

**Broads Authority Act 2009: Hire Boat Licensing Conditions**

Report by Head of Waterways Strategy and Safety and  
Solicitor and Monitoring Officer

**Summary:** This report updates the Committee on progress on developing proposed draft Hire Boat Licensing Conditions.

The Committee is invited to note the report, and members' views are sought on the draft conditions set out in Appendices 1 and 2.

**1 Introduction**

- 1.1 A report was brought to the committee on 4 June 2009 updating the committee on the progress of Hire Boat licensing in which it was proposed that the drafting of Hire Boat licensing conditions be overseen by the Boat Safety Management Group in order that continued progress could be made over the summer period.

**2 Progress**

- 2.1 The Boat Safety Management Group met on 24 June 2009 to consider the draft licensing conditions, various conditions were amended and clarified and following the meeting final draft licensing conditions have been completed.
- 2.2 It has become necessary to develop two sets of licensing conditions, one relating to the Hire Boat Operator, see Appendix 1, and another set relating to the Hire Vessel see Appendix 2.
- 2.3 Guidance notes will be developed alongside the licensing conditions to inform operators of details relating to conditions. The headings of the intended guidance notes are set out in Appendix 3.
- 2.4 The Guidance notes will also detail the requirement for operators to submit in writing results of stability tests and/or calculations relating to the total number of persons that the hire vessel can carry. This is required in order that the Authority can issue a licence stating the maximum number of persons to be carried by the hire vessel.
- 2.5 The Hire Boat Licensing conditions have been developed jointly with the Broads Hire Boat Federation and members of the Boat Safety Management group, and to date the conditions as drafted have been accepted in principle, however details are to be finalised on the display of the license notice on the vessel as prescribed in the Public Health Act (Amendments) Act 1907.

### **3 Next Steps**

- 3.1 The Legal Agreement with national boating interests requires the Authority to consult the Hire Boat Industry and the Navigation Committee. In this respect it will be necessary for the Authority on 18 September 2009 to delegate to the Chief Executive the power to agree who to consult and on what with a view to him taking these decisions immediately after the Appointed Day.
- 3.2 The statutory consultation will run from 9 October to 7 December 2009.
- 3.3 The Navigation Committee will then be formally consulted on the licensing conditions following the close of the statutory consultation, at its December meeting.

Background papers: Implementation of Provisions in the Broads Bill: Progress Hire Boat Licensing  
11 December 2008  
Implementation of Provisions in the Broads Bill: Progress Hire Boat Licensing  
4 June 2009

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Date of report: 13 August 2009

Appendices: APPENDIX 1 Draft Hire Boat Operator's Licence  
APPENDIX 2 Draft Hire Boat Licence  
APPENDIX 3 Hire Boat Licensing Guidance Notes

**APPENDIX 1**

**Broads Authority**

**Hire Boat Operator's Licence**

This licence is issued under Section 94 of the Public Health Acts Amendment Act 1907 and Section 40 of the Broads Authority Act 2009.

The Broads Authority hereby licence \_\_\_\_\_ of \_\_\_\_\_ to let for hire or use for carrying passengers for hire the vessels listed in the Schedule, subject to the conditions set out in this Licence. Attention is drawn to the notes accompanying this Licence.

In this Licence the following definitions apply: -

“the Authority” means the Broads Authority

“the Operator” means the person or body named above

“the Vessel” means any vessel listed in the Schedule

“Skipper “ means the person identified as the time of the hire as the person to have command of the Vessel during the period of hire.

**The Conditions**

- 1. (a)** Each Vessel is licensed to carry the number of persons indicated against the Vessel in the Schedule

- (b) The number of persons that the Vessel is licensed to carry must conspicuously display on the Vessel a notice or notices provided by the Authority
  - (c) A Vessel must not carry any number of persons in excess of that permitted by this Licence
- 2.
  - (a) The Operator must hold and maintain throughout the period of this Licence current Public Liability insurance cover with a minimum indemnity of two million pounds.
  - (b) The Operator must, when required by the Authority to do so, make a self-declaration regarding this insurance in relation to any Vessel.
- 3. The Operator must not cause or permit any Vessel to be let for hire in weather conditions which, at the time of the commencement of the hire, are likely to pose a threat to the safety of those on board the Vessel.
- 4. The Operator must not hire any Vessel which is mechanically powered to any persons under 16 years of age
- 5. The Operator must not hire any Vessel to any person or persons who are or appear to be under the influence of alcohol or drugs at the time of the commencement of the hire.
- 6. (a) The Operator must on a regular basis carry out a suitable and sufficient assessment of the risks associated with the activity of hiring vessels. The frequency of this assessment will depend on the nature of the risk but must be no less than frequently

than annually.

- (b) The Operator must promptly act upon the findings of any such assessment where a risk is identified.
  - (c) The Operator must ensure that these assessments are fully documented and readily accessible for inspection by an authorised representative of the Authority.
7. The Operator must keep proper records which show
- (a) When any Vessel has been hired out
  - (b) The number of persons carried
  - (c) The expected time of return, and
  - (d) The emergency procedures to be implemented on the failure of a Vessel to return.
8. The Operator must make available for inspection, to any person authorised by the Authority for this purpose, any records required by this Licence.
- 9.
- (a) The Operator must ensure that before using a Vessel the Skipper is given an
    - (i) appropriate briefing in accordance with British Marine Federation (BMF) /Association of Inland Navigation Authorities (AINA) /Maritime and Coastguard Agency (MCA) Code for the Design and Construction and Operation of Hire Boats, Part 1, Section 5.2 Handover Procedures (June 2009)( or as subsequently amended)
    - (ii) a proper demonstration on how to fit, wear and use the buoyancy aids or lifejackets provided with the Vessel

- (b) The Operator must instruct the Skipper to advise those on board the Vessel in the use of the buoyancy aids or lifejackets
  - (c) The Authority will be entitled to carry out sample audits of the handover arrangements referred to in paragraph 8 (a)
  - (d) The Operator must record in writing and retain details of all briefings and demonstrations given under paragraph 8 (a)
10. If any changes occur in the ownership or particulars of any Vessel during the term the Licence, the Operator must give written notice of such change(s) to the Authority within 14 days of the change(s).
11. The Operator must report to the Broads Authority, in writing, and as soon as is reasonable practicable, (and in any case within seventy-two hours of the Operator becoming aware of it), the occurrence of any accident of a type as defined in the Merchant Shipping Accident and Investigation Regulations 2005 S.I.881/2005, involving any Vessel operated under this Licence.
12. This Licence must not be altered, damaged or defaced in any way.
13. This Licence or a true copy of it may be displayed for public view at the premises from which any Vessel is hired but must be removed from public display in the event that it is suspended, renewed or has expired.
14. The Authority may suspend or revoke this Licence in the event of any breach of any of these conditions if the Authority considers it is necessary or desirable in the

interests of the public.

15. This Licence must be returned to the Authority within 7 days if:
  - (a) The Operator has ceased the activity for which the Licence has been granted or
  - (b) The Authority has revoked the Licence.
  
16. This Licence will remain in force, unless previously suspended or revoked, for a period of one year until \_\_\_\_\_ .
  
17. The Licence is personal to the Operator and is not transferable except with the written agreement of the Authority.
  
18. The Authority reserves the right to modify, alter, revoke or add to these conditions, should it be necessary or desirable in the interests of the public to do so. Such variations will have effect as and when specified by the Authority.

**The Schedule**

The Vessels to which this Licence applies: -

Signed \_\_\_\_\_ Dated \_\_\_\_\_

**APPENDIX 2**

**Broads Authority**

**Hire Boat Licence**

This Licence is issued under Section 94 of the Public Health Acts Amendment Act 1907 and Sections 12 and 40 of the Broads Authority Act 2009.

The Broads Authority hereby licence the vessels listed in the Schedule for the letting for hire or use for carrying of passengers for hire subject to the conditions set out in this Licence.

Attention is drawn to the notes accompanying the Licence.

In this licence the following definitions apply: -

“the Authority” means the Broads Authority

“Vessel” means any vessel listed in the Schedule

**The Conditions**

1. Each vessel must comply with the construction and equipment standards imposed or having effect to the Authority under section 12 (2) (b) of the Broads Authority Act 2009.
2. Each of the Vessels must be in maintained in sound condition.
3. (a) Each Vessel is licensed to carry the number of persons indicated against that Vessel in the Schedule  
(b) The number of persons that the Vessel is licensed to carry must be conspicuously



displayed on the Vessel using a notice or notices provided by the Authority

- (c) A Vessel must not carry any number of persons in excess of that permitted by this Licence.

- 4. Any Vessel offered for hire with gas-fuelled equipment must be fitted and maintained in accordance with HSE, Gas Safety (Installation and Use) Regulations 1998 and hold a current Landlords Gas Safety Certificate.5.(a) Any mechanically powered Vessel which, following the issue of this Licence,

is changed in a way defined in paragraph 4 (b), must be subjected to a stability and loading test of a type approved by the Authority before the Vessel is offered for hire, and the results of the test must be submitted in writing to the Authority within 28 days of the test being carried out.

- (b) "Changed" means
  - (i) changed in engine type, or internal or deckhouse arrangement or
  - (ii) subject to a change in the amount of distribution of ballast or permanent weights of more than 3kg per metre of hull length

- 6. A buoyancy aid or lifejacket, of an appropriate size and type, complying with the relevant European standard and fit for purpose must be provided for each adult or child carried on board the Vessel.

- 7. Any mechanically powered Vessel, must be fitted with a bilge pump which is appropriate in size to the Vessel or carry one bailer or bucket in either case with a

capacity of at least 1.2 litres ( 2 pints) of water.

8. Any Vessel with a minimum freeboard height greater or equal to 1 metre must have the facility to enable persons to re-board the vessel from the water in the event of falling overboard. This may be a fixed boarding system or a temporary system that could be deployed when required e.g. boarding ladder, step.
9. Any Vessel with an exposed propeller shaft or other exposed moving parts within the passenger or accommodation area must be fitted with a suitable guard.
10. This Licence must not be altered, damaged or defaced in any way.
11.  
This Licence or a true copy of it may be displayed for public view at the premises from which any Vessel is hired but must be removed from public display in the event that it is suspended, renewed or has expired.
12. The Authority may suspend or revoke this Licence in the event of any breach of any of these conditions if the Authority considers it necessary or desirable in the interests of the public.
13. This Licence must be returned to the Authority within 7 days if the Authority has revoked the Licence.

14. This Licence will remain in force, unless previously suspended or revoked, for a period of one year until \_\_\_\_\_ .

15. The Authority reserves the right to modify, alter, revoke or add to these conditions, should it be necessary or desirable in the interests of the public to do so. Such variations will have effect as and when specified by the Authority.

**The Schedule** Signed \_\_\_\_\_ Dated \_\_\_\_\_

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**Hire Boat Licensing Guidance Notes**

**Guidance notes to be developed, and will include the following information**

<ul style="list-style-type: none"> <li>• Conditions relating to Public Health Amendment Act 1907 e.g. The Vessels must comply with the construction standards Content needed on BSS and location of information</li> <li>• To detail the ability for the Authority to refuse a licence application.</li> </ul>	
<ul style="list-style-type: none"> <li>• Example Risk Assessment Need to ensure circumstances are included for cottage with day boat hire</li> </ul>	
<ul style="list-style-type: none"> <li>• Risk Assessment guidance notes What it should include e.g. maintenance, inspection, annual service etc.</li> </ul>	
<ul style="list-style-type: none"> <li>• Clarify licence not transferable and in what circumstances it would transfer</li> </ul>	
<ul style="list-style-type: none"> <li>• Merchant Shipping notice and requirements to report an accident, condition 10, include definition</li> </ul>	
<ul style="list-style-type: none"> <li>• Lifejackets and the need for regular maintenance and servicing to be included within the sample risk assessment, also advice re: lifejackets Not to be stored on board but taken on board at commencement of hire</li> </ul>	
<ul style="list-style-type: none"> <li>• Sound condition - Vessel should be "Fit for purpose" – an explanation as to what is meant by this with examples</li> </ul>	
<ul style="list-style-type: none"> <li>• Explanation regarding content and access to Code for Design and Construction ..... -including handover procedures etc.</li> </ul>	
<ul style="list-style-type: none"> <li>• Refer to consultation process in regard to condition 17 in Hire Boat Operators Licence and condition 13 in Hire Boat Licence</li> </ul>	
<ul style="list-style-type: none"> <li>• Process for application and what to expect,</li> </ul>	
<ul style="list-style-type: none"> <li>• What is acceptable for third part liability insurance e.g. – authorised under the Financial Services and Markets Act 2000 etc.</li> </ul>	
<ul style="list-style-type: none"> <li>• Gas Safety regulations information/Landlords certificate</li> </ul>	
<ul style="list-style-type: none"> <li>• Explanation of freeboard height – condition 7, Hire Boat Licence</li> </ul>	
<ul style="list-style-type: none"> <li>• Example documentation for recording hire information , such as vessels hired out, time expected back etc.</li> </ul>	
<ul style="list-style-type: none"> <li>• Explanation regarding requirement for check stability test and the distribution of movable weights, such as furniture etc.</li> </ul>	
<ul style="list-style-type: none"> <li>• What tests and or calculations are approved by the authority in relation to stability testing to enable the operator to declare how many persons are on board</li> </ul>	
<ul style="list-style-type: none"> <li>• Rights of appeal</li> </ul>	

• Offence provisions	
• Cross referencing between licenses	
• Power to refuse / suspend/ cancel licences	
• Transferability if Company taken over	

<http://www.hse.gov.uk/pubns/indg285.pdf>

Link to HSE, Landlords duties

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[http://www.mcga.gov.uk/c4mca/mcga07-home/shipsandcargoes/mcga-shipsregsandguidance/mcga-guidance\\_regulations-inland/ds-vpu\\_hire-boat-code.htm](http://www.mcga.gov.uk/c4mca/mcga07-home/shipsandcargoes/mcga-shipsregsandguidance/mcga-guidance_regulations-inland/ds-vpu_hire-boat-code.htm)

Hire boat code

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[http://www.maib.gov.uk/cms\\_resources.cfm?file=/Regulations%202005.pdf](http://www.maib.gov.uk/cms_resources.cfm?file=/Regulations%202005.pdf)

MAIB Accident and investigation etc.

#### Meaning of “accident”

3.—(1) For the purpose of these Regulations and of section 267 of the Act, “accident” means any occurrence on board a ship or involving a ship whereby—

- (a) there is loss of life or major injury to any person on board, or any person is lost or falls overboard from, the ship or one of its ship’s boats;
  - (b) the ship—
    - (i) causes any loss of life, major injury or material damage,
    - (ii) is lost or is presumed to be lost,
    - (iii) is abandoned,
    - (iv) is materially damaged by fire, explosion, weather or other cause,
    - (v) grounds,
    - (vi) is in collision,
    - (vii) is disabled, or
    - (viii) causes significant harm to the environment; or
  - (c) any of the following occur—
    - (i) a collapse or bursting of any pressure vessel, pipeline or valve,
    - (ii) a collapse or failure of any lifting equipment, access equipment, hatch-cover, staging or boatswain’s chair or any associated load-bearing parts,
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## Lifejackets

Lifejackets need regular maintenance checks and should be stored in a dry, well-aired area when not in use.

### 1. Check the air-integrity:

- Un-pack the lifejacket and inflate manually by blowing into the ‘top-up’ tube

- Hang up and leave inflated for 24 hours to ensure the lifejacket holds its pressure. Check for leaks
- The lifejacket should then be repacked correctly, as per the manufacturer's folding instructions

## 2. Check the CO2 cylinder/'gas bottle' (on visible jackets)

- Check the condition for any signs of rust, this can cause the bottle to jam. It may also rub and perforate the bladder of the lifejacket
- Unscrew the bottle and check that it is still sealed (if there is a hole in the base then it's been fired), replace with a new bottle if required
- Screw the bottle firmly back into position.

**NB: For 'Hammar' hydrostatic lifejackets** – due to the enclosed fitting it's fiddly to access the bottle unless you are trained and familiar in doing so. It is therefore recommended you follow manufacturer's guidelines or return to a service agent.

## 3. Over-all condition:

- Check general webbing and stitching, all buckles, zips and D-rings
- Check the condition of any folded corners for signs of wear and tear

## Buoyancy Aids

The elementary function of buoyancy aids is to help and support a person who got voluntarily or involuntarily into water for any possible reason. Bear in mind that based on the European standard EN 393 buoyancy aids are only supportive tools and so designed for swimmers and emergency situations with help at hand

Try to prevent excess pressing or folding. When not in use, keep it freely hung, let it dry naturally in the open air. Keep it out of heat over 50°C, do not dry in a dryer or on hot heaters. When dirty, clean it only with soap water and a gentle brush. Wash it in a washing machine in hot water **ONLY 3.**

### Over-all condition:

- Check general webbing and stitching, all buckles, zips and D-rings

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## Risk assessments

HSE – five steps to risk assessments

<http://www.hse.gov.uk/pubns/indg163.pdf>

example

[http://www.discoverswitzerland.co.uk/documents/boatsandcruises\\_riskassessment.pdf](http://www.discoverswitzerland.co.uk/documents/boatsandcruises_riskassessment.pdf)

<http://www.canalboat.org.uk/docs/rasd.pdf>