



# Middle Level Act 2018

## 2018 CHAPTER ii

### PART 4

#### MISCELLANEOUS

#### **14 Commissioners' duties in relation to boat-dwellers**

- (1) In the exercise of their functions under and by virtue of this Act (including the provision of facilities) the Commissioners must have regard to—
  - (a) the interests of individuals who use vessels as their sole residence (including individuals who do not own or have access to a permanent mooring); and
  - (b) the desirability of safeguarding and facilitating public rights of navigation.
- (2) In each calendar year the Commissioners must publish a report setting out what they have done in the previous calendar year to satisfy the duty under subsection (1).

#### **15 Residential and recreational use of the waterways**

- (1) In the exercise of their functions as navigation authority under the navigation Acts, the Commissioners may develop, improve, preserve and manage the waterways and their banks as places for the use of vessels as dwellings, recreation and leisure pursuits.
- (2) Subsection (1) includes, but is not limited to, the power to maintain and improve existing works, buildings and other facilities and construct, lay out, equip and maintain all such further works, buildings and facilities, provide all such facilities, equipment and services and provide or do all such other acts or things as the Commissioners may think necessary or expedient for that purpose.
- (3) Without prejudice to the generality of subsections (1) and (2) the Commissioners may place, lay down, maintain and use moorings in the waterways or on their banks, on land owned by or leased to the Commissioners or in which they have a sufficient interest and on any other land with the consent of the owner or lessee of such land.
- (4) The powers conferred upon the Commissioners by subsection (3) may be exercised notwithstanding interference with public rights of navigation.

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## **16 Protocol on removal of vessels**

- (1) The Commissioners must prepare, publish and maintain a protocol on the use of powers under or by virtue of this Act to remove vessels.
- (2) The protocol must, in particular—
  - (a) specify factors to be taken into account by the Commissioners when deciding how soon to take action after a minimum interval specified by or under this Act;
  - (b) specify action to be taken by the Commissioners to ensure that removal powers are exercised only as a last resort;
  - (c) include any other measures the Commissioners think appropriate to ensure that their removal powers are exercised with sensitivity;
  - (d) specify action to be taken to ensure that persons acting under section 17 are aware of, and comply with, the provisions of the protocol.

## **17 Authorised officers**

The Commissioners may appoint persons (whether employees of the Commissioners or not) to act as authorised officers for the purpose of enforcing or securing compliance with the provisions of the navigation Acts and of any navigation byelaws.

## **18 Accounts and audit**

- (1) The Commissioners must keep accounting records, to be known as the navigation account, that are sufficient to show and explain—
  - (a) income received from charges recovered under section 5 or otherwise relating to the Commissioners’ functions in respect of navigation under the navigation Acts; and
  - (b) costs incurred by the Commissioners in exercising their functions in respect of navigation under the navigation Acts.
- (2) Nothing contained in, or done under or by virtue of, the Middle Level Acts or the Local Audit and Accountability Act 2014 is to be taken to prevent the same person from being appointed—
  - (a) by the Commissioners to audit the navigation account for any financial year; and
  - (b) by the specified person to audit the general account for that financial year.
- (3) For the purposes of the application of Part 5 of the Local Audit and Accountability Act 2014 (conduct of local audit) to the navigation account, the definition of “local government elector” in section 44(1) of that Act has effect as if it included any person who is registered as the owner of a vessel that is registered for use in the waterways under the provision of any navigation byelaws.
- (4) In this section—

“general account” means the accounts the Commissioners are required by section 30 of the Middle Level Act 1844 to produce; and

“specified person” means any person specified under regulations made under section 17 of the Local Audit and Accountability 2014 (appointment of auditor by specified person) to appoint a local auditor to audit the general account of the Commissioners.

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## **19 Notices**

- (1) A notice or other document required or authorised to be served for the purposes of the navigation Acts or of any navigation byelaws may be served by post.
- (2) A notice or other document to be served by the Commissioners may be served by the chief executive or any other duly authorised employee of the Commissioners.
- (3) Where the person on whom a notice or other document to be served is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.
- (4) For the purposes of section 7 of the Interpretation Act 1978 (references to service by post) as it applies for the purposes of this section, the proper address of any person in relation to the service on the person of a notice or document under subsection (1) is, if the person has given an address for service, that address, or otherwise—
  - (a) in the case of service on a body corporate or its secretary or clerk, the registered or principal office of the body; and
  - (b) in any other case, that person’s last known address at the time of service.
- (5) Where for the purposes of the navigation Acts or the navigation byelaws, any notice or document is required to be served on a person having any interest in, or the occupier of, any premises, or the owner of any vessel, and that person’s name or address cannot after reasonable inquiry be ascertained, the notice or document may be served by—
  - (a) addressing it to the person by name or by the description of “owner” or “occupier”, as the case may be, of the land or vessel (describing it); and
  - (b) either leaving it in the hands of a person who is or appears to be resident or employed on that land or vessel or by leaving it conspicuously affixed to the vessel or some building or object on or near the land.
- (6) When serving a notice or other document on an individual whom the Commissioners have reason to believe lives on a vessel, the Commissioners must serve by delivery to the vessel, unless—
  - (a) the individual has specified some other means of service; or
  - (b) the Commissioners are satisfied that it is not reasonably practicable to serve by delivery to the vessel.
- (7) This section is not to be taken to exclude the employment of any method of service not expressly provided for by it.

## **20 Amendments of the Middle Level Acts**

- (1) The Middle Level Act 1867 is amended as follows.
- (2) In section 46, substitute the words “section 18 of the Middle Level Act 2018” for the words “section 37 of the “Middle Level Act, 1862,””.
- (3) The Middle Level Act 1874 is amended as follows.
- (4) In section 67, substitute the words “a fine not exceeding level 3 on the standard scale” for the words “five pounds”.
- (5) In section 68, substitute the words “a fine not exceeding level 3 on the standard scale” for the words “five pounds”.

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## **21 Repeals**

The enactments mentioned in the first and second columns of the table in Schedule 4 are repealed to the extent specified in the third column of that table.