

**Update on Broads Authority Act 2009 Provision
Removal of Wrecks**
Report by Head of Safety Management

Summary: This report sets out a proposal for the definition of unserviceable in relation to the Removal of Wrecks provision as amended by the Broads Authority Act 2009.

Recommendation: That the report is noted.

1 Introduction

- 1.1 The main provisions of the Broads Authority Act 2009 have been implemented, procedures have been developed and appropriate consultation has occurred.
- 1.2 There are three provisions which detailed arrangements for the implementation are still to be developed. Amongst them is the amendment to the Removal of Wrecks provision which relates to unserviceable vessels

2 Removal of Wrecks

- 2.1 The Broads Authority Act 2009 extends the powers relating to the Removal of Wrecks etc. provision in the 1988 act to include unserviceable craft. This term is not defined in the act but it was specifically included to encompass situations where vessels may not be classified as “unsafe vessels” as defined in the act.
- 2.2 Unsafe vessels are defined in the act as vessels which do not comply with the standards applicable to the craft such as the Boat Safety Scheme etc. However a vessel which was unstable or poor hull integrity or presented other safety issues may not fall into the “unsafe vessel” category and it was for this circumstance that the additional clause was added.

3 Definition

- 3.1 At the Boat Safety Management Group meeting in March 2013 members suggested the development of a robust definition relating to unserviceable vessels in order that the procedure could be progressed.
- 3.2 It is proposed that the following definition of unserviceable is used in relation to the removal of wreck etc. provision.

“A vessel is unseaworthy when the vessel no longer fulfils its function adequately, or is unfit for its intended use and the vessel has or is likely to have an adverse effect on the ease, convenience or safety of the navigation or the safety of persons or property in the navigation area or to cause pollution.”

3.3 Examples when this definition would apply are as follows:

Vessels which are demonstrating:

- Instability, e.g. overloaded, improper loading or lack of sufficient freeboard
- missing or inoperable bilge water removal system
- flooding or uncontrolled leaking into any space
- burnt out vessel
- missing or inoperable water tight closures
- holed or decaying hulls
- immobilised or waterlogged

3.4 Whilst it is appreciated that all circumstances when and where these exercise of powers could not be listed the examples above should form a basis for guidance to officers in the application of the Act provision.

3.5 The procedure for which will follow once a vessel has been deemed as unseaworthy are as the “Removal of Wrecks” as defined in the Broads Authority Act 1988:

Extract from the Broads Authority Act 1988

Removal of wrecks etc.

- 12 (1) The Authority may raise, remove or destroy any vessel which has been sunk, stranded or abandoned 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; all reasonable expenses incurred by it in the exercise of any of those powers, to the extent that they have not otherwise been recovered by the Authority.
- (6) Where the owner of a vessel in relation to which sub-paragraph (3) above applies is not known to the Authority, the Authority shall be taken to have satisfied the requirements of sub-paragraph (4)(b) above if it has exhibited notice of its intention at its principal offices for a period of at least seven days.

3.6 Both the Boat Safety Management Group and the Navigation committee are content with the definition and the procedure.

Background papers:	None
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Broads Plan Objectives:	NA4.2
Appendices:	None