



# Norfolk and Suffolk Broads Act 1988

## 1988 CHAPTER 4

E+W

An Act to establish an authority to be known as the Broads Authority; to make provision with respect to its powers; to make provision with respect to the area commonly known as the Broads and with respect to the Great Yarmouth Port and Haven and its Commissioners; to provide for the making of grants to the Authority by the Secretary of State; and for connected purposes. [15th March 1988]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

### Modifications etc. (not altering text)

- C1** By [Environmental Protection Act 1990](#) (c.43, SIF 46:4), ss. 132(1), 164(3), [Sch. 9 para. 15](#); S.I. 1991/685, [art. 3](#), it is provided (1.4.1991) that in the Norfolk and Suffolk Broads Act 1988, for each reference to the Nature Conservancy Council there shall be substituted a reference to the Nature Conservancy Council for England
- C2** Act: Definition "the Broads" applied (1.12.1991) by [Water Industry Act 1991](#) (c. 56, SIF 130), [ss. 4\(6\)](#), 156(8), 223(2) (with ss. 82(3), 186(1), 222(1), [Sch. 14 para. 6](#))  
Act: Definition "the Broads" applied (1.12.1991) by [Water Resources Act 1991](#) (c. 57, SIF 130), [ss. 17\(5\)](#), 225(2) (with ss. 16(6), 222(3), 224(1), [Sch. 22 para. 1](#), [Sch. 23 para. 6](#))  
Act: Definition "the Broads" applied (1.12.1991) by [Land Drainage Act 1991](#) (c. 59, SIF 73:1), [ss. 13\(5\)](#), 76(2) (with ss. 67(3)(5)(8), 72(6) and 74(3)(4))
- C3** Act applied (2.7.2009) by [Broads Authority Act 2009](#) (c. i), [s. 35\(2\)\(a\)](#) (with ss. 2(3), 3(1), 16(3), 42, [Sch. 6 Pts. 2, 3](#))

*Status: Point in time view as at 01/04/2012.*

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- C4 Act modified (2.7.2009) by Broads Authority Act 2009 (c. i), s. 33 (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)
- C5 Act applied (2.7.2009) by Broads Authority Act 2009 (c. i), s. 35(3) (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**Commencement Information**

- II Act partly in force at Royal Assent see s. 26; Act wholly in force at 1.4.1989.

**PART I E+W**

THE BROADS AUTHORITY

**1 The Broads Authority. E+W**

- (1) There shall be a body corporate, to be known as the Broads Authority, which shall perform the functions conferred on it by this Act.
- (2) In this Act the Broads Authority is referred to as “the Authority”.
- (3) The Authority shall consist of—
  - [<sup>F1</sup>(a) nine members appointed as follows—
    - two by Norfolk County Council;
    - one by Suffolk County Council;
    - one by Broadland District Council;
    - one by Great Yarmouth Borough Council;
    - one by North Norfolk District Council;
    - one by Norwich City Council;
    - one by South Norfolk District Council;
    - one by Waveney District Council;]
    - [<sup>F2</sup>(b) ten members appointed by the Secretary of State; and]
    - (c) two members appointed by the Authority from those members of its Navigation Committee (established under section 9 of this Act) who are not already members of the Authority.
- (4) A member appointed by a participating authority (that is to say by one of the local authorities mentioned in subsection (3)(a) above) shall be appointed from among the members of that authority.
- [<sup>F3</sup>(5) The members appointed under subsection (3)(b) shall include persons appointed by the Secretary of State after consultation with such bodies appearing to him to represent the following interests, that is to say—
  - (a) boating;
  - (b) conservation;
  - (c) farming and landowning;
  - (d) land based recreation
 as he considers appropriate, and in making such appointments the Secretary of State shall have regard to the desirability of maintaining an overall balance under this subsection (5) between those interests.]
- <sup>F4</sup>(6) .....

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(7) Schedule 1 to this Act shall have effect for the purposes of supplementing this section.

#### Textual Amendments

- F1** S. 1(3)(a) 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, **3(a)**
- F2** S. 1(3)(b) 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, **3(b)**
- F3** S. 1(5) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 1(1)** (with ss. 2(3), 3(1), 16(3), 42, [Sch. 6 Pts. 2, 3](#))
- F4** S. 1(6) repealed (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 1\(2\)](#), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, [Sch. 6 Pts. 2, 3](#))

## 2 Functions of Authority: general. **E+W**

- (1) It shall be the general duty of the Authority to manage the Broads for the purposes of—
- [<sup>F5</sup>(a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
  - (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and ]
  - (c) protecting the interests of navigation.
- (2) So far as it relates to navigation, subsection (1) above is subject to the Commissioners' functions in respect of navigation within the Haven.
- (3) In this Act “ the Broads ” means, subject to—
- (a) the variations made by Part I of Schedule 2 to this Act; and
  - (b) any variation made in accordance with the provisions of Part II of that Schedule;
- the area coloured pink on the deposited map.
- (4) In discharging its functions, the Authority shall have regard to—
- (a) the national importance of the Broads as an area of natural beauty and one which affords opportunities for open-air recreation;
  - (b) the desirability of protecting the natural resources of the Broads from damage; and
  - (c) the needs of agriculture and forestry and the economic and social interests of those who live or work in the Broads.
- (5) Part I of Schedule 3 to this Act shall have effect to amend certain provisions of the law relating to planning and connected matters, the main purpose of the amendments being to provide for the Authority to be the sole district planning authority in respect of the Broads.
- (6) The Authority shall have the miscellaneous functions set out in Part II of Schedule 3.
- (7) The Authority shall have power to do anything which is necessary or expedient for the purpose of enabling it to carry out its functions, or for incidental purposes, including power—
- (a) to acquire, manage, reclaim and dispose of land or other property;
  - (b) to carry out any building or other operations; and

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- (c) to carry on any business or undertaking.

#### Textual Amendments

**F5** S. 2(1)(a) (b) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#) , [ss. 64\(2\)](#) , [107\(3\)\(b\)](#) (with [s. 64\(4\)](#) ); [S.I. 2006/2541](#) , [art. 2](#) (with [Sch.](#) )

### 3 The Broads Plan. **E+W**

- (1) The Authority shall, before the end of the period of three years beginning with the operative date, prepare and publish a plan (to be known as “the Broads Plan”) setting out its policy with respect to the exercise of its functions.
- (2) The Authority shall review the Broads Plan at least once in every five years.
- (3) If, as a result of any such review, the Authority is of the opinion that it is appropriate to vary the Broads Plan, it shall do so in such manner as it thinks fit.
- (4) The Authority shall publish a report on the result of any review carried out under this section and the report shall set out the variations (if any) which the Authority has made following the review.
- (5) Before preparing or varying the Broads Plan the Authority shall—
  - (a) publish a draft of its proposals; and
  - (b) consult each of the appointing authorities, the internal drainage board for each internal drainage district which is wholly or partly within the Broads and such other bodies as appear to it to represent interests likely to be concerned.
- (6) The Authority shall send to the Secretary of State a copy of any plan, or variation, published under this section.

### 4 Conservation of areas of natural beauty. **E+W**

- (1) The Authority shall—
  - (a) before the end of the period of two years beginning with the operative date, prepare a map showing any areas within the Broads whose natural beauty it is, in the opinion of the Authority, particularly important to conserve; and
  - (b) at least once in every five years, review the particulars shown on the map and make such variations (if any) as it considers necessary.
- (2) The Authority shall cause any map prepared or varied under this section to be printed and copies of it to be on sale to the public at such reasonable prices as the Authority may determine.
- (3) Before preparing or varying any such map, the Authority shall consult—
  - (a) [<sup>F6</sup>Natural England ]; and
  - (b) such bodies as appear to the Authority to represent persons who have an interest in matters affecting the area, or any part of the area, in question.
- (4) [<sup>F7</sup>Natural England] shall issue, and from time to time review, guidance for the Authority with respect to the exercise of its functions under this section; and in considering for the purposes of this section whether any area is one the natural beauty

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of which it is particularly important to conserve, the Authority shall act in accordance with that guidance.

- (5) Before issuing, or reviewing, any guidance under subsection (4) above, [<sup>F7</sup>Natural England] must consult such bodies appearing to it to represent interests concerned as it considers appropriate.

#### Textual Amendments

- F6** Words in s. 4(3)(a) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 110\(2\); S.I. 2006/2541, art. 2 \(with Sch.\)](#)
- F7** Words in s. 4(4)(5) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\), Sch. 7 para. 2 \(with ss. 2\(3\), 3\(1\), 16\(3\), 42, Sch. 6 Pts. 2, 3\)](#)

## 5 Notification of certain operations within the Broads. **E+W**

- (1) Where they are satisfied that it is expedient to do so, the Ministers may by order specify, for the purposes of this section—
- such areas of grazing marsh, fen marsh, reed bed or broad-leaved woodland; and
  - such operations appearing to them likely to affect the character or appearance of one or other of the areas so specified;
- as they think fit.
- (2) No person shall carry out on any land which is within an area so specified any operation which is so specified unless he has, after the making of the order, given written notice to the Authority specifying both the nature of the proposed operation and the area in which it is proposed to carry it out and—
- the Authority has consented in writing to the carrying out of the operation; or
  - the Authority has neither given nor refused such consent and a period of three months beginning with the date on which the notice required by this subsection was duly given has expired; or
  - the Authority has refused its consent and a period of twelve months beginning with that date has expired.
- (3) Any person who contravenes subsection (2) above without reasonable excuse shall be liable—
- on summary conviction, to a fine not exceeding the statutory maximum;
  - on conviction on indictment, to a fine.
- (4) Where the Authority is given any notice under this section it shall forthwith send copies of the notice to the Ministers [<sup>F8</sup> and Natural England ].
- (5) Any person authorised in writing by the Ministers may, at any reasonable time and (if required to do so) on producing evidence that he is authorised, enter any land for the purpose of assisting the Ministers in deciding whether or not to make an order under this section affecting that land.
- (6) Any person authorised in writing by the Authority may, at any reasonable time and (if required to do so) on producing evidence that he is authorised, enter any land for the purpose of ascertaining whether an offence has been committed under this section.
- (7) Nothing in subsection (5) or (6) above shall authorise any person to enter a dwelling.

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- (8) Where any person intends to exercise his right of entry under this section in respect of land which is occupied he shall, except where his purpose is to ascertain if an offence has been committed under this section, give reasonable notice to the occupier.
- (9) Any person intentionally obstructing another in the exercise of the right of entry conferred by this section shall be liable on summary conviction to a fine not exceeding level two on the standard scale.

#### Textual Amendments

**F8** Words in s. 5(4) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), s. 107, [Sch. 11 para. 111](#); S.I. 2006/2541, art. 2 (with Sch.)

## 6 Byelaws: general. **E+W**

- (1) The Authority may make byelaws under this section for the purpose of securing that persons resorting to land to which the byelaws apply do not—
  - (a) damage the land or anything in, on or under it; or
  - (b) interfere unduly with the enjoyment of the land by other persons.
- (2) Byelaws under this section may only be made in respect of land within the Broads—
  - (a) of which the Authority is the owner or occupier;
  - (b) to which the general public have a right of access; or
  - (c) which is commonly used by the general public.
- (3) Byelaws under this section may, in particular—
  - (a) prohibit or restrict the use of land (other than any highway or other road or any land within the navigation area or the Haven), either generally or in any manner specified in the byelaws, by traffic of any description so specified;
  - (b) contain provisions prohibiting the depositing of rubbish and the leaving of litter;
  - (c) regulate or prohibit the lighting of fires; and
  - (d) make provision as to the conditions of use of parking places provided by the Authority and prohibit or restrict persons from plying for hire with vehicles at any such parking places.
- (4) Before making, varying or revoking any byelaws under this section, the Authority shall consult [<sup>F9</sup> Natural England ].
- (5) Subsections (3) to (8) and (11) of section 236, and section 238, of the <sup>M1</sup>Local Government Act 1972 (procedure for making byelaws) shall apply in relation to byelaws made by the Authority under this section 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.
- (6) 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 steps as he considers necessary for informing persons likely to be concerned with the modification.
- (7) 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



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- until such period has elapsed as he thinks reasonable for the Authority, and for others who have been informed of his proposal, to consider and comment on it.
- (8) The Secretary of State may hold a local inquiry before deciding whether or not to confirm any byelaws made under this section.
- (9) Section 12 of the <sup>M2</sup>Local Government (Miscellaneous Provisions) Act 1982 (enforcement of byelaws) shall apply in relation to byelaws under this section as if the Authority were a relevant local authority.
- (10) Any byelaws made under this section may provide for any person contravening any of their provisions to be guilty of an offence and liable—
- (a) on summary conviction to such fine (not exceeding level three on the standard scale) as may be specified in the byelaws; and
  - (b) in the case of a continuing offence, such further fine (not exceeding one tenth of level three for each day during which the offence continues after conviction) as may be so specified.
- (11) The Authority may, for the purpose of advising and assisting members of the public using the Broads and of securing compliance with any byelaws made under this Act, appoint one or more of its officers to act as wardens.

#### Textual Amendments

**F9** Words in s. 6(4) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 112\(a\)](#); S.I. 2006/2541, art. 2 (with Sch.)

#### Marginal Citations

**M1** 1972 c.70.  
**M2** 1982 c.30.

## 7 Alteration of constitution of Authority. **E+W**

- (1) Where the Authority has, following the passing by it of a special resolution, made a written proposal to the Secretary of State—
- (a) for the appointment of one or more additional members of the Authority by a specified appointing authority or by some other specified body or individual;
  - (b) for a variation in the number of members of the Authority who may be appointed by a specified appointing authority;
  - (c) for an appointing authority to cease to be entitled to appoint to membership of the Authority; or
  - (d) for the appointment of one or more of the members of the Authority to be made jointly by two or more appointing authorities;
- the Secretary of State may, if he thinks fit, by order amend this Act in such manner as he considers necessary or expedient for the purpose of giving effect to the proposal.
- (2) Where the area which constitutes the Broads for the purposes of this Act is varied by an order made under Schedule 2 to this Act, the Secretary of State may, if he thinks fit, by order amend this Act (so far as it is concerned with the constitution of the Authority) in such manner as he considers necessary or expedient in consequence of the order under Schedule 2.

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- (3) Before making any order under this section, the Secretary of State shall consult each of the appointing authorities and such bodies appearing to him to represent boating interests as he considers appropriate.
- (4) Any order under this section may, in addition to making any provision which is authorised by section 24(3) of this Act, amend any local enactment in such manner as the Secretary of State thinks necessary or expedient in consequence of giving effect to the proposal in question or (as the case may be) of the order under Schedule 2.
- (5) In this section—
- “amend” includes repeal;
  - “special resolution” means a resolution of the Authority—
    - (a) passed at a meeting specially convened for the purpose; and
    - (b) in favour of which at least three quarters of the members of the Authority voted at that meeting; and
- “specified” means specified in the proposal in question.

## PART II E+W

### NAVIGATION

#### 8 **The navigation area.** E+W

- (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>F10</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—
- (a) navigation;



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- (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>F11</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**

- F10** 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)
- F11** 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)

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

- C6** 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.** E+W

- (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>F12</sup>Five] of the members of the Navigation Committee shall be appointed by the Authority from among the members of the Authority.
- <sup>F13</sup>(4) .....
- (5) Of the other [<sup>F14</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>F15</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>F16</sup>and
- (f) one shall be appointed after consultation with the Great Yarmouth Port Authority.]]

[<sup>F17</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>F18</sup>(8) .....

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[<sup>F19</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

- F12** 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)**
- F13** 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)**
- F14** 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)**
- F15** 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)**
- F16** 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)**
- F17** 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)
- F18** 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)
- F19** 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. **E+W**

- (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>F20</sup>(2) .....

[<sup>F21</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.

*Status: Point in time view as at 01/04/2012.*

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[<sup>F22</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>F23</sup>(8) .....

<sup>F23</sup>(9) .....

[<sup>F24</sup>(10) The person appointed as the navigation officer shall be an officer of the Authority . ]

<sup>F25</sup>(11) .....

<sup>F25</sup>(12) .....

[<sup>F26</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>F27</sup>(14) .....

<sup>F27</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>F28</sup>(c) .....

the Authority shall consult the Navigation Committee.

#### Textual Amendments

**F20** 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)

**F21** 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)

**F22** 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)

**F23** 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)

**F24** 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)

**F25** 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)

**F26** 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)

**F27** 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)

**F28** 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)

**C7** 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. **E+W**

- (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>F29</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

**F29** 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). **E+W**

- (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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## PART III **E+W**

### FINANCE

#### 13 Navigation charges. **E+W**

[<sup>F30</sup>(1) The Authority may determine and recover tolls in respect of vessels moored, used or navigated on adjacent waters as well as in the navigation area.]

<sup>F31</sup>(2) . . . . .

[<sup>F32</sup>(3) The Authority shall consult the Navigation Committee before determining the level of any tolls or other charges to be imposed in respect of the navigation area or adjacent waters.]

(4) No charges shall be taken or recovered by the Authority in respect of anything (including any farm animal) which—

- (a) is carried on any waterway within the navigation area by the owner of land which abuts such a waterway; and
- (b) is for use in connection with any agricultural activity carried out on other land which he owns and which also abuts that waterway, another such waterway or any part of the Haven.

#### Textual Amendments

**F30** S. 13(1) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 7\(1\)](#) (with [ss. 2\(3\)](#), [3\(1\)](#), [16\(3\)](#), [42](#), [Sch. 6 Pts. 2, 3](#))

**F31** S. 13(2) repealed (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 7\(1\)](#), [8 Pt. 1](#) (with [ss. 2\(3\)](#), [3\(1\)](#), [16\(3\)](#), [42](#), [Sch. 6 Pts. 2, 3](#))

**F32** S. 13(3) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 7\(2\)](#) (with [ss. 2\(3\)](#), [3\(1\)](#), [16\(3\)](#), [42](#), [Sch. 6 Pts. 2, 3](#))

#### 14 Authority's power to make levies on participating authorities. **E+W**

(1) The Authority may, in respect of each financial year beginning after it is established, make levies on each of the participating authorities—

- (a) to meet that part of the Authority's estimated expenditure in that financial year for which provision is not otherwise made;
- (b) to enable it to discharge in that financial year any liabilities for the discharge of which provision is not otherwise made; and
- (c) to meet contingencies, and provide an adequate working balance, during that financial year.

(2) In determining any amount to be raised for any financial year by way of levy under this section, the Authority shall not be required to treat any reserve which is maintained by it as available to be applied by it during that year.

(3) In determining the amount which it requires to raise by way of levy under this section for any financial year, the Authority shall determine the aggregate amount which it so requires to raise.

(4) Norfolk County Council shall contribute 30 per cent. of that aggregate amount and the seven other participating authorities shall each contribute 10 per cent.



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- (5) Where—
- (a) the area which constitutes the Broads for the purposes of this Act is varied by an order made under Schedule 2 to this Act; or
  - (b) the constitution of the Authority is varied by an order made under section 7 of this Act;
- the Secretary of State may by order vary the proportions mentioned in subsection (4) above in such manner as he considers appropriate in consequence of the order mentioned in paragraph (a) or (as the case may be) (b) above.
- (6) The Authority shall, before 30th November in every year, notify each of the participating authorities of its proposals in relation to the levy for the following financial year.
- (7) In determining the aggregate amount to be raised for any financial year by way of levy under this section, the Authority shall have regard to any representations made to it by a participating authority in respect of the proposals notified under subsection (6) above in relation to that year.
- (8) A levy under this section on any participating authority shall be made by issuing the authority with a demand stating—
- (a) the date or dates on or before which a payment or payments in respect of the levy are required to be made; and
  - (b) the amount of that payment or each of those payments.
- (9) Any such demand must be issued, or information as to the amount to be subsequently demanded must be given, to a participating authority before 15th February in the year in which the financial year to which the demand relates begins.
- (10) No resolution of the Authority relating to the amount to be levied under this section, in respect of any financial year, shall be valid unless at least [<sup>F33</sup>five] of the members of the Authority who voted in favour of the resolution were appointed as such members by one or other of the participating authorities.
- (11) The following enactments—
- (a) subsections (8) and (9) of section 12 of the <sup>M3</sup>General Rate Act 1967 (liability for interest where amount due under a precept is unpaid); and
  - (b) section 15 of that Act (power to secure payments of precept);
- shall apply to a levy made by the Authority, and to the Authority, as they apply to a precept issued by a precepting authority, and to such an authority, but with the omission in subsection (1) of section 15 of the words “the rating authority have refused or through wilful neglect or wilful default failed to raise that amount by a rate, or that, having raised the amount by a rate”.
- (12) The Authority may make a levy under this section for any financial year in substitution for a levy previously made by it for that year; and subsections (4) to (6) of section 3 of the <sup>M4</sup>Local Government Finance Act 1982 (substituted rates and precepts) shall apply to a substituted levy as they apply to a substituted precept.
- (13) Subsection (7) above shall not apply to a substituted levy.
- (14) For the purposes of any other enactment (including in particular . . . <sup>F34</sup>section 101(6) of the <sup>M5</sup>Local Government Act 1972) any sum levied under this section shall be treated as money to be raised out of a rate.

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#### Textual Amendments

- F33** Word in s. 14(10) 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, 5
- F34** Words repealed by [Local Government and Housing Act 1989 \(c.42, SIF 81:1\)](#), s. 194(2), [Sch. 12 Pt. I](#)

#### Marginal Citations

- M3** 1967 c. 9.
- M4** 1982 c. 32.
- M5** 1972 c. 70.

### 15 Grants from Secretary of State. **E+W**

- (1) The Secretary of State may, with the consent of the Treasury, make grants to the Authority for such purposes, and on such terms and conditions, as he thinks fit.
- (2) Before determining the amount of any grant which he proposes to make to the Authority under this section, or the purpose for which it is to be made, the Secretary of State shall consult [<sup>F35</sup> Natural England ].

#### Textual Amendments

- F35** Words in s. 15(2) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 112\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)

### 16 Borrowing powers of Authority. **E+W**

- (1) The Authority may borrow temporarily, by way of overdraft or otherwise, such sums as it may require—
  - (a) for the purpose of defraying expenses properly chargeable to revenue, pending the receipt by it of revenues which arise in respect of the period of account to which the expenses are chargeable and which are taken into account in its estimates for that period; or
  - (b) for the purpose of defraying, pending the raising of money under subsection (2) below, expenses intended to be defrayed by means of that money.
- (2) The Authority may borrow money, otherwise than by way of a temporary loan—
  - (a) for any purpose or class of purpose approved for the purposes of this subsection by the Secretary of State; and
  - (b) in accordance with any conditions subject to which that approval is given.
- (3) Where the Authority borrows under subsection (2) above, it may raise the sum borrowed—
  - (a) by mortgage;
  - (b) by an agreement entered into with the Public Works Loan Commissioners under section 2 of the <sup>M6</sup>Public Works Loans Act 1965; or
  - (c) by any other means approved by the Secretary of State with the consent of the Treasury.

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- (4) Where the Authority borrows money under subsection (1)(b) above and subsequently raises under subsection (2) above the loan in respect of which the temporary borrowing was made, the loan shall, to the extent of the sum borrowed temporarily, be treated for the purposes of the provisions applied by subsection (5) below as having been borrowed at the time of the temporary borrowing.
- (5) The following provisions of Schedule 13 to the <sup>M7</sup>Local Government Act 1972 shall, with the necessary modifications, apply in relation to borrowing by the Authority under subsection (2) above as they apply in relation to borrowing by local authorities—
- (a) paragraph 4 (power of Secretary of State to make regulations governing forms of security etc.);
  - (b) paragraph 7 (accounting);
  - (c) paragraph 11 (priority as between loans);
  - (d) paragraph 12 (joint borrowing);
  - (e) paragraph 16 (creation of funds); and
  - (f) paragraph 20 (lender not required to enquire into legality of loan).

#### Marginal Citations

**M6** 1965 c. 63.

**M7** 1972 c. 70.

## 17 Accounts and auditing. **E+W**

- (1) The Authority shall make arrangements for the proper administration of its financial affairs and shall secure that one of its officers has responsibility for the administration of those affairs.
- [<sup>F36</sup>(2) The Authority shall keep proper records of its finances.]
- <sup>F37</sup>(3) All receipts of the Authority shall be carried to, and all liabilities falling to be discharged by the Authority shall be discharged out of, the general fund
- <sup>F37</sup>(4) The Authority shall keep an account of all receipts carried to, and payments made out of, the general fund.
- [<sup>F38</sup>(5) The Authority shall prepare a report as soon as reasonably possible after the end of each financial year describing the navigation income received by it and the navigation expenditure incurred by it in that year.
- (6) It shall be the duty of the Authority to secure that taking one financial year with another navigation expenditure is equal to navigation income.
- (7) Monies held in the navigation revenue account immediately before the appointed day fixed for the purposes of paragraph 8 of Schedule 7 to the 2009 Act (together with any interest properly attributable to those monies) shall as from that day only be applied as navigation expenditure.
- (8) In this section—
- “the navigation revenue account” means the navigation account kept in accordance with this section as originally enacted;
- “navigation expenditure” means—

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- (a) the expenditure which the Authority incurs in respect of its functions under Part II of this Act and under the 2009 Act ;
- (b) expenditure incurred in respect of the provision of moorings; and
- (c) expenditure incurred in relation to adjacent waters under section 10(2A) of this Act,

but for the purposes of this section expenditure incurred wholly or mainly in connection with conserving the natural beauty, wildlife or cultural heritage of any area, including expenditure on dredging wholly or mainly for conserving those things, shall not be classified as navigation expenditure unless in the case of expenditure incurred wholly or mainly in connection with conserving the cultural heritage of any area it is incurred for the purpose of maintaining, improving, facilitating or promoting the public right of navigation;

“navigation income” means—

- (a) the charges which the Authority makes in the discharge of its functions under Part II of this Act and the 2009 Act ;
  - (b) the charges which the Authority makes under section 26 of the Harbours Act 1964 (including tolls in respect of adjacent waters);
  - (c) any other income attributable to the functions of the Authority under the above provisions, or accruing to it in respect of moorings;
  - (d) any interest properly attributable to navigation income;
  - (e) any grant made to the Authority specifically for purposes for which navigation expenditure can be incurred.
- (9) For the avoidance of doubt expenditure incurred and income received in respect of Mutford Lock shall be regarded as navigation expenditure and navigation income respectively.
- (10) The Authority may apply navigation income for the purposes of carrying out to adjacent waters works of maintenance or improvement which are intended to facilitate the use of those waters for the purposes of navigation by persons other than the occupier of, or the owner of any interest in, the land upon which the waters are situated.
- (11) For the purposes of subsection (10) above members of a club or other association which occupies land upon which adjacent waters are situated shall be deemed not to be occupiers of the land.]

<sup>F39</sup>(10) .....

- (11) Without prejudice to any provision of regulations made under [<sup>F40</sup> section 27 of the Audit Commission Act 1998 (accounts and audit regulations) ], the Authority shall send a copy of every statement of accounts prepared in accordance with those regulations, together with a copy of any auditor’s report on the accounts in question, to the Secretary of State and to each of the other appointing authorities.

<sup>F39</sup>(12) .....

#### Textual Amendments

- F36** S. 17(2) substituted (coming into force in accordance with s. 3 of the amending Act) by [Broads Authority Act 2009 \(c. i\), Sch. 7 para. 8\(1\)](#) (with [ss. 2\(3\), 16\(3\), 42, Sch. 6 Pts. 2, 3](#))
- F37** S. 17(3)(4) repealed (coming into force in accordance with ss. 3, 43(4) of the repealing Act) by [Broads Authority Act 2009 \(c. i\), Sch. 7 para. 8\(2\), Sch. 8 Pt. 2](#) (with [ss. 2\(3\), 16\(3\), 42, Sch. 6 Pts. 2, 3](#))

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- F38** S. 17(5)-(11) substituted for s. 17(5)-(9) (coming into force in accordance with s. 3 of the amending Act) by [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 8\(3\)](#) (with [ss. 2\(3\)](#), [16\(3\)](#), [42](#), [Sch. 6 Pts. 2, 3](#))
- F39** S. 17(10)(12) repealed (11.9.1998) by [1998 c. 18](#), [ss. 54\(3\)](#), [55\(2\)](#), [Sch. 5](#)
- F40** Words in s. 17(11) substituted (11.9.1998) by [1998 c. 18](#), [ss. 54\(1\)](#), [55\(2\)](#), [Sch. 3 para. 14](#)

## PART IV **E+W**

### MISCELLANEOUS AND SUPPLEMENTAL

#### [<sup>F41</sup>17A **General duty of public bodies etc.** **E+W**

- (1) In exercising or performing any functions in relation to, or so as to affect, land in the Broads, a relevant authority shall have regard to the purposes of—
- [<sup>F42</sup>(a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
- (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and]
- (c) protecting the interests of navigation.
- (2) The following are relevant authorities for the purposes of this section—
- (a) any Minister of the Crown,
- (b) any public body,
- (c) any statutory undertaker,
- (d) any person holding public office.
- (3) In subsection (2)—
- “public body” includes
- (a) a county council, district council or parish council;
- (b) a joint planning board within the meaning of section 2 of the <sup>M8</sup> Town and Country Planning Act 1990;
- (c) a joint committee appointed under section 102(1)(b) of the <sup>M9</sup> Local Government Act 1972;
- “public office” means—
- (a) an office under Her Majesty;
- (b) an office created or continued in existence by a public general Act; or
- (c) an office the remuneration in respect of which is paid out of money provided by Parliament.]

#### Textual Amendments

- F41** S. 17A inserted (1.4.2001 for E.) by [2000 c. 37](#), [ss. 97](#), [103\(3\)](#); [S.I. 2001/114](#), [art. 2\(2\)\(g\)](#)
- F42** S. 17A(1)(a) (b) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 64\(3\)](#), [107\(3\)\(b\)](#); [S.I. 2006/2541](#), [art. 2 \(with Sch. \)](#)

#### Marginal Citations

- M8** [1990 c. 8](#).
- M9** [1972 c. 70](#).

*Status: Point in time view as at 01/04/2012.*

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## **18 Transfer of staff to Authority. E+W**

- (1) This section applies to—
  - (a) any person who, immediately before the operative date, is employed under a contract of employment by one of the participating authorities wholly for purposes of the joint committee of the participating authorities generally known (but not otherwise referred to in this Act) as the Broads Authority; and
  - (b) any person who—
    - (i) immediately before the operative date is employed by the Commissioners under a contract of employment; and
    - (ii) is designated for the purposes of this section by an order made by the Secretary of State.
- (2) The contract of employment between a person to whom this section applies and his employer shall have effect from the operative date as if originally made between him and the Authority established by this Act.
- (3) Without prejudice to subsection (2) above—
  - (a) all the employer's rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of this section be transferred on the operative date to the Authority; and
  - (b) anything done before the operative date by or in relation to the employer in respect of that contract, or of the employee, shall be deemed from that date to have been done by or in relation to the Authority.
- (4) Subsections (2) and (3) above are without prejudice to any right of any employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right shall arise by reason only of the change of employer effected by this section.
- (5) An order under this section may designate a person either individually or as a member of a class or description of employment.

## **19 Transfer of property, rights and liabilities. E+W**

- (1) On the operative date there shall vest in the Authority all property, rights and liabilities of any participating authority held or incurred wholly for purposes of the joint committee mentioned in section 18(1) of this Act.
- (2) Any dispute between the Authority and a participating authority as to the effect of subsection (1) above in relation to any particular property, right or liability shall be determined by a person appointed for the purpose—
  - (a) by agreement between the Authority and the authority; or
  - (b) failing such agreement, by the Secretary of State.
- (3) The Secretary of State may by order provide for the transfer to the Authority of any property, rights or liabilities of the Commissioners the transfer of which appears to the Secretary of State to be necessary or expedient in consequence of any of the provisions of this Act.
- (4) Any transfer effected by order under subsection (3) above may be on such terms, including financial terms, as the Secretary of State thinks fit.

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- (5) Any order under subsection (3) above may create or impose such new rights or liabilities in respect of what is transferred as appear to the Secretary of State to be necessary or expedient.

**20 Annual report. E+W**

- (1) The Authority shall, as soon as is reasonably practicable after the end of each financial year—
- (a) prepare and publish a report on the discharge of its functions during that financial year; and
  - (b) send a copy of the report to each of the appointing authorities.
- (2) The Secretary of State shall lay a copy of every report under this section, together with a copy of the Authority's statement of accounts for the financial year in question, before each House of Parliament.

**21 Application to Authority of certain enactments applying to local authorities etc. E+W**

Schedule 6 to this Act shall have effect to amend certain enactments which apply in relation to the powers and duties of local authorities and other bodies, the main purpose of the amendments being to provide for the Authority to be treated as a local authority for the purposes of those enactments.

**22 Protection of Crown interests. E+W**

- (1) No power conferred on the Authority by this Act may be exercised in any way likely to affect prejudicially any interest which—
- (a) belongs to Her Majesty in right of the Crown; or
  - (b) belongs to any government department or is held in trust for Her Majesty for the purposes of a government department;
- unless the appropriate authority's consent to the proposed exercise of the power has been obtained by the Authority in writing.
- (2) In giving any such consent the authority concerned may impose such terms and conditions as it considers appropriate.
- (3) In subsection (1) above—
- “the appropriate authority” means—
- (a) in relation to an interest belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
  - (b) in relation to any interest belonging to Her Majesty in right of the Crown but not forming part of the Crown Estate, the government department having the management of that interest; and
  - (c) in relation to an interest belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, that department; and

“interest” means any estate, interest or right in or over land.



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## 23 Power to make incidental, consequential and transitional provision. **E+W**

- (1) The Secretary of State may at any time by order make such incidental, consequential, transitional or supplemental provision as appears to him to be necessary or expedient—
  - (a) for the general purposes, or any particular purposes, of this Act or in consequence of any of its provisions or for giving full effect to it; or
  - (b) in consequence of such of the provisions of any other Act passed in the same Session as this Act as affects any part of the Broads.
- (2) No other provision of this Act shall be construed as prejudicing the generality of subsection (1) above.
- (3) An order under this section may, in particular, amend or repeal any provision contained in, or made under, any enactment.

## 24 Orders and byelaws. **E+W**

- (1) Any power to make orders under this Act shall be exercised by statutory instrument.
- (2) Any such statutory instrument (other than one made under section 26 of, or paragraph 1(3) of Schedule 7 to, this Act) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Orders and byelaws under this Act may make different provisions for different cases or different circumstances and may contain such incidental, consequential, supplemental or transitional provisions as the Secretary of State or (as the case may be) the Authority thinks fit.
- (4) Where the Secretary of State holds a local inquiry before deciding whether or not to—
  - (a) confirm byelaws made under section 6(1) or 10(3) of this Act; or
  - (b) make an order under paragraph 7 of Schedule 2 to this Act;the provisions of subsections (2) to (5) of section 250 of the <sup>M10</sup>Local Government Act 1972 (evidence at, and cost of, local inquiries) shall apply in relation to that inquiry as they apply in relation to a local inquiry held under section 250(1).

### Marginal Citations

M10 1972 c. 70.

## 25 Interpretation. **E+W**

- (1) In this Act—
  - [<sup>F43</sup> “the 2009 Act ” means the Broads Authority Act 2009; ]
  - [<sup>F43</sup> “adjacent waters” has the meaning given by section 2(2) of the 2009 Act ; ]
  - “appointing authority” means any of the persons mentioned in section 1(3) (a) or (b);
  - [<sup>F43</sup> “Breydon Water and the Lower Bure” means the areas described in Schedule 4 to the 2009 Act and shown edged red on the deposited plan referred to in section 35(1) of that Act; ]
  - “the Broads” has the meaning given by section 2(3);

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F44  
...

“commercial vessel” means any vessel which is not a pleasure craft;

“the Commissioners” means the Great Yarmouth Port and Haven Commissioners;

“the deposited map” means the set of maps dated November 1986 deposited in connection with the Norfolk and Suffolk Broads Bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons;

“financial year” means the period of twelve months ending with 31st March in any year;

“the Haven” means (subject to subsection (3) below and paragraph 5 of Schedule 7) the area of the Haven of Great Yarmouth as defined in section 5 of the <sup>M11</sup>Great Yarmouth Port and Haven Act 1866;

“hovercraft” has the same meaning as in the <sup>M12</sup>Hovercraft Act 1968;

“inland waters” has the same meaning as in the <sup>M13</sup>Water Resources Act 1963;

“the Ministers” means the Secretary of State and the Minister of Agriculture, Fisheries and Food, acting jointly;

“the navigation area” has the meaning given by section 8(1);

[<sup>F43</sup>“the navigation officer” has the meaning given by section 10(7);]

“the Norwich navigation” has the meaning given by section 8(2);

F44  
...

“operative date” means the date specified by order under section 26(4) of this Act;

“owner”, in relation to a pleasure craft which is registered with the Authority in accordance with byelaws made under section 10(3), means the person in whose name the craft is registered;

“participating authority” means a local authority mentioned in section 1(3) (a);

“passenger boat” means a pleasure craft which is carrying, or is available to carry, members of the general public for hire or reward;

“pleasure craft” means any vessel used for sport or recreation, whether hired or privately owned, and includes a houseboat;

“staithe” means any land which is adjacent to a waterway and which the inhabitants of the locality are entitled to use as a landing place;

“statutory undertaker” means—

(a) any person who is a statutory undertaker for the purposes of [<sup>F45</sup>the Town and Country Planning Act 1990];

(b) any other person who exercises functions under [<sup>F46</sup>the Land Drainage Act 1991];

[<sup>F47</sup>(c) any water undertaker or sewerage undertaker whose area includes any part of the Broads; and]

[<sup>F48</sup>[<sup>F47</sup>(d)] any electronic communications code operator;]

[<sup>F43</sup>“toll” means a charge levied by the Authority under section 26 of the Harbours Act 1964 (and includes any charge made in the discharge of the Authority’s functions under Part II of this Act and any charge levied in respect of a vessel moored, used or navigated on any adjacent waters); ]

[<sup>F49</sup>“Trinity House” means the Corporation of Trinity House of Deptford Strond; ]

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[<sup>F50</sup>“vessel” includes—

- (a) every description of craft, including a personal water craft used or capable of being used for transportation by water;
- (b) a sailboard;
- (c) any raft, pontoon or similar floating or submersible structure capable of being moved under its own power or under tow but does not include any craft or pontoon which is permanently fixed.]

“works licence” has the meaning given by section 11.

- (2) References in this Act to conserving the natural beauty of an area include references to conserving its flora, fauna and geological and physiographical features.
- (3) For the purpose of this Act, the boundary between the Haven and the navigation area shall be determined by reference to a notional line drawn—
  - (a) in the case of the river Bure, between grid references TG 5190 1009 and TG 5193 1012;
  - (b) in the case of the river Yare, between grid references TG 4700 511 and TG 4696 520; and
  - (c) in the case of the river Waveney, between grid references TG 4722 379 and TG 4725 375;“grid references” meaning the national grid references used for Ordnance Survey mapping.

#### Textual Amendments

- F43** Words in s. 25(1) inserted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 9\(1\)](#) (with ss. 2(3), 3(1), 16(3), 42, [Sch. 6 Pts. 2, 3](#))
- F44** Words in s. 25(1) omitted (2.7.2009) by virtue of [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 9\(2\)](#) (with ss. 2(3), 3(1), 16(3), 42, [Sch. 6 Pts. 2, 3](#))
- F45** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c.11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 76](#)
- F46** S. 25(1): words in sub-para. (b) in the definition of "statutory undertakers" substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 47](#)
- F47** In the definition of “statutory undertaker” for the words “and (c)” there is substituted a new para. (c) and the old para. (c) is renumbered para. (d) by [S.I. 1989/1380](#), [regs. 3\(1\), 4\(b\)](#)
- F48** Words in s. 25(1) substituted (25.7.2003 for specified purposes, and 29.12.2003 for specified purposes) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 89](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), [art. 1\(3\)](#)); [S.I. 2003/3142](#), [art. 3\(2\)](#)
- F49** Words in s. 25(1) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 9\(3\)](#) (with ss. 2(3), 3(1), 16(3), 42, [Sch. 6 Pts. 2, 3](#))
- F50** Words in s. 25(1) substituted (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), [Sch. 7 para. 9\(4\)](#) (with ss. 2(3), 3(1), 16(3), 42, [Sch. 6 Pts. 2, 3](#))

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

- C8** S. 25 modified (coming into force in accordance with s. 3 of the amending Act) by [Broads Authority Act 2009 \(c. i\)](#), [s. 35\(2\)\(b\)](#) (with ss. 2(3), 16(3), 42, [Sch. 6 Pts. 2, 3](#))

#### Marginal Citations

- M11** 1866 c. ccxlvii.  
**M12** 1968 c. 59.

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M13 1963 c. 38.

## 26 Commencement. **E+W**

- (1) Section 1 and sections 23 to 27 shall come into force on the passing of this Act.
- (2) Section 9 and Part III (other than section 13) shall come into force on the date specified for the purposes of paragraph 1 of Schedule 7 to this Act by order under subparagraph (3) of that paragraph.
- (3) Sections 18 to 22 and the provisions of Schedule 6 shall come into force on such date as the Secretary of State may by order appoint; and different days may be appointed for different provisions or purposes.
- (4) Section 13 and the remaining provisions of this Act shall come into force on such date as the Secretary of State may by order appoint.
- (5) Any order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions brought into force by the order.
- (6) Any such order may include such adaptations of the provisions which it brings into force, or of any other provisions of this Act then in force, as appear to the Secretary of State to be necessary or expedient for the purpose or in consequence of the operation of any provision of this Act before the coming into force of any other provision.

### Modifications etc. (not altering text)

C9 S. 26(3)(4): Power of appointment conferred by s. 26(3)(4) fully exercised: S.I. 1988/955, arts. 2, 3, 4

## 27 Short title, etc. **E+W**

- (1) This Act may be cited as the Norfolk and Suffolk Broads Act 1988.
- (2) This Act shall have effect subject to the transitional provisions set out in Schedule 7 to this Act.
- (3) This Act does not extend to Scotland or Northern Ireland.

*Status: Point in time view as at 01/04/2012.*

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## SCHEDULES

### SCHEDULE 1 **E+W**

Section 1(7).

#### THE BROADS AUTHORITY

##### *Appointment of members*

- 1 (1) Every member of the Authority shall be appointed for such term, not exceeding four years, as the person appointing him may specify.
- (2) Without prejudice to paragraph 2 below, every member of the Authority shall hold and vacate office in accordance with the terms of his appointment.
- (3) Any member of the Authority whose term of office has expired shall, subject to the provisions of this Schedule, be eligible for re-appointment.
- (4) Subject to paragraph 2(5) below and paragraph 1 of Schedule 7 to this Act, the appointment of any person as a member of the Authority under section 1(3)(a) or (b) of this Act shall take effect—
  - (a) on the receipt by the Authority of notification of the appointment; or
  - (b) if later, on the date on which a vacancy among those members of the Authority who were appointed by the person making the appointment in question first occurs after that appointment is made.
- (5) The appointment of any person as a member of the Authority under section 1(3)(c) of this Act shall take effect—
  - (a) on the date on which the appointment is made; or
  - (b) if later, on the date on which a vacancy among the members of the Authority appointed under section 1(3)(c) first occurs after the appointment is made.
- (6) Anyone appointed as a member of the Authority by any person may not, at any time after his appointment has taken effect and before it has ended, be appointed as such a member by any other person.

##### *Replacement of members*

- 2 (1) The appointment of a person to the Authority by a participating authority shall end if he ceases to be a member of the authority.
- (2) The appointment to the Authority of a member of the Navigation Committee (under section 1(3)(c) of this Act) shall end if he ceases to be a member of that Committee.
- (3) Where a person's appointment ends by virtue of sub-paragraph (1) above, the participating authority shall as soon as practicable give notice of that fact to the Authority.
- (4) A participating authority may at any time end the appointment of a person appointed to the Authority by that participating authority and appoint another person in his place.

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- (5) Where a participating authority exercises its powers under sub-paragraph (4) above—
- (a) it shall give notice of the ending of the appointment to the Authority; and
  - (b) the new appointment shall take effect, and the previous appointment end, at the end of the period of one month beginning with the date on which the notice is given.
- (6) The appointment of any person to the Authority may be ended by resignation by notice in writing given to the proper officer of the Authority.
- (7) Where—
- (a) any such notice of resignation is given to the Authority; or
  - (b) any person ceases to be a member of the Authority by virtue of the application of section 85 of the <sup>M14</sup>Local Government Act 1972 (vacation of office by failure to attend meetings);
- the Authority shall notify the relevant appointing authority.
- (8) Where a vacancy among the persons appointed to the Authority occurs for any reason other than one mentioned in this paragraph, the relevant appointing authority shall give notice of that fact to the Authority or (as the case may require) the Authority shall give notice of that fact to the relevant authority.
- (9) The proper officer of the Authority shall as soon as practicable publish notice of any appointment to the Authority, or ending of such an appointment, and any such notice shall give the name of the person concerned.
- (10) Sub-paragraphs (3), (8) and (9) above shall not apply in relation to any person who—
- (a) ceases to be a member of the Authority by virtue of his retirement from membership of a participating authority;
  - (b) is re-elected to membership of that participating authority on the day of that retirement; and
  - (c) is re-appointed as a member of the Authority by that participating authority.
- (11) Sub-paragraphs (7) and (8) above shall not apply in relation to any person appointed to the Authority under section 1(3)(c).
- (12) This paragraph is subject to the provisions of paragraph 5 below dealing with the period for which a member of the Authority is to serve as chairman.

**Marginal Citations**

**M14** 1972 c. 70.

*Meetings of Authority*

- 3 (1) The Authority shall in every year hold an annual meeting and such other meetings as it thinks fit.
- (2) The annual meeting of the Authority shall be the first meeting held after 1st July in the year in question.
- (3) The date and time for any meeting of the Authority shall be determined by the Authority.

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- (4) The chairman of the Authority may call a meeting of the Authority at any time.
  - (5) Any five or more members of the Authority may call a meeting of the Authority if they have made a written request to the chairman for such a meeting but the chairman—
    - (a) has refused to call the meeting; or
    - (b) has failed to call it before the end of the period of seven days beginning with the date of the making of the request.
  - (6) No business shall be transacted at any meeting of the Authority unless more than one quarter of its members are present.
  - (7) If, at any meeting of the Authority, both the chairman and vice-chairman of the Authority are absent, another member, chosen by the members present, shall preside.
- 4
- (1) Meetings of the Authority shall be held at such place, within the Broads or elsewhere, as it may decide.
  - (2) Three clear days at least before any meeting of the Authority, notice of the time and place of the intended meeting shall be published at the offices of the Authority.
  - (3) Where the meeting is called by members of the Authority, the notice shall be signed by those members and shall specify the business to be transacted.
  - (4) A summons to attend the meeting, specifying the business proposed to be transacted, and signed by the proper officer of the Authority shall, subject to sub-paragraph (5) below, be left at or sent by post to the usual place of residence of every member of the Authority.
  - (5) If a member of the Authority gives written notice to the proper officer of the Authority that he wishes any such summons to be sent to him at an address specified in the notice, any such summons addressed to him and left at or sent by post to that address shall be deemed to have been properly served on him.
  - (6) Failure to serve a summons on any member of the Authority shall not affect the validity of the meeting of the Authority to which the summons relates.
  - (7) Except in the case of any matter which requires to be considered urgently, no business shall be transacted at any meeting of the Authority other than that specified in the summons to that meeting.
  - (8) Part VI of Schedule 12 to the <sup>M15</sup>Local Government Act 1972 (general procedural provisions relating to local authorities) shall apply in relation to the Authority as if it were a local authority and as if the reference in paragraph 43 to the election of members were a reference to their appointment.

**Marginal Citations**

**M15** 1972 c. 70.

*Chairman and vice-chairman*

- 5
- (1) The Authority shall in each year appoint a chairman and a vice-chairman from among its members.



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- (2) Appointments under sub-paragraph (1) above shall be the first business transacted at the annual meeting of the Authority.
- (3) Subject to any standing orders made by the Authority, anything authorised or required to be done by or in relation to the chairman may be done by or in relation to the vice-chairman.
- (4) The Authority may pay to the chairman and vice-chairman, for the purpose of enabling them to meet the expenses of their offices, such allowances as the Authority thinks reasonable.
- (5) The chairman shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act as chairman.
- (6) During his term of office the chairman shall continue to be a member of the Authority until the appointment of the next chairman at the next annual meeting of the Authority.
- (7) Where—
  - (a) the chairman was appointed to the Authority by a participating authority; and
  - (b) the effect of sub-paragraph (6) above is to extend the period during which he is a member of the Authority;
 the appointment by the participating authority of a person to replace him shall not take effect before the appointment of the next chairman of the Authority.
- (8) If, apart from sub-paragraph (6) above, the person presiding at the meeting referred to in sub-paragraph (2) above would have ceased to be a member of the Authority, he shall not be entitled to vote on the appointment except in accordance with sub-paragraph (9) below.
- (9) In the case of an equality of votes in respect of the appointment of a chairman, the person presiding at the meeting shall give a casting vote in addition to any other vote he may have.
- (10) Where a casual vacancy occurs in the office of chairman or vice-chairman of the Authority, the vacancy shall be filled by the appointment by the Authority of one of its members.
- (11) Where necessary, the meeting at which such a casual vacancy is to be filled shall be convened by the proper officer of the Authority.
- (12) Any person appointed under sub-paragraph (10) above to fill a casual vacancy shall hold office, unless he resigns or becomes disqualified, until such time as the person in whose place he was appointed would have held the office in question had his appointment not come to an end prematurely.

*Authority's chief officer*

- 6 The Authority shall not—
  - (a) appoint a person to the office (by whatever name it is known) of chief officer of the Authority; or
  - <sup>F51</sup>(b) .....  
without first consulting [<sup>F52</sup> Natural England ].

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### Textual Amendments

- F51** Sch. 1 para. 6(b) repealed (2.7.2009) by Broads Authority Act 2009 (c. i), Sch. 7 para. 10, **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)
- F52** Words in Sch. 1 para. 6 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 112(c)**; S.I. 2006/2541, art. 2 (with Sch.)

## SCHEDULE 2 **E+W**

Section 2(3).

### VARIATION OF AREA TREATED AS THE BROADS

#### **PART I E+W**

##### VARIATION OF AREA SHOWN ON DEPOSITED MAP

- 1 The area which is shown coloured pink on Sheet 37 of the deposited map is varied by the omission of the following land at Lowestoft in the district of Waveney—
- (a) the stretch of the highway known as Bridge Road between its junction with Commodore Road and the southern boundary of the curtilage of the Post Office south of Mutford Lock together with the land to the east of Bridge Road; and
  - (b) the area (consisting of Mutford Lock and adjoining land owned by Associated British Ports) which is shown hatched and edged red on the plan signed in duplicate by David Patrick Walley, an Assistant Secretary in the Department of the Environment, and Reginald Vivian Pearce, the Solicitor to Associated British Ports, copies of which have been deposited in the Office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons.
- 2 The area which is shown coloured pink on Sheet 24 of the deposited map is varied by the omission of the stretch of the river Yare lying downstream of a notional line drawn between grid references TG 51873 7808 and TG 51959 07859.

#### **PART II E+W**

##### VARIATION BY ORDER

- 3 Where [<sup>F53</sup> Natural England ] has received a proposal from the Authority that the area which constitutes the Broads (for the purposes of this Act) should be varied, it shall consider the proposal and either reject it or conduct a review under this Schedule.

### Textual Amendments

- F53** Words in Sch. 2 para. 3 substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 113(a)**; S.I. 2006/2541, art. 2 (with Sch.)

*Status: Point in time view as at 01/04/2012.*

*Changes to legislation: Norfolk and Suffolk Broads Act 1988 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 4 Where [<sup>F54</sup> Natural England ] conducts a review under this Schedule it shall take such steps as it considers appropriate to secure that those persons who appear to it to have an interest in the proposal being reviewed—
- (a) are informed of the proposal; and
  - (b) are given an opportunity to make representations on it within such a reasonable period as may be specified by [<sup>F54</sup> Natural England ].

**Textual Amendments**

**F54** Words in Sch. 2 para. 4 substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 113\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)

- 5 [<sup>F55</sup> Natural England ] shall have regard to any representations duly made to it under paragraph 4 above.

**Textual Amendments**

**F55** Words in Sch. 2 para. 5 substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 113\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)

- 6 Where, following the review of any proposal under this Schedule, [<sup>F56</sup> Natural England ] considers that the proposal should be adopted (either as originally made or as modified by [<sup>F56</sup> Natural England ] in consequence of its review), it may notify the Secretary of State to that effect.

**Textual Amendments**

**F56** Words in Sch. 2 para. 6 substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 113\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)

- 7 The Secretary of State may by order give effect to any proposal of which he is notified by [<sup>F57</sup> Natural England ] under paragraph 6 above; and in doing so the Secretary of State may modify the proposed variation in such manner as he thinks fit.

**Textual Amendments**

**F57** Words in Sch. 2 para. 7 substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 113\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)

- 8 Before deciding whether or not to give effect to any such proposal the Secretary of State may hold a local inquiry.
- 9 Without prejudice to the generality of section 24(3) of this Act, an order under paragraph 7 above may make such amendments in, and repeals of, local enactments as the Secretary of State considers appropriate in consequence of the order.
- 10 Before making to [<sup>F58</sup> Natural England ] any proposal of any kind mentioned in paragraph 3 above, the Authority shall consult—
- (a) each of the appointing authorities other than the Secretary of State; and

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- (b) the internal drainage board for any internal drainage district which appears to the Authority to be likely to be affected by the proposal.

#### Textual Amendments

**F58** Words in [Sch. 2 para. 10](#) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 113\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)

## SCHEDULE 3 **E+W**

Section 2(5), (6).

### FUNCTIONS OF AUTHORITY

#### PART I **E+W**

#### PLANNING AND CONNECTED MATTERS

##### *The <sup>M16</sup>Electricity (Supply) Act 1919*

#### Marginal Citations

**M16** [1919 c. 100](#).

- 1 In section 21(2) of the Electricity (Supply) Act 1919 (meaning of “local planning authority” in relation to duty of Secretary of State to consult before consenting to overhead electricity lines), the words “and in relation to any land within the Broads (as defined by the Norfolk and Suffolk Broads Act 1988) it means the Broads Authority ” shall be added after paragraph (b).

##### *The National Parks and Access to the <sup>M17</sup>Countryside Act 1949*

#### Marginal Citations

**M17** [1949 c. 97](#).

- 2 In the National Parks and Access to the Countryside Act 1949, the following section shall be inserted after section 111—

#### “111A Application to the Broads Authority.

- (1) Sections 21 and 22 of this Act shall have effect as if the Broads Authority were a county council.
- (2) Sections 54 and 89 of this Act shall have effect as if the Broads Authority were a local planning authority.
- (3) Part V of this Act (apart from section 69) shall have effect as if the Broads Authority were a local planning authority but as if—

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- (a) sections 61 to 63, 74 and 78 were omitted; and
  - (b) for the purposes of sections 64, 65 and 77, the Broads were a National Park.
- (4) Section 69 of this Act shall have effect as if the Broads Authority were a county planning authority.
- (5) In this section “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988.”

*The <sup>M18</sup>Land Compensation Act 1961*

**Marginal Citations**  
**M18** [1961 c. 33.](#)

- 3 In section 17 of the Land Compensation Act 1961 (certification of appropriate alternative development), the following subsections shall be added at the end—
- “(10) For the purposes of this section and sections 18 to 20 of this Act, the Broads Authority shall be the sole district planning authority in respect of the Broads.
- (11) In subsection (10) above “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988”.

4 ..... **F59**

**Textual Amendments**  
**F59** [Sch. 3 paras. 4, 7–28, 32](#) repealed by [Planning \(Consequential Provisions\) Act 1990 \(c.11, SIF 123:1, 2\)](#), [s. 3](#), [Sch. 1 Pt. I](#), [Sch. 3 paras. 1, 2, 4, 6](#)

*The <sup>M19</sup>Water Resources Act 1963*

**Marginal Citations**  
**M19** [1963 c. 38.](#)

- 5 In section 54 of the Water Resources Act 1963 (general regulations relating to licences), the words “and the Broads Authority” shall be added at the end of subsection (3).

*The <sup>M20</sup>Countryside Act 1968*

**Marginal Citations**  
**M20** [1968 c. 41.](#)

*Status: Point in time view as at 01/04/2012.*

**Changes to legislation:** *Norfolk and Suffolk Broads Act 1988 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

6 In the Countryside Act 1968, the following section shall be inserted after section 47—

**“47A Application to the Broads Authority.**

- (1) Sections 6 to 9 of this Act shall have effect as if the Broads Authority were a local authority.
- (2) Sections 10, 18 and 20 of this Act shall have effect as if the Broads Authority were a local planning authority.
- (3) Section 16 of this Act shall have effect as if the Broads Authority were a local planning authority and the Broads were a National Park.
- (4) Section 40 of this Act shall have effect as if the Broads Authority were a National Park joint planning board and the Broads were a National Park.
- (5) Sections 43 to 45 shall have effect as if the Broads Authority were a local authority.
- (6) In this section “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988.”

7—28. . . . . F60

**Textual Amendments**

**F60** Sch. 3 paras. 4, 7–28, 32 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c.11, SIF 123:1, 2\), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6](#)

*The <sup>M21</sup>Race Relations Act 1976*

**Marginal Citations**

**M21** 1976 c. 74.

29 In section 19A of the Race Relations Act 1976 (discrimination by planning authorities), the words “the Broads Authority” shall be inserted after the word “council” in subsection (2)(a).

*The <sup>M22</sup>Ancient Monuments and Archaeological Areas Act 1979*

**Marginal Citations**

**M22** 1979 c. 46.

30 (1) In the Ancient Monuments and Archaeological Areas Act 1979, the following section shall be inserted after section 52—

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**“52A The Broads.**

Parts I and II and section 45(2) and (3) of this Act shall apply, in relation to the Broads (as defined by the Norfolk and Suffolk Broads Act 1988), as if the Broads Authority were a local authority.”

(2) In section 35 of the Act of 1979 (notice required of operations in areas of archaeological importance), the following subsection shall be added at the end—

“(11) This section shall have effect, in relation to any land within the Broads (as defined by the Norfolk and Suffolk Broads Act 1988), as if the Broads Authority were the district council (to the exclusion of the authority which is otherwise the district council for the area in question) and the Broads were its local authority area.”

*The <sup>M23</sup>Wildlife and Countryside Act 1981*

**Marginal Citations**

**M23** 1981 c. 69.

31 <sup>F61</sup>(1) .....

(2) In section 39 of the Act of 1981 (management agreements), in subsection (5), the following paragraph shall be inserted after paragraph (a)—

“(aa) as respects land within the Broads, the Broads Authority;”.

(3) In section 41 of the Act of 1981 (duties of agriculture ministers with respect to the countryside), the following subsection shall be inserted after subsection (5)—

“(5A) For the purposes of this section the Broads shall be treated as a National Park.”

(4) In section 44 of the Act of 1981 (grants and loans for purposes of National Parks), the following subsection shall be added at the end—

“(4) For the purposes of this section the Broads Authority shall be treated as a county planning authority and the Broads as a National Park.”

(5) In section 71 of the Act of 1981 (interpretation), the following definition shall be inserted at the appropriate place—

““the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988.”

**Textual Amendments**

**F61** Sch. 3 para. 31(1) repealed (30.1.2001) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. III

32 ..... <sup>F62</sup>



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### Textual Amendments

- F62** Sch. 3 paras. 4, 7–28, 32 repealed by Planning (Consequential Provisions) Act 1990 (c.11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

## PART II E+W

### MISCELLANEOUS FUNCTIONS

#### *Land Drainage*

- 33 (1) The Authority [<sup>F63</sup>may], after consulting—
- (a) the internal drainage board for each internal drainage district which is wholly or partly within the Broads;
  - [<sup>F64</sup>(b) Natural England;]
  - [<sup>F65</sup>(d) The National Rivers Authority;]
- and with the agreement of the Minister of Agriculture, Fisheries and Food, prepare and issue (in such form and in such manner as it considers appropriate) a code of practice for the construction, alteration, renewal, maintenance or extension of drainage works within the Broads.
- (2) The Authority shall from time to time review [<sup>F66</sup>any code of practice issued under sub-paragraph (1) above] and, where it considers it appropriate, issue a revised code.
- (3) Before issuing a revised code the Authority shall consult the bodies mentioned in sub-paragraph (1) above.
- (4) The Authority shall not issue a revised code unless it has the agreement of the Minister.
- (5) Any drainage authority exercising functions in relation to any land within the Broads shall comply with the code.
- (6) Where it appears to the Authority that a drainage authority has failed to comply with any provision of the code, the Authority may give such directions to the drainage authority as it thinks fit.
- (7) Any dispute between the Authority and a drainage authority which arises in connection with the code shall be determined by the Minister of Agriculture, Fisheries and Food.
- (8) In this paragraph “drainage authority” means any body having statutory power to make or maintain works for the drainage of land.

### Textual Amendments

- F63** Words in Sch. 3 para. 33(1) substituted (2.7.2009) by Broads Authority Act 2009 (c. i), Sch. 7 para. 11(1) (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)
- F64** Sch. 3 para. 33(1)(b)(c) substituted for Sch. 3 para. 33(1)(b) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, Sch. 11 para. 114; S.I. 2006/2541, art. 2 (with Sch.)
- F65** Sch. 3 para. 33(1)(d) substituted by S.I. 1989/1380, regs. 3(1), 4(c)

*Status: Point in time view as at 01/04/2012.*

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**F66** Words in Sch. 3 para. 33(2) substituted (2.7.2009) by Broads Authority Act 2009 (c. i), Sch. 7 para. 11(2) (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

#### *Water*

- 34 (1) For the purpose of improving the quality of water in any inland waters partly or wholly within the Broads, the Authority may—
- (a) carry out such works; or
  - (b) make such grants or loans;
- as it thinks fit. <sup>F67</sup>
- (2) Before any exercise of its powers under sub-paragraph (1) above, the Authority shall consult—
- (a) the National Rivers Authority; and
  - (b) any water undertaker whose area includes any part of the Broads and with whom consultation appears to it to be appropriate.
- (3) Nothing in sub-paragraph (1) above shall be taken to authorise the Authority to carry out any work which requires the consent of any other person if that consent has not been given.

#### **Textual Amendments**

**F67** Sch. 3 para. 34(2) substituted by S.I. 1989/1380, regs. 3(1), 4(d)

- 35 Before implementing any proposal the implementation of which is likely to affect the quality of water in any inland waters partly or wholly within the Broads, <sup>F68</sup>the National Rivers Authority or a water undertaker shall consult the Authority.

#### **Textual Amendments**

**F68** Words substituted by S.I. 1989/1380, regs. 3(1), 4(e)

#### *Discharge of trade and sewage effluent*

- [<sup>F69</sup>36 The Authority shall be treated as a local authority for the purposes of paragraph 1(3) (c) of Schedule 12 to the Water Act 1989 (right of local authority to receive copy of application to the National Rivers Authority for consent to discharge effluent etc.).]

#### **Textual Amendments**

**F69** Sch. 3 para. 36 substituted by S.I. 1989/1380, regs. 3(1), 4(f)

#### *Staithe*

- 37 (1) The Authority shall have all the powers of an owner or occupier (including, in particular, power to take criminal or civil proceedings) for the purpose of preventing unlawful interference with any staithe within the Broads, or with any rights exercisable by any person in relation to any such staithe.

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- (2) Subject to sub-paragraph (3) below, the Authority may maintain, alter or improve any staithe within the Broads.
- (3) Where the Authority proposes to exercise its powers under sub-paragraph (2) above in respect of any staithe it shall, where it is of the opinion that it is reasonably practicable to identify and contact the owner or occupier of the staithe, or both the owner and occupier, take such steps as are reasonably practicable to notify him or (as the case may be) them of its proposal and obtain his or (as the case may be) their consent.
- (4) Nothing in this paragraph shall be taken to affect the power of the Authority (under paragraph 44 of this Schedule) to acquire land compulsorily.

#### *Common Land*

- 38 (1) In relation to any registered common within the Broads which is not owned by, or vested in, a local authority and which is not a staithe, the Authority shall be treated as a local authority for the purposes of the following enactments—
- (a) section 1 of the <sup>M24</sup>Commons Act 1899 (scheme for regulation);
  - <sup>F70</sup>(b) . . . . .
  - (c) section 23 of the <sup>M25</sup>Caravan Sites and Control of Development Act 1960 (power of district council to prohibit caravans on commons); and
  - (d) [<sup>F71</sup>section 45 of the Commons Act 2006 ] (protection of unclaimed common land).
- (2) No local authority shall exercise any of its functions under the enactments mentioned in sub-paragraph (1) above, in relation to any staithe which is within the Broads and which is registered as a common, except jointly with the Authority or with the Authority's consent.

#### **Textual Amendments**

**F70** Sch. 3 para. 38(1)(b) repealed (1.10.2007 for E., 1.4.2012 for W.) by [Commons Act 2006 \(c. 26\), s. 56, Sch. 6 Pt. 2](#) (with s. 60); S.I. 2007/2584, art. 2(d)(ii); S.I. 2012/739, art. 2(h)

**F71** Words in Sch. 3 para. 38(1)(d) substituted (20.2.2007 for E., 6.9.2007 for W.) by [Commons Act 2006 \(c. 26\), s. 56, Sch. 5 para. 4](#) (with s. 60); S.I. 2007/456, art. 2(a)(i); S.I. 2007/2386, art. 3(o)(i)

#### **Marginal Citations**

**M24** 1899 c. 30.

**M25** 1960 c. 62.

#### *Open spaces*

- 39 The Authority shall be treated as a local authority for the purposes of the <sup>M26</sup>Open Spaces Act 1906.

#### **Marginal Citations**

**M26** 1906 c. 25.

*Status: Point in time view as at 01/04/2012.*

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### *Provision of facilities*

- 40 (1) Subject to sub-paragraphs (3) and (4) below, the Authority may make arrangements for securing the provision within the Broads, or within the neighbourhood of the Broads, (and whether by the Authority or by others) of—
- (a) moorings;
  - (b) accommodation, meals and refreshments (including [<sup>F72</sup>alcohol (within the meaning of the Licensing Act 2003)]);
  - (c) camping sites;
  - (d) parking places and means of access to, and egress from, them;
  - (e) sanitary conveniences for use by the public; and
  - (f) receptacles for refuse or litter and services for their regular emptying and cleansing; and may for the purposes of any such arrangements erect such buildings and carry out such other work as may appear to the Authority to be necessary or expedient.
- (2) The Authority may make arrangements for securing the provision within the Broads (whether by the Authority or others) of study centres and other facilities for learning about—
- (a) the history, natural features, flora and fauna of the Broads; and
  - (b) objects of architectural, archaeological or historical interest within the Broads.
- (3) Before making any arrangements under sub-paragraph (1)(a) above for securing the provision of any mooring within the Haven, the Authority must obtain the consent of the Commissioners.
- (4) The Authority may not exercise the powers given by sub-paragraph (1)(b) above unless it appears to it that existing facilities of the kind in question are inadequate or unsatisfactory.
- (5) The Authority may make reasonable charges for the use by any person of any facilities provided by it under this paragraph.

#### **Textual Amendments**

**F72** Words in Sch. 3 para. 40(1)(b) substituted (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), Sch. 6 para. 107 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)

### *Caravan sites*

- 41 The Authority shall be treated as a local authority for the purposes of section 24 of the <sup>M27</sup>Caravan Sites and Control of Development Act 1960 (provision of sites for caravans).

#### **Marginal Citations**

**M27** 1960 c. 62.

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*Conservation of buildings etc.*

- 42 The Authority may, either for the purpose of preserving the distinctive character of the Broads or for any purpose connected with the history of the development and use of the Broads—
- (a) undertake conservation or restoration work in respect of any building, vessel or other thing within any part of the Broads; and
  - (b) pay grants or make loans to bodies appearing to the Authority to be established for purposes which include either or both of those purposes.

*Derelict land*

- 43 The Authority shall be treated [<sup>F73</sup>for the purposes of the Derelict Land Act 1982 as a National Park authority and the Broads as a National Park for which it is the local planning authority].

**Textual Amendments**

**F73** Words in [Sch. 3 para. 43](#) substituted (1.4.1997) by [1995 c. 25, s. 78](#), [Sch. 10 para. 27](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#)); [S.I. 1996/2560, art. 2](#)

*Compulsory acquisitions*

- 44 (1) The Secretary of State may authorise the Authority to acquire land compulsorily for the purpose of carrying out its functions under paragraph 37(2) or 40 of this Schedule or for the purpose of improving any mooring within the Broads.
- (2) Where the Authority exercises its powers under sub-paragraph (1) above in relation to land which forms part of a common or open space or fuel or field garden allotment, the Secretary of State may authorise it to acquire compulsorily, or it may acquire by agreement, land for giving in exchange for the land acquired.
- (3) The power to acquire land compulsorily includes power to create new rights as well as acquire existing ones.
- (4) The <sup>M28</sup>Acquisition of Land Act 1981 shall apply to a compulsory purchase by the Authority subject, in the case of a compulsory acquisition of a right by the creation of a new right, to Schedule 3 of that Act.

**Marginal Citations**

**M28** [1981 c. 67](#).

*Refuse disposal*

- 45 The Authority shall be treated as a local authority for the purposes of—
- (a) sections 3 to 6 of the <sup>M29</sup>Refuse Disposal (Amenity) Act 1978 (removal and disposal of refuse); and
  - (b) sections 7 (acquisition of land) and 8 (powers of entry etc.) of that Act, so far as they relate to functions under section 6 of that Act.

*Status: Point in time view as at 01/04/2012.*

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**Marginal Citations**

**M29** 1978 c. 3.

*Litter*

46 The Authority shall be treated as a litter authority for the purposes of the <sup>M30</sup>Litter Act 1983.

**Marginal Citations**

**M30** 1983 c. 35.

*Footpaths and bridleways*

47 (1) The Authority shall be treated as a local authority for the purposes of sections 25 to 29 of the <sup>M31</sup>Highways Act 1980 (public path creation agreements); and sections 72(2) (widening of footpaths etc.) and [<sup>F74</sup> 118 to 121E ] (stopping up of footpaths etc.) [<sup>F75</sup> , except sections 118B and 119B of that Act (stopping up and diversion for purposes of crime prevention, etc.), ] of that Act shall have effect in relation to the Authority as if it were a county council.

(2) Without prejudice to the powers of any other body, the Authority shall have the power to maintain any public path within the Broads.

**Textual Amendments**

**F74** Words in Sch. 3 para. 47 substituted (12.2.2003 for E.) by [Countryside and Rights of Way Act 2000 \(c. 37\), s. 103\(3\), Sch. 6 para. 25\(a\)](#); S.I. 2003/272, art. 2(r)

**F75** Words in Sch. 3 para. 47 inserted (12.2.2003 for E.) by [Countryside and Rights of Way Act 2000 \(c. 37\), s. 103\(3\), Sch. 6 para. 25\(b\)](#); S.I. 2003/272, art. 2(r)

**Marginal Citations**

**M31** 1980 c. 66.

48 ..... <sup>F76</sup>

**Textual Amendments**

**F76** Sch. 3 para. 48 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c.11, SIF 123:1, 2\), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6](#)

*Publication of information*

49 (1) The Authority may—  
(a) publish, or arrange for the publication of, such information on matters relating to the Broads as it thinks fit;  
(b) arrange for the delivery of lectures and addresses and the holding of discussions on any such matters;

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- (c) arrange for the display of pictures, films or models or the holding of exhibitions relating to any such matters; and
  - (d) prepare, or join in or contribute to the cost of the preparation of, pictures, films, models or exhibitions to be displayed or held in accordance with arrangements under paragraph (c) above.
- (2) The Authority may make reasonable charges for any service provided by it under this paragraph.

## SCHEDULE 4 E+W

Section 9(10).

### THE NAVIGATION COMMITTEE

#### *Appointment of members*

- 1
- (1) Every member of the Navigation Committee shall be appointed for such term, not exceeding four years, as the Authority may specify.
  - (2) Without prejudice to paragraph 2 below, every member of the Navigation Committee shall hold and vacate office in accordance with the terms of his appointment.
  - (3) Any member of the Committee whose term of office has expired shall, subject to the provisions of this Schedule, be eligible for re-appointment.
  - (4) The time at which the appointment of any person as a member of the Committee takes effect shall be determined by the Authority.

#### *Replacement of members*

- 2
- (1) The appointment of a person to the Committee from among the members of the Authority shall end if he ceases to be a member of the Authority.
  - (2) The appointment of any other person to the Committee shall end if he becomes a member of the Authority under section 1(3)(a) or (b) of this Act.
  - (3) The appointment of any person to the Committee may be ended by resignation by notice in writing given to the proper officer of the Authority.
  - (4) That officer shall, as soon as practicable, publish notice—
    - (a) of any appointment to the Committee;
    - (b) of the ending of any such appointment;and any such notice shall give the name of the person concerned.

#### *Attendance at meetings*

- 3
- Section 85 of the <sup>M32</sup>Local Government Act 1972 (vacation of office by failure to attend meetings) shall apply in relation to attendance at meetings of the Committee as it applies, by virtue of Schedule 6 to this Act, in relation to attendance at meetings of the Authority.



*Status: Point in time view as at 01/04/2012.*

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### Marginal Citations

M32 1972 c. 70.

### *Proceedings of Committee*

- 4
- (1) No business shall be transacted at any meeting of the Committee unless at least four of its members are present.
  - (2) Subject to the provisions of this Schedule and to any directions given to it by the Authority, the Committee shall determine its own procedure.
  - (3) The Committee shall elect a chairman from among those of its members who are members of the Authority and may, if it thinks fit, appoint one of its members to be vice-chairman.
  - (4) The chairman shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act as chairman.

## SCHEDULE 5 **E+W**

Section 10.

### THE NAVIGATION AREA

## **PART I E+W**

### 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.
  - [<sup>F77</sup>(3) Subject to sub-paragraph (4) below, the Authority shall provide and maintain buoys, beacons and such other aids to navigation as it thinks necessary within the Norwich navigation and the Lower Bure. ]
  - [<sup>F78</sup>(4) The Authority shall not provide, alter, discontinue the use of or remove any buoy, beacon or other aid to navigation for the purposes of the Norwich navigation and the Lower Bure 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.

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### Textual Amendments

- F77** Sch. 5 para. 1(3) substituted (coming into force in accordance with ss. 3, 35 of the amending Act) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 12(1)** (with ss. 2(3), 6(3), 42, Sch. 6 Pts. 2, 3)
- F78** Sch. 5 para. 1(4) substituted (coming into force in accordance with ss. 3, 35 of the amending Act) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 12(2)** (with ss. 2(3), 6(3), 42, Sch. 6 Pts. 2, 3)

### *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 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;

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- (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*

- [<sup>F79</sup>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;
  - (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;

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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.]

#### Textual Amendments

**F79** Sch. 5 para. 5 repealed (coming into force in accordance with ss. 3, 35, 43(4) of the repealing Act) by Broads Authority Act 2009 (c. i), Sch. 7 para. 12(3), **Sch. 8 Pt. 2** (with ss. 2(3), 16(3), 42, Sch. 6 Pts. 2, 3)

#### *Appeal against cancellation or refusal to register*

- [<sup>F80</sup>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.]

#### Textual Amendments

**F80** Sch. 5 para. 6 repealed (coming into force in accordance with ss. 3, 35, 43(4) of the repealing Act) by Broads Authority Act 2009 (c. i), Sch. 7 para. 12(3), **Sch. 8 Pt. 2** (with ss. 2(3), 16(3), 42, Sch. 6 Pts. 2, 3)

#### *Supplementary provisions in relation to byelaws*

- 7 (1) Subsections (3) to (8) and (11) of section 236, and section 238, of the <sup>M33</sup>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 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 <sup>M34</sup>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.

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

**C10** Sch. 5 para. 7 applied (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), s. **11(13)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

**Marginal Citations**

**M33** 1972 c. 70.

**M34** 1982 c. 30.

*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.

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

**C11** Sch. 5 para. 8 applied (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), s. **11(13)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

*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—

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- (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—
    - [<sup>F81</sup>(i) for a total of more than six hours in any period of twenty four hours.]
    - (iii) in such a way as to deny to any vessel all means of passing through the waterway; or
    - [<sup>F82</sup>(iv) without taking all reasonable measures—
      - (A) to minimise the duration of any restriction or prohibition of the use of the waterway; and
      - (B) to mitigate any effect of the exercise of the power on the use of the waterway by vessels not involved in the function; 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 <sup>F83</sup>the National Rivers Authority and the Commissioners.

#### Textual Amendments

- F81** Sch. 5 para. 10(2)(b)(i)(ii) substituted for Sch. 5 para. 10(2)(b)(i) (2.7.2009) by Broads Authority Act 2009 (c. i), **Sch. 7 para. 12(4)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)
- F82** Sch. 5 para. 10(2)(b)(iv) inserted (2.7.2009) by Broads Authority Act 2009 (c. i), **Sch. 7 para. 12(5)** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)
- F83** Words substituted by S.I. 1989/1380, **regs. 3(1), 4(g)**

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*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 <sup>M35</sup>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.
- (3) Any such notice shall have attached to it a copy of sub-paragraphs (1) and (2) above.

**Marginal Citations**

**M35** 1936 c. 49.

*Removal of wrecks etc.*

- 12 (1) The Authority may raise, remove or destroy any vessel which has been sunk, stranded or abandoned [<sup>F84</sup>or which is unseaworthy]—
- (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;



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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.

[<sup>F85</sup>(5A) The expenses which may be deducted or recovered under sub-paragraph (5) shall include—

- (a) all expenses reasonably incurred by the Authority in respect of the raising, removal, storage, disposal or destruction of the vessel;
- (b) all administrative and legal costs reasonably incurred by the Authority in the exercise of those powers, or in connection with any legal proceedings brought by the Authority in relation to the vessel ]

(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.

#### Textual Amendments

- F84** Words in Sch. 5 para. 12(1) inserted (coming into force in accordance with ss. 3, 35 of the amending Act) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 12(6)** (with ss. 2(3), 16(3), 42, Sch. 6 Pts. 2, 3)
- F85** Sch. 5 para. 12(5A) inserted (coming into force in accordance with ss. 3, 35 of the amending Act) by [Broads Authority Act 2009 \(c. i\)](#), **Sch. 7 para. 12(7)** (with ss. 2(3), 16(3), 42, Sch. 6 Pts. 2, 3)

#### *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.
- (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.

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- (7) The Authority shall, not later than the date on which the notice is first published under this paragraph, send copies of it to [<sup>F86</sup>the National Rivers 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 <sup>M36</sup>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.

#### Textual Amendments

**F86** Words substituted by [S.I. 1989/1380](#), [regs. 3\(1\)](#), [4\(g\)](#)

#### Marginal Citations

**M36** [1972 c. 70](#).

- 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.
- (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—

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- (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 E+W**

FUNCTIONS OF NAVIGATION OFFICERS

*Interpretation*

<sup>F87</sup>17 .....

**Textual Amendments**

**F87** Sch. 5 para. 17 repealed (2.7.2009) by Broads Authority Act 2009 (c. i), Sch. 7 para. 12(8), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

*Directions for regulating vessels*

<sup>F88</sup>18 .....

**Textual Amendments**

**F88** Sch. 5 para. 18 repealed (2.7.2009) by Broads Authority Act 2009 (c. i), Sch. 7 para. 12(9), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

*Seagoing freight traffic*

- 19 (1) The <sup>F89</sup>... 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

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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.

#### Textual Amendments

**F89** Words in Sch. 5 para. 19(1) omitted (2.7.2009) by virtue of Broads Authority Act 2009 (c. i), Sch. 7 para. 12(10), **8 Pt. 1** (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

### PART III **E+W**

#### 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—
- (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 <sup>M37</sup>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.

#### Marginal Citations

**M37** 1964 c. 40.

##### *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.

*Status: Point in time view as at 01/04/2012.*

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- (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.
- (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.

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

**C12** Sch. 5 para. 21(9) applied (2.7.2009) by Broads Authority Act 2009 (c. i), s. 41(5) (with ss. 2(3), 3(1), 16(3), 42, Sch. 6 Pts. 2, 3)

*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.

*Status: Point in time view as at 01/04/2012.*

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- (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.

SCHEDULE 6 **E+W**

Section 21.

APPLICATION TO AUTHORITY OF CERTAIN ENACTMENTS APPLYING TO LOCAL AUTHORITIES ETC.

*The <sup>M38</sup> Commons Act 1899*

**Marginal Citations**

**M38** 1899 c. 30.

- 1 In section 18 of the Commons Act 1899 (power of Charity Commissioners to modify provisions as to recreation grounds etc.), the following paragraph shall be added at the end—

“For the purposes of this section the Broads Authority shall be treated as a district council.”.

*The <sup>M39</sup> Landlord and Tenant Act 1954*

**Marginal Citations**

**M39** 1954 c. 56.

<sup>F90</sup>2 .....

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#### Textual Amendments

**F90** Sch. 6 para. 2 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

#### *The <sup>M40</sup>Trustee Investments Act 1961*

#### Marginal Citations

**M40** 1961 c. 62.

- 3 In section 11 of the Trustee Investments Act 1961 (local authority investment schemes), in subsection (4)(a), the words “ the Broads Authority ” shall be inserted after the words “City of London”.

#### *The <sup>M41</sup>Local Government (Records) Act 1962*

#### Marginal Citations

**M41** 1962 c. 56.

- 4 In section 8 of the Local Government (Records) Act 1962 (interpretation), in the definition of local authority, the words “ the Broads Authority ” shall be inserted after the word “district”.

#### *The <sup>M42</sup>General Rate Act 1967*

#### Marginal Citations

**M42** 1967 c. 9.

- 5 (1) In section 44 of the General Rate Act 1967 (exemption of parks etc.), in the definition of local authority, the words “ the Broads Authority ” shall be inserted after the word “meeting”.
- (2) In section 85 of that Act (duty of local authorities with respect to alteration of valuation lists), in the definition of local authority, the words “ the Broads Authority ” shall be inserted after the word “district”.

#### *The <sup>M43</sup>Leasehold Reform Act 1967*

#### Marginal Citations

**M43** 1967 c. 88.

- 6 In section 28 of the Leasehold Reform Act 1967 (retention or resumption of land required for public purposes), in subsection (5), the following paragraph shall be inserted after paragraph (a)—



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“(aa) to the Broads Authority; and”.

*The <sup>M44</sup>Employers Liability (Compulsory Insurance) Act 1969*

**Marginal Citations**

**M44** 1969 c. 57.

- 7 In section 3 of the Employers Liability (Compulsory Insurance) Act 1969 (employers exempted from insurance), in subsection (2), the words “ the Broads Authority ” shall be inserted after the word “Wales”, where it first occurs.

*The <sup>M45</sup>Local Authorities (Goods and Services) Act 1970*

**Marginal Citations**

**M45** 1970 c. 39.

- 8 (1) In section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities), in the definition of local authority in subsection (4), the words “ the Broads Authority ” shall be inserted after the word “borough”.
- (2) The following subsection shall be added at the end of section 1 of that Act—
- “(7) The Great Yarmouth Port and Haven Commissioners shall be treated as a public body for the purposes of paragraphs (a) and (b) of subsection (1) above as those paragraphs apply in relation to agreements entered into by the Broads Authority.”

*The <sup>M46</sup>Road Traffic Act 1972*

**Marginal Citations**

**M46** 1972 c. 20.

- 9 In [<sup>F91</sup>section 144 of the Road Traffic Act 1988 (exceptions from requirement of third party insurance or security), in subsection (2)(a), the words “ the Broads Authority ” shall be inserted after the word “Wales”, where it first occurs.]

**Textual Amendments**

**F91** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c.54, SIF 107:1\)](#), s. 4, [Sch. 3 para. 36](#)

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## *The<sup>M47</sup> Local Government Act 1972*

### **Marginal Citations**

**M47** 1972 c. 70.

- 10 (1) The following section shall be inserted in the Local Government Act 1972 after section 265—

#### **“265A Application in relation to the Broads Authority.**

- (1) Subject to subsections (2) and (3) below, the following provisions of this Act shall have effect as if the Broads Authority were a local authority and the Broads were its local government area—
- (a) section 70;
  - (b) sections 80(1)(a) and (2), 85, 92, 94 to 98, 99 and 100;
  - (c) sections 101 to 106;
  - (d) sections 111 to 119;
  - (e) sections 120 to 123 and 128 to 131;
  - (f) sections 135, 136, 139, 140, 140A, 140C, 143 and 144;
  - (g) sections 153 and 173 to 177; and
  - (h) sections 222, 223, 225, 228 to 234 and 239.
- (2) The Navigation Committee of the Broads Authority shall be treated, for the purposes of this Act and of any other enactment relating to the committees of local authorities (but subject to section 9 of the Norfolk and Suffolk Broads Act 1988), as a committee of the Authority appointed under section 102 of this Act.
- (3) Sections 120 to 123, 128 and 224 shall have effect as if the Authority were a principal council.”
- (2) The provisions of section 82 of the Act of 1972 (validity of acts done by unqualified persons) shall become subsection (1) of that section and after that subsection there shall be inserted the following subsection—
- “(2) Subsection (1) above shall have effect, in relation to the Broads Authority, as if the reference to this Act included a reference to the Norfolk and Suffolk Broads Act 1988.”.
- (3) In section 92 of the Act of 1972 (proceedings for disqualification), the following subsection shall be added at the end—
- “(8) In relation to the Broads Authority, the reference in subsection (1) above to a local government elector for the area concerned shall be construed as a reference to a local government elector for the area of any of the local authorities mentioned in section 1(3)(a) of the Norfolk and Suffolk Broads Act 1988.”
- (4) In section 100E of the Act of 1972 (application to committees and sub-committees), in subsection (3), the following shall be inserted after paragraph (b)—
- “(bb) the Navigation Committee of the Broads Authority; or”;

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and in paragraph (c), for the words “paragraph (a) or (b)” there shall be substituted the words “ paragraphs (a) to (bb) ”.

- (5) In section 100J of the Act of 1972 (application of access to information provisions to various authorities), in subsection (1), the following paragraph shall be inserted after paragraph (c)—

“(cc) the Broads Authority;”;

in subsection (3) after “(b)” there shall be inserted “ (cc) ” and in subsection (4) the following paragraph shall be inserted after paragraph (a)—

“(aa) in relation to the Broads Authority or its Navigation Committee, with the substitution for the words from “ward” onwards of the words “name of the body which appointed him”; and”.

F92

- (6) In section 177 of the Act of 1972 (supplementary provision relating to allowances etc.), the following subsection shall be added at the end—

“(5) In their application to the Broads Authority, sections 173(1) and 173A shall have effect as if—

(a) references to a councillor were references to a member of the Authority appointed by one of the bodies mentioned in section 1(3) (a) of the Norfolk and Suffolk Broads Act 1988; and

(b) references to a person’s election were references to his appointment.”

- <sup>F92</sup>(7) In section 177A of the Act of 1972 (special responsibility allowances), the following subsection shall be added at the end—

“(6) For the purposes of this section the Broads Authority shall be deemed to be a principal council; and in its application to the Authority this section shall have effect as if the reference to any member who is a councillor were a reference to any member of the Authority and any member of its Navigation Committee.”.

- (8) In section 228 of the Act of 1972 (inspection of documents), the following subsection shall be added at the end—

“(9) In relation to the Broads Authority, the references in this section to a local government elector for the area of the authority shall be construed as references to a local government elector for the area of any of the local authorities mentioned in section 1(3)(a) of the Norfolk and Suffolk Broads Act 1988.”.

- (9) In section 270 of the Act of 1972 (interpretation), the following definition shall be inserted at the appropriate place—

““the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988.”.

#### Textual Amendments

**F92** Sch. 6 para. 10(6)(7) repealed (*prosp*) by Local Government and Housing Act 1989 (c.42, SIF 81:1), ss. 194(4), 195(2), Sch. 12 Pt. II

*Status: Point in time view as at 01/04/2012.*

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*The <sup>M48</sup>Employment Agencies Act 1973*

**Marginal Citations**

**M48** 1973 c. 35.

11 In section 13 of the Employment Agencies Act 1973, the following paragraph shall be inserted in subsection (7) (cases in which Act does not apply) after paragraph (f)

—  
“(ff) the exercise by the Broads Authority of any of its functions;”.

*The <sup>M49</sup>Local Government Act 1974*

**Marginal Citations**

**M49** 1974 c. 7.

12 In section 34 of the Local Government Act 1974 (interpretation of Part III, which relates to local government administration), in the definition of local authority, the words “ the Broads Authority ” shall be inserted after the words “district council”.

*The <sup>M50</sup>Health and Safety at Work etc. Act 1974*

**Marginal Citations**

**M50** 1974 c. 37.

<sup>F93</sup>13 .....

**Textual Amendments**

**F93** Sch. 6 para. 13 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

*The <sup>M51</sup>Local Land Charges Act 1975*

**Marginal Citations**

**M51** 1975 c. 76.

14 In section 1 of the Local Land Charges Act 1975 (definition of local land charges), the following subsection shall be added at the end—

“(3) For the purposes of this section and section 2 of this Act, the Broads Authority shall be treated as a local authority.”

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*The<sup>M52</sup>Local Government (Miscellaneous Provisions) Act 1976*

**Marginal Citations**

**M52** 1976 c. 57.

- 15 In section 44 of the Local Government (Miscellaneous Provisions) Act 1976 (interpretation of Part I), the following subsection shall be inserted after subsection (1)—

“(1A) Sections 13, 15, 16, 29, 30, 32, 38, 39 and 41 of this Act shall have effect as if the Broads Authority were a local authority and the Broads (as defined in the Norfolk and Suffolk Broads Act 1988) were its local government area.”

*The<sup>M53</sup>Race Relations Act 1976*

**Marginal Citations**

**M53** 1976 c. 74.

- <sup>F94</sup>16 .....

**Textual Amendments**

**F94** Sch. 6 para. 16 repealed (2.4.2001) by 2000 c. 34, s. 9(2), **Sch. 3** (with s. 10(3)); S.I. 2001/566, **art. 2(1)**

*The<sup>M54</sup>Rent (Agriculture) Act 1976*

**Marginal Citations**

**M54** 1976 c. 80.

- 17 In section 5(3) of the Rent (Agriculture) Act 1976 (no statutory tenancy where landlord’s interest belongs to Crown or local authority etc.), the following paragraph shall be inserted after paragraph (b)—

“(bc) the Broads Authority;”.

*The<sup>M55</sup>Rent Act 1977*

**Marginal Citations**

**M55** 1977 c. 42.

- 18 In section 14 of the Rent Act 1977 (exemption from protection for lettings by local authorities etc.), the following paragraph shall be inserted after paragraph (b)—

“(bb) the Broads Authority;”.

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*The <sup>M56</sup>Employment Protection (Consolidation) Act 1978*

**Marginal Citations**

**M56** 1978 c. 44.

**F95**19 .....

**Textual Amendments**

**F95** Sch. 6 para. 19 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I** (with ss. 191 - 195, 202)

*The Justices of the <sup>M57</sup>Peace Act 1979*

**Marginal Citations**

**M57** 1979 c. 55.

**F96**20 .....

**Textual Amendments**

**F96** Sch 6 para. 20 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt. I** (with Sch. 4 para. 27)

21 ..... **F97**

**Textual Amendments**

**F97** Sch. 6 para. 21 repealed by Local Government and Housing Act 1989 (c.42, SIF 81:1), s. 194(2), **Sch. 12 Pt. I**

*The <sup>M58</sup>Acquisition of Land Act 1981*

**Marginal Citations**

**M58** 1981 c. 67.

22 In section 17 of the Acquisition of Land Act 1981 (special parliamentary procedure for compulsory acquisition of land which is the property of local authority etc.), in subsection (4)(a), the words “ the Broads Authority ” shall be inserted after the word “district”.

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*The <sup>M59</sup>Local Government (Miscellaneous Provisions) Act 1982*

**Marginal Citations**

**M59** 1982 c. 30.

- 23 (1) In section 33 of the Local Government (Miscellaneous Provisions) Act 1982 (enforceability by local authorities of certain covenants relating to land), in the definition of principal council in subsection (9), the words “ the Broads Authority ” shall be inserted after the word “borough”.
- (2) In sections 41(13) (lost and uncollected property) and 45(2) (arrangements under the Employment and Training Act 1973) of the Act of 1982, the following paragraph shall be inserted after paragraph (b)—
- “(bb) the Broads Authority; and”.

*The <sup>M60</sup>County Courts Act 1984*

**Marginal Citations**

**M60** 1984 c. 28.

- 24 In section 60 of the County Courts Act 1984 (right of audience for proper officer of local authority in certain circumstances), in subsection (3), the words “ the Broads Authority ” shall be inserted after the words “district council”.

*The <sup>M61</sup>Housing Act 1985*

**Marginal Citations**

**M61** 1985 c. 68.

- 25 In the definition of “local authority” in section 4 of the Housing Act 1985—
- (a) the words “, in sections 43, 44 and 232 includes the Broads Authority” shall be inserted after the word “Scilly”; and
- (b) the words “the Broads Authority” shall be inserted after the words “Education Authority”.

*The <sup>M62</sup>Landlord and Tenant Act 1985*

**Marginal Citations**

**M62** 1985 c. 70.

- 26 In the definition of “local authority” in section 38 of the Landlord and Tenant Act 1985, the words “the Broads Authority” shall be inserted after the words “Education Authority”.



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### *The <sup>M63</sup>Local Government Act 1986*

#### **Marginal Citations**

**M63** 1986 c. 10.

- 27 In section 6 of the Local Government Act 1986 (interpretation of Part II, which is concerned with local government publicity), the following shall be inserted in subsection (2)(a) after “City of London”—

“the Broads Authority (except in section 3),”.

### *The <sup>M64</sup>Landlord and Tenant Act 1987*

#### **Marginal Citations**

**M64** 1987 c. 31.

- 28 In section 58 of the Landlord and Tenant Act 1987 (exempt bodies), the following paragraph shall be inserted after paragraph (d)—

“(dd) the Broads Authority;”.

## SCHEDULE 7 **E+W**

Section 27(2).

### TRANSITIONAL PROVISIONS

#### *Initial appointment of members of the Authority*

- 1 (1) The initial appointment of members of the Authority under section 1(3)(a) and (b) of this Act shall be effected as soon as is reasonably practicable after the passing of this Act.
- (2) When the Secretary of State is satisfied that all of those members have been duly appointed, he shall, if he has not already exercised his powers under subparagraph (3) below, do so.
- (3) If the Secretary of State is satisfied that at least 27 of those members have been duly appointed, he may by order specify a date for the purposes of this paragraph.
- (4) The Authority shall be deemed to have been duly constituted as from the specified date, notwithstanding the absence of some of its members.
- (5) The initial appointment of members under section 1(3)(c) shall be effected as soon as is reasonably practicable after the establishment of the Navigation Committee.

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

**C13** Sch. 7 para. 1(3): 6.6.1988 specified for the purposes of para. 1 by S.I. 1988/955, art. 2

*Status: Point in time view as at 01/04/2012.*

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*Initial appointment of members of the Navigation Committee*

- 2 Section 9(6) of this Act shall not apply in relation to the initial appointment of members of the Navigation Committee.

*First meeting of the Authority*

- 3 (1) The first meeting of the Authority shall be held within twenty-one days after the date specified in the order made by the Secretary of State under paragraph 1(3) above and shall be treated as the annual meeting of the Authority for the year in which it is held.
- (2) The meeting shall be convened, and held at a place appointed, by the chief executive of Norfolk County Council.
- (3) Notice of the meeting shall be published at the place where the meeting is to be held and summonses to attend the meeting shall be signed by the chief executive of Norfolk County Council.
- (4) Until the completion of the election of a chairman and vice-chairman at the meeting, any functions falling to be exercised by the chairman or vice-chairman shall be exercised by a member of the Authority chosen by those members who are present.
- (5) At the meeting the chief executive of Norfolk County Council shall exercise any functions falling to be exercised by the proper officer of the Authority in relation to the meeting.
- (6) The standing orders for the regulation of the proceedings and business of Norfolk County Council shall, so far as practicable, apply at the meeting.
- (7) The provision made by virtue of this Act in relation to the proceedings of the Authority shall have effect subject to this paragraph and, in particular, paragraph 4 of Schedule 1 to this Act shall not require notice of the first meeting of the Authority to be published at its offices or summonses to attend the meeting to be signed by its proper officer.

*Continuity of exercise of functions*

- 4 (1) Anything which immediately before the operative date is in process of being done by or in relation to any body in the exercise of, or in connection with, any statutory functions which by virtue of any provision made by this Act become functions exercisable in relation to the Broads, or any part of the Broads, solely by the Authority may be continued by or in relation to the Authority.
- (2) Anything done by or in relation to any body before the operative date in the exercise of, or in connection with, any functions to which sub-paragraph (1) above applies shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the Authority.
- (3) Any reference in sub-paragraph (1) or (2) above to anything done by or in relation to any body includes, in particular, a reference to anything which by virtue of any enactment is treated as having been done by or in relation to that body.
- (4) Any reference to any body in any document constituting or relating to anything to which the foregoing provisions of this paragraph apply shall, so far as is required for giving effect to those provisions, be construed as a reference to the Authority.

*Status: Point in time view as at 01/04/2012.*

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#### *Variation of area of jurisdiction of the Authority*

- 5
- (1) Where the Commissioners and the Authority submit joint proposals to the Secretary of State for the variation of the boundary between the navigation area and the Haven, he may by order vary that boundary in accordance with the proposals.
  - (2) Where the Secretary of State makes an order under sub-paragraph (1) above, the area of the Haven shall, for the purpose of distinguishing between the functions of the Authority and those of the Commissioners, and while the variation remains in force, be treated as varied in accordance with the order.
  - (3) The power conferred on the Secretary of State by this paragraph shall not be exercisable after the end of the period of three years beginning with the date on which section 8 of this Act comes into force.
  - (4) Before submitting any proposal under this paragraph, the Authority shall consult the Navigation Committee.

#### *Consultation*

- 6
- (1) Consultations carried out by the Secretary of State before the coming into force of subsections (5) and (6) of section 1 of this Act shall be treated as satisfying the requirements in those subsections if they would have done so had those subsections been in force at the time in question.
  - (2) Consultations carried out by the Authority before the coming into force of subsection (3) of section 13 of this Act shall be treated as satisfying the requirements of that subsection if they would have done so had that subsection been in force at the time in question.

#### *Temporary borrowing*

- 7
- (1) Without prejudice to the borrowing powers of the Authority by virtue of section 16 of this Act, but subject to sub-paragraph (2) below, the Authority may borrow by way of temporary loan or overdraft from a bank or otherwise any sums which it may require for the purpose of defraying its expenses before the operative date.
  - (2) The sums borrowed under this paragraph shall not exceed such amount as the Secretary of State may determine and shall be repaid before the end of the financial year in which revenue is first received by the Authority as a result of levies made by it under section 14 of this Act.
  - (3) Paragraph 12 of Schedule 13 to the <sup>M65</sup>Local Government Act 1972 (joint borrowing) shall apply to the power conferred by this paragraph as it applies to the powers of borrowing conferred by Part I of that Schedule.

#### **Marginal Citations**

**M65** 1972 c. 70.

**Status:**

Point in time view as at 01/04/2012.

**Changes to legislation:**

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