
STATUTORY INSTRUMENTS

2016 No. 151

The Newhaven Harbour Revision Order 2016

PART 3

COMMERCIAL WORKBOATS

Restriction of commercial workboat services

13.—(1) No person other than the Company shall in the harbour operate a commercial workboat service, or offer a vessel for use in the operation of a commercial workboat service, unless he is licensed so to do by the Company in pursuance of article 14, nor except upon the terms and conditions, if any, upon which the licence is granted pursuant to that article.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) For the purposes of Part 3 a “workboat” is a vessel in commercial use other than for sport or pleasure and a commercial workboat service includes the provision of a workboat with crew for hire or reward in connection with commercial services within the harbour.

Licensing of commercial workboat services

14.—(1) The Company may grant to any person a licence to operate a commercial workboat service (in this and the following articles referred to as “a licence”) in any part of the harbour.

(2) The Company shall not be required to grant a licence if—

- (a) the provision of the service to which the licence application relates would give rise to the risk of congestion, obstruction or danger to navigation; or
- (b) a comparable service is already being provided, whether by some other person already licensed under this article, or by the Company which adequately meets the needs of potential users; or
- (c) the applicant is unsuitable to hold the licence, whether on account of misconduct by him, any employee or agent of his or (where the applicant is not an individual) by any person in control of or concerned with the management of the applicant, the qualifications held by the Master or crew, or for another sufficient reason.

Further provisions as to licences

15.—(1) A licence may be granted pursuant to article 14 subject to such terms and conditions as the Company think fit including conditions—

- (a) as to the hours of operation of the commercial workboat service (including requirements as regards frequency of service);
- (b) as to the charges levied by the licensed operator of the commercial workboat service;
- (c) as to the minimum level of qualifications required for the master and crew;

- (d) requiring that the seaworthiness of the commercial workboat is evidenced by the production of a survey report to the satisfaction of the harbour master;
 - (e) requiring the maintenance of a public liability insurance policy in relation to the vessels used for the purposes of the commercial workboat service; and
 - (f) for ensuring compliance with requirements made by or under any enactment relating to the commercial workboat service or to the Company.
- (2) A licence shall have effect for such period (which shall be specified in the licence) as the Company may determine.
- (3) An application for a licence—
- (a) must be made in writing to the Company;
 - (b) must include proposals for the hours of operation and the fares to be levied; and
 - (c) must contain such information (including information about the applicant and the vessels to be used), and must be accompanied by such documents, as the Company may reasonably require.
- (4) The Company must give notice to the applicant of their decision whether to grant the licence.
- (5) If within three months from the date of the making of an application under paragraph (3) the Company do not give notice under paragraph (4), they shall be deemed to have refused the application.
- (6) The Company may charge a reasonable fee for the grant of a licence.
- (7) If the Company refuses to grant a licence which has been applied for it must give reasons in writing for its refusal.
- (8) If the Company grants a licence upon terms or conditions or subject to modifications, it must give reasons in writing for the terms and conditions imposed or the modifications required.

Appeals in respect of licences

16.—(1) If-

- (a) the Company has refused to grant a licence pursuant to article 14 and the applicant for the licence is aggrieved by the refusal; or
- (b) the Company has granted a licence upon terms or conditions and the applicant is aggrieved by the Company's decision as to such terms or conditions; or
- (c) the Company has granted a licence subject to modifications and the applicant is aggrieved by the modifications,

the applicant may appeal in accordance with article 17.

Appeals procedure

17.—(1) Where an applicant wishes to appeal pursuant to article 16 he must serve notice on the Company within 28 days of the date upon which the Company refused (or was deemed to have refused) to grant the licence, or granted it upon terms and conditions or subject to modifications.

(2) Upon receipt of a notice of appeal received under paragraph (1) the Company must refer the determination of the appeal to an independent person (the adjudicator) to be agreed between the Company and the applicant or, failing agreement, appointed on the application of the Company or the applicant by the President of the London Maritime Arbitrators Association.

(3) The adjudicator must, so far as is reasonably practicable within 28 days of the referral, first provide a reasonable opportunity for each of the parties to make representations to or be heard by the adjudicator and then make a report in writing to the Company with findings and reasoned

recommendations on whether the licence should be granted and, if so, on what terms or conditions and subject to what modifications, a copy of which must also be provided by the adjudicator to the applicant.

(4) The Company must decide whether to act in accordance with the report and recommendations contained in the report of the adjudicator (but shall not be bound to give effect to the recommendations) and, once it has so decided, it must give notice in writing to the applicant of its decision and of the reasons for that decision.

(5) The costs incurred by the adjudicator and by each of the parties on any referral under paragraph (2) are to be paid by such one or more of the parties to the referral as the adjudicator may direct.