



Norfolk and Suffolk Broads Act 1988

1988 CHAPTER 4

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

[^{F1}17A General duty of public bodies etc.]

- (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—
 - (a) conserving and enhancing the natural beauty of the Broads;
 - (b) promoting the enjoyment 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 ^{M1}Town and Country Planning Act 1990;
 - (c) a joint committee appointed under section 102(1)(b) of the ^{M2}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.]

Status: Point in time view as at 01/04/2001.

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Textual Amendments

F1 S. 17A inserted (1.4.2001 for E.) by 2000 c. 37 , ss. 97 , 103(3) ; S.I. 2001/114 , art. 2(2)(g)

Marginal Citations

M1 1990 c. 8 .

M2 1972 c. 70 .

18 Transfer of staff to Authority.

- (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between a person to whom this section applies and his employer shall have effect from the operative date as if originally made between him and the Authority established by this Act.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.

- (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.

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- (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.
- (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.

- (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.

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.

- (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

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- (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.

23 Power to make incidental, consequential and transitional provision.

- (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.

- (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 ^{M3}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

M3 1972 c. 70.

25 Interpretation.

- (1) In this Act—
- “appointing authority” means any of the persons mentioned in section 1(3) (a) or (b);
- “the Broads” has the meaning given by section 2(3);

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“the Broads navigation officer” has the meaning given by section 10(7)(b);

“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 ^{M4}Great Yarmouth Port and Haven Act 1866;

“hovercraft” has the same meaning as in the ^{M5}Hovercraft Act 1968;

“inland waters” has the same meaning as in the ^{M6}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);

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

“the Norwich navigation officer” has the meaning given by section 10(7)(a);

“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 [^{F2}the Town and Country Planning Act 1990];

(b) any other person who exercises functions under [^{F3}the Land Drainage Act 1991];

[^{F4}(c) any water undertaker or sewerage undertaker whose area includes any part of the Broads; and]

[^{F4}(d) any person to whom the telecommunications code set out in Schedule 2 to the ^{M7}Telecommunications Act 1984 is applied by a licence under section 7 of that Act;

“Trinity House” means the Trinity House as defined in section [^{F5}223 of the Merchant Shipping Act 1995];

“vessel” includes a sailboard;

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

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- (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

- F2** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c.11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 76](#)
- F3** 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](#)
- F4** 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\(b\)](#)
- F5** Words in definition of "Trinity House" in s. 25(1) substituted (1.1.1996) by [1995 c. 21](#), ss. 314(2), 316(2), [Sch. 13 para. 82](#) (with s. 312(1))

Marginal Citations

- M4** 1866 c. ccxlvii.
- M5** 1968 c. 59.
- M6** 1963 c. 38.
- M7** 1984 c. 12.

26 Commencement.

- (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 sub-paragraph (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.

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- (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)

C1 [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.

- (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.

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