before the appointed day held a water ski permit shall be entitled to engage in water skiing until the relevant date in accordance with the permit on the specified waters.
- 11 Paragraph 10 shall have effect subject to—
- (a) any resolution passed under section 26(1) or (4);
  - (b) any direction given under section 28; and
  - (c) the right of the Authority under section 30 to cancel or amend the permit in the circumstances referred to in section 30(1).
- 12 Without prejudice to the generality of paragraph 11 the Authority may during the transitional period by resolution passed under section 26 vary the times specified in Schedule 2 to the 1992 byelaws during which water skiing is permitted.
- 13 On the relevant date the following provisions of the 1992 byelaws shall be revoked—
- paragraph 2(a) of byelaw 5 (application of speed limits);
  - byelaw 6 (water skiing);
  - byelaw 9 (water ski permit);
  - in byelaw 11 (log books), paragraph b, the words “any light sports vessel is used in accordance with byelaw 6 or” in paragraph c, and paragraph d;
  - in byelaw 12 (wash) the words “any light sports vessel in accordance with Byelaw 6 or”;
  - Schedule 2 (water skiing—light sports vessels).

#### PART 4

##### PLEASURE BOAT LICENCES

- 14 In this Part of this Schedule—
- “the appointed day” means the appointed day fixed for the purposes of section 40 (application of requirements of 1907 Act) of this Act;
  - “licence” means a licence granted under section 94 of the 1907 Act;
  - “local authority” means any local authority from which functions are transferred to the Authority under section 40.
- 15 Any licence granted by a local authority and in force on the appointed day shall be deemed to have been granted by the Authority.
- 16 Anything done or commenced before the appointed day by or against, or in relation to, a local authority under section 94 of the 1907 Act may be continued after the appointed day by or against, or in relation to, the Authority under section 94, as it has effect in accordance with section 40 of this Act, and paragraphs 3 and 4 of this Schedule, instead of the local authority.

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## SCHEDULE 7

Section 43(2)

### AMENDMENTS TO THE NORFOLK AND SUFFOLK BROADS ACT 1988

1 Amend section 1 (the Broads Authority) as follows—

(1) For subsection (5) substitute—

“(5) The members appointed under subsection (3)(b) shall include persons appointed by the Secretary of State after consultation with such bodies appearing to him to represent the following interests, that is to say—

- (a) boating;
- (b) conservation;
- (c) farming and landowning;
- (d) land based recreation

as he considers appropriate, and in making such appointments the Secretary of State shall have regard to the desirability of maintaining an overall balance under this subsection (5) between those interests.”.

(2) Omit subsection (6).

2 Amend section 4 (conservation of areas of natural beauty) as follows—

In subsections (4) and (5), for “The Agency” substitute “Natural England”.

3 Amend section 8 (the navigation area) with effect from the appointed day fixed for the purposes of section 35 of this Act as follows—

(1) In subsection (1), after paragraph (c) insert “and  
(d) Breydon Water and the Lower Bure”.

(2) Omit subsection (7).

4 Amend section 9 as follows—

(1) For subsection (6) substitute—

“(6) In addition to consulting the Navigation Committee in accordance with requirements imposed by other provisions of this Act, the Authority shall—

- (a) consult the Navigation Committee—
  - (i) before delegating any function of the Authority in relation to the navigation area to any person;
  - (ii) before appointing any member of the Navigation Committee under this section;
  - (iii) before proposing, determining or bringing into force any new policy, plan, strategy or procedure or any change to an existing policy, plan, strategy or procedure which may significantly affect the use or enjoyment of the whole or any part of the navigation area;
  - (iv) before determining any application for planning permission which may significantly affect the use or enjoyment of the whole or any part of the navigation area and which materially conflicts with any policy, plan, strategy or procedure of the Authority;

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- (v) on the preparation of the annual budget, including in particular any income or expenditure attributable to the navigation area;
    - (vi) (except in case of urgency) before incurring expenditure which may have a significant effect on the use or enjoyment of the whole or any part of the navigation area and which has not been specifically provided for in the annual budget approved by the Authority;
    - (vii) before applying for any amendment of or alteration to the Navigation Committee’s constitution as set out in this section or the Authority’s constitution as set out in section 1 of this Act or any change to the functions of the Authority in relation to the navigation area as set out in Part II of and Schedule 5 to this Act and under Parts 2 and 3 of the 2009 Act; and
  - (b) report to the Navigation Committee upon the exercise of powers in relation to the navigation area by the Authority or any officer of the Authority since the last meeting of the Navigation Committee.”.
- (2) Omit subsection (8).
- (3) For subsection (9) substitute—

“(9) In exercising its functions the Authority shall have regard to any representations made to it by the Navigation Committee on matters relating to the navigation area and, where the Authority resolves not to adopt any recommendations made to it by the Navigation Committee, it shall provide full reasons for doing so.”.
- 5 Amend section 10 (functions of Authority and others in relation to the navigation area) as follows—
  - (1) After subsection (2) insert—

“(2A) The Authority may carry out works and do other things in relation to any adjacent waters in or over which it has sufficient rights or interest for the improvement of navigation on those waters.”.
  - (2) For subsection (7) substitute—

“(7) The Authority shall appoint a person to be known as the navigation officer and may appoint a person to act as deputy to the navigation officer.”.
  - (3) Omit subsections (8) and (9).
  - (4) For subsection (10) substitute—

“(10) The person appointed as the navigation officer shall be an officer of the Authority.”.
  - (5) Omit subsections (11) and (12).
  - (6) For subsection (13) substitute—

“(13) The navigation officer and any deputy appointed under subsection (7) above shall be a warden for the purposes of section 6 of this Act.”.

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- (7) Omit subsections (14), (15) and (17)(c).
- 6 For subsection (13) of section 11 (licences required for construction of works) substitute—
- “(13) Before determining any application for a works licence the granting of which would significantly affect the use or enjoyment of the whole or any part of the navigation area, the Authority shall consult the Navigation Committee.”.
- 7 Amend section 13 (navigation charges) as follows—
- (1) Omit subsections (1) and (2) and insert—
- “(1) The Authority may determine and recover tolls in respect of vessels moored, used or navigated on adjacent waters as well as in the navigation area.”.
- (2) For subsection (3) substitute—
- “(3) The Authority shall consult the Navigation Committee before determining the level of any tolls or other charges to be imposed in respect of the navigation area or adjacent waters.”.
- 8 Amend section 17 (accounts and auditing) on the appointed day as follows—
- (1) For subsection (2) substitute the following—
- “(2) The Authority shall keep proper records of its finances.”.
- (2) Omit subsections (3) and (4).
- (3) For subsections (5) to (9) substitute—
- “(5) The Authority shall prepare a report as soon as reasonably possible after the end of each financial year describing the navigation income received by it and the navigation expenditure incurred by it in that year.
- (6) It shall be the duty of the Authority to secure that taking one financial year with another navigation expenditure is equal to navigation income.
- (7) Monies held in the navigation revenue account immediately before the appointed day fixed for the purposes of paragraph 8 of Schedule 7 to the 2009 Act (together with any interest properly attributable to those monies) shall as from that day only be applied as navigation expenditure.
- (8) In this section—
- “the navigation revenue account” means the navigation account kept in accordance with this section as originally enacted;
- “navigation expenditure” means—
- (a) the expenditure which the Authority incurs in respect of its functions under Part II of this Act and under the 2009 Act;
- (b) expenditure incurred in respect of the provision of moorings; and
- (c) expenditure incurred in relation to adjacent waters under section 10(2A) of this Act,
- but for the purposes of this section expenditure incurred wholly or mainly in connection with conserving the natural beauty, wildlife or cultural heritage of any area, including expenditure on dredging

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wholly or mainly for conserving those things, shall not be classified as navigation expenditure unless in the case of expenditure incurred wholly or mainly in connection with conserving the cultural heritage of any area it is incurred for the purpose of maintaining, improving, facilitating or promoting the public right of navigation;

“navigation income” means—

- (a) the charges which the Authority makes in the discharge of its functions under Part II of this Act and the 2009 Act;
  - (b) the charges which the Authority makes under section 26 of the Harbours Act 1964 (including tolls in respect of adjacent waters);
  - (c) any other income attributable to the functions of the Authority under the above provisions, or accruing to it in respect of moorings;
  - (d) any interest properly attributable to navigation income;
  - (e) any grant made to the Authority specifically for purposes for which navigation expenditure can be incurred.
- (9) For the avoidance of doubt expenditure incurred and income received in respect of Mutford Lock shall be regarded as navigation expenditure and navigation income respectively.
- (10) The Authority may apply navigation income for the purposes of carrying out to adjacent waters works of maintenance or improvement which are intended to facilitate the use of those waters for the purposes of navigation by persons other than the occupier of, or the owner of any interest in, the land upon which the waters are situated.
- (11) For the purposes of subsection (10) above members of a club or other association which occupies land upon which adjacent waters are situated shall be deemed not to be occupiers of the land.”.

9 Amend section 25(1) (interpretation) as follows—

(1) Insert at the appropriate places—

““the 2009 Act” means the Broads Authority Act 2009;”

““adjacent waters” has the meaning given by section 2(2) of the 2009 Act;”

““Breydon Water and the Lower Bure” means the areas described in Schedule 4 to the 2009 Act and shown edged red on the deposited plan referred to in section 35(1) of that Act;”

““the navigation officer” has the meaning given by section 10(7);”

““toll” means a charge levied by the Authority under section 26 of the Harbours Act 1964 (and includes any charge made in the discharge of the Authority’s functions under Part II of this Act and any charge levied in respect of a vessel moored, used or navigated on any adjacent waters);”.

(2) Omit the entries relating to the Broads Navigation Officer and the Norwich Navigation Officer.

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- (3) For the definition of “Trinity House” substitute ““Trinity House” means the Corporation of Trinity House of Deptford Strond;”.
- (4) For the definition of “vessel” substitute—
- ““vessel” includes—
- (a) every description of craft, including a personal water craft used or capable of being used for transportation by water;
- (b) a sailboard;
- (c) any raft, pontoon or similar floating or submersible structure capable of being moved under its own power or under tow but does not include any craft or pontoon which is permanently fixed.”.
- 10 Omit paragraph 6(b) of Schedule 1.
- 11 Amend Schedule 3, paragraph 33 (code of practice for land drainage works) as follows—
- (1) In sub-paragraph (1), omit “shall” and insert “may”.
- (2) In sub-paragraph (2), omit “the code of practice” and insert “any code of practice issued under sub-paragraph (1) above”.
- 12 As from the appointed day fixed for the purposes of section 35 amend Schedule 5 as follows—
- (1) Substitute for paragraph 1(3) the words—
- “1 (3) Subject to sub-paragraph (4) below, the Authority shall provide and maintain buoys, beacons and such other aids to navigation as it thinks necessary within the Norwich navigation and the Lower Bure.”.
- (2) Substitute for paragraph 1(4) the words—
- “1 (4) The Authority shall not provide, alter, discontinue the use of or remove any buoy, beacon or other aid to navigation for the purposes of the Norwich navigation and the Lower Bure without the written consent of Trinity House.”.
- (3) Omit paragraphs 5 and 6.
- (4) Substitute for paragraph 10(2)(b)(i) and (ii)—
- “(i) for a total of more than six hours in any period of twenty four hours.”.
- (5) At end of paragraph 10(2)(b)(iii) insert—
- “(iv) without taking all reasonable measures—
- (A) to minimise the duration of any restriction or prohibition of the use of the waterway; and
- (B) to mitigate any effect of the exercise of the power on the use of the waterway by vessels not involved in the function; or”.
- (6) In paragraph 12(1), after “abandoned” insert “or which is unserviceable”.
- (7) After paragraph 12(5) insert—



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- “(5A) The expenses which may be deducted or recovered under subparagraph (5) shall include—
- (a) all expenses reasonably incurred by the Authority in respect of the raising, removal, storage, disposal or destruction of the vessel;
  - (b) all administrative and legal costs reasonably incurred by the Authority in the exercise of those powers, or in connection with any legal proceedings brought by the Authority in relation to the vessel”.
- (8) Omit paragraph 17.
- (9) Omit paragraph 18.
- (10) In paragraph 19(1), omit the word “Norwich” in the first place where it occurs.

## SCHEDULE 8

Section 43(3)

### ENACTMENTS REPEALED OR REVOKED

#### PART 1

##### ENACTMENTS REPEALED ON THE COMING INTO FORCE OF THIS ACT

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<i>(1)</i> <i>Short title and chapter</i>	<i>(2)</i> <i>Extent of repeal</i>
Norfolk and Suffolk Broads Act 1988 (c. 4)	Section 1(6); Section 9(8); Section 10(2), (8), (9), (11), (12), (14), (15) and (17)(c); Section 13(2); Paragraph 6(b) of Schedule 1; Paragraphs 17, 18 and 19(1) of Schedule 5.

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#### PART 2

##### ENACTMENTS REPEALED ON THE APPOINTED DAY

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<i>(1)</i> <i>Short title and chapter</i>	<i>(2)</i> <i>Extent of repeal</i>
British Transport Commission Act 1958 (c. xlv)	Section 17(3), (4) and (7).
Norfolk and Suffolk Broads Act 1988 (c. 4)	Section 8(7);

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<i>(1)</i> <i>Short title and chapter</i>	<i>(2)</i> <i>Extent of repeal</i>
	Section 17(3) and (4); Paragraphs 5 and 6 of Schedule 5.

### PART 3

#### REVOCATIONS

<i>(1)</i> <i>Byelaw</i>	<i>(2)</i> <i>Extent of revocation</i>
Broads Authority Speed Limit Byelaws 1992	Paragraph 2(a) of Byelaw 5; Byelaw 6; Byelaw 9 (water ski permit); In Byelaw 11 (log books), paragraph b, the words “any light sports vessel is used in accordance with byelaw 6 or” in paragraph c, and paragraph d; In Byelaw 12 (wash) the words “any light sports vessel in accordance with byelaw 6 or”; Schedule 2 (water skiing—light sports vessels).