

Access to Inland Waterways Bill

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TO

Make provision for access by the public for non-motorised boating purposes to the inland waterways of England and Wales; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Access rights

- (1) Any person has the right to be on or in waters, for any of the purposes set out in subsection (3).
- (2) The right in subsection (1) shall include a right to enter land adjacent to waters that is not within the curtilage of a dwelling, but only for the purposes of— 5
 - (a) entering and exiting the water;
 - (b) avoiding an obstacle to navigation on the water;
 - (c) inspecting an obstacle to navigation; or
 - (d) leaving the waters in an emergency.
- (3) The right in subsection (1) may be exercised only— 10
 - (a) for recreational purposes;
 - (b) for the purposes of carrying on a relevant educational activity; or
 - (c) for the purposes of carrying on, commercially or for profit, an activity which the person exercising the right could carry on otherwise than commercially or for profit. 15
- (4) The reference in subsection (1) to being on or in waters for any purposes set out in subsection (3) is a reference to—
 - (a) entering, navigating, crossing, passing over, remaining on and then exiting waters for those purposes; or
 - (b) any combination of those. 20
- (5) In this section—

“relevant educational activity” means an activity which is carried on by a person for the purposes of—

 - (a) furthering the person's understanding of natural or cultural heritage; or 25

- (b) enabling or assisting other persons to further their understanding of natural and cultural heritage.
- (6) Access rights are exercisable above and below (as well as on) the surface of the waters.
- (7) The waters in respect of which access rights are exercisable are all waters except those specified in section 6 of this Act. 5

2 Access rights to be exercised responsibly

- (1) A person has access rights only if they are exercised responsibly.
- (2) A person is presumed to be exercising access rights responsibly if they are exercised so as not to cause unreasonable interference with any of the rights (whether access rights, rights associated with the ownership of waters, the privacy of owners of adjacent land or any others) of any other person, but – 10
 - (a) a person purporting to exercise access rights who, at the same time –
 - (i) engages in any conduct within section 8 of this Act; or
 - (ii) engages in any conduct in contravention of any prohibition contained in or having effect under any enactment other than an enactment contained in a local or private act, 15
 - is to be taken as not exercising those rights responsibly; and
 - (b) regard is to be had to whether the person exercising or purporting to exercise access rights is, at the same time – 20
 - (i) disregarding the guidance on responsible conduct set out in the Access Code and incumbent on persons exercising access rights; or
 - (ii) disregarding any request included, or which might reasonably be implied, in anything done by the appropriate countryside body in accordance with this or any other enactment. 25
- (3) In this section references to the responsible exercise of access rights are references to the exercise of these rights in a way which is lawful and reasonable and takes proper account of the interests of others and of the features of the waters in respect of which the rights are exercised. 30

3 Reciprocal obligations of owners and users

- (1) It is a duty of every owner of waters –
 - (a) to use and manage the waters; and
 - (b) otherwise to conduct the ownership of them, in a way which, as respects those rights, is responsible. 35
- (2) It is a duty of every user of waters to use the waters in a way which, as respects those rights, is responsible.
- (3) In determining whether the way in which waters are used, managed or the ownership of them is conducted responsibly an owner or user is to be presumed to be using, managing and conducting the ownership of waters in a way which is responsible if it does not cause unreasonable interference with the access rights of any person exercising or seeking to exercise them, but – 40
 - (a) an owner or user who contravenes section 9(1) or (3) of this Act is to be taken as not using, managing or conducting the ownership of waters in a responsible way; 45

- (b) regard is to be had to whether any act or omission occurring in the use, management or conduct of the ownership of waters disregards the guidance on responsible conduct set out in the Access Code and incumbent on the owners of waters.
- (4) In this section the references to the use, management and conduct of the ownership of waters in a way which is responsible are references to the use, management and conduct of the ownership of them in a way which is lawful and reasonable and takes proper account of the interests of persons exercising or seeking to exercise access rights. 5
- 4 Modification of this Act** 10
- (1) The Secretary of State may by order modify, for the purposes of sections 2 and 3, any of the provisions of sections 8 and 9 of this Act.
- (2) The Secretary of State may modify those provisions generally, or by making provision which relates to particular areas, locations or classes of waters or to particular access rights or particular activities which may take place in the exercise of access rights or to particular ways of using, managing or conducting the ownership of waters, or any combination of those. 15
- (3) Before modifying these provisions, the Secretary of State shall consult such persons whom he considers to have a particular interest in the effect of the proposed modification (or associations representing such persons) and such other persons as he thinks fit. 20
- 5 Access rights, reciprocal obligations and other rules and rights**
- (1) The exercise of access rights in accordance with this Act does not constitute trespass.
- (2) The extent of the duty of care owed by an occupier of waters to another person present on the waters is not affected by this Act. 25
- (3) The existence or exercise of access rights does not diminish or displace any other rights (whether public or private) of entry, way, passage or access.
- (4) The exercise of access rights does not of itself amount to the exercise or possession of any right for the purpose of any enactment or rule of law relating to the circumstances in which a right of way or servitude or right of public navigation may be constituted. 30
- 6 Waters over which access rights not exercisable**
- (1) Waters in respect of which access rights are not exercisable are waters— 35
- (a) which consist of waters contiguous to and used for the purposes of a school—
- (i) at all times if the waters form part of the premises of the school, or
- (ii) otherwise only at times when the waters are in use by the school. 40
- (b) to which public access is, by or under any enactment other than this Act, prohibited, excluded or restricted;
- (c) which have been developed for a particular recreational purpose;
- (d) on which—

- (i) building, civil engineering or demolition works; or
(ii) works being carried out by a statutory undertaker for the purposes of the undertaking,
are being carried out;
- (e) which are used for the working of minerals by surface workings (including quarrying); or 5
- (f) which have been specified in an order under subsection (2) as waters in respect of which access rights are not exercisable.
- (2) The local authority may by order under this section made in respect of particular waters specified in the order exempt them for a particular purpose specified in the order from the access rights which would otherwise be exercisable in respect of them during such times as may be specified in the order. 10
- (3) A local authority shall follow the procedure for making byelaws set out in section 236 of the Local Government Act 1972 (c. 70) when making an order under this section. 15
- 7 Adjustment of waters excluded from access rights**
- (1) The Secretary of State may by order modify any of the provisions of section 6 of this Act.
- (2) The Secretary of State may modify those provisions generally or by making provision which relates to particular areas, locations or classes of land. 20
- (3) Before modifying these provisions, the Secretary of State shall consult such persons whom he considers to have a particular interest in the effect of the proposed modification (or associations representing such persons) as he thinks fit. 25
- 8 Conduct excluded from access rights**
- The conduct which is within this section is—
- (a) being on or crossing waters in breach of an order of any court;
- (b) being on or crossing waters for the purpose of doing anything which is an offence or a breach of an order of any court; 30
- (c) hunting, shooting or fishing where it would not otherwise be permitted;
- (d) being on or crossing waters while responsible for a dog or other animal which is not under proper control;
- (e) being on or crossing waters for the purpose of taking away, for commercial purposes or for profit, anything in or on the waters; 35
- (f) being on or crossing waters in or with a motorised vehicle or vessel (other than a vehicle or vessel which has been constructed or adapted to motorise such vehicle or vessel for use by a person who has a disability and which is being used by such a person). 40
- 9 Prohibition signs, obstructions, dangerous impediments etc**
- (1) The owner of waters in respect of which access rights are exercisable shall not, for the purpose, or for the main purpose of, preventing or deterring any person entitled to exercise those rights from doing so—

- (a) put up any sign or notice;
 - (b) put up any fence, wall, dam, wire or other obstruction, or plant, grow or permit to grow any hedge, tree or other vegetation;
 - (c) position or leave at large any animal; or
 - (d) take, or fail to take, any other action. 5
- (2) Where the local authority consider that anything has been done in contravention of subsection (1) they may, by written notice served on the owner of the waters, require that such remedial action as is specified in the notice be taken by the owner of the waters within such reasonable time as is so specified. 10
- (3) If the owner fails to comply with such a notice, the local authority may –
- (a) remove the sign or notice; or, as the case may be,
 - (b) take the remedial action specified in the notice served under subsection (2),
- and, in either case, may recover from the owner such reasonable costs as they have incurred by acting under this subsection. 15
- (4) An owner on whom a notice has been so served may, by application to the magistrates' court, appeal against it.
- (5) Rules of court shall provide –
- (a) for public notice of the making of summary applications for the purposes of this section; 20
 - (b) for enabling persons interested in the exercise of access rights over the land to which a summary application relates, and persons or bodies representative of such persons, to be parties to the proceedings;
 - (c) for limiting the number of persons and bodies who may be such parties. 25

10 The Inland Waters Access Code

- (1) It is the duty of the appropriate countryside body to draw up and issue a code, to be known as the Inland Waters Access Code, setting out, in relation to access rights, guidance as to the circumstances in which –
- (a) those exercising these rights are to be regarded as doing so in a way which is or is not responsible; 30
 - (b) persons are to be regarded as carrying on activities, otherwise than in the course of exercising access rights, in a way which is likely to affect the exercise of these rights by other persons;
 - (c) owners and users of waters in respect of which these rights are exercisable are to be regarded as using and managing, or otherwise conducting the ownership of them, in a way which is or is not responsible; 35
 - (d) owners and users of waters in respect of which these rights are not exercisable are to be regarded as using and managing, or otherwise conducting the ownership of them, in a way which is likely to affect the exercise of these rights on waters which are contiguous to those waters. 40
- (2) The appropriate countryside body shall consult local authorities and such other persons or bodies as they think appropriate about the proposed Access Code and then submit it (with or without modifications) to the Secretary of State together with copies of any objections or representations made in response to that consultation. 45

- (3) On receiving a proposed Access Code, the Secretary of State may –
- (a) approve it, with or without modifications; or
 - (b) reject it.
- (4) Where the Secretary of State rejects a proposed Access Code under subsection (3)(b) he may either instruct the appropriate countryside body to submit a new Code or he may substitute a Code of his own devising. 5
- (5) The Access Code comes into operation on the date determined by the Secretary of State.
- (6) It is the duty of –
- (a) the appropriate countryside body and local authorities to publicise the Access Code; 10
 - (b) the appropriate countryside body to promote understanding of it.
- (7) The appropriate countryside body shall keep the Access Code under review and may modify it from time to time.
- (8) In reviewing the Access Code, the appropriate countryside body shall consult such persons or bodies as they think appropriate about the operation of the Code. 15
- (9) Subsections (2) to (5) above apply to modifications of the Access Code as they apply to the Access Code.
- 11 Interpretation** 20
- In this Act –
- “Access Code” means the Inland Waters Access Code mentioned in section 10;
- “access rights” means the rights under section 1(1);
- “the appropriate countryside body means – 25
- (a) in relation to England, Natural England, and
 - (b) in relation to Wales, the Countryside Council for Wales;
- “canal” means an inland waterway within the meaning of section 92 of the Transport Act 1962 (c. 46);
- “waters” means any inland, non-tidal lakes, canals, rivers (to the extent that they are non-tidal), streams, ditches, drains, cuts, culverts, dykes, sluices and passages through which water flows and includes artificial watercourses, reservoirs, whether natural or artificial and whether navigable or not, and includes the bed and the shores or banks thereof; 30
- “local authority” in relation to specific waters in respect of which access rights are or would, but for a provision of or order made under this Act, be exercisable means – 35
- (a) where the waters are, on the day on which this section comes into force, within an area designated as a National Park under the National Parks and Access to the Countryside Act 1949 (c. 97), the National Park authority for that National Park, and 40
 - (b) in any other case, the county council or unitary authority, as the case may be, whose area includes the waters; and
- “owner”, in relation to any waters, means, any person, other than a mortgagee not in possession, who, whether in his own right or as trustee for another person, is entitled to receive the rack rent of the land 45

that includes the waters, or, where the land is not let at a rack rent, would be so entitled if it were so let;
“recreational purposes” includes any competitive activity.

12 Short title and extent

- (1) This Act may be cited as the Access to Inland Waterways Act 2007. 5
- (2) This Act extends to England and Wales only.

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To make provision for access by the public for non-motorised boating purposes to the inland waterways of England and Wales; and for connected purposes.

*Ordered to be brought in by Dr Desmond Turner
supported by
Charlotte Atkins, Mr Michael Meacher,
John Bercow, Joan Ruddock,
Dr Howard Stoate, Mr Gordon Prentice,
Peter Bottomley and Sir Robert Smith.*

*Ordered, by The House of Commons,
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