

# MIDDLE LEVEL COMMISSIONERS



## NAVIGATION BYELAWS 2020

Middle Level Commissioners  
85 Whittlesey Road  
March  
Cambridgeshire  
PE15 0AH

## **MIDDLE LEVEL COMMISSIONERS**

Byelaws relating to the navigable waterways of the Middle Level and the banks of such waterways; for the maintenance and improvement of those waterways and banks; for the purposes of recreation and leisure pursuits; for controlling the navigation of those waterways; for the regulation of the conduct and activities of persons using those waterways or banks; for the registration of vessels on those waterways and for related purposes

The MIDDLE LEVEL COMMISSIONERS under and by virtue of the powers and authority vested in them by section 51 of the Middle Level Act 1874 and sections 11 and 12 of the Middle Level Act 2018 and of all other powers them enabling hereby make the following Byelaws.

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## 1. Citation and Commencement

- (i) These Byelaws may be cited as ‘‘The Middle Level Commissioners (Navigation) Byelaws 2019’’ and, subject to Byelaw 1(ii), shall come into operation 28 days after the date on which they are confirmed.
- (ii) Notwithstanding Byelaw 1(i), Byelaws 7(i)-(iv) shall come into operation on such date or dates as the Commissioners may direct being not earlier than one year from the date on which these Byelaws are confirmed.
- (iii) The Byelaws relating to navigation and made by the Commissioners on the 3rd May 1875 are hereby revoked.

## 2. Interpretation and Application

- (i) In these Byelaws, unless the context or subject otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say:-

‘‘the 1810 Act’’ means an Act of the fiftieth year of the reign of His Majesty King George the Third, entitled ‘‘An Act for improving the Drainage of certain Lands within the North and South-west Parts of the Middle Level, Part of the Great Level of the Fens commonly called Bedford Level.’’

‘‘the 2018 Act’’ means the Middle Level Act 2018.

‘‘authorised officer’’ means any person authorised in writing by the Commissioners under the 2018 Act to carry out the functions of the Commissioners in respect of navigation under the provisions of the navigation Acts and of these Byelaws.

‘‘the Collision Regulations’’ means regulations made under section 21 of the Merchant Shipping Act 1979 for the purposes of preventing collisions or under any statutory provisions amending or replacing the same.

‘‘commercial vessel’’ means any vessel that is used for any commercial purpose not being a non-charging vessel, and in this definition ‘‘non-charging vessel’’ means a vessel in respect of which neither the owner nor any operator receives any form of payment from any person for or in connection with any voyage or excursion other than as a contribution to the direct expense of operating the vessel during that voyage or excursion.

“the Commissioners”	means the Middle Level Commissioners constituted and incorporated under the Middle Level Acts.
“the consent of the Commissioners”	means the prior written consent of the Commissioners signed by the Chief Executive for the time being of the Commissioners or other duly authorised person.
“directly registered vessel”	means a vessel registered with the Commissioners under the 2018 Act and these Byelaws other than a vessel treated as so registered by virtue of arrangements made under section 6 (Arrangements with other authorities) of the 2018 Act.
“flammable liquid”	includes petroleum spirit, diesel oil, paraffin or liquified petroleum gas or any other liquid fuel contained in a bottle or other receptacle.
“houseboat”	means a vessel which is decked or otherwise structurally covered in and which is used not as a means of transport but as a place of habitation (whether by day and by night or the one or the other) or as a place for accommodating or receiving persons for the purposes of shelter, recreation, entertainment or refreshment or of witnessing regattas or other events or as club premises or as an office or as a kitchen, pantry or store place or as commercial or industrial premises.
“liquid fuel”	includes any inflammable hydrocarbon (either alone or in admixture with any other liquid) which is capable of providing the necessary motive power for a vessel and also any other liquid so capable which, when tested in the manner set out in Part II of the Second Schedule to the Petroleum (Consolidation) Act 1928, gives off an inflammable vapour at a temperature of less than 201 degrees Fahrenheit (93.7 degrees Centigrade).
“local authority”	includes any highway authority in which is vested any bridge over a waterway.
“master”	means the person taking or having for the time being (whether lawfully or not) the command, charge or management of a vessel.
“the Middle Level”	means the fen lands and low grounds subject to be taxed by virtue of the 1810 Act.
“the Middle Level Acts”	means: <ul style="list-style-type: none"> <li>(a) the 1810 Act</li> <li>(b) an Act of the seventh and eighth years of the reign of Her Majesty Queen Victoria, entitled “An Act for improving the Drainage and Navigation of the Middle Level of the Fens”</li> </ul>

- (c) the Middle Level Drainage Amendment Act 1848
- (d) the Middle Level Act 1862
- (e) the Middle Level Act 1867 and
- (f) the Middle Level Act 1874.

“moored” means in relation to a vessel, made fast ahead and/or astern and/or from the centre of the vessel, at any landing stage or mooring place or to the bank of a waterway or anchored to the bed of a waterway.

“navigate” means direct the course of movement of.

“the navigation Acts” means:

- (a) the Middle Level Acts
- (b) the Nene Navigation Act 1753
- (c) the Wisbech Canal Act 1794 and
- (d) the 2018 Act.

“Navigation Lights” means in respect of any vessel:

- (a) a white light placed over the fore and aft centre line of the vessel, showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side and
- (b) on the starboard or right side, a green light showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on the starboard or right side and
- (c) on the port or left side, a red light showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on the port or left side and
- (d) on, or as nearly as practicable on, the stern, a white light showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel

and every such light as is specified in paragraphs (a)-(d) above shall have an intensity sufficient to be visible at a minimum range of one half of a nautical mile.

“the Nene Navigation Act”	means the Act of Parliament passed in the twenty-seventh year of the reign of His Majesty King George the Second, entitled “An Act for improving and preserving the Navigation from Salter’s Load Sluice in the County of Norfolk, to Stanground Sluice in the County of Huntingdon; and from Flood’s Ferry in the Isle of Ely in the County of Cambridge, to Ramsey High Load in the said County of Huntingdon; and also the Navigation from Old Bedford Sluice in the said County of Norfolk to the River Nene, in the Parish of Ramsey, in the said County of Huntingdon”.
“night”	means the period between sunset and sunrise.
“notice”	means notice in writing.
“on”	includes, in relation to a vessel on a waterway, in or upon the waterway, whether or not the vessel is floating.
“person”	includes a body corporate.
“Personal Water Craft”	means any water craft (not being a structure which, by reason of its concave shape, provides buoyancy for the carriage of persons or goods) propelled by a jet drive or other mechanical means of propulsion and steered either:  (a) by means of a handlebar operated linkage system (with or without a rudder at the stern)  (b) by movement of the body weight of the person or persons riding the craft or  (c) by a combination of those methods.
“pleasure vessel”	means any vessel which is neither a commercial vessel nor a houseboat.
“polluting matter”	means sewage or any other offensive or injurious matter whether solid or liquid.
“power driven vessel”	means any vessel propelled by machinery, including any vessel propelled by a detachable outboard engine, but does not include any vessel for the time being proceeding solely by or under sail, oar or paddle.
“recognised competent person”	means a person recognised by the Commissioners as having such practical and theoretical knowledge and actual experience of the type of vessel, apparatus or equipment which he has to

examine as will enable him to detect defects or weaknesses which it is the purpose of the examination to discover and to assess their importance in relation to the safety and functioning of the vessel.

- “register of vessels” means the register of vessels set up and maintained by the Commissioners under section 12(2) of the 2018 Act.
- “registered owner” means the person registered with the Commissioners as the owner of the vessel under these Byelaws or treated as so registered by virtue of arrangements made under section 6 (Arrangements with other authorities) of the 2018 Act.
- “registered vessel” means a vessel registered with the Commissioners under these Byelaws or treated as so registered by virtue of arrangements made under Section 6 (Arrangements with other authorities) of the 2018 Act and the term "register" shall be construed accordingly.
- “registration” means the registration of a vessel with the Commissioners in accordance with these Byelaws or the treating of a vessel as registered with the Commissioners by virtue of arrangements made under section 6 (Arrangements with other authorities) of the 2018 Act.
- “registration certificate” means a certificate of registration of a vessel issued by the Commissioners in accordance with these Byelaws or treated as issued by the Commissioners by virtue of arrangements made under section 6 (Arrangements with other authorities) of the 2018 Act and in either case includes the renewal of any such certificate.
- “restricted visibility” means any condition in which visibility is impaired by fog, mist, falling snow, heavy rainstorms, sandstorms, smoke or any other similar causes.
- “sailing vessel” means a vessel under sail provided that propelling machinery, if fitted, is not being used.
- “sanitary appliance” means any water closet, sea toilet, lavatory, bucket, device or apparatus for the reception of polluting matter.
- “sewage” means human body waste and the waste from toilets intended to receive or treat human body waste.
- “small vessel” means any unpowered vessel having a block area of less than 6 square metres which is not for the time being in use as a commercial vessel.
- “speed” means speed measured over the bed of a waterway.

“tow”	includes any vessel being propelled by another and “towed” and “towing” shall be construed accordingly.
“underway”	means not moored or aground
“unpowered vessel”	means any vessel which is not a power driven vessel.
“use”	in relation to a vessel, includes launching the vessel onto a waterway, keeping or mooring it on a waterway, navigating it on a waterway and letting it for hire on a waterway.
“vehicle”	includes every description of vehicle, apparatus, machinery or equipment capable of being used as a means of transportation on land.
“vessel”	includes every description of craft, including a Personal Water Craft, with or without means of propulsion of any kind, used or capable of being used to carry persons, goods, plant or machinery, or of being propelled or moved, on, in, or by water.
“Water Control Structure”	means any structure or appliance for introducing water into or removing water from a waterway or for controlling, regulating or affecting the level of the water or the flow of water in, into or out of a waterway and any aqueduct.
“the waterways”	means the waterways in respect of which the Commissioners are the navigation authority under the navigation Acts including: <ul style="list-style-type: none"> <li>(a) so much of the waterways set out in column 1 of the table in Schedule 1 to the 2018 Act as lie between the points set out in column 2 of that table and the points set out in column 3 of that table</li> <li>(b) all Water Control Structures in, on or on the banks of, those waterways and</li> <li>(c) any watercourse in the Middle Level or any lake, pit, pond, marina or other substantially enclosed water adjacent to those waterways and from which any vessel may be navigated (whether or not through a lock or other similar work) into the waterways other than: <ul style="list-style-type: none"> <li>(i) any waters which are used for mooring or navigation only by the owner of the land upon which those waters are situated and</li> <li>(ii) any waters which are used for mooring or navigation only by an occupier of an adjoining residential dwelling.</li> </ul> </li> </ul>

“the Wisbech Canal Act”

means the Act of Parliament passed in the thirty fourth year of the reign of His Majesty King George the Third, entitled “An Act for making and maintaining a Navigable Canal from Wisbech River, at or near a Place called the Old Sluice, in the Town of Wisbech in the Isle of Ely and County of Cambridge, to join the River Nene in the Parish of Outwell, in the said Isle of Ely, and in the County of Norfolk, and for improving and maintaining the Navigation of the said River from Outwell Church to Salters Load Sluice”.

and references in these Byelaws to numbered Byelaws are to the appropriately numbered Byelaws in these Byelaws.

- (i) Subject as is in these Byelaws otherwise expressly provided, these Byelaws shall apply to the waterways and the banks of the waterways.
- (ii) These Byelaws shall not apply to the Commissioners or to any person authorised by them or to any police officer acting in the course of his duties.
- (iii) Any reference in these Byelaws to any gender shall be deemed to include a reference to all genders and (save where the context otherwise requires) any reference in these Byelaws to the singular shall be deemed to include the plural and vice versa.
- (iv) The Byelaw headings do not form part of or affect the construction and interpretation of the Byelaws.
- (v) The Collision Regulations shall not apply to the waterways.

### 3. General duties of the master of a vessel

- (i) In construing and complying with these Byelaws, the master of a vessel shall have due regard to all dangers of navigation or collision or to any special circumstances, including the limitations of the vessels involved, which may make a departure from the provisions thereof necessary to avoid any immediate danger to persons or to property and in the event of a prosecution for any breach of these Byelaws, it shall be for the defendant to prove the existence of any such dangers of navigation or collision or special circumstances necessitating a departure from these Byelaws to avoid any immediate danger to persons or property.
- (ii) The master of a vessel on a waterway shall be responsible for the conduct of all persons on board such vessel and for ensuring compliance with these Byelaws and, upon proof that an offence under these Byelaws has been committed by any person on board such vessel and that the master of such vessel has refused to give the name and address of the offender (not being such master) or by his own negligence or default has been unable to give such information, the master shall be guilty of an offence.
- (iii) The master of a vessel shall at all times take all reasonable precautions for the prevention of accidents by fire or explosion.

#### 4. Person in charge of a vessel

- (i) Every vessel used on the waterways shall be deemed to be in the charge of one person who shall be in every case the owner of such vessel or, in the absence of such owner, the person duly appointed or permitted by him to be in charge or the person hiring such vessel and, in the absence of any such person, then any person being the master of such vessel.
- (ii) The Commissioners may serve on the owner of a registered vessel or of a vessel which, although not registered, is required to be registered under these Byelaws, a notice requiring that owner to state in writing within such period (not being less than 14 days) as may be stated in the notice, the name and address of any person (not being such owner) known to him as being the master of that vessel on a particular date or dates.
- (iii) A person shall be guilty of an offence if, where a notice is served on him in pursuance of Byelaw 4(ii), he:
  - (a) fails without reasonable excuse to comply with the notice or
  - (b) in pursuance of the notice, makes any statement in respect of the information required which he knows to be false in a material particular or recklessly makes any statement, in respect of that information, which is false in a material particular.

#### 5. Registration

- (i) Except as is otherwise provided in these Byelaws, or by virtue of arrangements made under Section 6 (Arrangements with other authorities) of the 2018 Act, no person shall use or permit to be used a vessel on a waterway unless it is registered with the Commissioners, any charges payable to the Commissioners under the 2018 Act and these Byelaws have been duly paid and the registration certificate issued in respect thereof is in force and any requirement imposed by the Commissioners under the 2018 Act or these Byelaws when registering the vessel, is complied with.
- (ii) The categories under which a vessel may be registered and the charges payable to the Commissioners for such registration shall be determined by the Commissioners before 1<sup>st</sup> April in each year and published in accordance with sections 5(6) and 5(7) of the 2018 Act.
- (iii) Registration of a vessel by the Commissioners for any year ending on the 31st of March, (or any part of such a year for which registration may be permitted by the Commissioners) and any renewal of the registration thereof, shall be effected on payment to the Commissioners of the registration charge as prescribed by the Commissioners from time to time, the delivery to the Commissioners of such particulars and information as are mentioned in Section 12(3)(h) of the 2018 Act, of the information required to be provided by Byelaw 7(ii)), and of any policy of insurance required in respect of the vessel under Byelaw 6 and:
  - (a) the entry in the register of vessels of the particulars of the vessel, the registration number assigned to it and any crest, badge or device authorised for it and the name and address of the owner of the vessel and
  - (b) the granting to the owner of such vessel of a registration certificate relating to the vessel, or to such a number of vessels as may be registered by him and bearing the

registration number or numbers assigned to such vessel or vessels and describing any crest, badge or device authorised therefor.

- (iv) Any person applying to the Commissioners to register a vessel shall do so on a form prescribed by the Commissioners and available from the Commissioners' principal office.
- (v) Upon receipt of the application form and the registration charge, the Commissioners shall allocate to the vessel a registration number and shall notify the same to the applicant. The Commissioners may also authorise the use on the vessel of a crest, badge or device. Registration shall be deemed to have taken place when the registration number is notified to the applicant.
- (vi) The owner of a registered vessel shall cause the registration certificate then in force to be affixed to the vessel in some prominent place and to be protected by a waterproof container and shall also, unless the Commissioners shall otherwise determine, cause the registration number and any crest, badge or device authorised for the vessel to be written or displayed on the vessel above the water line on both sides of the hull in such a manner and position as to be clearly visible from a distance of 15 metres.
- (vii) The owner of a registered vessel shall produce the registration certificate to the Commissioners within fourteen days of a request from the Commissioners to do so.
- (viii) A registration certificate issued by the Commissioners shall remain the property of the Commissioners.
- (ix) The owner of a directly registered vessel shall:
  - (a) give notice to the Commissioners of any alteration made to that vessel, which renders incorrect the particulars contained in any application he has made to register the vessel and send the registration certificate to the Commissioners with that notification
  - (b) where (for whatever reason) the vessel ceases permanently to be required to be registered, give notice to the Commissioners within 28 days of that event; and return the registration certificate and any registration plate or other crest, badge or device issued in respect of the registration of that vessel by the Commissioners to the Commissioners as soon as practicable and/or
  - (c) within 28 days inform the Commissioners of any change of address.
- (x) Upon every transfer of the ownership of:
  - (a) a directly registered vessel or
  - (b) a vessel which has not been registered and is not one treated as registered by virtue of arrangements made under section 6 (Arrangements with other authorities) of the 2018 Act but in respect of which registration is required under the 2018 Act and these Byelaws

the person transferring the ownership of that vessel shall deliver the registration certificate (if any) to the new owner and shall within 14 days of the transfer give notice

to the Commissioners stating the registration number (if any), the name and description of the vessel, the name and address of the new owner, and the date of the change of ownership of the vessel transferred and, until such notice shall be duly given to the Commissioners, the person registered with the Commissioners as the owner of the vessel or, in the case of a vessel which has not been registered, the owner immediately prior to the transfer, shall be conclusively deemed to remain the owner of the vessel.

- (xi) Upon acquiring a directly registered vessel or a vessel which has not been registered and is not one treated as registered by virtue of arrangements made under section 6 (Arrangements with other authorities) of the 2018 Act but in respect of which registration is required under the 2018 Act and these Byelaws, the new owner shall within 28 days apply to the Commissioners for a new registration certificate and submit with that application the registration certificate (if any) handed to him by the previous owner and, upon the issue of a new registration certificate, the registration certificate (if any) previously in force in respect of the vessel shall cease to be in force.
- (xii) In the event of the loss or destruction of a registration certificate relating to a directly registered vessel:
  - (a) the owner of the vessel shall, within 28 days of becoming aware of its loss or destruction, apply to the Commissioners for a replacement and
  - (b) the Commissioners shall be entitled to charge a reasonable fee to cover the administration costs incurred in issuing a replacement registration certificate under this Byelaw.
- (xiii) No person shall display on or about a vessel anything which is not a valid registration certificate but which is intended to be or could be mistaken for a valid registration certificate.
- (xiv) No person shall deface, damage, alter or in any way amend any registration certificate issued by the Commissioners.
- (xv) Any person who knowingly or recklessly provides the Commissioners with false information when making an application for registration or when notifying the Commissioners of a transfer of ownership or that a vessel has ceased permanently to be required to be registered, shall be guilty of an offence.
- (xvi) The registration charge payable to the Commissioners for the registration of a vessel that is used as a dwelling for any year in which that vessel remains in a marina and does not otherwise use any of the waterways, shall not exceed the cost to the Commissioners of administering the application for registration, confirming that the vessel complies with any relevant requirements imposed under these Byelaws and enforcing compliance with those requirements.
- (xvii) The requirement to register a vessel does not apply to a vessel to the extent that the vessel is exempted from this requirement by the Commissioners in accordance with Byelaw 5(xviii).
- (xviii) The Commissioners may exempt any vessel or class of vessel from the requirement for registration to such extent and upon such terms and conditions as they may determine if, having regard to all the circumstances, they consider that the application of that

requirement is not or is not wholly justified in the interests of the regulation of the waterways.

## 6. Insurance

- (i) Subject to Byelaws 6(ii) and 6(iii), no person shall use or permit to be used a vessel on a waterway unless there is in force in relation to the vessel a policy of insurance complying with the requirements of Schedule 2 to the 2018 Act.
- (ii) Byelaw 6(i) does not apply to a vessel to the extent that the vessel is exempted from that requirement by the Commissioners in accordance with Byelaw 6(iii).
- (iii) The Commissioners may exempt any unpowered vessel or class of unpowered vessel from the requirement to obtain a policy of insurance to such extent and upon such terms and conditions as they may determine if, having regard to their assessment of the risk of damage or injury which such insurance would provide cover against, they consider such exemption appropriate.

## 7. Safety requirements

- (i) Every vessel used on a waterway shall be constructed and equipped and at all times maintained in a condition in accordance with such reasonable specification or specifications in that behalf as may from time to time be prescribed by the Commissioners.
- (ii) Upon application being made to the Commissioners for the registration of a vessel pursuant to Byelaw 5 and in respect of which class of vessel a specification under these Byelaws has been duly prescribed and is for the time being in force, the applicant shall certify that he has read that specification and that the vessel complies in every respect with such specification and shall provide such information to the Commissioners in respect of the construction, equipment, condition and compliance with the specification of that vessel as may be reasonably required by the Commissioners.
- (iii) The Commissioners may at any time and from time to time, for the purpose of ensuring that a vessel complies with the requirements of Byelaw 7(i), require the owner of such vessel to obtain a certificate confirming such compliance from a recognised competent person and to produce the said certificate at the principal office of the Commissioners within such reasonable period as may be specified by the Commissioners.
- (iv) For the avoidance of doubt and without prejudice to the generality of Byelaw 7(i), the provisions of that Byelaw and of Byelaws 7(ii) and (iii) shall also extend and apply to any vessel carrying fuel or fitted with cooking, heating, refrigerating or lighting appliances and to any engines used or installed (whether permanently or temporarily) on or in any vessel for the purpose of generating electricity or for any other purpose.
- (v) Without prejudice to the generality of Byelaw 7(i), the master of a vessel on a waterway shall ensure that;
  - (a) any flammable liquid taken on or carried on such vessel is loaded, stowed and used in such a manner as not to be or to be likely to become a danger to persons or property and

- (b) adequate equipment and materials for fighting fires are available at all times.
- (vi) (a) No person shall open or manipulate any liquid fuel container or tank on any vessel while such vessel is in or waiting to enter any lock on a waterway.
- (b) The master of a vessel shall ensure that no liquid fuel container or tank shall be opened or manipulated on a vessel while the same is in or waiting to enter any lock on a waterway.
- (vii) No person on board any vessel in any lock on a waterway shall knowingly cause to be ignited any match, artificial lighter or other means of producing a flame.
- (viii) The master of any passenger vessel used on a waterway and carrying twelve or more passengers shall hold the appropriate licence issued by the Department of Transport and shall, upon demand by any authorised officer, produce such licence for inspection to that officer or shall within five days produce the same at the Commissioners' principal office.

#### 8. Inspection of vessels

- (i) The Commissioners shall have the right to inspect a vessel prior to registration and at any other time to confirm the details given on the registration application form and that the vessel otherwise complies with the requirements of these Byelaws.
- (ii) The owner of any vessel used on a waterway shall, upon being required so to do by notice served on him by the Commissioners, give to any recognised competent person reasonable facilities for the inspection of the vessel by the recognised competent person, in order that it may be ascertained whether the construction, condition and equipment of the vessel is in accordance with the provisions of Byelaws 7(i)-(iv).
- (iii) On the occasion of the said inspection being made the owner of the vessel shall cause the whole installation on the vessel to be made available for inspection in working order.

#### 9. Condition of hired vessels

The owner of a vessel for hire shall not allow any person to use the vessel for hire unless the vessel complies with the requirements of Byelaws 7(i), 7(iv) and 7(v)(b).

#### 10. Overloading

The master of a vessel shall not permit the loading of that vessel to exceed the loading limits (whether expressed by weight or numbers of persons) for which that vessel was designed or is constructed, taking into account any subsequent modification to that vessel, nor shall he permit that load to be distributed in or on the vessel in such a way as injuriously to affect the vessel's stability or manoeuvrability.

#### 11. Loss of anchors etc.

- (i) The master of a vessel which has slipped, parted from or lost any anchor, cable, propeller or other object shall, as soon as is reasonably practicable, take all necessary steps to recover such anchor, cable, propeller or object and if within such time, he is unable to do so, he shall, as soon as reasonably practicable thereafter, give notice thereof and of the position of such anchor, cable, propeller or object to the Commissioners.

- (ii) The Commissioners may, whether or not they have been so notified in accordance with Byelaw 11(i), recover any such anchor, cable, propeller or object and recover the costs thereby incurred from the owner of the vessel.

12. Drifting or unattended vessels

- (i) The master of a vessel shall not leave the vessel unattended or adrift so as to cause or be reasonably likely to cause, any obstruction to the free passage of vessels on a waterway.
- (ii) No person shall, without lawful excuse, turn a vessel adrift in a waterway or, without such excuse, cut off, loosen or in any way whatsoever interfere with any mooring rope or fastening of a vessel.
- (iii) Where a vessel has been found aground, stranded, drifting or abandoned in a waterway and, in the reasonable opinion of the Commissioners, causes an obstruction to the navigation of the waterway or is a source of danger:
  - (a) the Commissioners may, if they think fit, take it to the nearest suitable safe place and
  - (b) the Commissioners may recover the expenses thereby incurred from the owner of the vessel and, for this purpose, the person last registered with the Commissioners as the owner of the vessel or deemed, by virtue of arrangements made under the provisions of section 6 (Arrangements with other authorities) of the 2018 Act, to be so registered, shall be conclusively deemed to be the owner of the vessel and
  - (c) in the absence of negligence, no responsibility of any kind whatsoever can be attached to the Commissioners for any damage to or loss of any vessel or for inconvenience caused, when such action has been taken and
  - (d) for the purposes of this Byelaw 12(iii), "vessel" includes any part of a vessel.

13. Reporting accidents and incidents

- (i) Where any vessel, whilst on a waterway or its banks:
  - (a) has sunk or is in danger of sinking
  - (b) has been abandoned
  - (c) has become derelict
  - (d) has been in collision with another vessel, or any structure
  - (e) has been damaged or caused damage or injury to any person or thing (including a vessel)
  - (f) has been or is on fire or has suffered an explosion
  - (g) has lost deck cargo over the side or had cargo shift so as to endanger the vessel or affect its navigation
  - (h) has been or is carrying a dangerous substance, and any spillage or loss of containment has occurred or
  - (i) has suffered any other accident normally required to be reported to the Marine Accident Investigation Branch or the Maritime & Coastguard Agency, or both,

the master of the vessel shall immediately report the occurrence to the Commissioners and such report shall include the name and the position of the vessel, the nature of the

incident, and such further information, where known, as the Commissioners may reasonably request.

- (ii) The Commissioners may, within three days after the receipt of such report, if they shall deem it appropriate, inspect or cause the vessel to be inspected and, for that purpose, the vessel shall be preserved and kept by the owner as nearly as possible in the exact condition in which the vessel was after the completion of the incident and the master or the owner shall give to the Commissioners all reasonable facilities for such inspection.
- (iii) The owner and the master of a vessel shall each co-operate with the Commissioners or with any other authority having the right to carry out such investigation, in any investigation that is carried out into any accident or incident involving that vessel.
- (iv) If, owing to the presence of a vessel on a waterway, an accident occurs whereby any damage is caused to any other vessel or to other property or injury is caused to any person, each and every vessel involved shall stop as soon as is practicable and the master of each vessel shall, if required to do so by any person having reasonable grounds for so requesting, give his name and address and also the name and address of the owner and the name and registration number, if any, of the vessel.

#### 14. Repair of vessels

The owner of a vessel shall not, without the consent of the Commissioners, permit the vessel to be or to remain on a waterway or on the banks of a waterway while disabled or under repair for a period exceeding 28 days, unless the vessel is within a marina or boatyard.

#### 15. Events on the waterways

No person shall, without the consent of the Commissioners, organise or promote a boat race, regatta, stunt, procession, exhibition, firework display, or other event on or over a waterway or the banks of a waterway and every person navigating a vessel in or in connection with such an event shall comply with the instructions of the Commissioners relating to it.

#### 16. Navigation

- (i) Subject as is otherwise in these Byelaws expressly provided, no person shall use or attempt to use a vessel on a waterway:
  - (a) without due care and attention or without at all times keeping a proper look out.
  - (b) (i) (without prejudice to the provisions of Byelaw 20) at such a speed or in such a manner so as to endanger the lives of or cause injury to persons or endanger the safety of or cause damage to other vessels or any moorings or to other property or to endanger, erode or undermine the bank of a waterway or so that the vessel cannot be stopped within a distance appropriate to the prevailing circumstances and conditions and
  - (ii) if the life of any person or the safety of any vessel, mooring, bank or other property is endangered or injury or damage is caused to any person, vessel, mooring, bank or other property by a passing vessel, the onus shall lie upon the master of such passing vessel to show that it was navigated with care and caution and at such a speed and in such a manner as required by this Byelaw 16(i)(b).

- (c) without reasonable consideration for other persons exercising their rights on a waterway or its banks or enjoying the facilities thereof or so as to cause unreasonable disturbance to any person.
  - (d) without ensuring that it is, at all times, navigated as near as possible in the middle of the channel.
  - (e) in contravention of any restriction on or prohibition or regulation of the use of the waterway imposed under or made pursuant to the navigation Acts or these Byelaws.
- (ii) No person shall navigate or attempt to navigate or be in charge of a vessel in the course of navigation on a waterway while under the influence of alcohol or drugs to such an extent that his ability to have proper control of the vessel may be impaired.
- (iii) (a) No person under the age of 14 years shall navigate or be in control of any power driven vessel and no person under the age of 16 years shall navigate or be in control of a vessel with an engine capacity exceeding 4hp unless in either case:
    - (i) such person shall at such time be kept under the proper and competent supervision of a person who is in the vessel and who has reached the age of 18 years and
    - (ii) the person who is providing such supervision remains at all times close to the helm so as to be able to take the helm in the event of necessity and
    - (iii) the person who is providing such supervision maintains at all times a proper navigation watch.
  - (b) A person providing supervision as required by this Byelaw 16(iii) shall be deemed to be the master of the vessel for the purposes of these Byelaws.
  - (c) No person shall cause or knowingly permit another person to navigate or be in control of a power driven vessel in contravention of this Byelaw 16(iii).
- (iv) The master of a vessel shall ensure that proper and effective fenders are used whenever there is a risk of the vessel striking against any other vessel or against any Water Control Structure, wall or other structure or object.
  - (v) The master of a vessel shall ensure that any goods, apparatus or equipment on the vessel are stowed so that nothing, except necessary fenders and spars, projects over the sides of the vessel so as to be able to damage any other vessel or any Water Control Structure or any works, property or thing or to injure any person and are secured so that no part of them can be washed or can fall overboard. Provided that this Byelaw 16(v) shall not apply to any vessel whilst engaged in any lawful works of maintenance or improvement or the lawful undertaking of new works in or to a waterway or in, on, over, under or to a structure in or over a waterway or its banks.

## 17. Conduct of vessels

- (i) The master of a power-driven vessel underway shall keep his vessel out of the way of an unpowered vessel;

- (ii) Where two vessels are proceeding towards one another, the master of each vessel shall steer his vessel to its starboard (right) side in such a manner that the vessels pass freely with the port (left) side of each vessel nearest to the port side of the other vessel and that the vessels pass at a safe and proper speed,
- (iii) The master of the smaller of two vessels shall ensure that his vessel shall not hamper the safe passage of another vessel which, by reason of its size and draught, is confined to the centre of the navigable channel.
- (iv) The master of a vessel overtaking any other vessel shall keep his vessel well clear of the vessel being overtaken and shall, unless the master deems it unsafe to do so, overtake on the port (left) side of the vessel being overtaken.
- (v) When, from any cause, the master of a vessel finds his vessel so close to another vessel that collision with that other vessel reasonably appears to him unable to be avoided; he shall take such action as will best aid to avoid collision.
- (vi) Every vessel which is directed by these Byelaws to keep out of the way of another vessel shall, so far as possible, take positive early action so as to ensure a safe passing distance.
- (vii) The master of a vessel intending to navigate that vessel under or through any bridge, lock or similar structure shall take all necessary steps to ensure that his vessel can do so without damaging the bridge, lock or structure.
- (viii) The master of a vessel approaching or passing a place where vessels are moored shall ensure that his vessel is navigated at such speed and in such manner that no damage or unreasonable annoyance is caused thereby.
- (ix) The master of a vessel approaching or being near to a place where any works of maintenance or improvement or the construction of any new works is or are being carried out, either by the Commissioners or by any other authority, body or person having power so to do, in, over, on, under or to a waterway or its banks or any Water Control Structure shall ensure that his vessel is navigated at such speed and in such manner so as not to imperil the safety of any person or to cause any damage or injury to any plant or equipment employed in such works or to the works themselves.

18. Navigation at night or in restricted visibility

- (i) Subject to the provisions of Byelaw 18(ii), the master of a vessel which is underway at night or in restricted visibility shall ensure that it shows either Navigation Lights or an all-round white light or two white lights giving the same coverage.
- (ii) A sailing vessel of less than 7 metres in length or a vessel under oars shall, if practicable, exhibit the lights prescribed in Byelaw 18(i) but, if it is not practicable to do so, the master of such vessel shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

19. Lights not to endanger navigation

- (i) No person shall knowingly or recklessly place or use on or near a waterway or its banks any light which is likely to mislead persons navigating the waterway or to endanger the safe navigation of vessels on the waterway.
- (ii) Except where the vessel is being operated by a public or local authority acting in a law enforcement or emergency role, the master of a vessel shall not, without the consent of the Commissioners, cause or permit the vessel at any time to have fitted to it or to show a blue flashing light.

20. Speed limits

Except when it is necessary for safe navigation in an emergency or with the consent of the Commissioners, complying with any conditions of such consent, or when the vessel is used for law enforcement purposes, no person shall navigate a vessel on or over a waterway at a speed exceeding 4 nautical miles per hour.

21. Vessels and apparatus affecting the safety of navigation or amenity

No person shall on a waterway, use:

- (a) any water skis, jet skis or any like equipment or apparatus or
- (b) any vessel which, in the reasonable opinion of the Commissioners, injuriously affects the safety of navigation or the amenity of the waterways.

22. Erection of structures etc.

- (i) No person, without the consent of the Commissioners, shall lay down, erect or construct or knowingly cause or permit to be laid down, erected or constructed any wire, rope, cable or chain, or any work or structure of any kind in, over, under or across a waterway. Provided that this Byelaw 22(i) shall not prevent such laying down, erection or construction in any boat yard or marina so long as the laying down, erection or construction does not obstruct the navigation of the waterway and shall not restrict, prevent, interfere with or prejudice the exercise of any existing or future statutory rights or powers.
- (ii) Without prejudice to Byelaw 22(i), no person, without the consent of the Commissioners, shall, in a waterway or on or through any bank of a waterway, construct or provide any berth, landing stage, gangway, mooring post or any other erection or installation for any vessel. Provided that this Byelaw 22(ii) shall not prevent the construction or provision of such structures in any boat yard or marina so long as the construction or provision of such works does not obstruct the navigation of the waterway.
- (iii) No person, without the consent of the Commissioners, shall place or leave any marker or buoy in place in a waterway.

- (iv) The master of a vessel or the owner of any object or thing shall:
  - (a) not cause or permit it to be stopped, grounded, sunk or placed so as to unreasonably impede the navigation of a waterway and
  - (b) where a vessel, object or thing is stopped, grounded, sunk or placed as aforesaid, cause the vessel, object or thing to be re-moored or re-positioned without delay, if required to do so by any person impeded or obstructed thereby or by an authorised officer.
- (v) If any person refuses, fails or neglects to re-moor or re-position a vessel, object or thing as required by Byelaw 22(iv), an authorised officer shall be entitled to do so and the Commissioners shall be entitled to recover the costs thereby incurred from the owner of the vessel or thing.

23. Interference with vessels

Except in an emergency, no person, other than an authorised officer acting in the execution of his duty, shall:

- (a) operate or attempt to operate the engine or in any way meddle with the machinery of any vessel without the permission of the master of that vessel or
- (b) go aboard any vessel without the permission of the owner or master of that vessel except as shall be necessary to move or moor another vessel or gain access to another vessel.

24. Mooring - General

- (i) No person shall moor a vessel on a waterway or to the banks of a waterway unless such vessel shall be properly and securely moored and shall be laid as close to and along the side of the mooring place as may be convenient.
- (ii) No person shall put out or affix any mooring or landing plank to, for or from any vessel from or to a bank of a waterway in such a location, manner or position as to impede or interfere with the free passage of persons or vehicles over and along the bank.
- (iii) The master of a vessel shall not, without the consent of the Commissioners, moor it:
  - (a) to any bridge or
  - (b) within 30 metres upstream or downstream of any Water Control Structure or within 10 metres upstream or downstream of any bridge or
  - (c) in any lock pen.

Provided that paragraphs (b) and (c) of this Byelaw 24(iii) shall not apply to any mooring properly carried out in the course of navigation, if the vessel is about to be taken through a lock.

- (iv) No person, without the consent of the Commissioners, shall cause or knowingly permit any vessel to be beached or to lie aground upon a bank of a waterway and to remain there

unattended. Provided that this Byelaw 24(iv) shall not apply to a vessel which is lawfully lying at a landing stage or mooring place.

- (v) The master of a power driven vessel moored at any landing stage or mooring place on a waterway shall ensure that its engines are not worked so as to cause injury or damage to the landing stage or mooring place or to a bank of the waterway or to any vessel or thing whatsoever.
- (vi) No person shall moor any vessel in such a location, manner or position so as unreasonably or unnecessarily to obstruct or unduly restrict the passage of other vessels in navigating a waterway or their loading or unloading.
- (vii) No person, without the consent of the Commissioners, shall moor any vessel at any landing stage or mooring place vested in, belonging to or administered by the Commissioners and provided solely for the operational use of the Commissioners.
- (viii) No person shall moor any vessel at any place where the Commissioners have prohibited mooring by a notice displayed at or near that place.
- (ix) No person, without the consent of the Commissioners, shall moor a vessel alongside another vessel.
- (x)
  - (a) Where any vessel, whether on a waterway or its banks, is moored, situated or lying in such a position as is likely to interfere with the exercise of any statutory function of the Commissioners or of any public or local authority, the owner of such vessel shall, within seven days after receipt of notice to that effect from the Commissioners, move the vessel for such time as the Commissioners or that authority may reasonably require for the completion of the exercise of such function and, if the owner fails to do so, then the Commissioners shall be entitled to move the vessel as necessary. The Commissioners may, if the vessel was not lawfully moored at the time of its removal, recover the costs thereby incurred from the owner of the vessel.
  - (b) Where any vessel is removed by the owner or the Commissioners pursuant to this Byelaw 24(x), the Commissioners shall, if the vessel was lawfully moored at the time of the removal, make available a suitable temporary mooring for the vessel until the completion of the works or operations which required its removal and replace the same as soon as practicable after the completion of the said works or operations.
  - (c) If the Commissioners, in accordance with this Byelaw 24(x), remove a vessel to a place not readily visible from the place from which it was removed, they shall, as soon as practicable after the removal, serve on the owner a notice that they have exercised the powers of this Byelaw, stating the place to which the vessel has been removed and, as soon as practicable after the replacement of the vessel, a notice that the vessel has been replaced.
  - (d) The requirement under this Byelaw 24(x) to serve notice on the owner of a vessel shall not have effect if the Commissioners, after reasonable inquiry, are unable to establish the name and address of the owner or for any other sufficient reason are unable to serve the notice.

- (e) The removal or replacement by the Commissioners under this Byelaw 24(x) of any vessel which, at the time of the removal, was lawfully moored shall be at the cost and risk of the Commissioners, and, for the purposes of this Byelaw, a vessel shall not be deemed to be unlawfully moored solely by virtue of its being moored or allowed to remain in contravention of a notice served under Byelaw 24(x)(a).
- (f) For the purposes of this Byelaw 24(x), the person last registered with the Commissioners as the owner of the vessel or deemed, by virtue of arrangements made under section 6 (Arrangements with other authorities) of the 2018 Act, to be registered with the Commissioners as the owner of the vessel shall be conclusively deemed to be the owner of such vessel
- (xi) No person shall prevent, obstruct or hinder the lawful mooring of any vessel.
- (xi) The master of a vessel who causes that vessel to be moored or to remain stationary during the course of ordinary navigation shall ensure that no unreasonable annoyance is caused to any occupier of a riparian residence by reason of the loitering or delay of that vessel.

## 25. Short stay moorings

- (i) Subject to Byelaw 25(ii), no person, without the consent of the Commissioners, shall use any mooring place on a waterway which is provided for the use of, or is generally available to, the public for a period or aggregate periods longer than the maximum period or aggregate periods specified at such mooring place for the use of that place by any vessel and a 'place' in this Byelaw 25(i) includes any other place within 500 metres thereof which is also subject to a notice displayed under the Byelaw.
- (ii) Byelaw 25(i) shall not apply if a vessel uses in an emergency and only for the duration of the emergency, a mooring place for a period or aggregate periods longer than the maximum period or aggregate periods specified at such mooring, where the Commissioners are, within 24 hours of the occurrence thereof, notified both of the emergency and its anticipated duration.

## 26. Houseboats

No person, without the consent of the Commissioners, shall moor a houseboat in a waterway or to a bank of a waterway. Provided that this Byelaw shall not apply to any houseboat which is in the course of being moved from one place of lawful anchorage to another place of lawful anchorage or which is lawfully lying in or at a marina or mooring place.

## 27. Locks and Water Control Structures

- (i) No person shall, at any lock:
  - (a) open or close or attempt to open or close the lock gate except by the means provided for that purpose or before the water is level on both sides of the gate.
  - (b) operate or leave open any lock gate so as to risk causing any hazard or unreasonable hindrance to other users of the waterways or their banks, towpaths or footpaths.
  - (c) operate any sluice until the lock gates are closed.

- (d) operate or leave open any sluice so as to waste water.
  - (e) operate any sluice otherwise than by means of the handle or other device normally used for that purpose.
  - (f) operate any sluice so as to force or attempt to force any vessel out of a lock by a flush of water.
- (ii) Save in an emergency, no person, without the consent of the Commissioners or other lawful authority or having been expressly requested by an authorised officer to do so, shall use, operate or meddle or attempt to use, operate or meddle with any Water Control Structure or with the gear or mechanism at any such Structure. Provided that this Byelaw 27(ii) shall not apply to persons directly involved in the proper navigation of a registered vessel properly operating such gear or mechanism only when and for the purposes of passing such vessel through any lock under the control of the Commissioners, other than Salters Lode Lock and Stanground Lock.
  - (iii) No person shall wind or coil any rope, chain or other fastening from a vessel around or fix or fasten the same to any lock or lock gate or any other part of the lock mechanism except to the bollards or other equipment specifically provided for the purpose of bringing up and stopping vessels.
  - (iv) The master of a vessel passing or intending to pass through any lock on the waterways or any channel into or out of the same:
    - (a) shall not cause such vessel to remain in the lock or channel any longer than is necessary for the convenient passage thereof or
    - (b) shall not attempt to enter any such lock unless he shall reasonably believe there to be sufficient water to float and carry such vessel through such lock.
  - (v) The master of a vessel approaching, entering, passing through or leaving any lock shall cause that vessel to be navigated at such speed and controlled in such manner (including, after entering the lock, ensuring that the vessel is adequately controlled by mooring lines from the bank to the vessel) so as at all times to prevent that vessel from obstructing or running foul of the lock or any part thereof or any other vessel approaching, entering, passing through or by or leaving that lock.
  - (vi) The master of a sailing vessel approaching, entering, passing through or leaving any lock shall ensure that his vessel shall not enter or leave the lock while his sail is hoisted nor shall he hoist any sail during the time his vessel continues to be in the lock.
  - (vii) No person shall fill with or empty of water any lock for the admission of any vessel to the lock when there is another vessel approaching the lock from the opposite direction and within two hundred metres thereof and the level of water in the lock is suitable for the approaching vessel to enter the lock.
  - (viii) No person shall exclude from passage through any lock any vessel proceeding in the same direction as a vessel already in the lock, prior to the operation of the lock. Provided that such vessels can reasonably be accommodated at the same time within the lock.

28. Towing

- (i) Except in an emergency or with the consent of the Commissioners, vessels towed on the waterways shall be placed astern or ahead of the towing vessel and securely and properly fastened to the towing vessel and not more than one vessel shall be towed at the same time.
- (ii) Save as provided in Byelaw 28(i) the master of any vessel underway on a waterway shall ensure that the vessel is navigated singly and separately.

29. Swimming, diving and washing in a waterway

No person shall, save in an emergency:

- (a) dive or jump into a waterway or onto any vessel on a waterway from any Water Control Structure or from any bridge.
- (b) jump on to any vessel on a waterway from any place so as to cause obstruction, nuisance or annoyance or the risk of injury to persons or property.
- (c) bathe in a waterway.
- (d) without the consent of the Commissioners, dive into or swim or engage in any diving operations in a waterway.

30. Removal of weed ropes etc.

No person, without the consent of the Commissioners, shall interfere with, damage, destroy or remove any weed rope, boom or similar apparatus placed by or with the authority of the Commissioners in a waterway. Provided that it shall not be an offence under this Byelaw 30 for a person to interfere with or remove such rope, boom or apparatus for the purpose of and to the extent that such interference or removal is necessary for the passage of a registered vessel by or over the same, so long as the said rope, boom or apparatus is properly replaced or reinstated immediately after such passage.

31. Damage to equipment, notices etc.

No person, without the consent of the Commissioners or other lawful authority, shall, while using or while in, upon or about a waterway or its banks:

- (i) interfere with, deface, damage, destroy, disturb, move or remove:
  - (a) any notice, placard or notice board provided, erected or exhibited by the Commissioners or permitted by the Commissioners to be provided, erected or exhibited on a waterway or its banks.
  - (b) any life saving equipment on a waterway or its banks (whether provided by or belonging to the Commissioners or not).

- (c) any water point, sanitary or refuse disposal station, litter receptacle or other facility relating to the waterways or their banks (whether provided by or belonging to the Commissioners or not).
  - (d) any fence, post, wall, hedge or gateway on the banks of the waterways (whether belonging to the Commissioners or not)
  - (e) any flowering or other plant or any shrub, vegetation or tree.
- (ii) take, destroy, search for or disturb the nest or egg of any bird or kill, injure, take, catch or trap or attempt to kill, injure, take, catch or trap any animal or bird. Provided that nothing in this Byelaw 31(ii) shall extend to prevent any person from lawfully killing vermin

32. Cutting trees etc. obstructing a waterway

- (i) If the navigation of a waterway is obstructed by any tree, bush, shrub or projection, the occupier of the land on which such tree, bush, shrub or projection grows or is fixed shall, upon the receipt of a notice served on him by the Commissioners, cut, prune or lop such tree, bush or shrub or remove such projection so that navigation is not obstructed thereby.
- (ii) If such occupier shall not comply with such notice within a reasonable time to be specified therein, the Commissioners may cut, prune or lop such tree, bush or shrub or remove such projection and recover the costs thereby incurred from such occupier.

33. Affixing of notices

- (i) No person without lawful authority shall affix any bill, placard or notice to or upon any Water Control Structure.
- (ii) No person, without the consent of the Commissioners, shall in, on or adjacent to a waterway or on the bank of a waterway knowingly display or cause to be displayed any notice or sign containing any statement relating to the use of the waterway or its banks.

34. Litter and refuse etc.

- (i) No person shall leave or cause or permit to be left any refuse, rubbish or litter on the bank of a waterway, otherwise than in a receptacle provided for such refuse, rubbish or litter.
- (ii) No person shall deposit, throw, discharge or put or cause or permit to be deposited, thrown, discharged or put or negligently or wilfully cause or permit to fall into a waterway:
  - (a) any refuse, rubbish or litter or
  - (b) any object or matter of any kind which might in any way cause obstruction to the navigation of the waterway.
- (iii) The master of a vessel shall not load or discharge any cargo, ballast, fuel, refuse or rubbish, any part of which is liable to fall into a waterway in the course of such loading or discharging, without taking such precautions as shall effectively prevent the cargo, ballast, fuel, refuse or rubbish from falling into the waterway.

- (iv) Any person who, contrary to the provisions of Byelaws 34(i)–(iii), leaves, deposits, throws, discharges, puts or loads or causes or permits to be left, deposited, thrown, discharged, put or loaded or causes or permits to fall into or in a waterway any cargo, ballast, fuel, refuse, rubbish or litter or any such object or matter as is referred to in those Byelaws shall, upon being required by the Commissioners by notice so to do and so far as such removal is practicable, remove the same at his own expense within such reasonable time as may be specified in the notice and, in default thereof, the Commissioners may do so and recover the costs thereby incurred from that person.

35. Use of vessels with sanitary appliances

- (i) Subject to the provisions of Byelaw 35(iii), the owner of a vessel shall not use or knowingly permit to be used on a waterway any vessel provided with a sanitary appliance of such design that polluting matter normally passes or can pass into a waterway.
- (ii) Subject to the provisions of Byelaw 35(iii), where any vessel is fitted with a sanitary appliance, such appliance shall be so designed, constructed and at all times maintained as necessary to prevent any such passage as aforesaid.
- (iii) (a) The owner of every vessel on a waterway, if such vessel is fitted with a sanitary appliance so designed or constructed as to permit the passage into the waterway of polluting matter, shall, as soon as practicable, give notice to the Commissioners, specifying the nature of such appliance. The said owner shall also, upon being requested by the Commissioners so to do, take such steps by way of sealing or otherwise as may be reasonably necessary for preventing the passage into the waterway of polluting matter from the vessel, so long as the vessel remains on the waterways. So long as the vessel remains on the waterways, no interference or alteration shall be made with the sealing or other steps so taken as aforesaid, except with the consent of the Commissioners and
  - (b) The master of the vessel shall, at the request of an authorised officer (on production, if so requested, of evidence of his authority), afford reasonable facilities to that officer for the inspection of such sealing and other steps.
- (iv) No person shall discharge or cause or permit to be discharged any polluting matter into the waterways from any vessel or from any sanitary appliance used thereon.

36. Fishing

No person shall fish in a lock pen or within 30 metres upstream or downstream of any lock gate on a waterway or at any other place where fishing is for the time being prohibited by the Commissioners and so indicated by notice publicly displayed.

37. Lighting of fires

No person shall, while using or while in, on or about a waterway or its banks, light, maintain, throw down, place or leave any fire or any combustible, flaming, smouldering or burning substance, matter or thing in any place where the same may cause danger or damage to property of any kind (including the banks of the waterways) or annoyance to any reasonable person.

38. Harassment

- (i) No person shall do any act or thing so as to prevent for an unreasonable time any other person lawfully exercising his rights on a waterway or its banks or enjoying the facilities thereof or so as to harass him.
- (ii) Without prejudice to the generality of Byelaw 38(i) no person shall, while using or while in, upon or about a waterway or its banks:
  - (a) throw or propel, permit to be thrown or propelled or cause to fall any stone, missile or any other thing that may strike or fall upon any person, vessel, animal or bird on a waterway or on its banks.
  - (b) shoot or discharge any gun, firearm or air weapon or let off any firework or similar device on, over or in the direction of a waterway or its banks so as to endanger or harass persons exercising their lawful rights thereon.
- (iii) Save in an emergency, the master of a vessel shall not station his vessel on a waterway in such a manner or position as would risk obstructing, impeding or interfering with any boat-race, regatta, procession, vessel launching event or function or endangering the safety of persons assembling on a waterway or its banks.

39. Excessive noise etc

No person shall, while using or while in, on or about a waterway or its banks:

- (i) cause or permit a generator or engine or other like equipment or machinery to be operated in connection with any vessel when the same is moored:
  - (a) between the hours of 8pm and 8am or
  - (b) at any other time so as to cause unreasonable disturbance or annoyance to other persons on or enjoying the amenities of the waterway or
  - (c) at any time, in the case of the operation of the engine of a vessel. without ensuring that the propeller of the vessel is effectively prevented from rotating.
- (ii) use or permit to be used any radio, record player, tape recorder, cassette player, compact disc player or other similar device, television receiver or musical instrument, horn, whistle or bell or any other device or thing whatsoever, resulting in the broadcasting or transmission of any noise, so as to give reasonable cause for annoyance to other persons and no person aboard or getting on to or landing from any vessel shall, without reasonable excuse, make any noise so as to give such cause for annoyance.

40. Authorised officers

- (i) An authorised officer producing, if requested, evidence of his authority, may give a direction under these Byelaws to the master of a vessel for regulating or requiring the movement, mooring or unmooring of a vessel or for regulating the manner in which a vessel takes on or discharges cargo, fuel, water or stores and the master is required to obey and conform to such directions.

- (ii) No person shall hinder or obstruct an authorised officer in the execution of his powers or duties.
- (iii) In response to a demand made by an authorised officer, producing, if requested, evidence of his authority:
  - (a) the master of a vessel on a waterway shall give to the officer particulars of that master's name and address together with such particulars as are available to the master to verify the master's identity, and (if known to the master) the name and address of the owner of the vessel.
  - (b) the master of a vessel on a waterway shall produce for inspection by the officer any registration certificate issued in respect of the vessel and any exemption granted under the navigation Acts or these Byelaws and in force for the time being in relation to the vessel.
  - (c) the owner or master of any vessel on a waterway shall give to the officer such information as is available to that person respecting the construction and equipment of the vessel and its compliance with the requirements of Byelaw 7.
  - (d) the owner or master of any vessel shall give to the officer such information as is available to that person regarding any policy of insurance in force in relation to the vessel.
- (iv) Any person who fails to give or produce any information or document required by an authorised officer under Byelaw 40(iii) must, if then so required by the officer, give or produce that information or document within 28 days by presenting it in person at the principal office of the Commissioners or by sending it by post within that period to that office.
- (v) Any person who fails, without reasonable cause, proof of which lies on that person, to give or produce any information or document demanded under Byelaws 40(iii) or 40(iv) or, in giving or producing it, makes any statement which that person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and for the purposes of this Byelaw 40(v) a person is to be treated as making a false statement if that person produces, furnishes, signs or otherwise makes use of a document that contains a false statement.
- (vi)
  - (a) The master of a vessel shall permit an authorised officer producing, if requested, evidence of his authority, to board and enter the vessel at any reasonable time for the purpose of ascertaining and ensuring compliance with the navigation Acts and these Byelaws and shall afford the officer reasonable facilities for this purpose.
  - (b) An authorised officer shall not board or enter upon any vessel in accordance with this Byelaw 40(vi) unless either not less than 24 hours' notice of such entry has been given to the master of the vessel; or the officer has reason to believe that the vessel may be unsafe and that an immediate inspection is required.
- (vii) An authorised officer producing, if requested, evidence of his authority, may require any person on a waterway or its banks who is doing an act which, without the consent of the Commissioners, is prohibited by the navigation Acts or these Byelaws to produce evidence of such consent and if the person is unable to do so then the officer may require him to furnish his name and address and it shall be an offence to fail to do so.

- (viii) An authorised officer producing, if requested, evidence of his authority, may require any person on a waterway or its banks who is doing an act which is prohibited by the navigation Acts or these Byelaws to furnish his name and address and it shall be an offence to fail to do so.
- (ix) No person shall, while using or while in, upon or about a waterway or its banks, use any abusive, threatening or indecent language or conduct himself in a threatening or offensive manner to any authorised officer whilst employed in the due execution of his duties.
- (x) No person not duly authorised by the Commissioners shall exercise or purport to exercise any powers of the Commissioners in relation to the waterways or their banks.

#### 41. Consents

- (i) Where by or under these Byelaws, any person is required to refrain from doing any act without the consent of the Commissioners, such consent shall not be unreasonably withheld and, if given, may be either unconditional or subject to such reasonable conditions as the Commissioners may consider appropriate.
- (ii) Where the Commissioners give their consent under these Byelaws for the doing of any act subject to any conditions, a breach of the conditions shall be deemed, as regards liability to a fine, equivalent to the doing of the act without the required consent.
- (iii) Any application under these Byelaws for the consent of the Commissioners to the doing of any act or to any matter or thing shall be made in writing and the applicant shall furnish therewith all such plans, drawings and other relevant information in relation to such application as the Commissioners may reasonably require.

#### 42. Determination of disputes

- (i) Where, by or under these Byelaws, any person is required by a notice given by the Commissioners to do any work to the satisfaction of the Commissioners or to comply with any directions of the Commissioners, he may, within 7 days after the service of such notice on him, give to the Commissioners a counter-notice objecting to either the reasonableness of or the necessity for such requirement or directions and Byelaw 42(iv) shall then apply. Where such a counter-notice has been given to the Commissioners, the operation of the notice shall be suspended until either agreement has been reached or the dispute has been determined in accordance with Byelaw 42(iv).
- (ii) Where any dispute arises as to whether the consent of the Commissioners under these Byelaws has been unreasonably withheld or as to whether any condition subject to which such consent is granted is unreasonable, Byelaw 42(iv) shall apply.
- (iii) Where, by or under these Byelaws, any person is required by a notice given by the Commissioners to do any work to the satisfaction of the Commissioners or to comply with any directions of the Commissioners and any dispute subsequently arises as to whether such work has been executed or such directions have been complied with, Byelaw 42(iv) shall apply.
- (iv) Where this Byelaw applies, any dispute or question arising shall, in default of agreement between the parties, be referred to mediation and where a dispute or question is so referred:

- (a) the mediator is to be appointed by the agreement of the Commissioners and the other party or, failing agreement, by the President of the Institute of Civil Engineers
- (b) the mediator is to decide the procedure for the mediation and
- (c) within seven days of the conclusion of the mediation, the mediator is to provide to the Commissioners and the other party a report describing the outcome of the mediation which shall be binding on the Commissioners and the other party.

43. Byelaw offences

A person who breaches these Byelaws is guilty of an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

44. Defence

- (i) In any proceedings for a breach of these Byelaws it is a defence for the person charged to prove:
  - (a) that all reasonable precautions were taken and all due diligence exercised to avoid the commission of such an offence or
  - (b) that there is a reasonable excuse for the act or failure to act.
- (ii) If, in any case, the defence provided by Byelaw 44(i)(a) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged is not, without leave of the court, entitled to rely on that defence unless, within a period ending seven clear days before the hearing, the person charged has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as is then in the possession of the person charged.

45. Application of Byelaws in certain circumstances

- (i) Where a person breaches these Byelaws but that breach is due to the act or default of some other person, that other person is guilty of an offence and may be charged with, and convicted of, the offence by virtue of this Byelaw whether or not proceedings for the offence are taken against any other person.
- (ii) If an offence committed by a body corporate is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly and ‘‘director’’ in relation to any body corporate whose affairs are managed by its members, means any member of the body.
- (iii) If an offence committed by a partnership is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a partner, or any person who was purporting to act in such capacity, that person as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

- (iv) If an offence committed by an unincorporated association is shown to have been committed with the consent or connivance of or to be attributable to any neglect on the part of an officer of the association or a member of its governing body, that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

The Common Seal of the Middle Level Commissioners was affixed to these Byelaws in pursuance of resolution B3533(i) on the Fourteenth day of April 2020 in the presence of:

Chairman

Chief Executive

**MIDDLE LEVEL COMMISSIONERS**

**PROTOCOL ON THE USE OF POWERS TO  
REMOVE VESSELS FROM THE MIDDLE  
LEVEL SYSTEM**

Middle Level Offices

85 Whittlesey Road

March

Cambridgeshire

PE15 0AH

16<sup>th</sup> October 2020

# **Protocol on the use of Powers to remove vessels from the Middle Level System**

## **Introduction**

The Middle Level Commissioners are responsible for the regulation of navigation on the Middle Level Inland Waterways, between the River Nene and River Great Ouse.

Regulation and Enforcement is a necessary part of the powers of regulation and includes the power to remove vessels from our waterways which are unregistered, sunk, stranded, abandoned or left or moored without lawful authority.

Section 16 of the Middle Level Act 2018 provides that the Commissioners must prepare, publish and maintain a protocol on the use of any powers to remove vessels. The Protocol must contain the following:

1. Factors which will be taken into account by the Commissioners when deciding how soon you take action after a minimum time left specified by the Act.
2. Specify action to be taken by the Commissioners to ensure that removal powers are exercised as a last resort.
3. Include in the Protocol other measures the Commissioners think appropriate to ensure that their removal powers are exercised with sensitivity.
4. Specify action to be taken to ensure that persons acting under Section 17 of the Act – the Commissioners authorised offices are aware of and will comply with the provisions of the Protocol.

## **Background to the requirement to remove Vessels.**

1. If a vessel is unregistered, sunk, stranded, abandoned or left moored without lawful authority, the Commissioners can serve notice on the owner of the vessel to register or remove their vessel from Waterway. In an emergency situation or if the vessel is obstructing navigation, the Commissioners may remove the vessel without serving any notice.
2. If the vessel owner fails to comply with the notice, the Commissioners have the power to remove (or relocate) the vessel itself and seek to recover the costs from the owner. If the owner does not pay the costs and/or reclaim their vessel within the period specified in the Act, the vessel becomes the property of the Commissioners.
3. As part of this function the Commissioners become responsible for keeping the vessel and its contents in a safe and secure condition once removed or relocated until such a time that the costs are paid or failing that it becomes the property of the Commissioners.

## **Boat Removal Process**

The removal of a Vessel from the Middle Level Waters will only be exercised as a last resort and the Commissioners will seek to engage with Boat owners both formally and informally to avoid the necessity for the removal of vessels.

The factors which the Commissioners will take into account before exercising their powers of removal are:

1. Is there an emergency situation which requires a vessel to be removed from the Water?
2. Do the Commissioners have the details of the current owner of the vessel (with contact details) and vessel name?
3. Are there reasons for the non-registration of the vessel which have been notified to the Commissioners?
4. Are there alternatives to vessel or boat removal such as a warning letter, formal caution or prosecution?
5. Is the vessel owner a repeat offender?
6. Have the Commissioners previously prosecuted the vessel owner for non-registration?
7. Have all attempts to contact the boat/vessel owner been exhausted?
8. Is anyone living or suspected of living on the vessel and if so, has personal contact been made with the resident boat owner?
9. Have the personal circumstances of the vessel owner been considered and taken into account.
10. Does the vessel owner/occupant have any vulnerability due to disability, age, illness or financial circumstances, unemployment, learning difficulties or mental health needs that may need referred for help and assistance to other Agencies? The Commissioners will work with vulnerable boat owners and signpost them to Agencies/Organisations who can provide support services to avoid boat removal.
11. For those in need of the support, the Commissioners will at their discretion offer the following: (This is not an exhaustive list)
  - Flexible payment options
  - Permitted overnight stays on moorings on medical or other appropriate grounds.
  - Provide a list of Organisations who can offer free impartial and non-judgemental advice.
  - Putting the boat owners in touch with nationally recognised boating organisations/waterways chaplains who have experience to give advice and assistance.

**THE ABOVE SERVICES MAY NOT BE OFFERED in these instances:**

- There are no vulnerabilities or support needs that have been identified.
- Non-engagement or refusal of any signposting to support agencies.
- Breach of the Terms and Conditions of the Licence that are not related to any vulnerabilities.

**Procedure for the removal of boats**

**1. Stranded, Grounded and Sunken Vessels and Vehicles**

If a vessel is sunk in any waterway, the owner of the vessel must as soon as possible raise and remove it and remove any obstructions caused by the sinking and raising of the vessel. If the owner of the vessel fails to raise and remove the boat, the Commissioners may raise and remove the vessel and any obstruction. The Commissioners can at any time move or remove without notice a vessel if it is causing obstruction or is a source of danger, pursuant to the byelaws made under Section 11 or Section 51 of the Middle Level Act 1874. The Authorised Officer of the

Middle Level Commissioners will attach a Notice to the vessel advising that the vessel should be removed within 24 hours of the Notice.

## **2. Stranded or Abandoned Vessel in the Waterway**

The Authorised Officer shall affix a Notice to the vessel advising that the vessel should be removed within 14 days of the date of the Notice. The Authorised Officer should make reasonable enquiries to ascertain the owner and contact them to advise them to remove the vessel. This should be followed by a written notice served by Post to the owner of the vessel or the owner cannot be ascertained after reasonable inquiry, the notice may be served by leaving it conspicuously attached to the vessel.

## **3. Vessels without lawful authority left or moored in any waterway**

A vessel is left moored without lawful authority if:

- The vessel is unregistered and the charges for use of any Middle Level water have not been paid.
- The position or mooring of the vessel constitutes a trespass or
- The vessel obstructs navigation in the waterways

The Authorised Officer will affix a Notice to the vessel and then write to the owner of the vessel giving no less than 28 days notice to the owner of the vessel, advising that the vessel should be removed or registered.

4. Following service of written notice, the Navigation Officer will take steps to establish occupation of the vessel and depending on the response to the 14 day or 28 day notice, the Navigation Officer will take appropriate steps to encourage registration of the vessel or removal of the vessel from the Middle Level Waterways or that particular mooring.
5. If the matter is unresolved and the vessel is uninhabited then a final written notice is sent to the owner of the vessel, or placed again upon the vessel if the owner cannot be located through reasonable enquiries, advising that the vessel will be removed after a further 28 days. If it is discovered that the vessel is inhabited by a liveaboard owner – the appropriate 14 day or 28 day notice is sent to the vessel owner and file submitted to the Solicitor and Assistant Clerk for further action and if unresolved proceedings be commenced for a Court Order.

## **Recovery of Costs**

The Commissioners may recover from the owners of any vessel all expenses reasonably incurred by the Commissioners in respect of raising, removal and storage of the vessel and where appropriate the cost of cleaning up any contamination caused by the vessel.

If any vessel which is removed from the Waterways is not within six weeks of its removal by the Commissioners proved to the reasonable satisfaction of the Commissioners to belong to any claimant, the vessel and any chattels and goods on the vessel shall vest in the Commissioners.

Within six months of removal, if a claim is made to the vessel, by a person who proves to the reasonable satisfaction of the Commissioners that they are the owner of the vessel the Commissioner must:

1. If vessel is unsold, permit the owner to retake it upon payment of the expenses incurred by the Commissioners in removing the vessel.
2. If the Vessel has been sold, pay the owner the amount of proceeds of sale after deducting the expenses of removal of the vessel and where the proceeds of the sale are insufficient to reimburse the Commissioners those expenses, the deficiency may be recovered by the Commissioners.

### **Residential Liveboard Boats**

In the case of Residential boats which are occupied as a main or only residence, the personal circumstances of the owner of the vessel will be taken into account and vessels only removed as a last resort and following action to obtain a court order. The Commissioners will seek to work with other authorities to provide information and support including liaison with the appropriate local authority and housing authority who have a duty of care to provide services – Housing Social Services benefit/council tax advice and other support agencies. Vessel removal will only ever be undertaken in these circumstances when all other avenues have been exhausted.

### **Application of the Protocol**

This protocol is applicable to all Middle Level Commissioners, employees of the Commissioners, and Contractors who come into contact with vessel owners on the Middle Level Waterways. Training on the protocol will be provided to all appropriate staff of the Commissioners and their Contractors. The Middle Level Commissioners officers will at all times be professional, courteous and helpful in their conduct of regulatory or enforcement matters, and wherever possible will seek to work with boat owners towards compliance rather than formal enforcement action.