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STATUTORY INSTRUMENTS

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**2002 No. 1998**

The Wye Navigation Order 2002

PART III

ADDITIONAL FUNCTIONS OF THE AGENCY  
IN RELATION TO THE PRINCIPAL RIVERS

**Control of unsafe vessels**

- 18.—(1) For the purposes of this article—
- (a) a vessel is unsafe if its condition constitutes a danger to persons on board the vessel, to other persons or to any property;
  - (b) references to the condition of a vessel include references to the condition of the engines, appliances, fittings and equipment of the vessel; and;
  - (c) “defect” means any defect by reason of which a vessel is unsafe.
- (2) An officer acting in exercise of the powers of this article shall produce written evidence of his authority if required to do so.
- (3) An officer may at any reasonable time enter upon any vessel on the principal rivers for the purpose of inspecting the condition of the vessel so as to ascertain whether the vessel is unsafe.
- (4) An officer shall not enter upon any vessel in accordance with paragraph (3) unless—
- (a) not less than 24 hours' notice of the intention to enter has been given to the master of the vessel; or
  - (b) the officer has reason to believe that the vessel may be unsafe and that an immediate inspection is required.
- (5) Where in the opinion of an officer who inspects a vessel under the powers of this article the vessel is unsafe, he shall give to the master of the vessel and to the owner (if different) a notice—
- (a) containing details of the defects and of the measures required to remedy them;
  - (b) stating that, except in any case where the defects are, immediately following the inspection, remedied to the reasonable satisfaction of the officer who has inspected the vessel, the further movement or use of the vessel otherwise than in accordance with any requirement of the notice, or with the consent or under the direction of an officer, shall be prohibited until a statement has been issued by the Agency that the vessel is no longer unsafe;
  - (c) requiring the owner of the vessel to remedy the defects by a date (which shall be not less than three months from the date of the notice) and to notify the Agency within that period of the steps taken to remedy the defects;
  - (d) requiring the recipient of the notice (or, if more than one, any one of them) in any case where it appears appropriate to the Agency to move the vessel within a stated period (being not less than 7 days) to the place and in the manner specified in the notice; and
  - (e) stating the effects of paragraphs (6) to (14).

(6) Any person who without reasonable excuse—

- (a) moves or uses a vessel in respect of which a notice has been given under paragraph (5), while the notice is in force, otherwise than in accordance with any requirement of the notice or with the consent, or under the direction, of an officer; or
- (b) fails to move the vessel if so required by the notice,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Consent shall not be unreasonably withheld under this article to the movement or use of a vessel for the purpose of taking it to a place where the defects specified in the notice may conveniently be remedied or for the purpose of taking the vessel to be destroyed.

(8) Consent under this article to the movement or use of a vessel may be given subject to any reasonable conditions necessary for the prevention of danger to those on board the vessel, to other persons or to any property.

(9) Where a notice given under paragraph (5) is in force, the Agency may at any time move the vessel or take such other steps as may be necessary to remove or abate any source of danger on board or arising from the vessel.

(10) If on the expiry of the period specified under paragraph (5)(c) the vessel is still on the principal rivers and it appears to the Agency that the defects specified in the notice, or any of them, have not been remedied or that adequate arrangements for their being remedied have not been made and are unlikely to be made within a reasonable time, the Agency may give to the owner 21 days' notice that, on the expiry of the notice, it proposes to deal with the vessel as a vessel which is abandoned under article 10.

(11) A copy of every notice given under paragraph (10) shall be given to the master of the vessel for the time being, if different from the owner.

(12) If on the expiry of the period of 21 days referred to in paragraph (10) it appears to the Agency that the defects specified in the notice, or any of them, have not been remedied or that adequate arrangements for their being remedied have not been made and are unlikely to be made within a reasonable time, article 10 shall apply as if the vessel were a vessel which had been left on the principal rivers without lawful authority and the Agency may deal with the vessel accordingly.

(13) Any person aggrieved by a notice under paragraph (5) or by the refusal of the Agency to issue a statement under that paragraph that the vessel is no longer unsafe may appeal to a magistrates' court; and on any such appeal the court may confirm, vary or set aside the notice and may order the Agency to issue a statement under that paragraph that the vessel is no longer unsafe.

(14) An appeal under paragraph (13) may be brought—

- (a) at any time until the expiry of the period specified under paragraph (5)(c); or
- (b) at any time after that period if—
  - (i) a statement has not been issued under paragraph (5) that the vessel is no longer unsafe; or
  - (ii) the Agency have not dealt with the vessel under article 10, as applied by paragraph (10) or (12) of this article.

(15) Until the time for appealing has expired or, if an appeal is lodged, until the proceedings have been concluded by the disposal or withdrawal of the appeal or its failure for want of prosecution, the notice shall continue in force but the Agency shall not deal with the vessel under article 10, as applied by paragraph (10) or (12) of this article, after the lodging of an appeal until the proceedings have been concluded.