
STATUTORY INSTRUMENTS

2002 No. 1998

The Wye Navigation Order 2002

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Wye Navigation Order 2002 and shall come into force on 15th August 2002.

Interpretation

2.—(1) In this Order—

“the Agency” means the Environment Agency;

“the appropriate national authority” means—

- (a) in relation to works or property in England, the Secretary of State;
- (b) in relation to works or property in Wales, the National Assembly for Wales; and
- (c) in relation to works or property in both England and Wales, the Secretary of State and the National Assembly for Wales, acting jointly;

“bank” means so much of any bank, wall, embankment, fence, wharf, quay or other feature (whether natural or artificial) as confines the waters of the rivers up to the level and the point of their overspill into the flood plain of the rivers;

“Dŵr Cymru” means Dŵr Cymru Cyfyngedig, and references to the functions of Dŵr Cymru are references to its functions as sewerage undertaker and as water undertaker;

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“master” means, in relation to any vessel, the person (whether or not the owner) for the time being having command or charge of the vessel;

“mooring” includes any buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels;

“notice” means notice in writing;

“officer” means an officer or agent of the Agency duly authorised by the Agency to exercise the powers conferred by this Order or to secure compliance with its provisions and with any byelaws made under this Order or under Schedule 25 to the Water Resources Act 1991(1);

“personal watercraft” means any watercraft (not normally used in navigation and not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine 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);
- (b) by the person riding the craft using his body weight for the purpose; or
- (c) by a combination of the methods referred to respectively in sub-paragraphs (a) and (b);

“the principal rivers” means—

- (a) that part of the river Wye from the downstream face of Bigsweir Bridge (reference point SO 538051) to Hay Town Bridge (reference point SO 228426); and
- (b) that part of the river Lugg from its confluence with the river Wye to Presteigne Town Bridge (reference point SO 316646),

and includes their beds and banks;

“Railtrack” means Railtrack PLC, a public limited company registered under the Companies Act 1985⁽²⁾ to which there was transferred on 1st April 1994, under a scheme made on 30th March 1994, pursuant to section 85(1) of the Railways Act 1993⁽³⁾ and by direction of the Secretary of State pursuant to section 85(4) of that Act, that part of the undertaking of the British Railways Board which consisted of the management of the railway network in Great Britain and related property, rights and liabilities;

“reference point” refers to the map co-ordinates on the National Grid used by the Ordnance Survey and shall be construed as if the words “or thereabouts” were inserted after each such reference point;

“the rivers” means the principal rivers, the upper rivers and the tributaries;

“seaplane” includes a flying boat and any other aircraft designed to manoeuvre on water;

“statutory undertaker” means—

- (a) any person who is a statutory undertaker within the meaning of section 262(3) of the Town and Country Planning Act 1990⁽⁴⁾;
- (b) any other person who exercises functions under the Land Drainage Act 1991⁽⁵⁾;
- (c) any person to whom the telecommunications code set out in Schedule 2 to the Telecommunications Act 1984⁽⁶⁾ is applied by a licence under section 7 of that Act;
- (d) any person who is a holder of a licence under section 6 of the Electricity Act 1989⁽⁷⁾; or
- (e) Railtrack (except for the purposes of article 23(3));

“the tributaries” means those tributaries and branches of the principal rivers and the upper rivers which are inland waterways⁽⁸⁾, and includes their beds and banks;

“the upper rivers” means so much of—

- (a) the river Wye upstream of Hay Town Bridge; and
- (b) the river Lugg upstream of Presteigne Town Bridge,

which are inland waterways, and includes their beds and banks;

“vessel” means every description of vessel with or without means of propulsion of any kind and includes anything constructed or used to carry persons, goods, plant or machinery, or to be propelled or moved, on or by water, a seaplane on or in the water, a personal watercraft, a hydrofoil vessel, a hovercraft or any other amphibious vehicle, and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily);

(2) 1985 c. 6.

(3) 1993 c. 43.

(4) 1990 c. 8.

(5) 1991 c. 59.

(6) 1984 c. 12.

(7) 1989 c. 29.

(8) “Inland waterway” is defined in section 67(1) of the Transport and Works Act 1992 (c. 42).

“works licence” has the meaning given in article 22;

“the Wye Navigation Advisory Committee” means the committee provided for in article 3;

and

“the Wye Navigation Plan” has the meaning given in article 4(1).

(2) References in this Order to the use of the principal rivers shall be construed as meaning such use as is, according to the principles of common law, reasonably incidental to their navigation.

(3) References in this Order to any property of a statutory undertaker are references to any land, works, apparatus and other property which is or are vested in or under the control of that undertaker for the purposes of its functions.