

## NABO LOBBYING PACK: BW BILL

### Introduction

If the British Waterways Bill goes through in its present form it will affect every boatowner by creating new criminal offenses out of freedoms you have previously enjoyed, give BW extensive powers to control you, and could lead to the very thing you enjoy most being taken away from you.

The Bill has passed all its stages in the House of Lords, has had its first reading in the House of Commons, and is currently awaiting its second reading debate (see procedure outline on page 11). The date for this debate has not been set, and it is probable that there will be no more than 1 week's notice of it.

The second reading debate in the Commons is the opportunity for MPs to put their objections. This is therefore our opportunity to make known our objections to our MPs. **The vast majority of Bills that pass the second reading become law.** We need to show that there is a strong body of opinion against this Bill, and make MPs take a detailed look at its implications.

Nothing is more influential on MPs than letters written by individual constituents. We would therefore ask that all our members write to, (and if possible visit) their MP.

Remember the Transport and Works Bill earlier this year when surprise was expressed in the House of Commons at just how many letter were received from concerned boaters. NABO members were specifically mentioned in the House. NABO, that is YOU, had a real affect, and we will do so again if we all write with our objections to the Bill.

AS THERE WILL BE INSUFFICIENT NOTICE OF THE SECOND READING DEBATE WE SUGGEST THAT YOU WRITE TO YOUR MP AS SOON AS YOU CAN.

### Included in this pack:-

What can NABO members do?	Page 2
A Sample letter to an MP.	Page 2/3
A general outline of the Bill.	Page 4
Specific Objections of Boatowners.	Page 7
Outline procedure for the Bill through parliament.	Page 11

A separate information sheet which can be given to your MP and a questionnaire regarding your MP's response is separately included.

## What can NABO Members do?

### **1. Write to your MP.**

Your local library should be able to tell you who your MP is, and will also have a record of the location and times of their surgery.

- If you wish, use the sample letter (on page 3 ) as a guide.
- send the information sheet included as additional information for your MP.

### **2. Visit your MP.**

We do not expect every member to visit their MP, but a visit emphasises to your MP how strongly you feel and will have that much more effect.

- The visit should be as soon as possible after parliament reassembles since the 2nd reading could be at any time.

### **3. Write to BW objecting to the Bill.**

Write to Jeremy Duffy, Solicitor and Secretary, British Waterways, Willow Grange, Church Road, Watford WD1 3QA. A copy of the Bill can also be obtained from Mr. Duffy.

## Sample letter

The sample letter below is purely as a guide for your thoughts.

- It is important that all letters are written in your own words.
- In order to convince others, you should be convinced by your own arguments.
- Keep the letters as simple as you can. The MP can then quickly grasp the points you are making, without having to wade through vast quantities of information.

Sample Letter:

Your Name  
Address

.....MP  
House of Commons  
Westminster  
London SW1A 0AA

Date

Dear .....

RE: British Waterways Bill

The British Waterways Bill which is shortly to have its second reading debate in the House of Commons, will give British Waterways new wide powers to regulate and manage the inland waterways.

All the increased regulation clauses apply specifically to boat owners, with no increase in regulations for other users. As a boat owner I am very anxious that my rights will be taken away from me with very little right of appeal.

In many cases non compliance with the new regulations will be made criminal offenses. For example, am I really a criminal because I do not moor my boat in the manner directed by a British Waterways employee?

Apart from increased powers over Boaters, the Bill contains additional wide powers including powers which affect adjoining landowners, taking away rights which belong to them. I am enclosing an information sheet which outlines the problem areas of the Bill.

If this Bill goes through I believe that the very character of the canals will be changed. Many people who visit the canals do so because of the boats, but with the increased rules and regulations, many boaters will be forced off the canals which will then revert to dereliction rather than be a unique, living, working environment which has something to offer everyone.

I would ideally like to see the Bill thrown out but at the very least that some of the more excessive powers are curbed.

Yours sincerely

A Boater.

## General Outline of British Waterways Bill.

This is a Bill to confer powers on British Waterways (BW or the Board) to enter land adjoining the canal; to confer further powers on the Board for the regulation and management of their waterways; and for other purposes. Part I (Clauses 1 & 2) are definitions.

### Part II Entry to Land. (Clauses 3-12)

The Board will be able to enter land in cases of emergency. BW will also be able to enter land for non emergency maintenance where it would not be "reasonably practicable" to do so without such entry. In practice this is likely to mean when it is cheaper to do so. Landowners include private householders bordering canals. Notice will be given of entry by BW with a right to appeal, and compensation will be payable, but it will be a criminal offence to obstruct or interfere with any person carrying out such works or the apparatus left on the land even if left in the landowner's way.

### Part 111- Regulation and Management of Inland Waterways.

#### Houseboats. (Clauses 13, 15 and Schedule 1)

The Bill introduces general terms of houseboat certificates and specifies a consultatory process for amending the terms. But BW can withdraw a certificate at any time, though notice of withdrawal will be given. For example BW can withdraw the certificate if any thing in connection with the houseboat is, in their opinion, likely before the expiration of the certificate to have a detrimental effect on the amenities of the locality. There is no opportunity built into the Bill for a houseboat owner to correct the circumstances which give rise to a notice of withdrawal being given, neither is there an appeals procedure.

If the owner sells the houseboat, the certificate will only be transferred to a person approved of by the Board. The owner shall only be entitled to make a gift of a houseboat to a member of his family approved of by the Board.

BW do not have to renew a certificate even if the houseboat still complies with all the conditions of the certificate. No compensation or alternative mooring need be provided by the Board and it will be a criminal offence to keep the houseboat on the Board's Waterways without a certificate and unauthorised houseboats are required to be removed.

Conditions for certificates and licences. (Clause 14 and Schedule 2)

The Bill will give the Board the right to refuse certificates and licences to a vessel unless it:-

A. Complies with prescribed standards of construction applicable to the vessel. Boats must comply with standards even though there is no demonstrable evidence that a significant risk to safety exists if they do not. Existing vessels must comply with these standards which in many cases will require extensive refitting.

B. Has an insurance policy. The policy must cover any 3rd Party liability in respect of the death of, or bodily injury to, any person or any damage to property.

C. Has a permanent mooring or somewhere it can be lawfully left (on or off the waterway) or that-  
The vessel will be used bona-fide for navigation and not left in any one place for more than 14 days IN TOTAL in one calendar year.

By giving 28 days notice the Board can withdraw a certificate or licence for non compliance with A, B or C above.

Moorings

It will become a criminal offence to leave or moor a vessel in such a way as to obstruct or hinder navigation or the towpath. It will become a criminal offence not to moor a boat in the manner dictated by an employee of BW with regards to fastening and precise location of the vessel.

It will also become a criminal offence to moor a boat in contravention of a notice prominently displayed by the board which prohibits all mooring, or dictates the manner in which the vessel is moored or the length of time allowed for mooring.

However, the Board shall not prohibit and regulate moorings unless it is necessary for the purposes of a) securing safety, b) preventing congestion or c) ensuring vessels to not stay longer than permitted at short stay moorings! In other words for the purposes of a), b) or anything they like.

It will become a criminal offence to construct or maintain a mooring post, gangway, landing stage etc for a vessel without the Board's consent.

After giving 7 days notice BW may remove vessels which will interfere with dredging, repairs,

maintenance etc. to other moorings for the duration of the work. Any person who fails to comply with the requirements of this section will have committed a criminal offence.

#### Part IV Miscellaneous and General

##### General and environmental and recreational duties.

The Board must when making proposals relating to their functions-

a) as far as may be consistent with their functions, further the conservation and enhancement of flora, fauna, and features of special interest. b) have regard for the protection and conservation of buildings and sites of historic interest. c) take into account any effect the proposals would have on the beauty or amenity of the environment.

But, only subject to a-c above, the Board must:

a) have regard to the desirability of preserving for the public freedom of access to towing paths, open land, sites of historic interest, and especially to places of natural beauty.

b) take account the desirability of protecting remainder waterways which could be used as cruising waterways or as areas for other recreational uses.

##### Disposal of subsidiaries.

BW will be allowed to dispose of their subsidiaries or any securities of their subsidiaries.

The Board may provide for employees' share schemes to be established in respect of any of their subsidiaries; and provide for the transfer of shares without consideration. The resources of the Board can thus be distributed (employee share schemes usually result in the Directors obtaining the biggest share), rather than be used to benefit the waterways.

The Board cannot dispose of the main navigable channel of any inland waterway or any adjoining towing path, but can dispose of the navigable channel of a remainder waterway under section 107 of the Transport Act of 1968. This Bill does not take the opportunity to protect remainder waterways, a number of which have been restored by voluntary labour.

##### Extinguishment of certain rights

Persons who are owners, lessees or occupiers of any land adjoining waterways may presently have the right under provisions of local Acts passed before 1900; to construct places for boats to turn, pass, moor or lie; to take water from or discharge water to waterways; to

fish or use pleasure boats free of charge on that waterway.

From the day appointed by the resolution of the Board, these rights shall cease. Compensation will be payable to persons who register their rights in accordance with the rules. Why should BW take these statutory rights which belong to others just because they are not currently used?

### NABO's objections to specific clauses in the British Waterways Bill

#### Houseboats

NABO objects to Schedule one as referred to in Clause 13 subclause 1 for the following reasons:

i) The grounds for withdrawing a houseboat certificate under paragraph 3(2)(c) of that schedule are too vague and undefined. This paragraph states:

"The Board upon giving such notice (if any) as is reasonable in the circumstances may determine (cancel) a certificate on the grounds that the houseboat or any appliance or item of equipment provided in connection with the houseboat is having a detrimental effect on the amenities of the locality of the site, or is likely to do so before the date upon which the certificate will expire."

ii) Before notice of withdrawal of a certificate is given, no period is allowed for the owner of a houseboat to correct the circumstances that caused the notice of withdrawal.

iii) No means of appeal are set out for contesting the withdrawal of a houseboat certificate.

iv) There is no right of renewal of a houseboat certificate even if the vessel continues to comply in all respects with the requirements of the certificate.

v) There is no provision for the successors in title of a person who holds a houseboat certificate.

vi) Paragraphs 8 and 9 are unnecessarily restrictive. Paragraph 8 states that a person can only sell a houseboat to "a person approved of by the Board" and Paragraph 9 states that a person can only make a gift of a houseboat "to a member of his family approved by the Board".

The current situation should be retained where the Board must transfer a certificate on the sale of a houseboat as required by the British Waterways Act of 1971.

NABO objects to Clause 13 subclause 2 in that:

i) The consultation process described therein is limited to the contents of Schedule 1 and is not extended to include conditions set out under section 14 of the British Waterways Act of 1971 (which allows BW to set conditions for houseboat certificates). All new conditions could be introduced under this section making the consultation process meaningless.

ii) It is unreasonable that the Board should decide with whom it consults. We suggest the Board should consult with such organisations as appear to IWAAC to be appropriate for the purpose.

Clause 15 Amends section 13 of the British Waterways Act 1971 and in particular makes contravention thereof a criminal offence (ie to moor, place, keep or maintain a houseboat). The previous position should be restored which only made it a criminal offence only after notice had been given.

#### Conditions for certificates and licences

Clause 14 introduces the conditions as to certificates and licences; those relating to insurance policies as set out in Part I of Schedule 2 and those relating to standards for the construction and equipment of vessel as set out in Part II of Schedule 2.

NABO objects to Schedule 2, part I on the grounds that insurance is required in respect of any liability resulting from the presence of the vessel on any inland waterway. The requirement of unlimited liability insurance is unreasonable and impracticable. Also NABO objects to Schedule 2, part II in that:

i) It is unreasonable that existing vessels should comply with each specific requirement of the standards unless there is demonstrable evidence that a significantly increased risk to safety would exist if they were not complied with.

ii) It is unreasonable that the Board may from time to time revoke or amend any standards prescribed without a minimum period of notice being given before such revocations or amendments are implemented.

iii) It is unreasonable that the Board should decide with whom it consults. The Board should consult with such organisations as appear to IWAAC to be appropriate for the purpose.

NABO objects to Clause 14 for the following reasons:  
1) Subclause 3(c) requires that a permanent mooring must be available for a vessel, even if used bona fide for cruising throughout the year, but the vessel remains in one place for more than 14 days IN TOTAL in a calendar year. This period of time in one place is unreasonably restrictive.



ii) Before notice of withdrawal of a licence is given, no period is allowed for the owner of a vessel to correct the circumstances that caused the notice of withdrawal under subclause 4.

iii) No means of appeal are set out for contesting the withdrawal of a licence.

iv) The Board should not unreasonably withhold their consent under subclause 9 to the use of a vessel for the purpose of repairing or modifying it so that it will comply with the standards applicable to it.

### Moorings

Clause 16 states that no person shall moor or otherwise leave a boat so as to cause obstruction or hindrance to navigation or to the free passage of persons or vehicles along tow paths.

Clause 17 gives the Board powers to give directions as to the precise location in which a vessel is moored and the means by which the vessel is fastened or secured.

NABO objects to Clause 17 on the grounds that in our opinion, it can only be reasonable to dictate the precise position in which a vessel is moored or the means by which it is fastened or secured when it is necessary on the grounds of safety or where the vessel is moored on a river or a commercial waterway where there are specific dangers.

Clause 18 gives the Board power to restrict mooring on any inland waterway.

NABO objects to Clause 18 on the following grounds:

i) Prohibition of mooring should be limited to specific sites where it can be shown that there are necessary grounds for such prohibition.

ii) Requirements as to the manner in which vessels are to be moored and the means by which vessels are to be fastened or secured should be limited to rivers and commercial waterways.

Clause 19 gives the Board power to remove vessels to permit dredging, repairs, maintenance works, or any other works or operations of the Board.

NABO objects to Clause 19 in that:

i) 7 days is insufficient notice for an owner to remove a vessel for dredging, repairs maintenance works or any other works, all of which could be planned in advance to give the owner of a vessel 28 days notice.

ii) The cost of moving the vessel should be met by the Board where the owner moves the vessel to the temporary mooring provided by the Board.

iii) The owner should be informed when the work has been completed or the vessel has been returned to its mooring.

Clause 22 sets out the penalties and enforcement provisions which make contravention of clauses 16, 17, 18, and 19 a criminal offence. NABO objects to the contravention of these Clauses being made criminal offences.

Clause 23 creates general environment and recreational duties of the Board.

NABO objects to Clause 23 in that subclause (2)(d) requires that the use of remainder waterways for navigation shall be subject to subclause (1)(a) which requires that the Board exercise any power conferred on them to further the conservation and enhancement of natural beauty and the conservation of flora, fauna etc., which requirement may be considered as inconsistent with the use of the waterway for navigation.

Clause 25 allows the Board to dispose of their subsidiaries or any securities of their subsidiaries.

NABO objects to clause 25 subclause (8) to the extent that any number of shares may be transferred to employee share schemes without consideration.

Clause 25 subclause (9) states that the Board cannot dispose of the main navigable channels of inland waterways or their towing paths, except for remainder waterways which will still come under the part of the 1968 Act referring to them.

NABO objects to clause 25 subclause (9) in that the Board may dispose of remainder waterways that have been restored to cruiseway standard, but are not reclassified as such. This restoration work has been carried out largely by voluntary labour and should be protected for the use and benefit of the public for whom the work was done.

Clause 26 gives the Board power to appropriate parts of Ardrishaig Dock, Gloucester Docks and Sharpness Docks.

NABO objects to clause 26 in that no provision is made to restrict the extent of appropriation of the named Docks for exclusive, partial or preferential use, or to prevent the total exclusion of vessels owned by the public.

### What can NABO Members do?

#### 1. Write to your MP.

Your local library should be able to tell you who your MP is, and will also have a record of the location and times of their surgery.

- If you wish, use the sample letter (on page 3) as a guide.

- send the information sheet included as additional information for your MP.

#### 2. Visit your MP.

We do not expect every member to visit their MP, but a visit emphasises to your MP how strongly you feel and will have that much more effect.

- The visit should be as soon as possible after Parliament reassembles since the 2nd reading could be at any time.

#### 3. Write to BM objecting to the Bill.

Write to Jeremy Duffy, Solicitor and Secretary, British Waterways, Willow Grange, Church Road, Watford WD1 3QA. A copy of the Bill can also be obtained from Mr. Duffy.

#### Sample letter

The sample letter below is purely as a guide for your thoughts.

- It is important that all letters are written in your own words.

- In order to convince others, you should be convinced by your own arguments.

- Keep the letters as simple as you can. The MP can then quickly grasp the points you are making, without having to wade through vast quantities of information.

### Procedure for the passage of a Private Bill through Parliament

#### What is a Private Bill?

A Private Bill is a Bill which seeks to confer particular benefits on particular individuals, institutions or localities, over and above the provisions of the general law of the land. (A public Bill relates to the Public general law affecting everybody). Private Bills are normally promoted by Companies, local Authorities or Statutory bodies, such as BW. Any individual or organisation "directly or specially affected" by the provisions of a private Bill may petition against it.

#### Procedure

A Bill must have three readings in each house before it can be submitted for Royal Assent.

A Bill can be introduced into either House first.

1st Reading - this a formal reading of the title.

2nd Reading - will approve the principles of the Bill. (Subject to the Bill being proved at the committee stage.) If there are any objections to the Bill being passed at a formal reading it will go to a second reading debate before the whole House which is held at a later date. The bill is then said to be opposed.

Committee stage - this is a critical part of the procedure. Even if the Bill is unopposed in the 2nd reading, the promoter of the Bill still has to demonstrate proof of the necessity of the proposed measures.

Committees on private bills are "quasi-judicial", this means that the committee sits like a judge and jury. The Committee has wide powers, they can

reject the bill altogether, amend it or approve it in unamended form, but it may not amend the Bill in a way which affects people who have not previously been affected by it.

**Report stage:** Having passed the Committee stage the Bill is formally reported to the House by the Chairman of the Committee. The whole House then considers the Bill as amended, and it may then make any additional amendments needed.

**3rd reading:** is normally a formality, where the Bill is reviewed in its final form after the amendments have been made at earlier stages.

If amendments have been made by either House the Bill must then go back to the other House for consideration of the amendments.

When both houses have agreed the amendments the Bill is then sent for Royal Assent. The Bill is then an Act of Parliament.

Questionnaire

Could you please fill in the following questionnaire and return it to NABO, so that we can compile a list of MPs who are sympathetic to the waterways cause.

NABO Member.....

Address.....

.....

MP Contacted.....

Political Party.....

Constituency.....

Was contact by letter or visit.....

Response.....

.....

.....

Was the MP given a NABO Information Sheet      Yes/No

Has the MP an inland waterway in his/her Constituency  
YES/No

If yes, Which one.....

In your opinion is your MP likely to be supportive on  
the Bill      Yes/No

Other waterway Issues      Yes/No

Any other Comments.....

.....