

**2010 No. 699**

**TRANSPORT AND WORKS, ENGLAND**

**CANALS AND INLAND WATERWAYS, ENGLAND**

**The Environment Agency (Inland Waterways) Order 2010**

*Made* - - - -

*4th March 2010*

*Coming into force* - -

*6th April 2010*

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An application has been made to the Secretary of State in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000<sup>(a)</sup> (“the Rules”) made under sections 6, 6A, 7(3)(b) and (c) and (4) and 10 of the Transport and Works Act 1992<sup>(b)</sup> (“the Act”) for an Order under sections 3 and 5 of the Act;

The Secretary of State, in accordance with rule 24 of the Rules, has directed that the written representations procedure applied to all objections that had not been withdrawn;

The Secretary of State, in accordance with section 10(2) of the Act, taking into consideration the objections made and not withdrawn and additional representations made during the written representations procedure, has under section 13(1) of the Act determined to make an Order giving

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<sup>(a)</sup> S.I. 2000/2190. These Rules were revoked by rule 2 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (S.I. 2006/1466), but continue to apply to the making of this Order by rule 3 of those Rules.

<sup>(b)</sup> 1992 c. 42.

effect to the proposals comprised in the application with modifications which in the Secretary of State's opinion do not make any substantial change in the proposals;

The Secretary of State is of the opinion that the primary object of this Order cannot be achieved by means of an order under the Harbours Act 1964(a);

In accordance with section 14(1) of the Act notice of the Secretary of State's determination was given to the applicant and every person who made an objection and was published in the London Gazette on 5th March 2010;

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 3 and 5 of, and paragraphs 1, 2, 4, 7, 8, 12, 13 and 16 of Schedule 1 to the Act, makes the following Order.

## PART 1

### PRELIMINARY

#### **Citation and commencement**

- 1.—(1) This Order may be cited as the Environment Agency (Inland Waterways) Order 2010.
- (2) This Order comes into force on 6th April 2010.

#### **Interpretation**

2. In this Order—

“the Agency” means the Environment Agency;

“commercial vessel” means any vessel that is kept or used for any commercial purpose not being a non-charging vessel, and in this definition “non-charging vessel” means a vessel in respect of which neither the owner nor any operator receives any form of payment from any person for or in connection with any voyage or excursion other than as a contribution to the direct expense of operating the vessel during that voyage or excursion;

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

“notice” means notice in writing;

“officer”, except in article 21, means an officer or agent of the Agency duly authorised in writing by the Agency to exercise powers conferred by this Order;

“on” in relation to a vessel on the waterways includes in or upon the waterways, whether or not the vessel is floating;

“unincorporated association” does not include a partnership;

“vessel” includes 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, in or by water; and

“waterways” means unless the context otherwise requires any of the waterways described in article 3(2).

#### **Application**

- 3.—(1) The provisions of this Order apply to the waterways.

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(a) 1964 c. 40.

- (2) The waterways are—
- (a) the waterways for which the Agency is the navigation authority pursuant to the Anglian Water Authority Act 1977<sup>(a)</sup> (Schedule 1 of which is set out, as amended by article 28 of this Order, in Schedule 1 of this Order);
  - (b) that part of the River Little Ouse between Brandon Staunch and Brandon Bridge;
  - (c) the Great Ouse Flood Relief Channel between the Head sluice lock at Denver and the Tail sluice at Saddlebrow;
  - (d) the Medway navigation, as defined in paragraph (a) of the definition of “the Medway navigation” in section 32 of the Southern Water Authority Act 1982<sup>(b)</sup>;
  - (e) the Thames within the meaning of section 4 of the Thames Conservancy Act 1932<sup>(c)</sup>.

## PART 2

### REGISTRATION OF VESSELS

#### **Requirement for registration**

4.—(1) An owner or master of a vessel must not keep, let for hire or use the vessel on the waterways unless—

- (a) the vessel is registered with the Agency under article 5; and
- (b) any requirement imposed by the Agency under article 8 when registering the vessel is complied with.

(2) Paragraph (1) does not apply in relation to a vessel if the vessel is exempted from its provisions by the Agency in accordance with paragraph (3).

(3) The Agency may exempt any vessel or class of vessel from the provisions of paragraph (1) if, having regard to all the circumstances, it considers that the application of those requirements is not justified in the interests of the regulation of the waterways.

#### **Duty to register**

5.—(1) Subject to the requirements of articles 6, 7 and 8, the Agency must register a vessel upon the receipt of an application for its registration.

(2) Registration will ordinarily be for a period of 1 year from such date following the application for registration as the Agency may determine for the registration in question but the Agency may also if it sees fit register any vessel for such shorter period as it may determine.

(3) When registering a vessel, the Agency must—

- (a) assign a registration number to the vessel; and
- (b) issue a registration certificate for the vessel.

(4) When registering a vessel, the Agency may also—

- (a) assign a name or mark to the vessel unless the vessel is also registered under section 8 of the Merchant Shipping Act 1995<sup>(d)</sup>; and
- (b) issue a registration plate for the vessel.

(5) Any name assigned to a vessel on its registration is to be—

- (a) the name of the vessel specified in the application for the vessel’s registration; or

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(a) 1977 c. i, as amended by this Order.

(b) 1982 c. xxii, as amended by this Order.

(c) 1932 c. xxxvii, as amended by the Thames Conservancy Act 1950 (c. i.) section 3.

(d) 1995 c. 21.

- (b) such alternative name as the applicant may propose and which is acceptable to the Agency if the Agency determines that it is necessary to assign a different name to the vessel in order to avoid any confusion as to the identity of the vessel or the possibility of causing offence to any person.

(6) The Agency may from time to time designate different categories of vessel either by reference to types, classes or sizes of vessel, or by reference to the use or location of vessels or by any combination of such means or other means for the purposes of any of the following requirements—

- (a) registration under article 5;
- (b) insurance under article 11;
- (c) construction and equipment standards under article 12; and
- (d) additional requirements for commercial vessels under article 15.

### **General requirements for registration**

6. The requirements for registration of a vessel are—

- (a) presentation to the Agency—
  - (i) in such manner as it may require of the particulars set out in Schedule 2;
  - (ii) of such additional information as the Agency may require respecting the characteristics and location of the vessel; and
- (b) payment of the registration charge applicable under any enactment in respect of the registration of the vessel by the Agency.

### **Refusal and revocation of registration**

7.—(1) The Agency may refuse to register a vessel if the requirements of article 6 have not been complied with or if the Agency has previously revoked the registration of the vessel under paragraph (3) or (4).

(2) The Agency may refuse to register a vessel if, having regard to the information supplied in accordance with article 6(a), it is not satisfied at the time when it determines the application that—

- (a) there is in force a policy of insurance for the vessel which complies with the requirements of Schedule 3 where such a policy is required by article 11; and
- (b) the vessel is constructed and equipped in accordance with such specification as may for the time being be prescribed by the Agency for such a vessel under article 12.

(3) Following receipt of any representation concerning a vessel (including any representation from an officer of the Agency), the Agency may refuse to register the vessel and it may revoke an existing registration of a vessel if, in its reasonable opinion and having regard to the representation, it is in the interest of safety.

(4) The Agency may revoke the registration of a vessel if it appears to it that—

- (a) the basis upon which the vessel was registered was or has become incorrect in any material respect; and
- (b) any requirements imposed in respect of the vessel under article 8 have not been complied with.

(5) The Agency must give notice to the owner, and, if different, the person who applied for registration, of a vessel of any refusal or revocation of registration in relation to it and in doing so must give its reasons.

(6) Before refusing or revoking a registration under paragraph (3) or (4) the Agency must provide the owner of the vessel with an opportunity to make oral or written representations.

(7) Subject to paragraph (8), an owner or another person with the owner's consent may complain to a magistrates' court under Part II of the Magistrates' Court Act 1980<sup>(a)</sup> against the refusal or revocation of a registration under paragraph (3) or (4) and, if the court decides that such refusal or revocation is unreasonable, the Agency must register the vessel without delay.

(8) The imposition of any requirement for insurance under article 11, or any question concerning the imposition of a standard or specification for a vessel under article 12, may not be the subject of complaint under paragraph (7).

### **Requirements in respect of registered vessels**

**8.**—(1) The Agency may make it a requirement of the registration of a vessel under article 5 that any one or more of the following means of identification is displayed on the vessel in such manner as the Agency may specify in order to allow the vessel to be identified—

- (a) the registration number of the vessel;
- (b) any name or mark assigned to the vessel; and
- (c) any registration certificate and plate issued for the vessel.

(2) The Agency may make it a requirement of the registration of a vessel under article 5 that—

- (a) the use of the vessel on the waterways is limited to the use specified in the category for which it is registered;
- (b) any change in ownership of the vessel is notified to the Agency by the transferor; and
- (c) any registration certificate or plate issued in respect of the vessel is surrendered to the Agency at the end of the registration period.

### **Liability of owner on transfer of ownership**

**9.** For the purposes of the requirements of this Order and any other enactment referred to in this Order applicable to the waterways, a person who is the owner of a vessel registered under this Order and who transfers ownership of the vessel is to be deemed to remain the owner of the vessel until that person has given notice to the Agency in writing of the name and address of the person to whom ownership of the vessel has been transferred.

### **Provision of information**

**10.**—(1) This article applies to information which is held by or on behalf of the Agency for the purposes of this Order (including information obtained by or on behalf of the Agency before the coming into force of this article).

(2) Information may be supplied to a responsible authority for the purposes of facilitating the exercise of the Agency's functions under this Order or any functions of that authority.

(3) Information may be supplied to any person who can show to the satisfaction of the Agency or the Secretary of State reasonable cause for wanting the particulars to be made available to that person.

(4) Information obtained by virtue of this article must not be further disclosed except to a responsible authority for the purposes mentioned in paragraphs (2) and (3).

(5) In this article, "responsible authority" means any of the following—

- (a) the chief officer of police for any police area in which the waterways are situated;
- (b) the fire authority for any area in which the waterways are situated;
- (c) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974<sup>(b)</sup> for any area in which the waterways are situated;

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(a) 1980 c. 43.

(b) 1974 c. 37.

- (d) the local planning authority within the meaning given by the Town and Country Planning Act 1990(a) for any area in which the waterways are situated;
  - (e) the local authority by which statutory functions are exercisable in any area in which the waterways 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) a navigation authority within the meaning of section 221(1) of the Water Resources Act 1991(b);
    - (ii) the British Waterways Board; or
    - (iii) the Secretary of State.
- (6) In this article, “statutory function” means a function conferred by or under any enactment.

## PART 3

### FURTHER REGULATION OF VESSELS

#### **Insurance**

**11.—**(1) The owner or master of a vessel must not keep, let for hire or use the vessel on the waterways unless there is in force in relation to the vessel a policy of insurance complying with the requirements of Schedule 3.

(2) The requirements of paragraph (1) do not apply in relation to a vessel to the extent that the vessel is exempted by the Agency from those requirements.

(3) The Agency may exempt any unpowered vessel or class of unpowered vessel from the application of paragraph (1) to such extent and upon such terms and conditions as it may determine if, having regard to its assessment of the risk of damage or injury which such insurance would provide cover against, it considers such exemption appropriate.

#### **Construction and equipment standards**

**12.—**(1) The Agency may impose in relation to vessels such reasonable standards and specifications relating to construction and equipment for one or more of the following purposes—

- (a) securing the safety of persons or property;
- (b) the prevention of damage or injury to persons or property; or
- (c) the prevention of noise or pollution.

(2) Different standards and specifications may be imposed by the Agency for the purposes of paragraph (1) in relation to different categories of vessels and in relation to different parts of the waterways.

(3) Any such standard or specification imposed by the Agency may include requirements as to the maintenance, use and operation of appliances, fittings and equipment on a vessel and may extend to anything which is only temporarily installed or used on a vessel.

(4) An owner or master of a vessel to which any standard or specification imposed under paragraph (1) applies must not keep, let for hire or use the vessel on the waterways otherwise than in accordance with that standard or specification.

(5) The requirements of paragraph (1) and (4) do not apply in relation to a vessel to the extent that the vessel is exempted by the Agency from those requirements.

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(a) 1990 c. 8.  
 (b) 1991 c. 57.

(6) The Agency may exempt any vessel or class of vessel from the requirements of paragraph (1) and (4) to such extent and upon such terms and conditions as it may determine if, having regard to all the circumstances, it considers that the application of those requirements is not justified by reference to the purposes listed in the paragraph.

(7) When exercising power under this article, the Agency must have regard to reasonable standards and specifications imposed by other persons for the purposes specified in paragraph (1) and to the desirability of achieving common standards in relation to the regulation of vessels by different persons.

### **Standards appeals panel**

**13.**—(1) A panel, referred to in this Order as “the standards appeals panel”, must be established by the Agency and operate in accordance with the provisions of Schedule 4.

(2) The standards appeals panel is to determine—

- (a) any question as to whether a vessel to which this article applies complies with a standard or specification imposed under article 12; and
- (b) any question as to the reasonableness of a standard or specification prescribed under article 12,

if the question is the subject of an application made in accordance with paragraph (3).

(3) An application to refer a question to the standards appeals panel must be made in writing to the Agency and signed by—

- (a) the owner of the vessel in the case of a question arising under paragraph (2)(a); and
- (b) not less than six persons, each of whom is the owner of a vessel to which this article applies in the case of a question arising under paragraph (2)(b).

(4) This article applies to a vessel which is either—

- (a) registered under article 5; or
- (b) would be registered under article 5 but for a refusal or revocation of registration on the grounds of a failure to comply with standard or specification under article 12.

### **Inspection of vessels**

**14.**—(1) The owner or master of a vessel on the waterways must provide reasonable facilities for the inspection of the vessel by any person exercising powers of entry pursuant to sections 169 or 172 of the Water Resources Act 1991(a) for the purpose of ascertaining whether any requirement under or by virtue of this Order is being complied with.

(2) For the purposes of any inspection under this article, the owner or master of the vessel must cause the whole of any installation on the vessel to be made available for inspection.

### **Additional requirements for commercial vessels**

**15.**—(1) The Agency may from time to time determine to impose additional requirements in relation to commercial vessels on the waterways for the purposes of safety or amenity or the proper regulation of navigation.

(2) Without prejudice to the generality of paragraph (1), the requirements which the Agency may determine to impose in relation to commercial vessels include—

- (a) requirements in relation to the number of persons who may be carried;
- (b) requirements in relation to the procedures to be followed when letting vessels for hire; and

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(a) 1991 c. 57.

(c) except in relation to a vessel when let for hire without a master and crew, requirements in relation to the number and availability of the crew and the qualifications and competencies of the master and crew of such vessels.

(3) Different requirements may be determined by the Agency for the purposes of paragraph (1) in relation to different categories of commercial vessel and in relation to different parts of the waterways.

(4) An owner or master of a commercial vessel to which any requirements determined under paragraph (1) apply must not keep, let for hire or use the vessel on the waterways otherwise than in accordance with those requirements.

(5) Paragraph (4) does not apply in relation to a vessel to the extent that the vessel is exempted by the Agency from requirements determined under paragraph (1).

(6) The Agency may exempt any vessel or class of vessel from requirements prescribed under paragraph (1) to such extent and upon such terms and conditions as it may determine if, having regard to all the circumstances, it considers that the application of those requirements is not justified in the interests of safety or amenity, or in the interests of the proper regulation of navigation.

(7) When exercising power under this article, the Agency must have regard to additional requirements in relation to commercial vessels imposed by other persons for the purposes specified in paragraph (1) and to the desirability of achieving common standards in relation to the regulation of vessels by different persons.

#### **Removal of unregistered vessels**

16.—(1) The Agency may relocate on or remove from the waterways any vessel which is not registered under this Order if—

- (a) the Agency has given notice under this paragraph; and
- (b) the requirements of paragraph (5) do not apply.

(2) A notice under paragraph (1)(a) must—

- (a) identify the vessel in respect of which the notice is served and its approximate location;
- (b) state that if the owner fails either to apply for the registration of the vessel or to remove the vessel before the expiry of a period specified in the notice and being not less than 28 days from the date when the notice is first given under paragraph (3)(a), the Agency may relocate or remove the vessel and recover all expenses reasonably incurred in doing so from the owner; and
- (c) state that the vessel and its contents, once relocated or removed by the Agency, are liable to vest in and be disposed of by the Agency

(3) A notice under paragraph (1)(a) must be given—

- (a) by fixing a copy of the notice on the vessel or in a conspicuous place in the vicinity of the vessel; and
- (b) unless the Agency has made such enquiries as it may determine are reasonable to ascertain the name and address of the owner of the vessel but has been unable to do so, by serving a copy of the notice on the owner of the vessel.

(4) Section 123(1) to (4) of the Environment Act 1995(a) (service of documents) applies to the service of a notice under paragraph (3)(b) as it applies to the service of notice under that Act.

(5) The Agency must not relocate or remove a vessel under this article if, within the period specified in the notice given for the purposes of paragraph (2)(b) in respect of the vessel, the owner of the vessel—

- (a) applies for the registration of the vessel; or

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(a) 1995 c. 25.

(b) enters into an agreement with the Agency on such terms as the Agency may see fit for the removal of the vessel from the waterways.

(6) The Agency may recover from the owner of any vessel relocated or removed under this article all expenses reasonably incurred by the Agency in respect of the relocation or removal and storage of the vessel or in relocating, removing or storing anything attached to or carried in or on the vessel.

(7) A vessel relocated or removed by the Agency under this article (together with anything attached to or carried in or on the vessel) vests in the Agency 3 months after the date the notice was first given by the Agency under paragraph (3)(a) in respect of the vessel.

(8) If within 24 months of the date the notice was first given under paragraph (3)(a) in respect of a vessel a claim is made to the vessel or to anything attached to or carried in or on the vessel by a person who subsequently proves to the satisfaction of the Agency that the person is its owner, then the Agency must—

- (a) if the property is unsold and upon payment of the expenses referred to in paragraph (6), permit that person to retake it and, in the case of a vessel, together with anything attached to or carried in or on the vessel which has not been proved to the Agency's satisfaction to belong to another; or
- (b) if it has been sold, pay to that person the amount of the proceeds of such sale after deducting the expenses referred to in paragraph (6) and the costs incurred in selling (including where appropriate valuing) the vessel and, if those proceeds are insufficient to reimburse the Agency those expenses, the deficiency may be recovered from that person by the Agency.

(9) Subject to paragraph (8)(b), the proceeds of the sale of any vessel vested in the Agency under paragraph (7) must be spent by the Agency only in the carrying out of its navigation functions.

(10) In this article "vessel" includes any part of the vessel.

#### **Power to require information, etc.**

**17.—**(1) In response to a demand made by an officer who produces, if requested, written evidence of that officer's authority—

- (a) the master of any vessel on the waterways must give the officer particulars of that master's name and address together with such particulars as are available to the master to verify the master's identity, and (if known to the master) the name and address of the owner of the vessel;
- (b) the master of any vessel on the waterways must produce for inspection by the officer any registration certificate or plate issued in respect of the vessel and any exemption granted under this Order and in force for the time being in relation to the vessel;
- (c) the owner or master of any vessel on the waterways must give the officer such information as is available to that person respecting the construction and equipment of the vessel and its compliance with the requirements of article 12;
- (d) the owner or master of any vessel must give the officer such information as is available to that person regarding any policy of insurance in force in relation to the vessel; and
- (e) the owner of any vessel on the waterways must give the officer particulars of the name and address of, or such other particulars as are available to that person to assist the identification of any person who, at any time specified by the officer, was acting as master of the vessel.

(2) Any person who fails to give or produce any information or document required by an officer under paragraph (1) must, if then so required by the officer, give or produce that information or document within 28 days—

- (a) by presenting it in person at an office of the Agency; or

- (b) by serving it by post within that period on such office of the Agency as is specified by the officer making the request.

## PART 4

### PROVISIONS AS TO OFFENCES

#### **Offences**

**18.**—(1) Any person who contravenes or attempts to contravene or knowingly allows a contravention of—

- (a) the requirements of article 4(1) (requirement for registration);
- (b) the terms of any exemption granted under article 4(3) (requirement for registration), article 11(3) (insurance), article 12(6) (construction and equipment standards) or article 15(6) (additional requirements for commercial vessels);
- (c) the requirements of article 11(1) (insurance);
- (d) the requirements of article 12(4) (construction and equipment standards);
- (e) the requirements of article 14(1) (inspection of vessels); or
- (f) the requirements of article 15(4) (additional requirements for commercial vessels),

is guilty of an offence.

(2) Any person who fails, without reasonable cause, proof of which lies on that person, to give or produce any information demanded under article 17 (power to require information, etc.), or in giving or producing it makes any statement which that person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence.

(3) For the purposes of paragraph (2) a person is to be treated as making a false statement if that person produces, furnishes, signs or otherwise makes use of a document that contains a false statement.

(4) A person guilty of an offence under this article is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Proceedings for offences**

**19.** Proceedings for an offence under this Order may be instituted only by or with the consent of the Agency.

#### **Defence of due diligence**

**20.**—(1) In proceedings for an offence under article 18(1)(d) it is a defence for the person charged to prove that that person charged took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) If in any case the defence provided under paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged may not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, the person charged has served on the prosecutor a notice in writing giving such information as was then in that person's possession, identifying, or assisting in the identification of, that other person.

#### **Offences by bodies corporate etc.**

**21.**—(1) If an offence committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on the part of an officer,  
the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with that member's functions of management as if the member were a director of the body.

(3) In paragraph (1) "officer", in relation to a body corporate, means—

- (a) a director, member of the committee of management, chief executive, manager or other similar officer of the body, or a person purporting to act in any such capacity; and
- (b) an individual who is a controller of the body.

(4) If an offence committed by a partnership is shown—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the part of a partner,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In paragraph (4) "partner" includes a person purporting to act as a partner.

(6) If an offence committed by an unincorporated association is shown—

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such an officer or member,

that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) Regulations made under section 187(7) of the Licensing Act 2003<sup>(a)</sup> (regulations in respect of offences by foreign bodies) are to have effect with necessary modifications in relation to the provisions of this article.

(8) In this article "offence" means an offence under this Order.

### **Jurisdiction and procedure in respect of offences**

**22.**—(1) A fine imposed on a partnership or an unincorporated association on its conviction for an offence is to be paid out of the funds of the partnership or association.

(2) Proceedings for an offence alleged to have been committed by a partnership or an unincorporated association must be brought in the name of the partnership or association (and not in that of any of its members).

(3) Rules of court relating to the service of documents are to have effect as if the partnership or association were a body corporate.

(4) In proceedings for an offence brought against a partnership or an unincorporated association, section 33 of the Criminal Justice Act 1925<sup>(b)</sup> and Schedule 3 to the Magistrates' Courts Act 1980<sup>(c)</sup> (procedure) apply as they do in relation to a body corporate.

(5) Proceedings for an offence may be taken—

- (a) against a body corporate, partnership or unincorporated association at any place at which it has a place of business; and
- (b) against an individual at any place where that person is for the time being.

(6) Paragraph (5) does not affect any jurisdiction exercisable apart from this article.

(7) In this article "offence" means an offence under this Order.

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(a) 2003 c. 17.  
(b) 1925 c. 86.  
(c) 1980 c. 43.

## PART 5

### MISCELLANEOUS

#### **Charging**

23. Without prejudice to any other power available to it, the Agency may demand, take and recover or waive such charges for or in connection with the use of the waterways and for any services or facilities provided by it in connection with the waterways as it thinks fit.

#### **Consultation**

24.—(1) The Agency must consult with such organisations as appear to the Agency to be representative of users of the waterways in relation to the exercise by it of its functions under this Order.

(2) Matters for consultation pursuant to paragraph (1) include the introduction of or material alteration to—

- (a) registration requirements;
- (b) insurance requirements;
- (c) construction and equipment standards; and
- (d) additional requirements for commercial vessels.

#### **Publication**

25. The Agency must take such steps as it considers are reasonably necessary to publicise the existence and to disclose the details of—

- (a) any exception given by the Agency under article 4(2);
- (b) any designation of a category of vessel made by the Agency under article 5(6);
- (c) the imposition of any standards and specifications by the Agency under article 12;
- (d) the imposition of additional requirements by the Agency in relation to commercial vessels under article 15; and
- (e) any agreement entered into by the Agency under article 26.

#### **Agreements with others**

26.—(1) The Agency may enter into agreements with any other person for the purpose of—

- (a) facilitating the administration of provisions for the regulation of vessels on the waterways (including the provisions of this Order); 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 that person for the regulation of vessels.

(2) In particular, any such agreement 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 such agreement, any certificate issued by a party to such an agreement is to be deemed for the purposes of this Order to have been issued by the Agency, 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 is to be treated as complying with the requirements of this Order.

#### **Disapplication of requirements of 1907 Act**

27. A licence under section 94 of the Public Health Acts Amendment Act 1907(a) is not required—

- (a) in respect of a vessel on the waterways if the vessel is subject to requirements as to its construction and equipment which have been imposed under article 12; or
- (b) in respect of any person in charge of or navigating that vessel if that person is subject to requirements imposed under article 15.

#### **Enlargement and re-definition of Anglian recreational waterways**

28.—(1) The Anglian Water Authority Act 1977(b) is modified to extend the waterways for which the Agency is the navigation authority to include—

- (a) that part of the River Little Ouse between Brandon Staunch and Brandon Bridge; and
- (b) the Great Ouse Flood Relief Channel between the Head sluice lock at Denver and the Tail sluice at Saddlebrow.

(2) In consequence of paragraph (1)—

- (a) Breckland District Council is no longer the navigation authority for the part of the River Little Ouse referred to in that paragraph;
- (b) the Act of 1670(c) intituled “An Act for making navigable the Rivers commonly called Brandon and Waveney” and the Act of 1810(d) intituled “An Act for amending an Act of the twenty second year of His late Majesty King Charles the Second so far as the same relates to the River Brandon otherwise the Lesser Ouse from the White House near Brandon Ferry to Thetford in Norfolk in the Counties of Norfolk and Suffolk and for improving the navigation of the said River” cease to have effect in relation to that part of the River Little Ouse; and
- (c) for Schedule 1 to the Anglian Water Authority Act 1977 there is substituted the replacement Schedule set out in Schedule 1 to this Order.

#### **Consequential amendments**

29. Schedule 5 (which makes miscellaneous minor amendments consequential on the other provisions of this Order) has effect.

#### **Repeal and revocation of enactments**

30.—(1) The enactments mentioned in the first and second columns of Part 1 of Schedule 6 are repealed to the extent specified in the third column.

(2) The byelaws set out in Part 2 of Schedule 6 (which were made under enactments repealed by this article) are also revoked to the extent specified in that Part.

(3) The transitional provisions set out in Schedule 7 have effect.

4th March 2010

*Huw Irranca-Davies*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

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(a) 1907 c. 53.  
(b) 1977 c. i.  
(c) 1670 c. 16. (Original Act No.29).  
(d) 1810 c. clxvi.

## SCHEDULE 1 TO THE ANGLIAN WATER AUTHORITY ACT 1977

## “SCHEDULE 1

## Anglian Recreational Waterways Definition

## PART 1

STATUTORY NAVIGATIONS IN RESPECT OF WHICH THE  
AUTHORITY ARE THE NAVIGATION AUTHORITY

1. The New River Ancholme from Ferriby Sluice in the Parish of South Ferriby in the District of Glanford and the County of Humberside to Bishops Bridge formerly known as Bishops Briggs in the Parish of Glentham in the District of West Lindsey in the County of Lincolnshire.
2. The River Nene Navigation from the outfall of the Northampton Arm of the Grand Union Canal at Cotton End in the Parish, District and County of Northampton to Bevis Hall in the Parish of Wisbech St. Mary in the District of Fenland in the County of Cambridgeshire.
3. The River Welland from Fosdyke Bridge in the Parish of Fosdyke in the District of Boston in the County of Lincolnshire to National Grid reference point TF 350345.

## PART 2

STATUTORY NAVIGATION TO BE TRANSFERRED TO THE  
AUTHORITY

4. The River Stour from Brundon Mill in the Parish of Sudbury in the District of Babergh in the County of Suffolk to the Cattawade Barrage partly in the Parish of Brantham in the same District and partly in the Parish of Lawford in the District of Tendring in the County of Essex.

## PART 3

OTHER WATERWAYS IN RESPECT OF WHICH THE AUTHORITY ARE  
TO BE THE NAVIGATION AUTHORITY AND WHICH ARE TO BECOME  
RECREATIONAL WATERWAYS

5. The River Great Ouse system comprising—
  - (a) The River Great Ouse from National Grid reference point TF 6028 0712 to Denver Sluice in the Parish of Denver in the District of West Norfolk in the County of Norfolk:
  - (b) The Old Bedford River from the Old Bedford Sluice in the said Parish of Denver to Welches Dam Lock in the Parish of Manea in the said District of Fenland:

- (c) The Hundred Foot River, otherwise known as the New Bedford River, from Denver Sluice aforesaid to its confluence with the River Great Ouse in the Parish of Earith in the District of Huntingdon in the County of Cambridgeshire:
- (d) The River Great Ouse, also known as the Ten Mile River and the Ely Ouse River, from Denver Sluice aforesaid to Popes Corner in the Parish of Thetford in the District of East Cambridgeshire in the County of Cambridgeshire:
- (e) The Great Ouse Flood Relief Channel between the Head sluice lock at Denver and the Tail sluice at Saddlebrow:
- (f) The Old West River from Popes Corner aforesaid to its confluence with the Hundred Foot River in the said Parish of Earith:
- (g) The River Great Ouse, also known as the Bedford Ouse, from the Hundred Foot River in the said Parish of Earith to Kempston Mill in the Parish of Kempston Urban in the District of Bedford in the County of Bedfordshire:
- (h) The River Little Ouse from Brandon Bridge in the Parish of Weeting-with-Broomhill in the District of Breckland in the County of Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Brandon Creek in the Parish of Southery in the said District of West Norfolk:
- (i) The River Lark from Judes Ferry in the Parish of Mildenhall in the District of Forest Heath in the County of Suffolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Pypers Hill in the Parish of Littleport in the said District of East Cambridgeshire:
- (j) The River Cam from Bottisham Lock in the Parish of Horningsea in the District of South Cambridgeshire in the County of Cambridgeshire to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Popes Corner aforesaid:
- (k) Reach Lode from Reach in the Parish of Reach in the said District of East Cambridgeshire to its confluence with the River Cam in the Parish of Wicken in the same district:
- (l) Burwell Lode from Burwell in the Parish of Burwell in the said District of East Cambridgeshire to its confluence with Reach Lode in the same parish:
- (m) Wicken Lode from Wicken Fen in the said Parish of Wicken to its confluence with Reach Lode in the Parish of Swaffham Prior in the said District of East Cambridgeshire:
- (n) The River Wissey from one mile upstream of Stoke Ferry Bridge in the Parish of Stoke Ferry in the said District of West Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, in the Parish of Fordham in the same district.

6. The River Welland from Hudd's Mill in the Parish of Stamford in the District of South Kesteven in the County of Lincolnshire to Fosdyke Bridge in the said Parish of Fosdyke.

7. The River Glen from Tongue End in the Parish of Bourne in the District of South Holland in the County of Lincolnshire to its confluence with the River Welland in the Parish of Surfleet in the same district."

## SCHEDULE 2

Article 6

### PARTICULARS FOR REGISTRATION

1. The name of the vessel.
2. The name and address of the owner of the vessel.
3. The name and address of the applicant if not the owner.
4. The size and dimensions of the vessel.
5. In which of the categories, designated for the time being by the Agency for the purposes of registration, the vessel falls.
6. Whether the application is for renewal of a registration or for a new registration.
7. The period of registration applied for.
8. In the case of a vessel which is subject to a requirement for insurance under article 11, a copy of a certificate of insurance for the vessel or other evidence that there is in force a policy of insurance in relation to it.
9. In the case of a vessel which is subject to any requirement under article 12—
  - (a) a certificate that the applicant has read the current specification applicable to the vessel under that article and that the vessel complies in every respect with that specification; and
  - (b) such additional information as the Agency may require concerning compliance with that specification.

## INSURANCE POLICIES AS TO VESSELS

1. An insurance policy must be issued by an insurer authorised under the Financial Services and Markets Act 2000<sup>(a)</sup> to carry on in Great Britain or in Northern Ireland insurance business of a relevant class or who has corresponding permission under the law of another member State.

2. Subject to paragraph 3, the policy must insure the owner of the vessel and such other person, persons or classes of persons (if any) as is or as are authorised by the owner to have control of the vessel, in respect of any liability which may be incurred by the owner or any such other person resulting from the presence of the vessel on the waterways in respect of the death of or bodily injury to any person or any damage to property.

3. The policy is not by virtue of this Order required—

- (a) to cover liability in respect of the death, arising out of and in the course of employment, of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of that person's employment;
- (b) to cover liability in respect of damage to the vessel to which the policy relates;
- (c) to cover liability in respect of goods carried on or in the vessel to which the policy relates, or any vessel drawn or propelled by such vessel;
- (d) to cover any liability of a person in respect of damage to property in that person's custody or under that person's control;
- (e) to cover any contractual liability; or
- (f) to provide cover in respect of any one accident for a sum in excess of such sum as may for the time being be determined by the Agency for the purposes of this paragraph.

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<sup>(a)</sup> 2000 c. 8.

## STANDARDS APPEALS PANEL

1. The standards appeals panel is to consist of not less than two persons appointed by the Agency and not less than three persons appointed by the Maritime and Coastguard Agency<sup>(a)</sup>, the appointments in each case to be made at the Agency's expense and from amongst persons having knowledge or experience of relevant construction standards.

2. The Agency must refer any application duly made under article 13(3) to the standards appeals panel and provide the panel with reasonable facilities to determine the question which is the subject of the application.

3. Subject to the other provisions of this Schedule, the standards appeals panel is to determine its own procedure (including the quorum for any meeting).

4. A determination by the standards appeals panel of any question referred to it is final.

5. The costs incurred in convening the standards appeals panel in relation to any question referred to it, including the costs of the Agency in providing facilities for it, must be paid by such party as the panel may direct.

6. The standards appeals panel may cause the amount of the costs so incurred by it to be certified and any amount so certified and directed by it to be paid by a person may be recovered from that person by or on behalf of the standards appeals panel summarily as a civil debt.

7. The standards appeals panel may make orders as to the costs of the parties in relation to any question referred to it and as to the parties by whom the costs are to be paid.

8. Any order under paragraph 7 may be made a rule of the High Court on the application of any party named in the order.

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(a) The Marine and Coastguard Agency is an executive agency of the Department for Transport.

## SCHEDULE 5

Article 29

### CONSEQUENTIAL AMENDMENTS

#### *Anglian Water Authority Act 1977*

1. Section 17 (charges) of the Anglian Water Authority Act 1977<sup>(a)</sup> is amended by the insertion in subsection (1) after “under this Part of this Act” of “and under the Environment Agency (Inland Waterways) Order 2010”.

#### *Southern Water Authority Act 1982*

2. The Southern Water Authority Act 1982<sup>(b)</sup> is amended as follows—

- (a) in the definition of “registration certificate” in section 32 (Interpretation of Part IV), for “subsection (1)(c) of section 34 (Registration of vessels) or subsection (1)(c) of section 38 (Registration of houseboats) of this Act” there is substituted “the Environment Agency (Inland Waterways) Order 2010”; and
- (b) in section 46 (application of charging provisions) after “under this Part of this Act” there is inserted “and under the Environment Agency (Inland Waterways) Order 2010”.

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(a) 1977 c. i.  
(b) 1982 c. xxii.

## REPEALS AND REVOCATIONS

## PART 1

## ENACTMENTS REPEALED

<i>Chapter or Number</i>	<i>Short Title</i>	<i>Extent of repeal or revocation</i>
1932 c. xxxvii.	Thames Conservancy Act 1932	Section 91. In section 92(1) the words “registered under this Act”. Section 97(5).
1950 c. 1.	Thames Conservancy Act 1950	Section 13.
1966 c. xxxii.	Thames Conservancy Act 1966	Sections 3 to 5 and 7 to 16.
1977 c. i.	Anglian Water Authority Act 1977	Section 20.
1982 c. xxii.	Southern Water Authority Act 1982	Sections 33, 34, 36 to 38 , 40, 41 and 45 and Schedule 1.

## PART 2

## BYELAWS REVOKED

1. Parts 1, 2 and 3 of the Thames Registration Byelaws 1953.
2. The whole of the Anglian Water Authority Recreational Waterways (Registration) Byelaws 1979.
3. In the Thames Navigation Licensing and General Byelaws 1993—
  - Byelaw 77 Requirements as to construction and equipment;
  - Byelaw 78 Licences for vessels;
  - Byelaw 79 Licence plates and production thereof;
  - Byelaw 80 Inspection of vessels;
  - Byelaw 81 Exemption of vessels from licensing;
  - Byelaw 82 Engines generating electricity etc.; and
  - In Byelaw 85 (penalties) the reference to Byelaws 77, 78 and 82 in paragraph (a)(i).

## TRANSITIONAL PROVISIONS

1. Paragraphs 2 and 3 apply to any vessel which, immediately before this Order comes into force, was registered with the Agency under—

- (a) the Thames Conservancy Act 1966<sup>(a)</sup>;
- (b) Part 4 of the Southern Water Authority Act 1982<sup>(b)</sup>;
- (c) the Anglian Water Authority Recreational Waterways (Registration) Byelaws 1979;
- (d) the Thames Registration Byelaws 1953; or
- (e) the Thames Navigation Licensing and General Byelaws 1993.

2. Notwithstanding the repeal and revocation of enactments by article 28, the provisions of the Acts and Byelaws referred to in paragraph 1 continue to apply until the transition date.

3. Article 28(1) has no effect until the transition date.

4. In this Schedule, “the transition date” in relation to any vessel means the earlier of—

- (a) the date on which a vessel’s registration under an enactment referred to in paragraph 1 would have expired had this Order not come into force; or
- (b) the date on which that registration is revoked or otherwise ceases by virtue of the Acts and Byelaws referred to in paragraph 1.

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(a) 1966 c. xxxii.

(b) 1982 c. xxii.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes provision for a new uniform registration system to govern use of the main inland waterways in respect of which the Environment Agency is the navigation authority. The particular waterways to which the Order relates comprise certain waterways known as the Anglian waterways, the river Thames above Teddington Lock and the Upper Medway in Kent. The Order also confers additional powers upon the Environment Agency in respect of the waterways and amends or repeals provisions of existing legislation where required in consequence of the new powers conferred by the Order. It also amends the existing definitions of the Anglian waterways to bring within the Agency's jurisdiction an additional stretch of the Little Ouse between Brandon Staunch and Brandon Bridge and the Great Ouse Relief Channel between the Head sluice lock at Denver and the Tail sluice at Saddlebrow.

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