



Response from the River Thames Society (RTS) to the consultation by the MMO on the PLA's Harbour Revision Order (HRO) HRO/2020/00005

General representations

The PLA is unlike any other UK port in its geographical scope, variety, complexity, importance to economic and cultural life, engagement with so many local and other statutory authorities, and the number of residents afloat. Many of the PLA's acquired responsibilities are not core to the cargo-carrying and other vessel-related aspects of the PLA's business. This means the standard guidance for Ports, eg Port Marine Safety Code, may be an incomplete guide as to how such a port should function. Some of the new powers the PLA would like to acquire seem inappropriate for a body with limited public accountability, and indeed may be inappropriate for adding to primary legislation without the direct scrutiny of parliament.

Specific objections

11(3B). The costs of arbitration as it is described are quite disproportionate to the sorts of sums involved for the smaller non-commercial approvals, and a more appropriate mechanism is needed to resolve any such disagreements. A published list of charges agreed with user interests would help, but this needs to be comprehensive and explicit in its descriptions and based on average existing charges.

11(3G)(a). We object to the requirement for a note at the Land Registry where riparian owners have approved river works accessed from their land, intended to restrict the disposal of the land in certain circumstances without conditions for the benefit of the PLA. No precedent for this is quoted and the wider ramifications are unclear. Part of the supposed justification is to enable access by the PLA to inspect the works, yet this is already covered in s90. It is unclear whether this provision would be applied universally or selectively. It would be over-burdensome for the generality of riparian owners and yet inappropriate for primary legislation if the PLA have only specific targets in mind.

120A Unserviceable vessels. These new powers over vessels deemed unserviceable, and for which there appears to be no appeal rights, are unnecessary. The justification given appears to be already served by other provisions in the Act.

137 The powers of Inspection, as drafted, would include the interiors of those residential boats that fall outside the PLA's inadequate definition of houseboat, and are unnecessary and offensive to the expected rights of privacy. Inspection of the private quarters of any residential boat should always have formal justification, and excepting certain emergencies, also permission and notice.

138 Identities. Occupiers of vessels should not be required to have their personal details disclosed and as there is no equivalent power affecting any other form of habitation, this would discriminate against live-aboards. It is unclear how the stated rationale could be substantiated.

175A Rights of Way. No new rights of way on/over PLA land are to be permitted. We object, since it is unclear that the PLA need such a blanket denial of the establishment of rights of way, which can bring important public benefits. Each case can be argued on its merits and we note there is also scope for the case-specific removal of rights of way to be argued and then permitted (eg through a separate HRO).

Representations on other proposals

The newly-proposed definition of houseboat in 2(1) is not fit for purpose.

The status of the waters between the upper stone and Teddington Wier need to be clarified. Schedule 1.1 excludes them from the port limits, whereas as category C waters they fall into the PLA's vessel licensing area in 2(1). Which is right, or is it both?

11. All applications for and leases of river bed under s11(3) should be subject to a public register.

22/35/39 Charges, their payment and enforcement: in general, the charges are unclear for those that chose not to apply for, or are refused, all 3 elements of the proposed permissions.

66/67 The new regime for River Works Licenses (RWLs) their use and charging

This attempt to formalise the separation between the impact of river works and any vessels that moor upon them from the 'property' considerations appears complicated and tortuous and needs better explanation, with worked examples. A key issue is how much each element can progress and be charged separate from the others. We are concerned these changes could have unintended adverse consequences and increase costs to river users

If any permissions are varied or revoked, reimbursement of an appropriate proportion of the fees paid should be possible (as in the withdrawn HRO from 2010).

70 Works, Mooring etc without permission:

A check is needed for compatibility with the changes to the 2012 byelaws which were consulted upon and are said to be still within the system awaiting DfT approval.

Casual visitors moored alongside a permitted mooring have only up to 7 days in a 3-month period 70(1)(b), with draconian powers available against those that transgress. This ignores the reality of cruising vessels, including those needing an occasional friendly mooring, eg when coming from the sea or from upriver in anticipation of an event on the Tideway. It is unclear how many vessels moving around the estuary could be adversely affected, whilst enjoying their public right of navigation. Arrangements should be much more permissive, mindful also of the difficulties caused by Hammersmith Bridge

The various time limits, eg sometimes 7 and sometimes 14 days, are unclear and confusing. The 2012 byelaw changes were for a different period. Local Council byelaws may have yet another time period affecting the frontage for which they have some responsibility. 7 days' notice before moving someone's home seems insufficient. Even 90 days' notice to claim a vessel before disposal may not suffice, eg for someone ill in mental hospital. Also, it takes many weeks for a riparian owner to conclude action for trespass against a boat squatter.

At some Thames-side wharves old mooring bollards survive shoreside above MHWS, but there may be no existing RWL nor incentive to acquire new works and mooring permissions. These traditional moorings could then become unavailable to boat users (eg Twickenham riverside)

These proposals will cause difficulties for some existing long-standing boat residents. These boat-occupants may have rights under s8 Human Rights Act which must be respected.

75. Transfer of Mooring. Notification of the PLA at the time of transfer should be sufficient to relieve the old owner of any further responsibilities.

175B. The time for adverse possession is to be extended to match that of the Crown Estate for their 'foreshore'. We prefer the status quo where each case can be argued on its merits under the existing time limits.

200. Pollution. Even if the EA continues to be lax in enforcing its standards, the RTS will expect the PLA to be rigorous in dealing with offensive discharges in untreated sewage from the big-time operators such as Thames Water, not always assuming there must be lawful excuses.

The additions and subtractions to the port limits are inconsistent between the text (Sch 1.1) and the explanatory map. The RTS cannot make valid comment without knowing which is right.

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