



# Harbours Act 1964

## 1964 CHAPTER 40

### *[<sup>F1</sup> Harbour closure orders*

#### **Textual Amendments**

- F1** Ss. 17A-17F and cross-heading inserted (1.10.2013) by [Marine Navigation Act 2013 \(c. 23\), ss. 6\(1\), 13; S.S.I. 2013/254, art. 2; S.I. 2013/1489, art. 3; S.I. 2013/2006, art. 2](#)

#### **17A Power to make closure order**

- (1) The Secretary of State may make an order under this section in respect of a harbour (a “closure order”)—
  - (a) on the application of the harbour authority,
  - (b) with the consent of the harbour authority, or
  - (c) if the Secretary of State has consulted the harbour authority and is satisfied that they are unlikely to object.
- (2) The Secretary of State must publish guidance about the circumstances in which a closure order will be made. The guidance—
  - (a) must require the Secretary of State to have regard to the underlying purpose, and
  - (b) must be reviewed and (if appropriate) revised from time to time.
- (3) In this section—
  - (a) “the underlying purpose” means the purpose of permitting or requiring harbour authorities to cease to maintain harbours which are no longer commercially viable or necessary;
  - (b) “the harbour authority” in relation to a harbour means any harbour authority which has statutory duties to manage, maintain or improve the harbour.

#### **17B Content of closure order**

- (1) A closure order must relieve the harbour authority of—

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*Status: Point in time view as at 01/10/2013.*

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- (a) all statutory functions in respect of the harbour, or
  - (b) specified statutory functions in respect of the harbour.
- (2) A closure order may transfer specified functions of the harbour authority to a specified body (with the body's consent).
- (3) A closure order must include transitional provision about the cessation of the harbour authority's functions (including provision about rights and liabilities in relation to the performance of functions before the closure order takes effect).
- (4) A closure order may—
- (a) permit or require the harbour authority to carry out works in respect of the harbour;
  - (b) permit the Secretary of State to carry out works in respect of the harbour;
  - (c) require a harbour authority to pay for works carried out under paragraph (b);
  - (d) confer on the harbour authority or the Secretary of State power to acquire (whether by agreement or compulsorily) land described in the order as the site of works to be carried out under paragraph (a) or (b).

### **17C Harbour closure orders: property etc**

- (1) A closure order may include provision for the transfer of property, rights and liabilities of the harbour authority.
- (2) In particular, a closure order may include provision—
- (a) transferring things that would otherwise not be capable of being transferred;
  - (b) creating interests, rights or liabilities in relation to things transferred or in connection with a transfer;
  - (c) for enforcement of rights or liabilities (whether transferred or created by the order);
  - (d) about the transfer of rights and liabilities in relation to employment (including provision for deemed continuity);
  - (e) about pension schemes (including provision for amending schemes, winding them up, transferring their administration, and saving rights existing before a transfer takes effect);
  - (f) terminating appointments;
  - (g) for compensation for loss of employment (or office).
- (3) A closure order may include provision—
- (a) extinguishing liabilities to the Secretary of State;
  - (b) about the winding up of the harbour authority's affairs;
  - (c) about the winding up of any company wholly owned by the harbour authority;
  - (d) about the dissolution of the harbour authority.
- (4) A provision of a closure order transferring property, rights or liabilities may—
- (a) make the transfer subject to a condition (such as the grant of an interest in favour of a third party), and
  - (b) include provision about the effect of failure to comply with the condition.
- (5) Provision under this section may confer a function on the Secretary of State.

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## **17D Harbour closure orders: procedure**

- (1) Part 1 of Schedule 3 has effect in relation to closure orders as in relation to harbour revision orders.
- (2) In relation to closure orders made otherwise than on the application of the harbour authority Part 1 of Schedule 3 has effect with any necessary modifications, in particular—
  - (a) ignore paragraphs 3, 5, 6, 7, 9, 13 and 14,
  - (b) treat a reference to the applicant as a reference to the Secretary of State,
  - (c) treat a reference to the application for an order as a reference to the proposal to make an order,
  - (d) treat a reference to being notified of a proposed application as a reference to proposing to make an order, and
  - (e) paragraph 8 applies if the Secretary of State decides that the order would relate to a project which falls within Annex I or II to the Directive and is a relevant project, in which case—
    - (i) the Secretary of State must prepare the environmental statement, having consulted bodies with environmental responsibilities, and
    - (ii) the statement must include the information specified in subparagraph (2) (and may include other information).
- (3) Section 44 applies in relation to closure orders as in relation to harbour revision orders.

## **17E Harbour closure orders: devolution**

- (1) In relation to fishery harbours in Wales—
  - (a) the power to make closure orders vests in the Welsh Ministers, and
  - (b) a reference in this group of sections to the Secretary of State is to be treated as a reference to the Welsh Ministers.
- (2) In relation to harbours in Scotland—
  - (a) the power to make closure orders vests in the Scottish Ministers,
  - (b) a reference in this group of sections to the Secretary of State is to be treated as a reference to the Scottish Ministers, and
  - (c) the reference in section 17D(1) to Schedule 3 is a reference to that Schedule as it has effect in relation to Scotland.

## **17F Supplemental**

- (1) A closure order may include incidental, consequential, transitional or saving provisions.
- (2) In particular, a closure order—
  - (a) may amend, repeal or revoke an enactment of local application, and
  - (b) may disapply or modify the application of any other enactment.
- (3) A closure order—
  - (a) may make provision generally or only for specified purposes, and
  - (b) may make different provision for different purposes.]

**Status:**

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**Changes to legislation:**

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