

TRANSPORT AND WORKS ACT 1992

MIDDLE LEVEL COMMISSIONERS (NAVIGATION AND MISCELLANEOUS PROVISIONS) ORDER 200

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Transport and Works Act 1992

Middle Level Commissioners (Navigation and Miscellaneous Provisions) Order 200

PART I

PRELIMINARY

1. Short Title

This Order may be cited as the Middle Level Commissioners (Navigation and Miscellaneous Provisions) Order 200 and shall come into operation on

2. Interpretation

In this Order, unless the subject or context otherwise requires, the following expressions shall have the meanings hereby assigned to them:-

- “authorised officer” means any person authorised in writing by the Commissioners to carry out the functions of the Commissioners in respect of navigation under the provisions of the Nene Navigation Act and the Middle Level Acts and of this Order and of any byelaws made under article 13 (Byelaws) of this Order.
- “Commissioners” means the Middle Level Commissioners.
- "Commissioners' District" means the area in respect of which drainage rates may be made and special levies may be issued by the Commissioners under the provisions of the Land Drainage Act 1991 and the Middle Level Acts.
- "master" means the person taking or having (whether lawfully or not) for the time being the command, charge or management of a vessel.
- "Middle Level Acts" means the Acts referred to in the First Schedule to the Middle Level Act 1874 together with the Middle Level Act 1874.
- “Navigation Lights” shall mean in respect of any vessel:-
- (i) 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 22.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side and
 - (ii) 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

(iii) 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

(iv) 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 specified in (i)-(iv) above shall have an intensity sufficient to be visible at a minimum range of one half of a nautical mile.

"Navigation Waterways"	means the waterways in respect of which the Commissioners are the navigation authority and which are listed in the First Schedule and includes all Water Control Structures in, on or on the banks of such waterways and any lake, pit, pond, marina or other substantially enclosed water adjacent to such waterways and from which any vessel may be navigated (whether or not through a lock or other similar work) into the waterways.
"Nene Navigation Act"	means the Act of the twenty-seventh year of King George II (1753) cap.12.
"night"	means the period between sunset and sunrise.
"owner"	includes (a) in relation to any vessel, the master or hirer and (b) in relation to any building or structure, the tenant or other occupier and the person defined as such in the Public Health Act 1936.
"polluting matter"	means sewage or any other offensive or injurious matter whether solid or liquid.
"power driven vessel"	means a vessel being propelled by machinery and excludes vessels powered by sail or by oar.
"the Chief Executive"	means the chief executive for the time being of the Commissioners and includes any person authorised to exercise his functions.
"use"	in relation to a vessel on a Navigation Waterway, includes launching a vessel onto a Navigation Waterway, keeping or mooring a vessel on a Navigation Waterway, navigating a vessel on a Navigation Waterway and letting a vessel for hire on a Navigation Waterway.

"vehicle"	includes every description of vehicle, apparatus, machinery or equipment used or capable of being used as a means of transportation on land.
"vessel"	includes any cruiser, narrowboat, yacht, houseboat, randan, wherry, skiff, gig, dinghy, shallop, punt, canoe, ship, boat, lighter, raft, float, float of timber or craft whatsoever however propelled or navigated and without prejudice to the generality of the foregoing includes any amphibious craft.
"Water Control Structure"	means any sluice, slacker, floodgate, lock, weir, dam, pump, pumping machinery, pipe, culvert, valve, paddle, penstock, outfall structure or other structure or appliance for introducing water into or removing water from a Navigation Waterway or for controlling, regulating or affecting the level of the water or the flow of water in into or out of a Navigation Waterway and any aqueduct.
"Wisbech Canal Act"	means the Act of the thirty-fourth year of King George III (1794) cap 92.

PART II

NAVIGATION WATERWAYS

3. General Powers of the Commissioners in relation to Navigation Waterways

- (1) In the performance of their functions as a navigation authority under the Nene Navigation Act, the Wisbech Canal Act, the Middle Level Acts and this Order the Commissioners may develop, improve, preserve and manage the Navigation Waterways and their banks as places for recreation and leisure pursuits.
- (2) In the exercise of their powers under article 3(1) the Commissioners may maintain and improve existing works, buildings and other facilities and construct, lay out, equip and maintain all such further works, buildings and facilities, provide all such facilities, equipment and services and provide or do all such other acts or things as they may think necessary or expedient for that purpose.
- (3) Without prejudice to the generality of articles 3(1) and 3(2) the Commissioners may place, lay down, maintain and use moorings in the Navigation Waterways or on their banks, on land owned by or leased to the Commissioners or in which they have a sufficient interest and on any other land with the consent of the owner or lessee of such land.
- (4) The powers conferred upon the Commissioners by article 3(3) may be exercised notwithstanding interference with public rights of navigation.

4. Charges

- (1) The Commissioners may fix and recover reasonable charges for their services and facilities in respect of the Navigation Waterways and their banks and make the use of

those services and facilities subject to such reasonable terms and conditions as they think fit.

- (2) Without prejudice to the generality of article 4(1), the services and facilities referred to in that article include:-
 - (a) the use of any Navigation Waterway by any vessel and
 - (b) the power to impose charges for the use by any vessel of a mooring place on a Navigation 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.
- (3) No charge shall be payable under article 4(2)(b) if a vessel uses in an 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.
- (4) Notice of such charges, stating the amounts of such charges, the date on which they were made and the period in respect of which they are in force shall be given by the Commissioners within twenty eight days of their being made, by publishing such notice in one or more newspapers circulating within the Commissioners' District.
- (5) A list showing the charges which are for the time being in force shall be displayed at one or more convenient places on or adjacent to the Waterway and copies of the list shall on request be supplied by the Commissioners free of charge.
- (6) No charge shall be payable in respect of the use of a Navigation Waterway by a vessel belonging to or employed in the service of any authority or body for the purpose of the exercise of any functions conferred upon that authority or body by statute.

5. Arrangements with other Authorities

The Commissioners may at any time and from time to time enter into arrangements with any other authority which is authorised to require registration of vessels navigating any waterway under the jurisdiction of that authority for the purpose of integrating the administration of the provisions of this Order and of any Byelaws made under article 13 (Byelaws) of this Order regarding the registration of vessels and/or the collection of charges with the administration by that authority of their provisions regarding the registration of vessels and/or the collection of charges in respect of vessels of the same class or description, and without prejudice to the generality of the foregoing any such arrangements may provide -

- (a) for treating registration certificates issued by one of the parties to the arrangements as registration certificates issued by the other and a vessel registered by one of the parties to the arrangements as registered by the other;
- (b) for treating distinguishing marks or numbers assigned to a vessel registered by one party to the arrangements as having been assigned to that vessel by the other; and

- (c) for apportioning any charges between the parties to the arrangements.

6. Temporary Closure of Navigation Waterways

- (1) Without prejudice to the provisions of articles 7 (Closure of Locks) and 8 (Ice Skating) of this Order the Commissioners may temporarily prohibit, restrict or regulate the use of a Navigation Waterway for any of the following purposes:-
 - (a) the construction, improvement, maintenance or alteration of any Navigation Waterway or Water Control Structure or other work in, on, under, over or adjoining the Waterway; or
 - (b) to facilitate the holding of functions in connection with the use of the Waterway as a place of recreation and for leisure pursuits provided that the Commissioners shall not prohibit, restrict or regulate the use of a Navigation Waterway for such purpose for more than one half-hour in any period of one hour or for more than eight periods each of one half-hour in any period of twenty-four hours.
- (2)
 - (a) Before exercising their powers under article 6(1) the Commissioners shall, except in an emergency, publish a notice in one or more local newspapers circulating in the Commissioners' District.
 - (b) The notice shall be published not less than 28 days before the powers are to be exercised and shall state the extent to which, the period during and the purpose for which the use of the Navigation Waterway is to be prohibited, restricted or regulated.
- (3) A copy of the notice published under article 6(2) shall be conspicuously displayed in such one or more places on or adjacent to the Navigation Waterway to which it relates and in such other place or places as the Commissioners consider appropriate for bringing its contents to the notice of persons using the Waterway.

7. Closure of Locks

- (1) Notwithstanding the provisions of articles 6 (Temporary Closure of Navigation Waterways) and 8 (Ice Skating) of this Order the Commissioners may direct that Stanground and Salters Lode Locks shall be closed to navigation on Christmas Day or at night or on any one day each week (not being a Saturday or a Sunday and not including Maunday Thursday, Good Friday and Easter Monday) between 1st October in one year and 31st March in the next year (both dates inclusive) as the Commissioners may determine.
- (2) No person shall use, interfere with, open or close any lock or its mechanism when such lock shall be closed to navigation in pursuance of article 7(1).

8. Ice Skating

- (1) Notwithstanding the provisions of articles 6 (Temporary Closure of Navigation Waterways) and 7 (Closure of Locks) of this Order the Commissioners may direct that the Navigation Waterway known as Well Creek or any part or parts of that Waterway shall be closed to navigation for such periods between 1st December in one year and 1st

March in the next year (both dates inclusive) being periods in which the then climatic conditions are such as to make it likely that ice that will support ice skating will form and so remain for a significant time as the Commissioners may determine to facilitate the use of the said Navigation Waterway for ice skating or other related activities.

- (2) The Commissioners shall cause a notice stating the extent to which the said Navigation Waterway has been closed to navigation to be conspicuously displayed in such one or more places on or adjacent to the Waterway and in such other place or places as they consider appropriate for bringing its contents to the notice of persons using or intending to use the Waterway.

9. Cutting trees etc obstructing a Navigation Waterway

- (1) Whenever the navigation of a Navigation Waterway is obstructed by any tree, bush, shrub or projection the Commissioners may apply to a court of summary jurisdiction for an order upon the owner or occupier of the land on which such tree, bush, shrub or projection grows or is fixed to cut, prune or lop such tree, bush or shrub or to remove such projection so that navigation be not obstructed thereby and such court may make such order.
- (2) If such owner or occupier shall not comply with such order within a time to be specified therein the Commissioners may cut, prune or lop such tree, bush or shrub or remove such projection and recover the expenses thereby incurred from such owner or occupier as a civil debt.

10. Repairs to Buildings

- (1) The owner of any building or structure in, on, under or over a Navigation Waterway or its banks shall, upon receipt of a notice from the Commissioners that, because of its state of disrepair, the building or structure is causing or is in imminent danger of causing an obstruction to the passage of vessels on that Navigation Waterway, carry out such reasonable and practicable works as are specified in the notice for the purpose of remedying or preventing the obstruction within such reasonable time as is specified in the notice and (subject to article 10(2)) in default thereof the Commissioners may proceed to carry out such works as are specified in the notice and to recover the expenses reasonably incurred in so doing from the said owner as a civil debt.
- (2) Any person on whom such a notice as is referred to in article 10(1) is served may within 14 days after the service of such notice on him serve on the Commissioners a counter notice objecting to the necessity for such works and in default of agreement between such person and the Commissioners the dispute shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party. 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 as provided in this article.

11. Stranded Grounded and Sunken Vessels and Vehicles

- (1) The master of any vessel which has run aground or sunk or is stranded in a Navigation Waterway or (where such occurrence is liable to obstruct the Navigation Waterway or

interfere with the passage of vessels on or over such Waterway or lead to such obstruction or interference) has slipped, parted from or lost any anchor, cable, propeller or other object shall, as soon as is reasonably practicable give notice thereof and of the position of such vessel, anchor, cable, propeller or object to the Commissioners.

- (2) The Commissioners may, whether or not they have been so notified in accordance with article 11(1), recover any such anchor, cable, propeller or object and recover their expenses of so doing from the owner of the vessel as a civil debt.
- (3) Whenever any vessel or vehicle is sunk, stranded or abandoned or any vehicle is left in any Navigation Waterway the Commissioners may after serving (except in an emergency) not less than 28 days notice on the owner of the vessel or vehicle, unless it is not practicable after reasonable inquiry to ascertain the name and address of the owner, raise and/or remove the vessel or vehicle.
- (4) Whenever any vessel is, without lawful authority, left or moored in any Navigation Waterway the Commissioners may after serving (except in an emergency) not less than 3 months notice on the owner of the vessel, unless it is not practicable after reasonable inquiry to ascertain the name and address of the owner, raise and/or remove the vessel.
- (5) The Commissioners may recover from the owner of any such vessel or vehicle all expenses reasonably incurred by the Commissioners in respect of the raising, removal and storage of such vessel or vehicle or in raising, removing or storing any furniture, tackle and apparel from such vessel or vehicle or any goods, chattels and effects raised or removed from such vessel or vehicle.
- (6) If any vessel or vehicle to which articles 11(3) and 11(4) apply is not within six weeks of its removal by the Commissioners proved to the reasonable satisfaction of the Commissioners to belong to any claimant, it shall together with any such furniture, tackle, apparel, goods, chattels and effects vest in the Commissioners.
- (7) If within six months of its removal, a claim is made to the vessel or vehicle by a person who subsequently proves to the reasonable satisfaction of the Commissioners that he is the owner of such vessel or vehicle, then the Commissioners shall, if the vessel or vehicle is unsold, permit the owner to retake it together with any furniture, tackle, apparel, goods, chattels and effects belonging to such vessel or vehicle upon payment of the expenses referred to in article 11(5) or, if the vessel or vehicle and such furniture, tackle, apparel, goods, chattels and effects have been sold, the Commissioners shall pay to such owner the amount of the proceeds of such sale after deducting the said expenses, and in case such proceeds shall be insufficient to reimburse the Commissioners such expenses, the deficiency may be recovered by the Commissioners as a simple contract debt in any court of competent jurisdiction.
- (8) For the purposes of article 11

"owner" in relation to any vessel or vehicle aground, sunk, stranded, abandoned, left or moored as above referred to means the owner of the vessel or vehicle at the time of the grounding, sinking, stranding, abandonment, leaving or mooring of such vessel or vehicle; and in relation to a vessel the person registered or deemed to be registered with the Commissioners as the owner of the vessel under the provisions of article 5 (Arrangements with Other Authorities) or of any byelaws made under article 13

(Byelaws) of this Order shall be conclusively deemed to be the owner of such vessel or vehicle

"vehicle" includes any part of a vehicle and

"vessel" includes any part of a vessel

12. Authorised officers

- (1) The Commissioners may in the performance of their functions in respect of navigation under the Nene Navigation Act, the Wisbech Canal Act and the Middle Level Acts and this Order appoint such persons as they may deem suitable and competent and whether employees of the Commissioners or not to act as authorised officers for the purpose of enforcing or securing compliance with the provisions of those Acts and of this Order and of any byelaws relating to the Navigation Waterways made under article 13 (Byelaws) of this Order.
- (2) No person not duly authorised by the Commissioners shall exercise or purport to exercise any powers of the Commissioners in relation to a Navigation Waterway or its banks.

13. Byelaws

- (1) Subject to article 13(4) the Commissioners may make byelaws in relation to the Navigation Waterways and their banks for maintaining and improving those Waterways and banks, for the purposes of recreation and leisure pursuits, for controlling the navigation of those Waterways and regulating the conduct and activities of persons using those Waterways or banks and in particular, but without prejudice to the generality of those powers, for all or any of the following purposes:-
 - (a) to secure the maintenance and improvement of a Navigation Waterway and its amenities for the purposes of recreation and leisure pursuits and to promote the ease, convenience or safety of navigation;
 - (b) to regulate vessels in a Navigation Waterway and their launching on or entry into, departure from and movement in the Waterway, and, without prejudice to the generality of the foregoing, to prescribe the speed of vessels and rules for navigation;
 - (c) to prescribe in relation to Navigation Waterways generally or, as the case may be, in relation to specific Navigation Waterways
 - (i) where vessels or a specified class of vessels may not moor, anchor or be otherwise secured;
 - (ii) where vessels of a specified class may not enter;
 - (iii) where activities of a specified type may not be carried on, or may only be carried on in accordance with specified conditions;

- (d) to regulate the placing, maintenance and use of moorings in a Navigation Waterway the mooring of vessels in a Navigation Waterway and the lying aground of vessels on the bank of a Navigation Waterway;
- (e) to provide for the registration of vessels using a Navigation Waterway and prohibiting the use of a Navigation Waterway by vessels which are not for the time being either registered by the Commissioners or deemed to be so registered by virtue of arrangements made under article 5 (Arrangements with Other Authorities) of this Order;
- (f) to provide for the revocation of the registration of vessels;
- (g) to require notification of the transfer of the ownership of vessels using a Navigation Waterway to be given to the Commissioners;
- (h) to provide for and regulate the marking of vessels using a Navigation Waterway;
- (i) with a view to ensuring the safety of persons in vessels on a Navigation Waterway and of other vessels or persons using such a Waterway, to prescribe standards for the construction and condition of vessels using a Navigation Waterway and in particular for any engines, appliances, fittings or equipment in such vessels, and to make provision with regard to the use and operation of such vessels, engines, appliances, fittings and equipment and to require the inspection and certification of such vessels;
- (j) to promote the safety of persons and vessels in a Navigation Waterway or of persons on its banks including in either case the provision or protection of life-saving equipment;
- (k) to require notification to be given to the Commissioners of serious incidents involving vessels on a Navigation Waterway and that any vessel involved in such an incident be made open for inspection by the Commissioners.
- (l) to regulate the use of and to prevent the misuse of and damage to the bed and banks of a Navigation Waterway and of and to services, Water Control Structures, landing places and other facilities (including moorings) in or adjoining a Navigation Waterway;
- (m) to require vessels navigating a Navigation Waterway at night or in restricted visibility to show Navigation Lights or other approved lights;
- (n) to regulate the loading or discharging of vessels in a Navigation Waterway.
- (o) to regulate the type of sanitary appliance to be used on vessels using a Navigation Waterway and for prohibiting the discharge of polluting matter from vessels into a Navigation Waterway;
- (p) to prevent injury to any person or direct injury to any animal or damage to or interference with or the alteration, defacing, destruction or removal of any vessel, plant, equipment, apparatus, work or structure in, on or over a Navigation Waterway or its banks;

- (q) to prescribe the persons deemed to be in charge of a vessel on a Navigation Waterway and for requiring the name and address of such persons to be provided by the owner of that vessel.
 - (r) to require the person in charge of a vessel on a Navigation Waterway to be responsible for ensuring that the conduct of all persons on board such vessel complies with such byelaws and for requiring the name and address of such persons to be provided by the person in charge of such vessel;
 - (s) to prescribe a minimum age for persons not under proper and competent adult supervision to be in control of or navigating a power driven vessel or any class of power driven vessel;
 - (t) to regulate the erection of structures or the installation of works, apparatus, plant or equipment in, on, over, through, under or across a Navigation Waterway or its banks;
 - (u) to prevent obstructions to navigation in a Navigation Waterway.
 - (v) to prevent unauthorised entry onto Water Control Structures;
- (2) Different byelaws may be made under article 13(1) in relation to different Navigation Waterways and to different classes of vessels using any such Waterway and any byelaws made under article 13(1) may come into force on such different dates as the Commissioners may determine.
- (3) A byelaw made by the Commissioners in exercise of the power conferred upon them by articles 13(1) and (2) above shall be made under the Common Seal of the Commissioners and may revoke or vary a byelaw previously made by them either pursuant to section 51 of the Middle Level Act 1874 or in the exercise of that power.
- (4) No byelaw made under articles 13(1) and (2) shall render unlawful the doing on private land outside a Navigation Waterway or its banks of any act by, or with the lawful authority of, the owner or occupier of that land which does not injure or endanger any person lawfully using a Navigation Waterway or its banks or enjoying the amenities thereof.

In this article “private land” means any land other than land to which the public has access (whether as of right or by express or implied permission).

- (5) (a) At least 28 days before application is made to the Secretary of State by the Commissioners for confirmation of any byelaw, the Commissioners shall give notice of their intention to apply for confirmation in the London Gazette and in one or more local newspapers circulating in the Commissioners’ District.
- (b) The notice referred to in paragraph (a) above shall state where, and the period during which, a copy of the byelaw is available for inspection (which shall be a period of not less than 28 days from the first publication of the notice in a local paper) and that during that period, representations may be made in accordance with paragraph (c) below.

- (c) Any person who may be affected by the confirmation of a byelaw made by the Commissioners may, within the time specified for that purpose in the notice published in accordance with paragraph (a) above, make representations in writing to the Secretary of State stating the grounds of objection to the byelaw.
- (6) (a) The Secretary of State may confirm, with or without modification, or may refuse to confirm, any byelaw submitted for confirmation but if he proposes to make a modification which appears to him to affect the substance of the byelaw, he shall first inform the Commissioners, persons who have made representations in relation to the byelaw and any other persons appearing to him likely to be affected by the modification, of the proposed modification and give them an opportunity to make representations to him.

(b) A byelaw confirmed by the Secretary of State shall come into operation on such date as he may fix when confirming the byelaw or, if no date is fixed, at the expiration of 28 days after the date of confirmation.
- (7) (a) As soon as may be after confirmation, the Commissioners shall publish, in the same manner as the notice of intention to apply for confirmation was published, a notice of confirmation of the byelaw which shall state where and when a printed copy of the byelaw is available for inspection.

(b) The Commissioners shall keep a printed copy of the confirmed byelaw at the place specified in the notice of confirmation which shall be available for inspection during normal office hours, so long as the byelaw remains in force.

PART III

MISCELLANEOUS

14. Insurance

- (1) A person must not use a vessel on a Navigation Waterway unless there is in force in relation to the vessel a policy of insurance complying with the requirements of the Third Schedule.
- (2) The requirements of article 14(1) do not apply in relation to a vessel to the extent that the vessel is exempted by the Commissioners from those requirements.
- (3) The Commissioners may exempt any vessel from the requirements of article 14(1) to such extent and upon such terms and conditions as they may determine.

15. Consents and Notices

- (1) A notice or any other document required or authorised to be served under or by virtue of this Order or of any byelaws made under article 13 (Byelaws) of this Order shall be in writing.
- (2) A notice or other document if served by the Commissioners shall be under the hand of the Chief Executive or other duly authorised employee of the Commissioners.

- (3) A notice or other document if required to be served on any person shall be sufficiently served if served
- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body; or
 - © if the person is a partnership by serving it in accordance with paragraph (a) above on a partner or a person having the control or management of the partnership business.
- (4) The proper address of any person on whom such a notice or document is to be served shall be his last known address, except that
- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body;
 - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership;

and for the purposes of this article the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

- (5) If a person to be served with any notice or other document by virtue of this Order or of any byelaws made under article 13 (Byelaws) of this Order by another has specified to that other an address within the United Kingdom other than his proper address (as determined in pursuance of article 15(4) above) as the one at which he or someone on his behalf will accept notices or documents of the same description as that notice or document, that address shall also be treated as his proper address for the purposes of this article.
- (6) Where under any provision of this Order or of any byelaws made under article 13 (Byelaws) of this Order any notice or document is required to be served on the owner, on a lessee or on the occupier of any premises or vessel then
- (a) if the name or address of the owner, of the lessee or, as the case may be, of the occupier of the premises or vessel cannot after reasonable inquiry be ascertained; or
 - (b) in the case of service on the occupier, if the premises or vessel appeared to be or are unoccupied,

that notice or document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on that land or vessel or by leaving it conspicuously affixed to the vessel or some building or object on the land.

- (7) This article shall not apply to any document in relation to the service of which provision is made by rules of court.

16. Penalty and Defence

- (1) Any person who contravenes or fails to comply with the provisions of this Order or of any byelaw made under article 13 (Byelaws) of this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the Standard Scale.
- (2) In any proceedings for such an offence it shall be a defence for the person charged to prove:-
- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence or
 - (b) that he had a reasonable excuse for his action or failure to act.

17. Repeals

The Enactments mentioned in the first and second columns of the Second Schedule to this Order are repealed to the extent specified in the third column of that Schedule.

The First Schedule

(Description of Navigation Waterways)

TO BE INSERTED

The Second Schedule(Repeals)

<u>Session and Chapter</u>	<u>Short Title</u>	<u>Extent of Repeal</u>
27 George II cap 12	Nene Navigation Act 1753	sections 12-15 section 19
34 George III cap 92	Wisbech Canal Act 1794	sections 86-88 sections 90-91
7 and 8 Victoria cap 106	Middle Level Act 1844	sections 204-206 sections 220-221 in section 225 the words “and navigation respectively” and “navigations and” sections 226-230 sections 234-236 section 242
11 and 12 Victoria cap 104	Middle Level Act 1848	section 17
25 and 26 Victoria cap 188	Middle Level Act 1862	in section 37 the words from “2 nd ” to the end of that paragraph in section 38 the words from “shall yearly pay one half” to “continue and” “the residue or” and “(as the case may be)” in section 110 from the beginning of the section to the words “before the commencement of this Act”
30 and 31 Victoria cap 65	Middle Level Act 1867	sections 57-8 section 60
37 and 38 Victoria cap 150	Middle Level Act 1874	section 53 in section 64 sub paragraph (1) the words “not exceeding forty shillings for each offence” and in sub paragraph (2) the words “not exceeding sixpence for each copy” in section 67 substitute the words “a fine not exceeding level 3 on the standard scale “for the words “five pounds” in section 68 substitute the words “a fine not exceeding level 3 on the standard scale” for the words “five pounds”.

The Third Schedule

Article 14

(Insurance Policies as to Vessels)

1. An insurance policy must be issued by an insurer authorised under the Insurance Companies Act 1982 or any modification or re-enactment of such Act to carry on in Great Britain or in Northern Ireland insurance business of a relevant class or who has corresponding permission under the law of another member state of the European Community.
2. The policy must insure the owner of the vessel and such other person, persons or classes or persons (if any) as is or as are authorised by the owner to have control of the vessel, in respect of any liability (other than a liability specified in paragraph 3) which may be incurred by the owner or any such other person resulting from the presence of the vessel on a Navigation Waterway in respect of the death of or bodily injury to any person or any damage to property.
3. The policy shall not by virtue of this Order be required
 - (a) to cover liability in respect of the death, arising out of and in the course of his employment, of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment;
 - (b) to cover liability in respect of damage to the vessel to which the policy relates;
 - (c) to cover liability in respect of goods carried on or in the vessel to which the policy relates, or any vessel drawn or propelled by such vessel;
 - (d) to cover any liability of a person in respect of damage to property in his custody or under his control;
 - (e) to cover any contractual liability; or
 - (f) to provide cover in respect of any one accident for a sum in excess of such sum as may for the time being be prescribed by the Commissioners for the purposes of this paragraph.