

## SCHEDULES

### SCHEDULE 5

Section 10.

#### THE NAVIGATION AREA

#### PART I

##### FUNCTIONS OF AUTHORITY

###### *Maintenance and improvement*

- 1
- (1) For the purpose of enabling the Authority to carry out its functions in relation to the navigation area, the Authority may provide such facilities, and construct, alter or renew such works, as it thinks fit, but shall not do so on any land which does not belong to it except where it has the consent in writing of the owner and (where the owner is not the occupier) that of the occupier.
  - (2) The Authority shall, in particular, maintain the Norwich navigation to such standard as may reasonably be required by such seagoing freight vessels as wish to use it.
  - (3) The duty imposed on the Authority in relation to the Norwich navigation includes the duty (subject to sub-paragraph (4) below) to provide and maintain buoys, beacons and such other navigation marks as it thinks necessary.
  - (4) The Authority shall not provide, alter, discontinue the use of or remove any buoy, beacon or other navigation mark for the purposes of the Norwich navigation without the written consent of Trinity House.
  - (5) The Authority may make reasonable charges for the use by any person of any facilities provided by it under this paragraph.

###### *Dredging*

- 2
- (1) The Authority may—
    - (a) deepen, dredge, scour or excavate any part of the navigation area; and
    - (b) sell, or otherwise dispose of as it thinks fit, any material removed from any part of the navigation area in exercise of its powers under this paragraph.
  - (2) If so required by the Commissioners, the Authority shall carry out such dredging as is, in the opinion of the Commissioners, necessary in order to prevent a reduction in the flow of water in the Haven.
  - (3) Where the Commissioners require the Authority to carry out any such dredging, they shall reimburse the Authority all costs reasonably incurred by the Authority in doing so.
  - (4) Any dispute between the Authority and the Commissioners as to the amount which the Commissioners are obliged by sub-paragraph (3) above to pay to the Authority

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in respect of any dredging carried out at the request of the Commissioners shall be determined by a person appointed for the purpose—

- (a) by agreement between the Authority and the Commissioners; or
- (b) failing such agreement, by the Secretary of State.

#### *Communication with vessels*

3 The Authority shall, with a view to ensuring the safety of navigation and securing that seagoing freight vessels are given priority—

- (a) provide a communication service designed to enable vessels which are in or are entering or leaving the Norwich navigation to communicate with the harbour master of Great Yarmouth; and
- (b) operate patrols in the Norwich navigation.

#### *Byelaws*

4 Without prejudice to the generality of section 10(3) of this Act, byelaws under that section may be made for the purpose of—

- (a) regulating the use of waterways in the navigation area for navigational and other purposes and the use of their banks and any works, facilities and services provided by the Authority;
- (b) prescribing navigational rules, including rules regulating the speed of vessels using the navigation area;
- (c) regulating the placing, laying down, maintenance and use of moorings in the navigation area;
- (d) requiring specified classes of persons in charge (for reward) of passenger boats using the navigation area to satisfy such conditions as to their qualifications for so being in charge as may be prescribed by the byelaws;
- (e) prescribing, for purposes of safety or the prevention of pollution or excessive noise, conditions with respect to their construction, equipment and maintenance (including maintenance of equipment) which must be satisfied by vessels, other than seagoing freight vessels, using the navigation area;
- (f) regulating the display of advertising on any vessel using, or kept in, the navigation area;
- (g) regulating the shipping and unshipping of goods, their warehousing and their removal from any quay, staithe or other place within the navigation area.

#### *Registration of vessels*

5 (1) Without prejudice to the generality of section 10(3) of this Act, byelaws under that section may also be made for the purpose of providing for the registration of pleasure craft.

(2) Where any such byelaws are made, the Authority shall set up and maintain the necessary register.

(3) The byelaws may, in particular—

- (a) provide for the registration of pleasure craft under different categories;

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- (b) make provision as to the display on registered craft of registration documents or numbers;
  - (c) provide for the exemption of prescribed craft or classes of craft from the requirement to register under the byelaws;
  - (d) prescribe the period for which any registration is to remain effective; and
  - (e) determine the procedure to be followed in registering.
- (4) The Authority may require an applicant for registration, 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.
- (5) Where any person tenders the appropriate fee for registering any craft under the byelaws, the Authority shall register the craft in accordance with the provisions of the byelaws unless it appears to it that any safety, noise or pollution requirement has not been complied with in respect of that craft.
- (6) Where the Authority refuses to register a craft on the ground mentioned in subparagraph (5) above, it shall notify the applicant in writing of the defects which gave rise to the refusal to register.
- (7) Where the Authority is satisfied that a registered pleasure craft does not comply with one or more of the safety, noise or pollution requirements, it may cancel the registration of that craft if—
- (a) it has given the owner written notice of the defect in question and required him to remedy it within 14 days of the date on which the notice is given; and
  - (b) that period has expired without the defect being remedied;
- but where the Authority considers that it is necessary to cancel the registration as a matter of urgency, it may do so with effect from the date on which the notice is given.
- (8) In this paragraph “safety, noise or pollution requirement” means any requirement imposed by virtue of paragraph 4(e) above.

*Appeal against cancellation or refusal to register*

- 6
- (1) Any person who is aggrieved by the Authority’s refusal to register a pleasure craft under the byelaws or by the cancellation of such registration may appeal to a magistrates' court.
  - (2) On an appeal to it under this paragraph the court may dismiss the appeal or give such direction to the Authority as it thinks fit.
  - (3) On such an appeal the decision of the court shall be final.

*Supplementary provisions in relation to byelaws*

- 7
- (1) Subsections (3) to (8) and (11) of section 236, and section 238, of the Local Government Act 1972 (procedure for making byelaws) shall apply in relation to byelaws made by the Authority under section 10(3) of this Act as they apply in relation to byelaws made by a local authority, but the Secretary of State may confirm the byelaws with such modifications as he thinks fit.
  - (2) Where the Secretary of State proposes to make any such modification which appears to him to be substantial, he shall inform the Authority and require it to take such

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steps as he considers necessary for informing persons likely to be concerned with the modification.

- (3) Where the Secretary of State has informed the Authority of his intention to make a modification which appears to him to be substantial, he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for the Authority, and others who have been informed of his proposal, to consider and comment upon it.
- (4) The Secretary of State may hold a local inquiry before deciding whether or not to confirm any byelaws made under section 10(3).
- (5) Section 12 of the Local Government (Miscellaneous Provisions) Act 1982 (enforcement of byelaws) shall apply in relation to byelaws under section 10(3) as if the Authority were a relevant local authority.

*Contravention of byelaws*

- 8 (1) Byelaws made under section 10(3) of this Act may include provisions making it an offence, in such cases as may be prescribed, to contravene them.
- (2) Where such byelaws create an offence, they shall provide for any person guilty of the offence to be liable on summary conviction to such fine (not exceeding level four on the standard scale) as may be prescribed.
- (3) In this paragraph “prescribed” means prescribed by the byelaws.

*Information as to navigation by pleasure craft*

- 9 (1) Where the Authority has reasonable grounds for believing that a pleasure craft has been kept or used within the navigation area in contravention of any byelaw made under section 10(3) of this Act, an authorised officer of the Authority may require the owner of the craft to give him such information as he can as to the identity of the person who was in charge of the craft at the material time.
- (2) Where an authorised officer of the Authority has duly demanded such information, the owner of the craft shall, if he fails without reasonable excuse to give the required information to that officer, be guilty of an offence and liable on summary conviction to a fine not exceeding level three on the standard scale.

*Temporary closure of waterways*

- 10 (1) The Authority may, for the purpose—
  - (a) of constructing or maintaining any work in or adjoining the waterway in question;
  - (b) of facilitating the holding of any function in connection with the recreational use of any waterway; or
  - (c) of facilitating motor boat racing on Oulton Broad;
 temporarily regulate, restrict, or prohibit the use of any waterway within the navigation area.
- (2) The Authority shall not exercise its powers under this paragraph—
  - (a) for a purpose mentioned in sub-paragraph (1)(a) above in such a way as to interfere unreasonably with the passage of seagoing freight vessels;
  - (b) for a purpose mentioned in sub-paragraph (1)(b) above—

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- (i) for a total of more than thirty minutes in any hour;
    - (ii) for a total of more than eight such thirty minute periods in any twenty-four hours; or
    - (iii) in such a way as to deny to any vessel all means of passing through the waterway; or
  - (c) for a purpose mentioned in sub-paragraph (1)(c) above, for a total of more than six hours in any period of twenty-four hours or on more than twenty days in any one year.
- (3) Where the Authority proposes to exercise its powers under this paragraph, it shall, at least one month before the date on which it proposes to exercise them, publish notice of the proposal in at least one local newspaper circulating in the area concerned.
- (4) Where the Authority exercises its powers as a matter of urgency, sub-paragraph (3) above shall not apply but the Authority shall, as soon as is reasonably practicable—
- (a) notify the Commissioners of the action which it has taken; and
  - (b) publish notice of it in at least one local newspaper circulating in the area concerned.
- (5) Sub-paragraph (4)(b) above does not apply if the action is likely to be discontinued before the Authority can reasonably be expected to have complied with that sub-paragraph.
- (6) The notice required by sub-paragraph (3) above (“the notice”) shall specify the purpose for which the powers are proposed to be exercised and the period during which the waterway concerned will be affected.
- (7) The Authority shall cause a copy of the notice to be displayed conspicuously in at least one place adjacent to the waterway concerned and in a position which the Authority considers appropriate for bringing its contents to the attention of persons likely to be affected by the proposed exercise of the Authority’s powers.
- (8) The Authority shall, not later than the date on which the notice is first published under this paragraph, send copies of it to the Anglian Water Authority and the Commissioners.

*Repair of landing places etc.*

- 11 (1) Where the Authority is of the opinion that any landing place, embankment, private mooring or structure is insecure or in need of repair and by reason of its condition—
- (a) is, or is likely to become, a danger to persons or vessels using any waterway within the navigation area over which there is a public right of navigation;
  - (b) is injuring, or is likely to injure, the condition of any such waterway as a navigable waterway; or
  - (c) is hindering, or is likely to become a hindrance to, navigation on any such waterway;
- the Authority may by notice given to the owner require him to make it secure, or (as the case may be) carry out the necessary repairs, to the satisfaction of the Authority and within such reasonable period as may be specified in the notice.
- (2) Section 290 of the Public Health Act 1936 (appeals against and enforcement of notices requiring execution of works) shall apply to any notice given by the Authority under this paragraph as if the Authority were a local authority.

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- (3) Any such notice shall have attached to it a copy of sub-paragraphs (1) and (2) above.

*Removal of wrecks etc.*

- 12 (1) The Authority may raise, remove or destroy any vessel which has been sunk, stranded or abandoned—
- (a) in any waterway within the navigation area; or
  - (b) at any place, other than in the Haven, where it will, in the opinion of the Authority, affect navigation within the navigation area or the Haven.
- (2) The Authority may store or dispose of any vessel which it has raised or removed in the exercise of its powers under sub-paragraph (1) above.
- (3) Before—
- (a) exercising any of its powers under sub-paragraph (1) above; or
  - (b) exercising its power under sub-paragraph (2) above to dispose of a vessel;
- the Authority shall give the owner of the vessel in question reasonable notice of its intention to do so.
- (4) Sub-paragraph (3) above shall not apply where the Authority—
- (a) exercises any of its powers under sub-paragraph (1) above as a matter of urgency; or
  - (b) has used its best endeavours to notify the owner of the vessel concerned but has been unable to do so.
- (5) The Authority may—
- (a) deduct from the proceeds of sale of any vessel sold by it under sub-paragraph (2) above;
  - (b) recover from the owner of any vessel in respect of which it has exercised its powers under this paragraph, or from his executors or administrators;
- all reasonable expenses incurred by it in the exercise of any of those powers, to the extent that they have not otherwise been recovered by the Authority.
- (6) Where the owner of a vessel in relation to which sub-paragraph (3) above applies is not known to the Authority, the Authority shall be taken to have satisfied the requirements of sub-paragraph (4)(b) above if it has exhibited notice of its intention at its principal offices for a period of at least seven days.

*Nature conservation*

- 13 (1) The Authority may, for the purpose of conserving the natural beauty of any area—
- (a) close to navigation any area at the edge of any waterway within the navigation area; or
  - (b) restrict navigation in any such area to specified classes of vessel.
- (2) The Authority shall not exercise its powers under this paragraph so as to—
- (a) close any part (other than the end) of a navigation channel;
  - (b) create a serious obstruction to navigation;
  - (c) prevent any riparian owner from having access to his land by water; or
  - (d) prevent access by water to any staithe whose use has not been discontinued.

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- (3) Where the Authority proposes to exercise its powers under this paragraph it shall, at least one month before the date on which it proposes to exercise them, publish notice of the proposal in at least one local newspaper circulating in the area concerned.
  - (4) Where the Authority exercises its powers as a matter of urgency, sub-paragraph (3) above shall not apply but the Authority shall, as soon as is reasonably practicable, comply with the requirements of paragraph 14 below.
  - (5) The notice shall specify the purpose for which the powers are proposed to be exercised and the period (which may be expressed to be indefinite) during which the waterway concerned will be affected.
  - (6) The Authority shall cause a copy of the notice to be displayed conspicuously in at least one place adjacent to the waterway concerned and in a position which the Authority considers appropriate for bringing its contents to the attention of persons likely to be affected by the proposed exercise of the Authority's powers.
  - (7) The Authority shall, not later than the date on which the notice is first published under this paragraph, send copies of it to the Anglian Water Authority and the Commissioners.
  - (8) The notice shall state that objections to the proposal may be made to the proper officer of the Authority within such period as may be specified in the notice.
  - (9) The period specified in accordance with sub-paragraph (8) above must not be less than twenty-eight days beginning with the day on which the notice is first published.
  - (10) If any objections are duly made in accordance with the provisions of the notice, and are not withdrawn, the Authority shall not implement its proposal until—
    - (a) a public local inquiry into the proposal has been held by an inspector appointed by the Authority; and
    - (b) the Authority has considered his report.
  - (11) Before appointing any such inspector, the Authority shall consult the Secretary of State.
  - (12) The provisions of subsections (2) to (5) of section 250 of the Local Government Act 1972 (evidence at, and cost of, local inquiries) shall apply in relation to any inquiry held under this paragraph or paragraph 14 below as they apply in relation to a local inquiry which a Minister causes to be held under subsection (1) of that section.
- 14
- (1) This paragraph applies where the Authority has exercised its powers under paragraph 13 above in circumstances in which it is not required to comply with sub-paragraph (3) of that paragraph.
  - (2) The Authority shall, as soon as is reasonably practicable—
    - (a) notify the Commissioners of the action which it has taken; and
    - (b) publish notice of it in at least one local newspaper circulating in the area concerned.
  - (3) The notice shall state that objections to the action taken by the Authority may be made to the proper officer of the Authority within such period as may be specified in the notice.
  - (4) The period specified in accordance with sub-paragraph (3) above must not be less than twenty-eight days beginning with the day on which the notice is first published.

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- (5) Sub-paragraph (2)(b) above does not apply if the action is likely to be discontinued before the Authority can reasonably be expected to have complied with that sub-paragraph.
- (6) If any objections to the action taken by the Authority are duly made in accordance with the provisions of the notice, and are not withdrawn, the Authority shall—
- (a) discontinue the action before the end of the period of three months beginning with the date on which it was first taken; or
  - (b) as soon as is reasonably practicable after the end of that period, cause a public inquiry into the matter to be held by an inspector appointed by the Authority.
- (7) Before appointing any such inspector, the Authority shall consult the Secretary of State.
- (8) Where a public inquiry has been held under this paragraph the Authority shall, in determining whether or not to continue the action, consider the inspector's report.
- 15 The Authority shall, as soon as is reasonably practicable after bringing to an end any closure or restriction under paragraph 13 or 14 above, take such steps as may be necessary to secure that the waterway concerned is returned to a condition no less suitable for navigation than existed before the closure or restriction.

*Consultation with Navigation Committee*

- 16 (1) The Authority shall consult the Navigation Committee before exercising any of its functions under this Part of this Schedule or under paragraph 23 below.
- (2) Sub-paragraph (1) above shall not apply where the Authority exercises the power in question as a matter of urgency.

**PART II**

FUNCTIONS OF NAVIGATION OFFICERS

*Interpretation*

- 17 In this Part of this Schedule “the navigation officer” means—
- (a) in relation to the Norwich navigation, the Norwich navigation officer; and
  - (b) in relation to the remainder of the navigation area, the Broads navigation officer;
- and any person appointed by the Authority to act as deputy to the officer in question.

*Directions for regulating vessels*

- 18 (1) The navigation officer may give directions for all or any of the following purposes—
- (a) for regulating the time at which and the manner in which any vessel may enter, leave, or lie in the navigation area;
  - (b) for regulating the position, mooring, unmooring, placing or removing of any vessel while it is in the navigation area;
  - (c) for regulating the position in which any vessel may, while in the navigation area, take in or discharge cargo or ballast or take in or land passengers;



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- (d) for regulating the manner in which any vessel entering the navigation area may be dismantled, either for the safety of the vessel or for preventing injury to other vessels or property or to any part of the navigation area;
  - (e) for removing unserviceable vessels and other obstructions from the navigation area and keeping it clear;
  - (f) for prohibiting the mooring or anchoring of any vessel in any particular part or parts of the navigation area;
  - (g) for regulating the manner in which vessels are to navigate while within the navigation area.
- (2) In any case which appears to the navigation officer to be an emergency, general directions given under this paragraph may be expressed to be applicable to all vessels or to all vessels of a particular class.
- (3) Directions under this paragraph shall be communicated to the person having charge of the vessel concerned by being given to him in writing unless it is not reasonably practicable to do so, in which case they shall be communicated to him in such manner as the navigation officer considers appropriate.
- (4) The navigation officer shall not exercise his powers under this Schedule in any way which interferes with the discharge by the Commissioners of Her Majesty's Customs and Excise of any of their functions.
- (5) Where a vessel is within the navigation area, the person who has charge of it shall comply with any direction given under this paragraph which—
- (a) applies in relation to his vessel; and
  - (b) has been communicated to him by or on behalf of the navigation officer;
- and any such person who fails (without reasonable excuse) to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level four on the standard scale.

#### *Seagoing freight traffic*

- 19 (1) The Norwich navigation officer shall exercise his powers under this Part of this Schedule with the object of securing, so far as is reasonably practicable and consistent with the maintenance of safety, that any seagoing freight vessel which is in, entering or leaving the Norwich navigation has a safe passage and is given priority over other traffic.
- (2) The navigation officer shall, in controlling the movement of any vessel, comply with any directions given (with the object mentioned in sub-paragraph (1) above) by the harbour master of Great Yarmouth unless he considers, in a particular case, that it is inadvisable on grounds of safety to do so.

### **PART III**

#### MISCELLANEOUS

##### *Integration of administration with the Commissioners*

- 20 (1) The Authority and the Commissioners may enter into an agreement for the purpose of integrating the administration of—

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- (a) their byelaws relating to the registration of pleasure craft and the charging and collection of sums payable in respect of registration; and
  - (b) the collection of ship, passenger and goods dues under section 26 of the Harbours Act 1964.
- (2) The agreement may, in particular, provide—
- (a) for treating registration documents issued under byelaws made by one of the parties to the agreement as registration documents issued under byelaws made by the other;
  - (b) for treating distinguishing marks and numbers in a similar manner; and
  - (c) for the division between the parties of sums of a kind mentioned in sub-paragraph (1) above.

*Protection of statutory undertakers*

- 21 (1) The provisions of this paragraph shall apply unless provision to the contrary is made by agreement in writing between the Authority and the statutory undertaker in question.
- (2) The power conferred on the Authority by paragraph 1 above—
- (a) shall not apply in relation to any works of a statutory undertaker; and
  - (b) shall not be exercised so as to damage, adversely affect or obstruct access to any such works.
- (3) The power conferred on the Authority by paragraph 2 above to dredge and dispose of dredged material shall not be exercised—
- (a) within fifteen metres of any works of the British Railways Board without the Board's approval of the work which the Authority proposes to carry out;
  - (b) within fifty metres of any works of any other statutory undertaker without reasonable prior notice; or
  - (c) so as to damage or adversely affect any works of a statutory undertaker.
- (4) Before granting a works licence authorising a person to carry out any work within fifty metres of any works of a statutory undertaker, the Authority shall—
- (a) notify the undertaker of the proposed work; and
  - (b) furnish it with such further information in relation to the proposed work as it may reasonably require.
- (5) Where notice has been given to a statutory undertaker under sub-paragraph (4) above, the Authority shall, on granting the licence in question, give a copy of it to the undertaker.
- (6) The power conferred by any such licence shall not be exercised so as to damage, adversely affect or obstruct access to any works of a statutory undertaker.
- (7) Before exercising its power under paragraph 12 above to raise, remove or destroy any vessel which is within 150 metres of any works of a statutory undertaker, the Authority shall give the undertaker reasonable notice of its intention to do so.
- (8) Sub-paragraph (7) above shall not apply in any case which is (in the opinion of the Authority) an emergency.

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- (9) Any dispute between the Authority and a statutory undertaker as to the application of any provision made by this paragraph shall be determined by a person appointed for the purpose—
- (a) by agreement between the Authority and the statutory undertaker; or
  - (b) failing such agreement, by the Secretary of State.

*Duty of Authority to notify Commissioners of dredging and other work*

- 22 (1) The Authority shall, before—
- (a) undertaking any dredging or other work which might materially affect navigation within the Haven or the flow of water in the Haven; or
  - (b) granting a works licence authorising any such dredging or work;
- notify the Commissioners of the proposed dredging or other work, and shall not undertake it or grant the proposed licence without the consent of the Commissioners.
- (2) The Commissioners may withhold their consent only if they are satisfied that the proposed dredging or other work will have either or both of the effects mentioned in sub-paragraph (1)(a) above.
- (3) Any dispute between the Authority and the Commissioners as to the application of this paragraph shall be determined by a person appointed for the purpose—
- (a) by agreement between the Authority and the Commissioners; or
  - (b) failing such agreement, by the Secretary of State.

*New rights of navigation*

- 23 (1) The Authority may enter into an agreement with any person who has a sufficient interest in the land concerned for the creation by that person of a public right of navigation over any land in or within the vicinity of the Broads, subject to such conditions and limitations (if any) as may be specified in the agreement.
- (2) Any such agreement shall be on such terms as to payment or otherwise as may be specified in the agreement.
- (3) The Authority may create a public right of navigation over any land in which it has a sufficient interest, subject to such conditions and limitations (if any) as it considers appropriate.