



# Broads Authority Act 2009

## 2009 CHAPTER i

### PART 2

#### REGULATIONS AND MANAGEMENT OF NAVIGATION AREA

##### *Directions to vessels, etc.*

#### **8 Enforcement of special directions**

- (1) This section shall have effect in relation to a vessel if a special direction is not complied with within a reasonable time.
- (2) For the purposes of subsection (1) a special direction shall be deemed not to have been complied with within a reasonable time if there is no one on board the vessel to attend to the special direction and the navigation officer after making reasonable enquiries has been unable to discover the whereabouts of the master.
- (3) In determining whether a master of a vessel has had a reasonable time in which to comply with a special direction, the navigation officer shall have regard to—
  - (a) the risk of serious harm arising from non-compliance;
  - (b) the time in which it would ordinarily take a competent master to comply with such a direction; and
  - (c) any knowledge which the navigation officer has of the personal circumstances of the master which might affect his ability to comply with a special direction.
- (4) Where this section has effect the navigation officer may put persons on board the vessel to carry out the special direction, or may otherwise cause the vessel to be handled in accordance with the special direction.
- (5) Subject to subsection (6), if any person authorised by the navigation officer under subsection (4) is refused entry to the vessel the navigation officer may apply to a justice of the peace who may by warrant authorise the navigation officer to exercise the powers of subsection (4) if he is satisfied on sworn information in writing that

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- the special direction is not being complied with and that non-compliance gives rise to danger to persons or property.
- (6) If any person referred to in subsection (4) is refused entry to the vessel and in his reasonable opinion non-compliance with the special direction gives rise to grave and imminent danger to persons or property, that person may exercise the powers of subsection (4) without a justice's warrant.
- (7) Any person authorised by the navigation officer under subsection (4) to carry out the special direction may break open the wheel house, cabin or other enclosed area for the purpose of gaining access to the controls, engine, or any equipment forming part of the vessel if the vessel is unoccupied and if in his reasonable opinion non-compliance with the special direction gives rise to grave and imminent danger to persons and property.
- (8) A person who exercises the powers of subsection (7) shall leave the vessel as effectually secured against trespassers as he found it.
- (9) The Authority shall pay reasonable compensation to the owner of any vessel in respect of any damage which is caused to the vessel by the exercise of the powers of subsection (7), but nothing in this subsection shall require the Authority to pay compensation—
- (a) to the extent that the damage necessarily results from such exercise in any case where the direction is lawfully and reasonably given; or
  - (b) in respect of any damage to the extent that it results from the act or default of the master, owner or any other person (not being an employee or agent of the Authority).
- (10) Expenses reasonably incurred by the Authority in the exercise of the powers conferred by this section shall be recoverable by it as if they were a charge of the Authority in respect of the vessel.
- (11) This section is without prejudice to any other remedy available to the Authority.