

HOUSE OF LORDS

SESSION 2017–2019

MIDDLE LEVEL BILL

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AMENDMENTS MADE TO THE BILL  
AS AGREED BY THE  
OPPOSED BILL COMMITTEE  
THURSDAY 12 JULY 2018

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Clause 2

- 1 Page 3, line 47, at end insert –

““small unpowered pleasure vessel” means any unpowered vessel having a block area of less than 6 square metres which is not for the time being in use for commercial purposes;”

Clause 3

- 2 Page 5, line 3, at end insert –

“(2A) When appointing a person to the Committee, the Commissioners must make a statement of their reasons for appointing that person.

(2B) No person appointed to the Committee may take part in the proceedings of the Committee unless that person has disclosed to the clerk of the Commissioners details of every financial or other direct or indirect interest in any matter with which the Commissioners are concerned.

(2C) A person who fails to make that disclosure within three months of being appointed ceases to be a member of the Committee.”

- 3 Page 5, line 10, at end insert “; and

(d) proposals for a protocol for the removal of vessels under **section 15.**”

4 Page 5, line 13, at end insert –

- “(4A) If the Committee reports back to the Commissioners within the time allowed in response to consultation under subsection (3), the Commissioners must –
- (a) adjust the proposals in accordance with the report; or
  - (b) give the Committee reasons in writing for their refusal to do so.
- (4B) If the Committee’s report relates to proposals under subsection (3)(a), (b) or (d) and the Committee reasonably considers that the Commissioners’ reasons do not justify their refusal to amend the proposals, the Committee may refer the matter –
- (a) to mediation, or
  - (b) with the agreement of the Commissioners, to determination by a person acting as an expert.
- (4C) If the matter is referred to mediation –
- (a) the mediator is to be appointed by the agreement of the Commissioners and the Committee 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 Committee a report describing the outcome of the mediation.
- (4D) If the matter is referred to determination by a person acting as an expert –
- (a) the person is to be appointed by the agreement of the Commissioners and the Committee or, failing agreement, by the President of the Institute of Civil Engineers;
  - (b) the person is to determine the matter acting as an expert, having regard to the Commissioners’ duties under the navigation Acts and such other matters as may be agreed by the Commissioners and the Committee;
  - (c) the person is to decide the procedure for determining the matter;
  - (d) the person is to determine the matter and notify the Commissioners and Committee of the determination as soon as reasonably practicable after hearing the representations of the Commissioners and the Committee on the matter; and
  - (e) if the person determines that the Commissioners’ proposals should be adjusted, the proposals are deemed to have been adjusted in accordance with the determination.”

#### Before Clause 4

5 Insert the following new Clause –

##### **“Continuity of navigation functions**

- (1) The Commissioners are to continue to exercise the functions in relation to navigation conferred by the navigation Acts.
- (2) The Commissioners are to exercise their functions in relation to navigation in accordance with the provisions of this Act.”

#### Clause 4

6 Page 5, line 32, at end insert –

“(2A) Subsection (2) does not require the Commissioners to aim to secure that the income from charges under subsection (1) meets those costs.”

7 Page 6, line 11, at end insert –

“(8) No charge is to be payable for the use of a waterway by a small unpowered pleasure vessel except with the agreement of the Navigation Advisory Committee, or in accordance with the determination of a person appointed to act as an expert under section 3(4D).”

#### Clause 9

8 Page 9, line 38, at end insert –

“(10) This section does not limit the Commissioners’ ability at any time to move without notice a vessel if it is causing obstruction or is a source of danger, pursuant to any byelaws made under **section 10** or under section 51 of the Middle Level Act 1874.”

#### Clause 10

9 Page 11, line 25, after “this section,” insert “**section 11,**”

### Clause 11

- 10 Page 12, line 3, after second “of” insert “small unpowered pleasure vessels or other”
- 11 Page 13, line 4, after “subsection” insert “(5),”
- 12 Page 13, line 10, after “subsection” insert “(5),”

### Clause 15

- 13 Page 14, line 38, leave out “, in consultation with the Navigation Advisory Committee,”

### Clause 17

- 14 Page 15, line 16, leave out “**Audit**” and insert “**Accounts and audit**”
- 15 Page 15, line 16, at end, insert –
- “(A1) The Commissioners must keep accounting records, to be known as the navigation account, that are sufficient to show and explain –
- (a) income received from charges recovered under section 4 or otherwise relating to the Commissioners’ functions in respect of navigation under the navigation Acts; and
  - (b) costs incurred by the Commissioners in exercising their functions in respect of navigation under the navigation Acts.”
- 16 Page 15, line 23, at end insert –
- “(1A) For the purposes of the application of Part 5 of the Local Audit and Accountability Act 2014 (conduct of local audit) to the navigation account, the definition of “local government elector” in section 44(1) of that Act has effect as if it included any person who is registered as the owner of a vessel that is registered for use in the waterways under the provision of any navigation byelaws.”

- 17 Page 15, line 27, leave out ““navigation account” has the same meaning that it does in the Middle Level Act 1862;”

#### **Clause 19**

- 18 Page 16, line 26, leave out “**Act 1874**” and insert “**Acts**”
- 19 Page 16, line 26, at end insert –
- “(A1) The Middle Level Act 1867 is amended as follows.
- (B1) In section 46, substitute the words “section 17 of the Middle Level Act 2018” for the words “section 37 of the “Middle Level Act, 1862,.”

#### **Schedule 4**

- 20 Page 20, line 32, column 3, leave out “In section 37, the words from “, and shall yearly” to the end of that section” and insert “Section 37”



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**BIRCHAM DYSON BELL LLP**

**Parliamentary Agents**

**12 July 2018**