

**Broads Authority Act 2009 Provisions: Temporary Closure of Waterways**  
Report by Head of Safety Management

**Summary:** This report updates the Forum on provisions of the Broads Authority Act 2009 for which procedures are still to be developed and a proposed implementation of one of those provisions.

The Forum's views are sought on the proposal set out in 2.3

## **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 remains two provisions which detailed arrangements for the implementation are still to be developed. These are.
  - The extension of the Temporary closure of the waterway provision in the 1988 Act
  - Directions as to loading and unloading of vessels

## **2 Temporary Closure of the Waterway**

- 2.1 The Broads Authority 2009 Schedule 7 (4) - (5) added an additional clause to the temporary closure of the waterways provision in the 1988 Act (see Appendix 1).
- 2.2 This additional clause requires the Authority not to exercise its powers of closure without taking reasonable measures to minimise the duration of the closures and to mitigate any effect of the closure on the use of the waterways by other users not involved in the function.
- 2.3 This clause was developed in order to enable the Authority to close the waterways temporarily where it was necessary for such a circumstance as defined in the act which includes circumstance such as a recreational event e.g. a regatta but the additional clause allows the users some protection in that the duration of the closure must be minimised and alternative provision for the passage of vessels must be considered.

- 2.4 It is felt that existing procedure set out in the Norfolk and Suffolk Broads Act 1988 for the temporary closure of the waterways is proportionate based on the current levels of demand for the exercise of this power. It is therefore proposed that the procedure as set out in Appendix 1 be used for exercising these addition powers.
- 2.5 The Boating Safety Management Group was consulted on this proposal at its recent meeting on 23 September 2014 and the group was content with the proposal.

### **3 Directions as to Loading and Unloading of Vessels**

- 3.1 The Broads Authority Act 2009 Section 10 sets out powers which allow the Authority to designate where goods may be loaded and unloaded, to restrict the type of goods or to set out any other restriction which may apply to the users of these areas. Additionally the section sets out powers for enforcement of these conditions.
- 3.2 It is proposed that this provision is developed when the staithe register is reviewed. However exact timescale for this development is not known as resource to carry out a review of the staithe is currently unavailable within the Authority.
- 3.3 A proposal is being developed in conjunction with the Chairman of the Local Access Forum and Professor Tom Williamson of the University of East Anglia for the feasibility of a student undertaking the review of the staithe which would include designated loading areas. Initial meetings with respect to the proposal have been encouraging and the Authority is awaiting a response from the UEA with regard to cost and timescale.

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Date of Report: 6 October 2014

Broads Plan Objectives: NA4.2

Appendices: APPENDIX 1 – Extract from the Norfolk and Suffolk Broads Act 1988 Schedule 5

Extract from: - The Norfolk and Suffolk Broads Act 1988 Schedule 5 showing deletions and amendments to paragraph 10

- 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—
- (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—
    - (i) for a total of more than six hours in any period of twenty four hours
    - ~~(i) for a total of more than thirty minutes in any hour;~~
    - ~~(ii) for a total of more than eight such thirty minute periods in any twenty four hours; or~~
    - (iii) in such a way as to deny to any vessel all means of passing through the waterway; or
    - (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 the National Rivers Authority and the Commissioners.