



Broads Authority Act 2009

2009 CHAPTER i

PART 3

MISCELLANEOUS

33 Meaning of “personal water craft”, etc.

- (1) For the purposes of this Act, the 1988 Act and of any byelaw made by the Authority under this Act or (whether before or after the passing of this Act) the 1988 Act “personal water craft” means any personal water craft, that is, any water craft (not being a structure which, by reason of its concave shape, provides buoyancy for the carriage of persons or goods) propelled by a jet drive or other mechanical means of propulsion and steered either—
 - (a) by means of a handlebar operated linkage system (with or without a rudder at the stern); or
 - (b) by the person or persons riding the craft using his or their body weight for the purpose; or
 - (c) by a combination of the methods referred to respectively in (a) and (b) above.
- (2) The Secretary of State may by order amend the definition set out in subsection (1), and that definition as so amended shall have effect for the purposes of this Act, the 1988 Act and any byelaw such as is referred to in subsection (1).
- (3) An order under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

34 Meaning of “vessel” in certain byelaws

- (1) The byelaws made under the 1988 Act and referred to in subsection (2) shall have effect as though for the definition of “vessel” there were substituted the definition of that expression in section 25 of that Act as amended by section 43(2) of, and paragraph 9(4) of Schedule 7 to, this Act.
- (2) Subsection (1) applies to the following byelaws—

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Broads Authority Speed Limit Byelaws 1992;
Broads Authority Navigation Byelaws 1995;
Broads Authority Vessel Dimension Byelaws 1995;
Broads Authority Vessel Registration Byelaws 1997.

35 Breydon Water and Lower Bure

(1) In this section—

“Breydon Water and the Lower Bure” mean the areas described in Schedule 4 and shown edged in red on the deposited plan; and

“the deposited plan” means the plan deposited in connection with the Bill for this Act in the office of the Clerk of the Parliaments, the Private Bill Office of the House of Commons and at the principal office of the Authority.

(2) As from the appointed day Breydon Water and the Lower Bure shall form part of the navigation area for all purposes and accordingly—

- (a) the 1988 Act and this Act, and any byelaws made or directions given under the 1988 Act, shall apply to Breydon Water and the Lower Bure as they apply to the navigation area as defined in the 1988 Act;
- (b) the definition of the Haven in section 25 of the 1988 Act shall have effect subject to this section;
- (c) the Great Yarmouth Port Authority Acts and Orders 1866 to 2005 and any byelaws made thereunder shall not apply to Breydon Water and the Lower Bure.

(3) As from the appointed day Breydon Water shall form part of the Norwich navigation for all purposes and accordingly the 1988 Act shall apply to Breydon Water as it applies to the Norwich navigation as defined in that Act.

(4) The Authority shall not fix a day to be the appointed day for the purposes of this section without having obtained the written consent of the Great Yarmouth Port Authority.

(5) In the event of any discrepancy between the boundaries of Breydon Water and the Lower Bure described in Schedule 4, and the boundaries shown on the deposited plan, the description shall prevail.

(6) The Authority and the Great Yarmouth Port Authority may enter into and carry into effect agreements for the purposes of or in connection with the transfer of Breydon Water and the Lower Bure by subsection (2).

36 Haddiscoe Cut

(1) In this section—

“the Act of 1827” means the [Act 7 & 8 Geo. 4 c. xlii](#) intituled “An Act for making and maintaining a Navigable Communication for ships and other vessels between the City of Norwich and the Sea at or near Lowestoft in the County of Suffolk”; and

“Haddiscoe Cut” means the Haddiscoe New Cut authorised by the Act of 1827 from its commencement by a junction with the river Yare to its termination by a junction with the river Waveney.

(2) As from the appointed day—

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- (a) the following provisions shall cease to have effect—
 - (i) in the [British Transport Commission Act 1958 \(c. xliv\)](#)—
 - (aa) subsections (3), (4) and (7) of section 17 (as to Haddiscoe Cut);
 - (ii) in the 1988 Act—
 - (aa) subsection (7) of section 8 (the navigation area);
 - (bb) subsection (2) of section 10 (functions of Authority and others in relation to the navigation area);
 - (b) subsection (5) of section 8 and subsection (1) of section 10 of the 1988 Act shall apply to Haddiscoe Cut;
 - (c) the Environment Agency shall cease to discharge any functions in relation to Haddiscoe Cut under the provisions of the said Act of 1958 referred to in paragraph (a).
- (3) The Authority and the Environment Agency may enter into and carry into effect agreements for the purposes of or in connection with subsection (2).

37 Agreements with others

- (1) The Authority may enter into agreements with any other person for the purpose of—
- (a) facilitating the administration of any provision of the relevant enactments for the regulation of vessels in the navigation area or on adjacent waters; and
 - (b) integrating such administration with the administration by that person of any powers and controls exercised by that person or other arrangements made by it for the regulation of vessels.
- (2) In particular, any agreement made under subsection (1) may provide—
- (a) for treating registration or other certificates issued by one of the parties to the agreement as certificates issued by the other;
 - (b) for treating distinguishing marks or numbers assigned to vessels registered or certified by one party to the agreement as having been assigned to that vessel by the other; and
 - (c) for apportioning any registration fees or other charges between the parties to the agreement.
- (3) To the extent provided by any agreement made under subsection (1), any certificate issued by a party to such an agreement shall be deemed for the purposes of the relevant enactments to have been issued by the Authority, and any mark, number or other distinguishing sign displayed on a vessel in accordance with the requirements of a person who is a party to such an agreement shall be treated as complying with the requirements of the relevant enactments.
- (4) In this section, “the relevant enactments” means this Act, the 1988 Act and any byelaw of the Authority.

38 Provision of information

- (1) This section applies to information which is held by or on behalf of the Authority (including information obtained by or on behalf of the Authority before the coming into force of this section) for the purposes of the following provisions of this Act—
sections 11 to 15 (provisions as to safety of vessels, etc.);

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sections 17 to 24 (other provisions as to vessels);
sections 25 to 32 (provisions as to water skiing and wake boarding, etc.);
section 40 (application of requirements of Public Health Acts Amendment Act 1907), and the provisions thereby applied to the Authority.

- (2) Information to which this section applies may be supplied to a responsible authority for the purposes of facilitating the exercise of any functions of the Authority or of the responsible authority under any enactment.
- (3) Information to which this section applies may be supplied to any person who can show to the satisfaction of the Authority that he has a reasonable cause for wanting the particulars to be made available to him, but nothing in this subsection authorises any disclosure of information which contravenes the Data Protection Act 1998 (c. 29).
- (4) Information obtained by virtue of this section must not be further disclosed except to a responsible authority for the purposes mentioned in subsections (2) and (3).
- (5) In this section “responsible authority” means any of the following—
 - (a) the chief officer of police for any police area in which the navigation area or any adjacent waters are situated;
 - (b) the fire and rescue authority for any area in which the navigation area or any adjacent waters are situated;
 - (c) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 (c. 37) for any area in which the navigation area or any adjacent waters are situated;
 - (d) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c. 8) for any area in which the navigation area or any adjacent waters are situated;
 - (e) the local authority by which statutory functions are exercisable in any area in which the navigation area or any adjacent waters are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health;
 - (f) in relation to a vessel—
 - (i) the Secretary of State;
 - (ii) the Environment Agency;
 - (iii) a harbour authority or a navigation authority; and
 - (iv) the British Waterways Board.
- (6) For the purposes of this section, “statutory function” means a function conferred by or under any enactment.

39 Removal of vegetation, etc.

- (1) Where it appears to the Authority that any part (including the roots) of a hedge, tree or shrub—
 - (a) overhangs or projects into, over or beneath the waters of the navigation area so as to endanger or cause significant obstruction to the passage of vessels, or
 - (b) is dead, diseased, damaged or insecurely rooted, and that by reason of its condition it, or part of it, is likely to cause danger by falling on the waters of the navigation area,

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the Authority may, subject to subsection (3), lop or cut it so as to remove the cause of the danger or obstruction unless the owner or occupier removes the cause of the danger or obstruction within the period of the notice referred to in subsection (3).

- (2) The Authority may enter the land where the hedge, tree or shrub is situated if it is not reasonably practicable to lop or cut it so as to remove the cause of the danger or obstruction without such entry.
- (3) Except in an emergency the Authority shall give not less than 14 days notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is situated of its intention to exercise the powers of this section.
- (4) The notice referred to in subsection (3) shall specify the works which the owner or occupier must carry out in order—
 - (a) to remove the cause of the danger or obstruction; and
 - (b) ensure that the Authority does not exercise its powers under subsection (1), and if all of those works are carried out within the notice period the Authority shall not exercise those powers.
- (5) The sections of the Public Health Act 1936 (c. 49) mentioned in Schedule 5 to this Act (other than so much of those sections as authorises a local authority to require the person served with a notice to carry out works) shall have effect as if references in those sections to that Act included references to this section and as if the Authority were a local authority.

40 Application of requirements of Public Health Acts Amendment Act 1907

- (1) For the purposes of this section a relevant vessel is any vessel which is a pleasure boat or pleasure vessel for the purposes of section 94 of the 1907 Act.
- (2) As from the appointed day section 94 of the 1907 Act shall apply in respect of a relevant vessel in the navigation area or on adjacent waters as though there were substituted for the expression “the local authority” the expression “the Broads Authority”.

41 For protection of Network Rail

- (1) For the protection of Network Rail the following provisions shall, unless otherwise agreed in writing between the Authority and Network Rail, apply and have effect.
- (2) In this section “Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 736 of the Companies Act 1985 (c. 6)) the holding company of Network Rail.
- (3) No general or special direction shall be given so as unreasonably to prevent or delay Network Rail from using any vessel in any emergency for the purpose of inspecting, maintaining, repairing or renewing any lands, works or apparatus forming part of any operational railway of Network Rail; and any question arising under this subsection shall be determined with regard to the need to ensure the safety of members of the public.

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- (4) Nothing in section 24 (entry on land) or section 39 (removal of vegetation, etc.) shall authorise the Authority to enter on any operational railway of Network Rail otherwise than with the consent in writing of Network Rail and in accordance with any reasonable conditions subject to which the consent is given.
- (5) Paragraph 21(9) of Schedule 5 to the 1988 Act shall apply to any dispute between the Authority and Network Rail arising under this section.

42 Protection of Crown interests

- (1) Nothing in this Act affects prejudicially any estate, interest, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—
 - (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
 - (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.
- (2) A consent under subsection (1) may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate.

43 Transitional provisions, amendments, repeals and revocations

- (1) Schedule 6 contains transitional provisions.
- (2) Schedule 7 contains amendments to the 1988 Act.
- (3) The enactments referred to in Schedule 8, Part 1 shall be repealed on the coming into force of this Act.
- (4) The enactments referred to in Schedule 8, Part 2 shall be repealed as from the appointed day.
- (5) The byelaws referred to in Schedule 8, Part 3 shall be revoked on the relevant date determined in accordance with paragraph 7 of Schedule 6.