



Broads Authority Act 2009

2009 CHAPTER i

PART 2

REGULATIONS AND MANAGEMENT OF NAVIGATION AREA

Other provisions as to vessels

17 Entry on and inspection of vessels

- (1) An authorised officer who produces written evidence of his authority may board any vessel in the navigation area or on adjacent waters for the purpose of—
 - (a) ascertaining whether any requirement made by or by virtue of any provision contained in or applied by this Act (other than section 8), or any byelaw made under or deemed to be made under this Act is being complied with; or
 - (b) determining whether any power or duty which is conferred or imposed by or by virtue of any of those provisions should be exercised or performed; or
 - (c) exercising or performing any such power or duty.
- (2) An authorised officer who boards any vessel pursuant to this section may—
 - (a) carry out such inspections, measurements and tests of or in relation to the vessel or of any article found on the vessel;
 - (b) take away such samples of any article or substance,as are reasonably necessary for any purpose mentioned in subsection (1).
- (3) Section 173 of and Schedule 20 (other than paragraph 7 of Schedule 20) to the 1991 Act shall apply with all necessary modifications to the powers of entry which are conferred by subsection (1) as though for references to the Agency there were substituted references to the Authority.
- (4) The master of any vessel subject to boarding and inspection under subsection (1) shall provide reasonable facilities for the boarding, inspection and measuring of the vessel and for the exercise by the authorised officer of the powers of subsection (2).

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- (5) Except in an emergency, an authorised officer shall not board any vessel pursuant to this section except with the consent of the owner or master or under the authority of a warrant by virtue of Schedule 20 to the 1991 Act as that Schedule has effect in accordance with subsection (3).
- (6) For the purposes of any inspection under this section, the master of the vessel shall cause the whole of any installation forming part of or on the vessel to be made available for inspection.
- (7) The Authority, if requested so to do by the owner or master of a vessel which is boarded under this section, shall provide a full report of the findings of the authorised officer who boarded the vessel within 28 days of the boarding.
- (8) Notice in writing of the entitlement to the report referred to in subsection (7) shall be given—
 - (a) by the officer who boards a vessel, to the master of the vessel at the time of the boarding; and
 - (b) (if the owner is not the master) by the Authority, to the owner of the vessel as soon as reasonably practicable after the boarding.
- (9) Subject to subsection (10) the costs incurred by the Authority under this section shall be borne by the Authority.
- (10) In any case in which the Authority exercises the powers of this section in relation to a vessel which it determines fails materially to comply with any standards applicable to the vessel, the costs reasonably incurred by the Authority in exercising those powers shall be borne by the owner of the vessel.
- (11) Any question as to whether, for the purpose of subsection (10), a vessel fails materially to comply with any standards applicable to it shall be referred to the standards appeals panel for determination.
- (12) Any person who without reasonable excuse intentionally obstructs an authorised officer acting in accordance with this section or contravenes any requirement of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

18 Meaning of “unsafe vessel”

For the purposes of this Act a vessel is unsafe if—

- (a) the vessel does not comply with any standards applicable to the vessel; or
- (b) a person has been convicted of an offence under this Act, or the 1988 Act, or any byelaw of the Authority, in respect of the vessel,

and the Authority is satisfied after taking advice where appropriate from a person qualified to examine or assess compliance with any standards imposed under section 12 that the non-compliance or the circumstances which resulted in the conviction, as the case may be, continues or continue to give rise to a danger to any person or to any property, or risk of pollution, from the vessel.

19 Powers as to unsafe vessels, etc.

- (1) An authorised officer may require the master of any unsafe vessel in the navigation area or on adjacent waters—

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- (a) to remove the vessel to a place either within or outside the navigation area or adjacent waters; and
 - (b) where reasonably practicable, to carry out such works to the vessel, or to take such other action, as will remove any imminent danger to the safety of any person or property on or near the vessel, or any imminent risk of pollution.
- (2) An authorised officer who boards a vessel pursuant to section 17 may if the vessel is unsafe carry out such works or take such other action as is referred to in subsection (1) (b); and the Authority may recover the costs reasonably so incurred from the owner of the vessel.
- (3) The master of a vessel who without reasonable excuse fails to comply with a requirement made under subsection (1) and any person who without reasonable excuse intentionally obstructs an authorised officer acting under subsection (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Authority shall pay reasonable compensation to the owner of any vessel in respect of any damage which is caused to the vessel by the exercise of the powers of this section, if it is shown that at the time of such exercise the vessel was not unsafe, but nothing in this subsection shall require the Authority to pay compensation in respect of any damage to the extent that the damage results from the act or default of the master, owner or any other person (not being an employee or agent of the Authority).

20 Removal of unsafe vessels, etc.

- (1) The Authority may exercise the powers of this section in relation to any unsafe vessel in the navigation area or on adjacent waters in any case in which—
 - (a) there is no-one on board the vessel; or
 - (b) the master has failed without reasonable excuse to comply with a requirement made under section 19(1).
- (2) The Authority may relocate the vessel on, or remove it from, the navigation area or adjacent waters; and may store the vessel.
- (3) Not less than 28 days before relocating or removing a vessel under subsection (2), the Authority, unless it exercises its powers in an emergency, shall—
 - (a) give the owner of the vessel notice in writing of its intention to do so; and
 - (b) affix a copy of the notice to the vessel, or display it in a conspicuous place in the vicinity of the vessel and take reasonable steps to ensure that the notice remains in position for a period of 28 days.
- (4) Subsection (3)(a) shall not apply where the Authority has used all reasonable endeavours to notify the owner of the vessel concerned but has been unable to do so.
- (5) Subject to subsection (9) a vessel relocated or removed by the Authority under this section shall vest in the Authority upon the issue by the Authority of a certificate (“the vesting certificate”).
- (6) The vesting certificate—
 - (a) may be issued not less than 3 months after the date of the notice given by the Authority in respect of the vessel under subsection (3), or where subsection (4) applies, 3 months after the date of relocation or removal of the vessel;

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- (b) shall be served on the owner (except in the circumstances referred to in subsection (4)) and displayed at or near the place from which the vessel was removed; and
 - (c) shall be displayed at the principal office of the Authority.
- (7) Subject to subsection (9) and following the issue of the vesting certificate the Authority may deal with the vessel as it thinks fit including the disposal or destruction of the vessel.
- (8) The Authority may recover from the owner of any vessel relocated or removed under this section all expenses reasonably incurred by the Authority in respect of the relocation, removal, storage, disposal and destruction of the vessel, including 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.
- (9) If within 24 months of the date of the issue of the vesting certificate, a claim is made to the vessel by a person who subsequently proves to the satisfaction of the Authority that he is its owner, then the Authority shall—
 - (a) if the vessel is unsold and upon payment of the expenses referred to in subsection (8), permit that person to retake it;
 - (b) if it has been sold, pay to that person the amount of the proceeds of such sale after deducting the said expenses and, if those proceeds are insufficient to reimburse the Authority those expenses, the deficiency may be recovered from that person by the Authority.
- (10) Subsection (9)(a) shall not apply to anything attached to or carried in or on the vessel which has been proved to the Authority's satisfaction to belong to another.
- (11) If the Authority satisfies the court that it is entitled to sell a vessel removed under this section the court—
 - (a) may authorise the sale of the vessel subject to such terms and conditions, if any, as may be specified by the court;
 - (b) may authorise the Authority to deduct from the proceeds of sale any costs of sale and any amount due from the owner of the vessel to the Authority in respect of the vessel; and
 - (c) may direct the payment into court of the net proceeds of sale, less any amount deducted under paragraph (b), to be held to the credit of the owner of the vessel.
- (12) A decision of the court authorising a sale under subsection (11) shall, subject to any right of appeal, be conclusive, as against the owner, of the Authority's entitlement to sell the vessel, and gives a good title to the purchaser as against the owner.
- (13) In this section the "court" means the High Court or a county court, and a county court shall have jurisdiction in the proceedings.
- (14) References in this section to a vessel include anything attached to or carried in or on the vessel.
- (15) The Authority shall not exercise the powers of subsection (5), (6) or (7) in relation to any vessel which is the subject of an appeal to the standards appeals panel under section 13 until the appeal has been determined.

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- (16) The Authority shall pay reasonable compensation to the owner of any vessel in respect of any damage which is caused to the vessel (or loss caused to its owner) by the exercise of the powers of this section and any expenses reasonably incurred by the owner in returning the vessel to the place where it was immediately before the Authority exercised those powers, if it is shown that at the time of such exercise the vessel was not unsafe, but nothing in this subsection shall require the Authority to pay compensation in respect of any damage to the extent that the damage results from the act or default of the master, owner or any other person (not being an employee or agent of the Authority).

21 Request for information as to vessels

- (1) On a request made by an authorised officer who produces, if requested, written evidence of his authority—
- (a) the master of any vessel in the navigation area or on adjacent waters shall give the officer particulars of his own name and address together with such particulars as are available to him to verify his identity, and (if known to him) the name and address of the owner of the vessel;
 - (b) the master of any vessel in the navigation area or on adjacent waters shall produce for inspection by the authorised officer any registration certificate or plate issued in respect of the vessel;
 - (c) the owner or master of any vessel in the navigation area or on adjacent waters shall give the authorised officer such information as is available to him respecting the construction and equipment of the vessel and its compliance with the requirements of section 12;
 - (d) the owner or master of any vessel in the navigation area or on adjacent waters shall give the authorised officer such information or document as is available to him regarding any policy of insurance in force in relation to the vessel;
 - (e) the owner of any vessel in the navigation area or on adjacent waters shall give the authorised officer particulars of the name and address of, or such other particulars as are available to him to assist the identification of, any person who, at any time specified by the authorised officer, was acting as master of the vessel.
- (2) A request under subsection (1) need not be in writing and may be made in any manner considered by the authorised officer to be appropriate.
- (3) Any person who is unable to give or produce any information or document requested by an authorised officer under subsection (1) must, if then so requested by the authorised officer, give or produce that information or document within 28 days at the principal office of the Authority either in person or by sending the information or document by first class post in a pre-paid envelope properly addressed to the principal office of the Authority.
- (4) A person who—
- (a) fails, without reasonable excuse, to comply with a request made under subsection (1) or (3) above; or
 - (b) in furnishing any information in compliance with such a request makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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22 Notices requiring information from masters and owners, etc. as to vessels

- (1) Where, with a view to performing a function conferred on the Authority by or under the provisions of this Act, Part II (navigation) of the 1988 Act, or Schedule 5 to the 1988 Act, or by or under any byelaw made under any of those provisions, the Authority reasonably considers that it ought to have information as to any vessel which is or has been in the navigation area or on adjacent waters, or as to the master or owner of any such vessel, the Authority may serve a notice on any person reasonably believed by it to be the master or owner, or to have been the master or owner at any date specified in the notice, requiring the recipient to furnish to the Authority within a period specified in the notice (which shall not be less than 28 days beginning with the day on which the notice is served) the information referred to in the notice.
- (2) The information which may be required includes—
 - (a) the name and address of any person whom the recipient of the notice believes to be the master or owner of the vessel, or to have been such master or owner at any date specified in the notice; or
 - (b) the capacity in which any person who is or has been or is believed by the recipient of the notice to be or have been the master has or takes command, charge, possession or management of the vessel, or had or took such command, charge, possession or management at any date specified in the notice; or
 - (c) the nature of the interest in or control over the vessel, at any date specified in the notice, of any person who is or has been or is believed by the recipient of the notice to be or have been the owner; or
 - (d) such information as may be available to the recipient of the notice as to whether the vessel complies with any standards applicable to the vessel; or
 - (e) details of any insurance policy applicable to the vessel maintained in compliance with section 14.
- (3) A notice under this section shall—
 - (a) name or otherwise identify the vessel in respect of which it is served;
 - (b) specify the function for the purpose of the performance of which the notice is served; and
 - (c) specify the enactment by or under which that function is to be performed.
- (4) A notice shall not be served under this section on any person who, at the date of service, is believed by the Authority to be no longer the master or owner of the vessel named or identified in the notice if the Authority believes that more than 6 months have elapsed since the recipient ceased to be such owner or master.
- (5) A person who—
 - (a) fails, without reasonable excuse, to comply with the requirements of a notice served on him under subsection (1) above; or
 - (b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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23 Notices requiring information from landowners, etc. as to vessels

- (1) A notice served by the Authority under section 16 (power of local authorities to obtain particulars of persons interested in land) of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) in respect of any land comprised in or adjoining the navigation area or adjacent waters may require the recipient of the notice to furnish to the Authority, in respect of any vessel such as is referred to in subsection (3), such information as is referred to in subsection (4) as is available to the recipient of the notice.
- (2) Section 16 of the said Act of 1976, as extended by subsection (1), shall have effect as though for the reference in subsection (1) to fourteen days there were substituted a reference to twenty-eight days.
- (3) Subsection (1) applies to any vessel which at the date of the service of the notice is moored on or adjoining any land such as is referred to in subsection (1), or which has been so moored at any time within a period of 42 days expiring on the date of the notice, but subsection (1) does not apply to any vessel which is ashore.
- (4) Such a notice may require the recipient to disclose—
 - (a) the name, address, telephone number and email address of the owner of the vessel;
 - (b) details of any person other than the recipient of the notice who has care or charge of the vessel;
 - (c) information as to whether the owner of the vessel pays rent to the recipient of the notice, or whether it is moored free of charge;
 - (d) information as to whether any person other than the recipient of the notice has planning permission to allow the vessel to be moored;
 - (e) information as to whether the recipient of the notice holds keys for the vessel;
 - (f) information reasonably required to enable the Authority to determine whether the mooring of the vessel constitutes a trespass on the land where it is moored;
 - (g) details of the type of fuel used on the vessel, and of its engine;
 - (h) information as to the use made of the vessel.

24 Entry on land

- (1) An authorised officer designated in writing for the purpose by the Authority may enter—
 - (a) any adjacent waters upon which he would have no right of entry otherwise than by virtue of this section; or
 - (b) any land in the vicinity of the navigation area, or of any adjacent waters, being land which affords access to any vessel in the navigation area or on adjacent waters;for the purpose of determining whether, and if so in what manner, any of the powers referred to in subsection (2) should be exercised, or of exercising any of those powers.
- (2) Subsection (1) applies to the powers of—
 - (a) section 17 (entry on and inspection of vessels);
 - (b) section 19 (powers as to unsafe vessels, etc.);
 - (c) section 20 (removal of unsafe vessels, etc.);
 - (d) paragraph 12 of Schedule 5 to the 1988 Act

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but does not apply to any vessel which is ashore.

- (3) Section 173 of, and Schedule 20 to, the 1991 Act shall apply with all necessary modifications to the powers of entry which are conferred by subsection (1) as though for references to the Agency there were substituted references to the Authority.
- (4) Except in an emergency an authorised officer shall not exercise the powers of entry of subsection (1) otherwise than with the consent of the relevant person or under the authority of a warrant issued under Schedule 20 to the 1991 Act as that Schedule has effect in accordance with subsection (3).
- (5) In subsection (4) “relevant person” means—
 - (a) in the case of land or adjacent waters belonging to or under the control of a recreational club, an officer of that club;
 - (b) in the case of land or adjacent waters forming part of a commercial boatyard, the owner of the boatyard; and
 - (c) in any other case, the occupier of the land or adjacent waters.