



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;