

FREIGHT VESSEL CONDITIONS 2003

1. APPLICATION AND COMMENCEMENT

These conditions are made by British Waterways under Section 43 Transport Act 1962 and under its bye-laws. They shall apply to any freight vessel used or kept on a Waterway on or after 1 April 2003.

2. INTERPRETATION

2.1 In these conditions, unless the context otherwise requires:

"approved person" has the meaning given in condition 7.8

"British Waterways" means the British Waterways Board and its successors.

"category of water", **"category A water"**, **"category B and C waters"** have the meanings given by the Merchant Shipping (Categorisation of Waters) Regulations 1992 (SI 1992/2356)

"freight vessel" means any ship, boat, barge, tug, lighter, raft or any other description of craft (whether or not capable of navigation) other than:-

a) Business Craft licensed under the BW Craft Licence Scheme as:

i) a "leisure business craft" including holiday hire boat, day hire boat, hotel boat, passenger boat, trip boat, restaurant boat, shared ownership or time share boat, or;

ii) a "trading craft" including floating shops and offices, floating workshop, work boat (tugs, dredgers etc for work taking place on or close to the waterway), cargo carrying boat (not registered as a freight vessel and subject to BW Carriage of Freight Conditions), or

a houseboat for which a houseboat certificate under the British Waterways Act 1971 is in force, or

a pleasure boat, within the meaning given by the bye-laws of British Waterways from time to time in force, and licensed under the BW Craft License Scheme, or

a work boat belonging to or under the control of British Waterways or an authorised contractor being subject to the BW Work Boat Safety Scheme

"Inspection Certificate" has the meaning given in Condition 6

"Insurance Policy" has the meaning given in Condition 8

"master" means the person having for the time being the command, charge or management of a freight vessel

"registered" has the meaning given in Condition 4

"Waterway" means any canal or inland navigation belonging to or under the control of British Waterways

- 2.2 The headings in these conditions are for convenience only and shall not affect their interpretation.
- 2.3 Reference to any provision of any Act of Parliament or subordinate legislation (including bye-laws) shall be deemed to be a reference to such Act of Parliament, subordinate legislation or bye-laws as amended, modified, re-enacted or replaced, whether before or after the date specified in condition 1.
- 2.4 Reference to the singular shall include the plural and vice versa..

3. CONDITIONS OF USE

A freight vessel may not be kept or used on a Waterway unless:

- 3.1 The vessel is registered, and its registration number, or its name and port of registration, is clearly displayed.
- 3.2 A Fitness-for-Purpose Inspection Certificate or equivalent is in force in relation to that vessel,
- 3.3 An Insurance Policy is in force in respect of that vessel, and
- 3.4 When navigated, the vessel is under the command of a competent master and, when necessary to ensure safe operation, there is in attendance an adequate and competent crew.

4. REGISTRATION

A freight vessel is registered for the purposes of Condition 3.1 if :

- 4.1 It is registered with British Waterways in accordance with Condition 5 below; or
- 4.2 It is registered with the Port of London Authority under the provisions of section 124 of the Port of London Act 1968 as a lighter or tug; or
- 4.3 It is British Vessel registered under Part II of the Merchant Shipping Act 1995; and which possess either of the certificates detailed in Condition 6.3 or 6.4, or

- 4.4 It is a vessel for which a Community Inland Navigation Certificate has been issue by a member state of the European Union (other than the United Kingdom) in accordance with Council Directive 82/714/EC and that licence is then in force and is applicable to the category of waters being navigated, or
- 4.5 It is a vessel to which part 1 of the Merchant Shipping (Port State Control) Regulations 1995 applies.

5. REGISTRATION WITH BRITISH WATERWAYS

- 5.1 An application to register a freight vessel with British Waterways shall be made in such form as British Waterways shall from time to time require and shall include:
- i) the name, address and (if different) usual place of business of the owner,
 - ii) the name of the vessel,
 - iii) a statement of the purposes for which the vessel is, or is to be, used by reference to the nature or type of goods carried and the category of waters navigated,
 - iv) a statement of the dimensions of the vessel in such form as may be specified by British Waterways,
 - v) a copy of the Fitness for Purpose Inspection Certificate relating to the vessel,
 - vi) a copy (or other acceptable evidence) of the Insurance Policy relating to the vessel,
 - vii) such other information as British Waterways may consider relevant to the application,
 - viii) and shall be accompanied by such fee as British Waterways shall from time to time determine.
- 5.2 The owner of a freight vessel registered with British Waterways shall immediately notify British Waterways of any change of address or change of usual place of business.
- 5.3 A registration of a freight vessel with British Waterways shall cease to be in force on the earlier of;
- i) the end of any period specified in the confirmation of registration, or
 - ii) the date on which;

the ownership of the vessel changes, or

the vessel is altered in any material respect, or

the purposes for which the vessel is to be used changes from that specified in the application for registration.

- 5.4 Immediately a registration of a freight vessel with British Waterways ceases to be in force, the owner must notify British Waterways, stating in writing the reason it has ceased to be in force and the location of the vessel. Such notification may be accompanied by an application for re-registration.

6. INSPECTION CERTIFICATE

An Inspection Certificate, for the purposes of Condition 3.2, means-

- 6.1 In relation to a vessel registered with British Waterways, a certificate of inspection of fitness for purpose issued in accordance with the provisions of Condition 7 below; or
- 6.2 In relation to a vessel registered with the Port of London Authority (and not also registered under the Merchant Shipping Act 1995), a Certificate of Registration issued under Bye-law 8.4 of the Craft and Boat Registration and Regulation Bye-laws 2000 made by that Authority provided the inspection under Bye-law 5 or Bye-law 6 of those Bye-laws took place within the last 12 months; or
- 6.3 A certificate issued under the Merchant Shipping (Survey and Certification) regulations 1995, as amended; or
- 6.4 A Load Line Exemption Certificate issued under the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 (S.I. 1998/2771 as amended by S.I. 2000/482) or under the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998 (S.I. 1998/1609); or
- 6.5 A Community Inland Navigation Certificate issued in accordance with Council Directive 82/714/EC
- 6.6 In relation to a vessel to which part 1 of the Merchant Shipping (Port State Control) Regulations 1995 applies an inspection or survey certificate issued by a Competent Authority or Approved Classification Society which is, as a minimum, the equivalent standard of the British Waterways Fitness-for-Purpose Certificate.

7. INSPECTION OF FITNESS FOR PURPOSE

- 7.1 A certificate of inspection of fitness for purpose may be issued (and may be revoked) in the circumstances set out in this condition.
- 7.2 The owner of a freight vessel shall at his own expense arrange for it to be inspected by an approved person and shall provide all reasonably necessary facilities for the approved person to enter, inspect, measure, survey and examine the vessel to enable him to determine the vessel's fitness for the purpose or purposes specified (or intended to be specified) in the registration of the vessel. The approved person shall record the results of his inspection in such form and by reference to any guidance notes as British Waterways shall from time to time require or provide.
- 7.3 If, following an inspection, an approved person determines that works are required to the vessel before a certificate may properly be issued, then provided those works are completed within 28 days of the date of the inspection, the approved person may re-inspect the vessel by reference to those works alone in order to be satisfied that a certificate may properly be issued.
- 7.4 If, following an inspection or re-inspection, the approved person is satisfied that the vessel is fit for its purpose he shall issue a certificate to that effect in a form approved by British Waterways. Unless earlier revoked, such certificate shall be valid for a period of one year.
- 7.5 British Waterways may at any time revoke a certificate issued under this condition by notice in writing to the owner of the vessel if it becomes aware that the vessel has been altered in any material respect or if the condition of the vessel has deteriorated in any material way in respect of its fitness-for-purpose since the last inspection.
- 7.6 This provision applies where, within a period of 28 days prior to the expiry of the validity of a certificate issued under Condition 7.5, a vessel is inspected by an approved person for the purpose of a replacement certificate, and the approved person is satisfied as a result of that inspection that a replacement certificate may properly be issued. In those circumstances, the period of validity of the replacement certificate shall be one year from the date of expiry of the validity of the certificate being replaced.
- 7.7 An approved person for the purpose of this condition means a person who is a member of such bodies concerned with the examining and surveying of vessels or otherwise approved for the purpose of examination of vessels as shall from time to time be included in a list published by British Waterways. British Waterways may in that list indicate the necessary qualification, experience or level of skill necessary (in addition to membership of, or approval by, the specified body) to be an approved person. British Waterways may additionally or alternatively specify approved persons by reference to criteria published from time to time by the Maritime and Coastguard Agency.

8. INSURANCE POLICY

An Insurance Policy for the purposes of Condition 3.3 means an insurance policy complying with Part I of Schedule 2 to the British Waterways Act 1995 but provided that-

- 8.1 The exclusion in Paragraph 3(c) of a requirement for insurance cover for liability for goods shall not apply so far the liability relates to persons other than the owners or consignees of those goods.
- 8.2 The exclusion in Paragraph 3(e) of a requirement for insurance cover for contractual liability shall not apply in respect of contractual liability to British Waterways.
- 8.3 British Waterways may prescribe a sum under paragraph 3(f) that applies only to freight vessels, and may prescribe different sums by reference to the nature of the goods carried.

9. COMPETENCY OF MASTER AND CREW

- 9.1 The minimum competencies required for the purposes of Condition 3.4 are:
 - i) for a master in command of a freight vessel being navigated in Category A waters, a British Waterways Helmsman's Certificate.
 - ii) for a master in command of a freight vessel being navigated in Category B and C waters, Maritime & Coastguard Agency Boatmaster Licence.
 - iii) A European Community Boatmaster's licence (with appropriate local knowledge)
 - iv) for crew in attendance on freight vessels being navigated on any Waterway, British Waterways Deckhand's Certificate.
- 9.2 British Waterways may from time to time, by published list or by individual notification, recognise other maritime qualifications that meet the minimum competencies specified above.
- 9.3 British Waterways may, in any conditions of carriage, require levels of competency greater than the minimum specified in Condition 9.1 where the nature or type of goods carried are such that the safe operation of the freight vessel or the waterway to be navigated may otherwise be at risk.

10. VESSELS LAID UP

- 10.1 An owner of a freight vessel registered with British Waterways may notify British Waterways in writing that such vessel is laid up, specifying the location at which it is laid up.

- 10.2 Where notification under 10.1 above is given it shall not be necessary for a certificate of fitness for purpose under condition 7 to be in force in respect of that vessel. Such vessel shall nevertheless remain subject to the provisions Section 7 British Waterways Act 1983 (Control of unsafe vessels).
- 10.3 A freight vessel that is laid up in accordance with this condition must be capable of navigation, or be under active repair to make it so with a reasonable time. Such vessel may not be navigated on a Waterway except with the prior consent of British Waterways for the purpose only to take it to a place of repair or to an appropriate place for inspection under Condition 7.