



Broads Authority Act 2009

2009 CHAPTER i

PART 2

REGULATIONS AND MANAGEMENT OF NAVIGATION AREA

Safety of vessels, etc.

11 Byelaws for registration of vessels

(1) In this section—

“the byelaws” means any byelaws made or deemed to be made under this section and for the time being in force;

“the relevant sections” means section 12 (construction and equipment standards) and section 14 (vessels: insurance requirements) of this Act;

and references to registration are references to the registration of a vessel under the byelaws.

(2) The Authority may make byelaws for the purpose of providing for the registration of vessels in the navigation area or on adjacent waters, and for the determination and recovery of tolls in respect of vessels moored, used or navigated in the navigation area or on adjacent waters.

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

(4) The byelaws may in particular—

- (a) provide for the registration of vessels under different categories;
- (b) make provision as to the display on registered vessels of registration documents or numbers;
- (c) provide for the exemption of prescribed vessels or classes of vessels 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.

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- (5) 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.
- (6) The Authority may require an applicant for registration, in the case of a vessel which is subject to standards, or which falls within a category designated under section 14(1), to submit with his application—
 - (a) evidence of compliance with the standards applicable to the vessel (whether in the form of an original document, or a copy);
 - (b) the insurance certificate relating to the vessel, or a copy of it, or other evidence which in the reasonable opinion of the Authority is sufficient to show that a policy complying with the requirements of Schedule 3 is in force; and
 - (c) such other information relating to the vessel as may be reasonably required by the Authority.
- (7) The evidence referred to in subsection (6)(b) may if the Authority sees fit consist of a declaration in writing by the applicant in a form prescribed by the Authority to the effect that the policy is in force.
- (8) Where any person tenders the appropriate fee for registering any vessel under the byelaws, the Authority shall register the vessel in accordance with the provisions of the byelaws unless it appears to it that any requirement made by or under the byelaws or the relevant sections has not been complied with in respect of that vessel.
- (9) Where the Authority refuses to register a vessel on any ground such as is mentioned in subsection (8), it shall notify the applicant in writing of the matters which gave rise to the refusal to register.
- (10) Where the Authority is satisfied that a vessel does not comply with any requirement of the relevant sections, it may cancel the registration of that vessel if—
 - (a) it has given the owner written notice of the non-compliance 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 non-compliance 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.
- (11) The Authority shall give reasons for any decision under subsection (10) to cancel the registration of a vessel.
- (12)
 - (a) Any person who is aggrieved by the refusal of the Authority to register a vessel under the byelaws, or by the cancellation of such registration, may appeal to a magistrates' court.
 - (b) On an appeal to it under this subsection the court may dismiss the appeal, or give such direction to the Authority as it thinks fit.
 - (c) On such an appeal the decision of the court shall be final.
 - (d) This subsection does not confer a right of appeal in relation to any question which in accordance with this Act is to be determined by the standards appeals panel.
- (13) Paragraphs 7 and 8 of Schedule 5 to the 1988 Act shall apply to byelaws made under this section as they apply to byelaws made under section 10(3) of the 1988 Act.

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- (14) The Broads Authority Vessel Registration Byelaws 1997 (other than byelaws 23 and 28) shall be deemed to have been made under this section, and shall have effect as though the references in those byelaws to the “navigation area” included adjacent waters.

12 Construction and equipment standards

- (1) As from the appointed day the Authority by resolution may from time to time impose in relation to vessels in the navigation area or on adjacent waters reasonable standards and specifications (in this Act referred to as “standards”) relating to construction and equipment for the purposes of ensuring safety or preventing noise or pollution.
- (2) Where there is in force a scheme imposing standards in relation to vessels on navigable waters under the control of the British Waterways Board and the Environment Agency the only standards which may be imposed or have effect under subsection (1) are—
- (a) standards identical in effect to those identified in the said scheme;
 - (b) additional standards in relation to vessels which are pleasure boats or pleasure vessels to be let for hire, or to be used for carrying passengers for hire, for the purposes of section 94 of the 1907 Act;
 - (c) standards not falling within paragraph (a) or (b), being standards to be imposed pursuant to any agreement (whether made before or after the appointed day fixed for the purposes of this section) between the Authority of the one part and the British Marine Federation, the Inland Waterways Association and the Royal Yachting Association of the other part.
- (3) Before imposing standards such as are referred to in subsection (2)(b) or (c) or which differ materially from those contained in the 2006 byelaws, the Authority shall—
- (a) (subject to subsection (5)) consult such bodies as appear to it to represent boating interests on its intention to do so and inform any such bodies of their entitlement to make representations within 56 days; and
 - (b) publish a notice of its intention to do so in a newspaper circulating in the area of the Broads and on the Authority’s website.
- (4) The notice published under subsection (3) shall—
- (a) summarise the effects of the standards;
 - (b) summarise the material differences between the standards contained in the existing byelaws, or in any scheme such as is referred to in subsection (2), and the standards to be imposed under this section; and
 - (c) state that representations may be made to the Authority in writing on the said differences within 56 days of the date of the notice.
- (5) Nothing in subsection (3)(a) shall require the Authority to consult the bodies referred to in subsection (2)(c) before imposing standards pursuant to any agreement such as is referred to in subsection (2)(c).
- (6) The Authority shall not impose standards to which subsection (3) refers until it has considered all representations made within 56 days of the date on which any bodies representing boating interests are consulted under subsection (3) and of the date of the newspaper notice published under subsection (3).
- (7) Different standards may be imposed by the Authority under this section in relation to different categories of vessels and in relation to different parts of the navigation area or any adjacent waters.

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- (8) Any standards imposed by the Authority 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.
- (9) The requirements of subsection (1) do not apply in relation to a vessel to the extent that the vessel is excluded from those requirements by any exemption granted by the Authority and for the time being in force.
- (10) The Authority may exempt any vessel from the requirements of subsection (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 preventing noise or pollution.

13 Standards appeals panel

- (1) A panel, referred to in this Act as “the standards appeals panel”, shall be established and operate in accordance with the provisions of Schedule 2.
- (2) The standards appeals panel is to determine—
 - (a) any question as to whether a vessel complies with any standard which is applicable to the vessel;
 - (b) any question as to whether any standard imposed is applicable to the vessel;
 - (c) any question as to the reasonableness of a standard imposed under section 12; and
 - (d) any question such as is referred to in section 17(11) as to whether a vessel fails materially to comply with any standards applicable to the vessel;if the question is the subject of an application made in accordance with subsection (3).
- (3) An application to refer a question to the standards appeals panel must be made in writing to the Authority and signed by—
 - (a) the owner of the vessel, in the case of a question arising under subsection (2) (a), (b) or (d); and
 - (b) not fewer than 6 persons, each of whom is the owner of any category of vessel to which this section applies, in the case of a question arising under subsection (2)(c).

14 Vessels: insurance requirements

- (1) The Authority may from time to time designate categories of vessels to which this section is to apply.
- (2) The owner or master of a vessel to which this section applies shall not keep, let for hire or use the vessel in the navigation area or on adjacent waters unless there is in force in relation to the vessel a policy of insurance complying with the requirements of Schedule 3.
- (3) The requirements of subsection (2) do not apply in relation to a vessel to the extent that the vessel is exempted by the Authority from those requirements.

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15 Offences as to standards and insurance requirements

- (1) The owner or master of a vessel who without reasonable excuse and (in the case of a master of a vessel who is not also the owner) knowingly—
 - (a) keeps, lets for hire or uses a vessel in the navigation area or on adjacent waters which does not comply with any standards applicable to the vessel; or
 - (b) contravenes the requirements of section 14(2) as to insurance policies,shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) It shall be a defence for the owner or master of a vessel charged with an offence under subsection (1) to prove that he had taken all reasonable precautions and exercised due diligence to avoid the commission of any such offence.

16 Exemption of certain vessels

- (1) In this section—
 - “medium size unpowered vessel” means any unpowered vessel, not being a small unpowered vessel, having a block area of less than 13 square metres;
 - “small unpowered vessel” means any unpowered vessel having a block area of less than 6 square metres;
 - “the specified provisions” means—
 - (a) any byelaws made or deemed to be made under section 11;
 - (b) section 12 (construction and equipment standards);
 - (c) section 14 (vessels: insurance requirements).
- (2) For the purposes of this section, the block area of a vessel means the area of the vessel in square metres calculated by multiplying the length of the vessel by the breadth of the full beam of the vessel at its widest part, both figures including the length or breadth (as the case may be) of any fixed fendering attached to the vessel.
- (3) Nothing in this Act or the 1988 Act, or in any byelaws made or deemed to be made under section 11—
 - (a) shall require the registration of any small unpowered vessel on adjacent waters which does not enter into the navigation area;
 - (b) shall entitle the Authority to require the payment of any toll, due or other similar charge in respect of any small unpowered vessel or any medium size unpowered vessel for the time being on adjacent waters.
- (4) The Authority shall not exercise the powers of section 14 so as to designate any category of small unpowered vessels on adjacent waters.
- (5) Subject to subsection (4) the Authority shall not designate under section 14 any category of small unpowered vessels except in accordance with a resolution of the navigation committee.
- (6) Nothing contained in or in force or done under the specified provisions shall apply to any vessel which—
 - (a) is not for the time being in use for the purposes of navigation, or for residential or commercial purposes;
 - (b) is moored on waters occupied or customarily used by a person carrying on a business; and

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- (c) is so moored for the purposes of being serviced, repaired or stored by that person or of being sold or offered or exposed for sale by that person (whether acting as principal or agent).