
STATUTORY INSTRUMENTS

2002 No. 1998

The Wye Navigation Order 2002

PART III

**ADDITIONAL FUNCTIONS OF THE AGENCY
IN RELATION TO THE PRINCIPAL RIVERS**

Byelaws

17.—(1) In addition to its powers to make byelaws under Schedule 25 to the Water Resources Act 1991 or any other enactment, the Agency may make byelaws in relation to the navigation and use of the principal rivers, and for their good management in connection with such navigation and use.

(2) In particular, byelaws under paragraph (1) may be made for all or any of the following purposes—

- (a) for regulating or prohibiting races, regattas or any other similar event;
- (b) for preventing obstructions to the navigation or use of the principal rivers;
- (c) for prescribing navigational rules, including rules regulating the speed of vessels on the principal rivers and rules prohibiting the navigation or use of the principal rivers by, or the keeping on the principal rivers of, vessels which exceed dimensions (in terms of length, width, height, draught or other criteria) specified in the byelaws;
- (d) for prescribing precautions for the prevention of fire and precautions to be taken in cases of fire or accident occurring in or to any vessel;
- (e) for preventing or controlling pollution by prohibiting or regulating the discharge from vessels into the principal rivers of any poisonous, noxious or polluting material or substance, or by requiring the use of effectual silencers and the control of noise generally on vessels on the principal rivers;
- (f) for regulating the launching of vessels within the principal rivers, the placing, laying down, maintenance, use and removal of existing and future moorings, and the use of pontoons, slipways and landing places;
- (g) for regulating the passage of vessels over or through any structure, works or apparatus in the principal rivers, either generally or in circumstances prescribed by the byelaws, and for regulating the use of any other works or facilities provided by the Agency on the principal rivers;
- (h) for prescribing, for purposes of safety, conditions with respect to their construction, equipment and maintenance (including maintenance of equipment) which must be satisfied by vessels navigating, using or kept on the principal rivers;
- (i) for regulating the display of advertising on any vessel navigating, using or kept on the principal rivers; and
- (j) for requiring the registration of, or of any class of, vessel, for the renewal of registration, for the revocation of registration in specified circumstances, and for prohibiting vessels

which are required to be but which are not registered with the Agency from being navigated and used on, or kept on, the principal rivers.

(3) Byelaws made for the purpose of paragraph (2)(b) shall not apply in relation to any property of a statutory undertaker or adversely affect or obstruct access to any such property.

(4) Byelaws made for the purpose of paragraph (2)(h) may authorise the Agency to specify from time to time the conditions which vessels navigating or using the principal rivers must satisfy for the purposes of the byelaws.

(5) Byelaws made for the purpose of paragraph (2)(j) may authorise the Agency—

- (a) to make reasonable charges in respect of the registration of vessels, including different charges for vessels of different descriptions;
- (b) to attach conditions to the registration of vessels, including a condition that an insurance policy of the type specified in paragraph (6) shall be in force in respect of the vessel and that a copy of the policy, or evidence that it exists, shall be produced to the Agency;
- (c) to grant exemptions (with or without conditions) from the requirements of registration, including exemptions to those vessels used by members of such clubs, associations or bodies as the Agency may from time to time determine;
- (d) to inspect vessels or have them inspected on behalf of the Agency in connection with their registration; and
- (e) to require notice of the transfer or sale of any vessel so registered to be given to the Agency.

(6) For the purposes of paragraph (5)(b), an insurance policy is a policy which—

- (a) is issued by an insurer who has permission under Part 4 of the Financial Services and Markets Act 2000⁽¹⁾ to effect and carry out contracts of insurance of a relevant kind or an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect and carry out contracts of insurance of a relevant kind; and
- (b) subject to paragraph (7), insures the owner of the vessel and any other person or class of person (if any) who is authorised by the owner to have control of the vessel in respect of any liability which may be incurred by the owner or any such other person resulting from the presence of the vessel on the principal rivers in respect of the death or bodily injury to any person or any damage to property.

(7) The policy shall not by virtue of paragraph (6)(b) 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) to cover liability in respect of damages to the vessel to which the policy relates;
- (c) to cover liability in respect of goods carried on or in the vessel to which the policy relates, or any vessel drawn or propelled by such vessel;
- (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 Agency for the purposes of this paragraph.

(8) The dimensions of vessels specified in byelaws made for the purpose of paragraph (2)(c) shall be determined by having regard to.

(1) 2000 c. 8.

- (a) the physical characteristics of the principal rivers and their resulting unsuitability for navigation and use by vessels exceeding those dimensions; or
- (b) any significant risk of interference with, or damage to, flora, fauna and geological or physiographical features of special interest due to the navigation and use of the principal rivers by vessels exceeding those dimensions,

and in making any such byelaws the Agency shall wherever practicable specify different dimensions for different parts of the principal rivers and for different flow conditions in order to take into account the different characteristics of those parts and their suitability for navigation and use.

(9) Nothing in any byelaws made for the purpose of paragraph (2)(j) shall require the registration of—

- (a) any newly constructed or newly restored vessel in respect of any trial trip of such vessel on the principal rivers; or
- (b) any vessel in respect of its movement from any boat-builder's yard on the principal rivers to any other place on the principal rivers with a view to its immediate removal from the principal rivers;

Provided that not less than 48 hours' notice shall be given to the Agency of the intention to make such a trip or move such a vessel, and any conditions specified by the Agency in that behalf shall be complied with.

(10) Any charge payable in respect of a certificate of registration issued under byelaws made under this article shall be recoverable by the Agency from the owner of the vessel so registered or other person who has applied for its registration.

(11) Byelaws made under this article may relate to the whole of the principal rivers, or to any part of the principal rivers, may make different provision for different parts of the principal rivers, may relate to different classes of vessel navigating, using or kept on the principal rivers, and may otherwise make different provision for different circumstances.

(12) Byelaws made under this article may provide for it to be an offence for a person to contravene, or to fail to comply with, a provision of the byelaws and for such a person to be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) Any person offending against any byelaw made under this article may be required by the Court, in addition to any fine incurred by the commission of the offence, to pay to the Agency a sum in respect of the cost of repairing or making good any damage occasioned to the property of the Agency by the commission of the offence; and the provisions of section 41 of the Administration of Justice Act 1970(2) (recovery of compensation awarded) shall apply to any sum required to be paid pursuant to this article as they would apply in the cases specified in Part I of Schedule 9 to that Act.

(14) Byelaws made under this article shall be subject to confirmation by—

- (a) the Secretary of State (as respects byelaws that relate to an area in England);
- (b) the National Assembly for Wales (as respects byelaws that relate to an area in Wales);
- (c) the Secretary of State and the National Assembly for Wales (as respects byelaws that relate to an area in both England and Wales),

in accordance with the procedure laid down by section 210 of, and Schedule 26 to, the Water Resources Act 1991.