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SCHEDULES

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;

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- (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;
- (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).

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- (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.”.
- (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

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(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 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

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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.
 - (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

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(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—

“(5A) The expenses which may be deducted or recovered under sub-
paragraph (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.