

ELIZABETH II



1990 CHAPTER xxvii

An Act to provide for the closure to the public of certain lands in or adjoining the Port of Great Yarmouth; to confer further powers on the Great Yarmouth Port Authority to give directions to vessels; and for other purposes. [26th July 1990]

WHEREAS—

(1) The Great Yarmouth Port Authority (hereinafter called “the Authority”) were incorporated by the Great Yarmouth Port and Haven Act 1866 under the name of the Great Yarmouth Port and Haven Commissioners (that name having been changed to the Great Yarmouth Port Authority by the Great Yarmouth Port Authority Harbour Revision Order 1989):

1866 c. ccxlvii.

S.I. 1989/1737.

(2) Under the powers conferred on them by the Great Yarmouth Port and Haven Acts and Orders 1866 to 1986 the Authority are the authority for the conservation and improvement of the Port and Haven of Great Yarmouth, other than those areas which were removed from their jurisdiction by the Norfolk and Suffolk Broads Act 1988:

1988 c. 4.

(3) Certain lands forming part of or adjoining the Port which are used for the purposes of harbour operations or port related activities are open to entry by members of the public who are placed in danger, and hinder the safe and efficient operation of the Port, and it is expedient that provision should be made for the closure to the public of those lands and other lands intended to be used for the aforesaid purposes:

(4) It is expedient that new powers should be conferred on the Authority to give general and special directions to vessels:

(5) It is expedient that the other provisions of this Act should be enacted:

(6) A plan showing the aforesaid lands and a book of reference to such plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the proper officer of the Norfolk County Council:

(7) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and 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:—

PART I

PRELIMINARY

Citation.

1.—(1) This Act may be cited as the Great Yarmouth Port Authority Act 1990.

(2) The Great Yarmouth Port Authority Acts and Orders 1866 to 1989 and this Act may be cited together as the Great Yarmouth Port Authority Acts and Orders 1866 to 1990.

Interpretation. 1866 c. ccxlvii.

2. In this Act—

“the Act of 1866” means the Great Yarmouth Port and Haven Act 1866;

“the approaches” means any seaward approaches to the Port;

“the borough council” means the Great Yarmouth Borough Council;

“the Authority” means the Great Yarmouth Port Authority;

“general direction” means a direction given under section 15 (General directions to vessels) of this Act;

“the harbour master” means the harbour master of the Authority and includes his authorised deputies and assistants and any person authorised by the Authority to act in that capacity;

1964 c. 40.

“harbour operations” has the meaning given by section 57 (1) of the Harbours Act 1964;

“the lands” means the lands shown coloured respectively yellow, green and pink on the signed plan;

S.I. 1982/1281. 1986 c. xxii.

“the Port” means the Port of Great Yarmouth as defined by section 4 (Limits of the Port of Great Yarmouth) of the Act of 1866, as that section has effect by virtue of the Great Yarmouth Port and Haven Revision Order 1982 and section 42 (Extension of limits of Port of Great Yarmouth) of the Great Yarmouth Outer Harbour Act 1986 but does not include those areas removed from the jurisdiction of the Authority by the Norfolk and Suffolk Broads Act 1988;

1988 c. 4.

“port-related activities” means any activities (not being harbour operations) carried on for the purposes of any trade or business associated with the Port;

“the signed plan” means the plan of which four copies have been signed by the Lord Thomas of Gwydir the Chairman of the Committee of

the House of Lords to whom the Bill for this Act was referred, and deposited respectively in the office of the Clerk of the Parliaments, in the Private Bill Office of the House of Commons, in the office of the Chief Executive and Clerk of the Authority and in the office of the Chief Executive Officer of the borough council;

PART I
—cont.

“special direction” means a direction given under section 16 (Special directions to vessels) of this Act;

“statutory undertaker” means any of the following, namely a licence holder within the meaning of Part I of the Electricity Act 1989, any public gas supplier within the meaning of Part I of the Gas Act 1986, a sewerage undertaker, a water undertaker and any operator of a telecommunications code system within the meaning of Schedule 4 to the Telecommunications Act 1984;

1989 c. 29.

1986 c. 44.

1984 c. 12.

“Trinity House” means the Corporation of Trinity House of Deptford Strond; and

“viewing area” means an area established to enable members of the public to observe the passage of vessels and the operation of the Port.

PART II

CLOSURE OF QUAYSIDE LANDS

3.—(1) The provisions of this Act as to the closure of the lands shall have effect notwithstanding anything in any other enactment or any rule of law relating to the lands, or to the Authority.

Closure of lands:
miscellaneous
provisions .

(2) Nothing in this Act shall prohibit or authorise the Authority to prohibit entry on to any part of the lands by—

- (a) any person otherwise entitled to enter that part for the purposes of or in connection with harbour operations or port-related activities; or
- (b) the owner or occupier of that part, or any person having control for the time being of that part, or any person permitted to be there by such owner, occupier or person having control as aforesaid; or
- (c) the National Rivers Authority or any statutory undertaker or any person authorised by that Authority or any such undertaker to enter that part in connection with any statutory function of that Authority or undertaker; or
- (d) any constable or member of the fire brigade or ambulance service or person employed by the coastguard service or Trinity House acting in every case in the execution of duty.

(3) Notwithstanding the closure to the public of any part of the lands under any provision of this Act, and subject to subsection (4) below, the Authority may permit such persons as they think fit to have access to that part for such periods and on such conditions as the Authority may determine.

(4) Nothing in subsection (3) above shall authorise the Authority to permit any person to enter any part of the lands which is not in their occupation or under their control for the time being without the consent of the occupier or person having control for the time being of that part.

4. As from the passing of this Act the Authority may in accordance with section 7 of this Act and subject to section 9 of this Act close to the public indefinitely any part of the lands shown coloured yellow on the signed plan.

Closure of
certain lands.

PART II
—cont.
Power to close
certain other
lands.

5.—(1) If at any time it appears to the Authority that—

- (a) there has been an alteration in the operational requirements of the Port since 25th November 1988 (being the date of the deposit of the Bill for this Act); and
- (b) as a result of that alteration, members of the public entering any part of the lands shown coloured green on the signed plan are likely to be exposed to the risk of danger, or to hinder the safe and efficient operation of the Port;

the Authority may resolve that, subject to the consent of the borough council, that part of the lands shall be closed to the public in accordance with section 7 of this Act.

(2) As from the passing of any resolution under subsection (1) above specifying any part of the lands shown coloured green on the signed plan, the Authority may, in accordance with section 7 of this Act, and subject to section 9 of this Act and to such consent as aforesaid, close that part to the public indefinitely.

Temporary
closure of
certain lands.

6. The harbour master may from time to time close to the public temporarily, in accordance with section 7 of this Act, any part of the lands shown coloured green on the signed plan which has not been specified in a resolution of the Authority under section 5 of this Act, and any part of the lands so shown coloured pink, for such periods as may be necessary to facilitate the carrying out, on or adjoining that part of those lands, of harbour operations or port-related activities.

Prevention of
entry on lands:
penalties.

7.—(1) Where the Authority or, as the case may be, the harbour master are authorised to close any part of the lands under any provision of this Act, they or he may—

- (a) display notices prohibiting entry (except as may be stated in the notices) on to that part of the lands; and
- (b) erect barriers to prevent or deter entry on to that part of the lands.

(2) Any person who without reasonable excuse enters any part of the lands in contravention of a notice prominently displayed on or adjoining that part in accordance with subsection (1) (a) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Suspension of
rights of way.

8.—(1) As from the closure of any part of the lands under section 4 or section 5 of this Act all rights of way (including public rights of way, if any) subsisting over that part shall be suspended.

(2) Nothing in subsection (1) above shall authorise any interference with the entry on any part of the lands of persons such as are mentioned in subsection (2) of section 3 (Closure of lands: miscellaneous provisions) of this Act.

(3) Any person who suffers loss by the suspension of any private right of way under this section shall be entitled to be paid by the Authority compensation to be determined in case of dispute by the Lands Tribunal.

Disapplication
and
re-application
of closure
provisions.

9.—(1) If at any time it appears to the Authority, following consultation with the borough council, that any part of the lands which has been closed under section 4 or section 5 of this Act has ceased to be used for such harbour operations or port-related activities as—

- (a) would give rise to the risk of danger to members of the public on that part; or

(b) would be hindered, as regards safety and efficiency, by the presence of members of the public on that part;

PART II
—cont.

then—

- (i) the Authority shall remove any notices or barriers displayed or erected (as the case may be) under section 7 of this Act in relation to that part;
- (ii) section 7 of this Act shall cease to have effect in relation to that part; and
- (iii) all rights of way (including public rights of way, if any) over that part suspended by virtue of section 8 of this Act shall revive.

(2) If, after subsection (1) above has effect in relation to any part of the lands it appears to the Authority that such part is again to be used for such harbour operations or port-related activities as would, if the public had access thereto, expose any member of the public to the risk of danger or would be hindered, as regards safety and efficiency, by the presence of members of the public on that part, the Authority may—

- (a) in the case of any part of the lands shown coloured yellow on the signed plan, after consultation with the borough council;
- (b) in the case of any part of the lands shown coloured green on the signed plan, subject to the consent of the borough council;

resolve that such part shall again be closed to the public and thereupon section 7 of this Act shall again have effect in relation to that part.

(3) Subsection (1) above shall apply to any land closed under subsection (2) above as it applies to land closed under section 4 or 5 of this Act (and where subsection (1) above becomes applicable to any land by virtue of this subsection, subsection (2) above shall have effect accordingly).

10. The borough council shall not give their consent under section 5 (1) and (2) of this Act or under section 9 (2) of this Act until they have carried out such public consultation as they think fit.

Consultation.

11.—(1) The Authority if they think fit may on any part of the lands (including such parts as have been closed to the public under any provision of this Act) in which they have a sufficient right or interest establish viewing areas, together with access ways thereto and other related facilities, and may permit persons to use the same on such conditions, including conditions as to payment (other than payment for entry to the viewing areas), as the Authority may determine, and, subject to subsection (2) below, the Authority may from time to time close, alter or remove any such viewing areas, access ways and facilities.

Viewing areas.

(2) Subject to their obtaining all necessary consents, the Authority following consultation with the borough council shall establish and at all times maintain on or in the vicinity of the lands not less than six viewing areas.

12. It shall be the duty of the Authority to review the operation of this Part of this Act—

Review of
closure
procedure.

- (a) as soon as may be after the completion of Work No. 1 authorised by the Great Yarmouth Outer Harbour Act 1986 and the opening for traffic of the quays to be provided as part of that work or, if earlier, the third anniversary of the passing of this Act;
- (b) as soon as may be after every third anniversary of the review carried out under paragraph (a) above.

1986 c. xxii.

PART II
—cont.
For
protection
of certain
associations.

13.—(1) In this section “the associations” means the Great Yarmouth Guild of Artists and Craftsmen, the Great Yarmouth Naturalists’ Society, the Great Yarmouth Society and the Great Yarmouth Wildfowlers’ Association.

(2) It shall be the duty of the Authority—

- (a) to consult the associations before passing any resolution under section 5 or section 9 (2) of this Act;
- (b) to consider any representations by the associations that any part of the lands which has been closed under section 4, 5 or 9 (2) of this Act has ceased to be used for such harbour operations or port-related activities as are specified in section 9 (1) thereof; and
- (c) to consult the associations in the course of any review carried out under section 12 of this Act.

Saving for
certain
provisions
of Act of
1866.

14. Nothing in this Part of this Act shall affect the operation of section 63 (Penalty on obstructing traffic along sides of Haven) or section 72 (Buildings not to be made near head of wharves, &c.) of the Act of 1866:

Provided that—

- (a) the closure of lands under any provision of this Part of this Act; and
- (b) the display of notices and the erection of barriers under section 7 of this Act;

shall be deemed not to contravene either the said section 63 or the said section 72.

PART III

DIRECTIONS TO VESSELS

General
directions to
vessels.

15.—(1) The Authority may, after consultation with the General Council of British Shipping, with the Great Yarmouth Port Users’ Association and with the Royal Yachting Association, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the Port and the approaches and, without prejudice to the generality of the foregoing, for any of the following purposes:—

- (a) for designating areas, routes or channels in the Port or the approaches which vessels are to use or refrain from using for movement or mooring;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) for prohibiting entry into or movement in the Port or the approaches by vessels at times of poor visibility due to the weather or to the presence of dust or smoke:

Provided that no direction given under paragraph (c) above shall prevent the entry into the Port or the approaches of any vessel seeking refuge from stress of weather;

- (d) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master in order to effect the objects of this subsection.

(2) Directions given under subsection (1) above may apply—

- (a) to all vessels or to a class of vessels designated, or the designation of which in case of emergency is provided for, in the direction;

(b) to the whole of the Port or the approaches or to a part designated, or the designation of which in case of emergency is provided for, in the direction; and

(c) at all times or at times designated, or the designation of which in case of emergency is provided for, in the direction;

and every such direction shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c) of this subsection.

(3) The Authority may, after consultation with the General Council of British Shipping, with the Great Yarmouth Port Users' Association and with the Royal Yachting Association revoke or amend directions given under this section.

PART III
—cont.

16.—(1) A special direction may be given for any of the purposes set out in subsection (2) below by the harbour master to a vessel anywhere in the Port or the approaches.

Special directions
to vessels.

(2) A special direction may be given for any of the following purposes:—

(a) requiring a vessel to comply with a requirement made in or under a general direction;

(b) regulating or requiring for the ease, convenience or safety of navigation the movement, mooring or unmooring of a vessel;

(c) regulating for the safety of navigation the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores.

(3) A special direction may be given in manner considered by the harbour master to be appropriate.

17.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Authority once in Lloyd's List and Shipping Gazette newspaper or some other newspaper specialising in shipping news, and, if the notice relates to the giving or amendment of a general direction, shall state a place at which copies of the direction may be inspected and bought and the price thereof.

Publication
of general
directions.

(2) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the harbour master considers appropriate.

18.—(1) The master of a vessel who fails to comply with a general or special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Failure to comply
with directions.

(2) It shall be a defence to the master of a vessel charged with an offence under subsection (1) above to prove that he had reasonable ground for supposing that non-compliance with the direction in question was necessary to secure the safety of any vessel or to prevent injury to any person or damage to any vessel or cargo or that in the circumstances compliance was impracticable.

19.—(1) Without prejudice to any other remedy available to the Authority, if a special direction is not complied with within a reasonable time, the harbour master may, where practicable, put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

Enforcement of
directions.

PART III
—cont.

(2) If the harbour master considers that the giving of a special direction to a vessel is desirable but there is no one on board to comply with the direction, he may without giving the direction proceed as if it had been given and not complied with within a reasonable time:

Provided that the powers of this subsection shall not be exercised unless—

- (a) after reasonable inquiry has been made the master cannot be found;
or
- (b) the vessel is obstructing or interfering with navigation.

(3) Expenses incurred by the Authority in the exercise of the powers conferred by subsection (1) above shall be recoverable by the Authority as if they were a charge of the Authority in respect of the vessel.

PART IV

MISCELLANEOUS AND GENERAL

Power to give
guarantees for
purposes of
Port.

1985 c. 6.

20.—(1) In this section, “company” has the meaning given by section 735 of the Companies Act 1985 and “subsidiary” has the meaning given by section 736 of that Act.

(2) The Authority for the purposes of the Port may give guarantees and enter into contracts of indemnity or suretyship of all kinds for the benefit of any subsidiary or other company in which the Authority have a substantial holding and in connection with such guarantees or contracts may mortgage or charge all or any of their property, revenues or tolls.

Cost of Act.

21. All costs, charges and expenses of, and incidental to, the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Authority and may in whole or in part be defrayed out of revenue.

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Great Yarmouth Port Authority Act 1990

CHAPTER xxvii

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Citation.
2. Interpretation.

PART II

CLOSURE OF QUAYSIDE LANDS

3. Closure of lands: miscellaneous provisions.
4. Closure of certain lands.
5. Power to close certain other lands.
6. Temporary closure of certain lands.
7. Prevention of entry on lands: penalties.
8. Suspension of rights of way.
9. Disapplication and re-application of closure provisions.
10. Consultation.
11. Viewing areas.
12. Review of closure procedure.
13. For protection of certain associations.
14. Saving for certain provisions of Act of 1866.

PART III

DIRECTIONS TO VESSELS

Section

- 15. General directions to vessels.
- 16. Special directions to vessels.
- 17. Publication of general directions.
- 18. Failure to comply with directions.
- 19. Enforcement of directions.

PART IV

MISCELLANEOUS AND GENERAL

- 20. Power to give guarantees for purposes of Port.
- 21. Cost of Act.