



# Broads Authority Act 2009

## 2009 CHAPTER i

### 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;

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- (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).
- (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;

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- (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;
  - (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

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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
  - (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

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- (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.
- (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.