



# Norfolk and Suffolk Broads Act 1988

## 1988 CHAPTER 4

### PART II

#### NAVIGATION

#### **8 The navigation area.**

(1) In this Act “the navigation area” means, subject to any variation for the time being in force by virtue of an order under subsection (3) below—

- (a) those stretches of the rivers Bure, Yare and Waveney, and their tributaries, branches and embayments (including Oulton Broad) which, at the passing of this Act, were in use for navigation by virtue of any public right of navigation;
- (b) the banks of the waterways which make up those stretches; and
- (c) Haddiscoe New Cut and its banks; <sup>[F1]</sup>and
- (d) Breydon Water and the Lower Bure]

but does not include any part of the Haven or any part of any bank which lies above the level of mean high water spring tides (in the case of a tidal waterway) or above the mean water level (in any other case).

(2) In this Act “the Norwich navigation” means that part of the river Wensum which is downstream from Foundry Bridge together with that part of the river Yare which is both downstream from its confluence with the river Wensum and within the navigation area.

(3) In response to any proposal made to him by the Authority for the variation of the navigation area in a manner which does not affect its boundary with the Haven, the Secretary of State may by order vary the navigation area in accordance with the proposal.

(4) Before making any such proposal, the Authority shall consult the Navigation Committee.

(5) Subject to any provisions made by or under this Act, the navigation area shall be open to any person (upon payment by him of all navigation charges) for—

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- (a) navigation;
  - (b) the shipping and unshipping of goods; and
  - (c) the embarking and landing of passengers.
- (6) The navigation area shall not be open for the navigation of any hovercraft or any other prescribed class or description of craft.
- [<sup>F2</sup>(7) Subsection (5) above does not apply in relation to Haddiscoe New Cut.]
- (8) The Secretary of State shall not prescribe any class or description of craft for the purposes of this section if at any time before the passing of this Act craft of that class, or (as the case may be) description, have been habitually used within any part of the Broads.
- (9) In this section—  
     “craft” includes any vessel or other means of transport;  
     “navigation charges”, in relation to any person, means all charges due from him under or by virtue of this Act in respect of navigation within the navigation area; and  
     “prescribed” means prescribed by order made by the Secretary of State.
- (10) The Great Yarmouth Port and Haven Acts and Orders 1866 to 1986 shall not apply in relation to any part of the navigation area.

**Textual Amendments**

**F1** S. 8(1)(d) and word inserted (coming into force in accordance with s. 3, Sch. 7 para. 3 of the amending Act) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 3(1)** (with ss. 2(3), 16(3), 42, Sch. 6 Pts. 2, 3)

**F2** S. 8(7) repealed (coming into force in accordance with ss. 3, 36(2), 43(4), Sch. 7 para. 3 of the repealing Act) by [Broads Authority Act 2009 \(c. i\)](#), ss. 3(1), 36(2)(a)(ii)(aa), Sch. 7 para. 3(2), **Sch. 8 Pt. 2** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

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**Modifications etc. (not altering text)**

**C1** S. 8(5) applied (coming into force in accordance with s. 3 of the amending Act) by [Broads Authority Act 2009 \(c. i\)](#), **s. 36(2)(b)** (with ss. 2(3), 16(3), 42, Sch. 6 Pts. 2, 3)

**9 The Navigation Committee.**

- (1) The Authority shall appoint a committee of the Authority to be known as the Navigation Committee.
- (2) The Navigation Committee shall consist of thirteen members appointed by the Authority.
- (3) [<sup>F3</sup>Five] of the members of the Navigation Committee shall be appointed by the Authority from among the members of the Authority.
- <sup>F4</sup>(4) .....
- (5) Of the other [<sup>F5</sup>eight] members of the Navigation Committee, all of whom shall be appointed from among persons who are not members of the Authority—
  - (a) two shall be appointed after consultation with such bodies appearing to the Authority to represent the owners of pleasure craft available for hire or reward as it considers appropriate;

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- (b) one shall be appointed after consultation with such bodies appearing to it to represent nationally the owners of private pleasure craft as it considers appropriate;
  - (c) one shall be appointed after consultation with such bodies appearing to it to represent the owners of private pleasure craft which use any part of the Broads as it considers appropriate;
  - (d) two shall be appointed after consultation with such bodies appearing to it to represent persons who are likely to be required to pay ship, passenger or goods dues imposed by it as it considers appropriate; <sup>F6</sup>...
  - (e) one shall be appointed after consultation with such bodies appearing to it to represent other users of the navigation area as it considers appropriate.
- [<sup>F7</sup>and
- (f) one shall be appointed after consultation with the Great Yarmouth Port Authority.]]

[<sup>F8</sup>(6) In addition to consulting the Navigation Committee in accordance with requirements imposed by other provisions of this Act, the Authority shall—

- (a) consult the Navigation Committee—
  - (i) before delegating any function of the Authority in relation to the navigation area to any person;
  - (ii) before appointing any member of the Navigation Committee under this section;
  - (iii) before proposing, determining or bringing into force any new policy, plan, strategy or procedure or any change to an existing policy, plan, strategy or procedure which may significantly affect the use or enjoyment of the whole or any part of the navigation area;
  - (iv) before determining any application for planning permission which may significantly affect the use or enjoyment of the whole or any part of the navigation area and which materially conflicts with any policy, plan, strategy or procedure of the Authority;
  - (v) on the preparation of the annual budget, including in particular any income or expenditure attributable to the navigation area;
  - (vi) (except in case of urgency) before incurring expenditure which may have a significant effect on the use or enjoyment of the whole or any part of the navigation area and which has not been specifically provided for in the annual budget approved by the Authority;
  - (vii) before applying for any amendment of or alteration to the Navigation Committee's constitution as set out in this section or the Authority's constitution as set out in section 1 of this Act or any change to the functions of the Authority in relation to the navigation area as set out in Part II of and Schedule 5 to this Act and under Parts 2 and 3 of the 2009 Act; and
- (b) report to the Navigation Committee upon the exercise of powers in relation to the navigation area by the Authority or any officer of the Authority since the last meeting of the Navigation Committee.]

(7) The Authority shall keep under review the extent to which its functions in relation to the navigation area are delegated to the Navigation Committee.

<sup>F9</sup>(8) .....

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[<sup>F10</sup>(9) In exercising its functions the Authority shall have regard to any representations made to it by the Navigation Committee on matters relating to the navigation area and, where the Authority resolves not to adopt any recommendations made to it by the Navigation Committee, it shall provide full reasons for doing so.]

(10) Schedule 4 to this Act shall have effect for the purposes of supplementing this section.

**Textual Amendments**

**F3** Word in s. 9(3) substituted (1.6.2005) by Norfolk and Suffolk Broads Act 1988 (Alteration of Constitution of the Broads Authority) Order 2005 (S.I. 2005/1067), arts. 1, **4(a)**

**F4** S. 9(4) omitted (1.6.2005) by virtue of Norfolk and Suffolk Broads Act 1988 (Alteration of Constitution of the Broads Authority) Order 2005 (S.I. 2005/1067), arts. 1, **4(b)**

**F5** Word in s. 9(5) substituted (1.6.2005) by Norfolk and Suffolk Broads Act 1988 (Alteration of Constitution of the Broads Authority) Order 2005 (S.I. 2005/1067), arts. 1, **4(c)(i)**

**F6** Word in s. 9(5)(e) omitted (1.6.2005) by virtue of Norfolk and Suffolk Broads Act 1988 (Alteration of Constitution of the Broads Authority) Order 2005 (S.I. 2005/1067), arts. 1, **4(c)(ii)**

**F7** S. 9(5)(f) and word added (1.6.2005) by Norfolk and Suffolk Broads Act 1988 (Alteration of Constitution of the Broads Authority) Order 2005 (S.I. 2005/1067), arts. 1, **4(c)(ii)**

**F8** S. 9(6) substituted (2.7.2009) by Broads Authority Act 2009 (c. i), **Sch. 7 para. 4(1)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F9** S. 9(8) repealed (2.7.2009) by Broads Authority Act 2009 (c. i), Sch. 7 para. 4(2), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F10** S. 9(9) substituted (2.7.2009) by Broads Authority Act 2009 (c. i), **Sch. 7 para. 4(3)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**10 Functions of Authority and others in relation to the navigation area.**

- (1) The Authority shall—
  - (a) maintain the navigation area for the purposes of navigation to such standard as appears to it to be reasonably required; and
  - (b) take such steps to improve and develop it as it thinks fit.

<sup>F11</sup>(2) .....

[<sup>F12</sup>(2A) The Authority may carry out works and do other things in relation to any adjacent waters in or over which it has sufficient rights or interest for the improvement of navigation on those waters.]

- (3) The Authority may make byelaws under this section for the good management of the navigation area, the conservation of its natural beauty and amenities and the promotion of its use for purposes of recreation.
- (4) For the purposes of subsection (3) above, the navigation area shall be taken to include any part of a bank which would otherwise be excluded by virtue of section 8(1) of this Act.
- (5) The Authority shall have the additional functions in relation to the navigation area set out in this Act and, in particular, those set out in Part I of Schedule 5 to this Act.
- (6) In discharging its functions in relation to the Norwich navigation the Authority shall have particular regard to the interests of seagoing freight vessels.

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[<sup>F13</sup>(7) The Authority shall appoint a person to be known as the navigation officer and may appoint a person to act as deputy to the navigation officer.]

<sup>F14</sup>(8) .....

<sup>F14</sup>(9) .....

[<sup>F15</sup>(10) The person appointed as the navigation officer shall be an officer of the Authority . ]

<sup>F16</sup>(11) .....

<sup>F16</sup>(12) .....

[<sup>F17</sup>(13) The navigation officer and any deputy appointed under subsection (7) above shall be a warden for the purposes of section 6 of this Act.]

<sup>F18</sup>(14) .....

<sup>F18</sup>(15) .....

(16) Part III of Schedule 5 shall have effect for the purpose of supplementing this section and of making further provision in relation to the navigation area.

(17) Before—

(a) making, varying or revoking any byelaws under subsection (3) above;

(b) making any appointment under subsection (7) above;

<sup>F19</sup>(c) .....

the Authority shall consult the Navigation Committee.

#### Textual Amendments

**F11** S. 10(2) repealed (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), s. 36(2)(a)(ii)(bb), **Sch. 8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F12** S. 10(2A) inserted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 5(1)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F13** S. 10(7) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 5(2)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F14** S. 10(8)(9) repealed (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), Sch. 7 para. 5(3), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F15** S. 10(10) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 5(4)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F16** S. 10(11)(12) repealed (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), Sch. 7 para. 5(5), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F17** S. 10(13) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 5(6)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F18** S. 10(14)(15) repealed (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), Sch. 7 para. 5(7), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**F19** S. 10(17)(c) repealed (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), Sch. 7 para. 5(7), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

#### Modifications etc. (not altering text)

**C2** S. 10(1) applied (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), s. 36(2)(b) (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

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## **11 Licences required for construction of works.**

- (1) No person shall construct, alter, renew or extend any works, or undertake any dredging, within or adjacent to the navigation area, unless—
  - (a) neither the work in question nor the manner in which it is carried out will interfere with navigation in any part of the navigation area or of the Haven or be likely to do so; or
  - (b) that person—
    - (i) holds a licence under this section authorising the work (a “works licence”);
    - (ii) complies with the conditions (if any) attached to the works licence; and
    - (iii) carries out the work in accordance with the approved plans, sections and particulars.
- (2) On an application duly made to it in accordance with the requirements of this section, the Authority may grant a works licence subject to such conditions (if any) as it considers appropriate.
- (3) Where the Authority refuses to grant a works licence which has been duly applied for it shall give reasons (in writing) for its refusal.
- (4) Where the Authority grants a works licence subject to any condition it shall give reasons (in writing) for imposing the condition.
- (5) Any applicant for a works licence aggrieved by—
  - (a) the Authority’s refusal to grant the licence applied for;
  - (b) any condition subject to which the licence is granted; or
  - (c) any modification required by the Authority in the plans, sections and particulars submitted by the applicant;
 may refer the matter for determination by a person appointed for the purpose by agreement between the Authority and the applicant or, failing such agreement, by the Secretary of State; and on any such reference the person so appointed may confirm the decision of the Authority or give the Authority such directions as he thinks appropriate.
- (6) No matter may be referred for determination under subsection (5) above unless the applicant has given the Authority written notice of his intention to do so.
- (7) That notice must be given before the end of the period of 28 days beginning with the date on which the refusal, or other decision, in question was made.
- (8) Subsection (1) above does not apply in relation to—
  - (a) the renewal of any works in existence immediately before the operative date; or
  - (b) any works of a statutory undertaker;
 but in carrying out any work within the navigation area a statutory undertaker shall comply with any reasonable direction given by the Authority for the purpose of protecting navigation within the navigation area or the Haven.
- (9) An application for a works licence shall be made to the Authority in writing and shall be accompanied by the appropriate plans, sections and particulars.

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- (10) The Authority may, before granting an application for a works licence, require modifications to be made to the plans, sections or particulars submitted by the applicant.
- (11) Where an application for a works licence has been duly made and within three months of the date of the application the Authority has neither refused the application nor granted the licence applied for, the application shall be deemed to have been refused.
- (12) The Authority may require an applicant for a works licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of dealing with the application; and different fees may be specified in relation to different cases or classes of case.
- [<sup>F20</sup>(13) Before determining any application for a works licence the granting of which would significantly affect the use or enjoyment of the whole or any part of the navigation area, the Authority shall consult the Navigation Committee.]
- (14) Not less than 28 days before determining any application for a works licence in respect of works which the Authority considers might interfere with the navigation of seagoing freight shipping, the Authority shall give notice of the application to—
  - (a) the General Council of British Shipping (or such other body as appears to the Authority to represent nationally the interests of such shipping); and
  - (b) the Commissioners.
- (15) In this section “the approved plans, sections and particulars” means the plans, sections and particulars approved in connection with the application in question.

#### Textual Amendments

**F20** S. 11(13) substituted (2.7.2009) by Broads Authority Act 2009 (c. i), Sch. 7 para. 6 (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

## 12 Contravention of section 11(1).

- (1) Any person who, without reasonable excuse, contravenes section 11(1) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level three on the standard scale.
- (2) Where it appears to the Authority that any person is contravening section 11(1) it may by notice require him to take, within such reasonable time as may be specified in the notice, such steps to bring the contravention to an end as may be so specified.
- (3) The steps specified in a notice under this section may include the removal of any works and the restoration of the site in question to its former state.
- (4) If any person to whom notice is given under this section fails without reasonable excuse to comply with the requirements of the notice, the Authority may take the required steps and recover from him, as a civil debt, all reasonable costs incurred by it in taking those steps.

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