
S T A T U T O R Y I N S T R U M E N T S

1972 No. 300

HARBOURS, DOCKS, PIERS AND FERRIES

The Yarmouth (Isle of Wight) Harbour Revision Order 1971

<i>Made - - - -</i>	<i>4th November 1971</i>
<i>Laid before Parliament</i>	<i>16th December 1971</i>
<i>Coming into Operation</i>	<i>8th February 1972</i>

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[DOE 5095]

The Secretary of State for the Environment in exercise of the powers conferred on him by section 14 of the Harbours Act 1964(a), and of all other powers enabling him in that behalf and on the application of the Yarmouth (Isle of Wight) Harbour Commissioners, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Yarmouth (Isle of Wight) Harbour Revision Order 1971, and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(b).

(2) The Yarmouth (Isle of Wight) Pier and Harbour Orders 1931 to 1963(c) and this Order may be cited together as the Yarmouth (Isle of Wight) Harbour Orders 1931 to 1971.

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following words and expressions shall have the several meanings hereby assigned to them respectively, that is to say:—

“the Act of 1964” means the Harbours Act 1964;

“the Act of 1894” means the Merchant Shipping Act 1894(d);

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(e);

“the Commissioners” means the Yarmouth (Isle of Wight) Harbour Commissioners;

“enactment” means any enactment whether public, general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“the harbour” means the harbour of Yarmouth in the Isle of Wight having the limits described in section 14 (Limits of Order) of the Order of 1931 as extended by article 4 (Extension of limits of harbour) of this Order and includes the land, buildings, works, plant, property and conveniences referred to in that article;

“houseboat” means any vessel or structure lying in the water or on the foreshore of the harbour, the whole or any part of which is used or capable of being used as a place of habitation or store and, if used as a place of habitation, whether such use be temporary, intermittent or permanent, or as a place for accommodating or receiving persons for purposes of shelter, recreation, entertainment or refreshment or as club premises or as offices, shall include the remains or wreckage of a vessel or structure formerly so used or capable of being so used but shall not include any ship registered under the Act of 1894 or any vessel bona fide used for navigation;

“land” includes land covered with water;

“mooring” includes any buoy, post, chain, pillar or like apparatus or convenience used for the mooring of vessels;

(a) 1964 c. 40.

(b) 9 & 10 Geo. 6. c. 18; 1965 c. 43.

(c) confirmed by 1931 c. lxxxix; see 1960 c. xxii; see 1963 c. xxii.

(d) 1894 c. 60.

(e) 1847 c. 27.

“the Order of 1931” means the Yarmouth (Isle of Wight) Pier and Harbour Order 1931(a);

“the undertaking” means the undertaking of the Commissioners in or in connection with the harbour as for the time being authorised;

“vessel” includes any ship, boat, raft or craft of every class or description, howsoever navigated or propelled, a hovercraft within the meaning of the Hovercraft Act 1968(b) and any seaplane on the surface of the water.

(2) Any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Order.

(3) (a) Notwithstanding anything in the Order of 1931, the words “harbour” and “undertaking” shall, where used in that Order or in any enactment incorporated therewith, have the meanings assigned to them respectively by this article.

(b) References in the Order of 1931 to the limits of that Order shall be construed as references to those limits as extended by article 4 (Extension of limits of harbour) of this Order.

Incorporation of Act of 1847

3.—(1) (a) The provisions of the Act of 1847 (except sections 6 to 13 and 16 to 20, 22, 23, 25, 26, 42, 43, 48, 49, 50, 84 to 90 and 95) so far as the same are applicable for the purposes of and are not inconsistent with the provisions of this Order, are hereby incorporated with and form part of this Order.

(b) Notwithstanding anything in section 33 of the Act of 1847 in its application to the harbour, the harbour shall not be open for the shipping and unshipping of goods or the embarking and landing of passengers at such times as in the opinion of the harbour master the accommodation therefor is fully occupied.

(2) For the purposes of the incorporation of the said provisions of the Act of 1847, and in the application of any such provision to the Commissioners:

- (a) the expression “special Act” shall mean this Order;
- (b) the expression “the undertakers” shall mean the Commissioners;
- (c) the expression “the prescribed limits” shall mean the limits of the harbour as described in section 14 (Limits of Order) of the Order of 1931 as extended by article 4 (Extension of limits of harbour) of this Order;
- (d) the word “vessel” shall have the meaning given to that word by paragraph (1) of article 2 (Interpretation) of this Order;
- (e) the word “rates” shall include mooring rates;
- (f) section 15 shall be read and have effect as if the words from “shall forfeit” to the end of the section were deleted and there were substituted therefor the words “shall be liable on summary conviction to a fine not exceeding £100”;
- (g) in section 63, for the words from “penalty” to the end of the section there shall be substituted the words “penalty not exceeding £20”;
- (h) section 69 shall be read and have effect as if the words “provided that such sums shall not exceed £100 in total” were added thereto; and
- (i) section 98 shall be read and have effect as if the words “provided that such sums shall not exceed £100 in total” were added thereto.

(a) confirmed by 1931 c. lxxxix.

(b) 1968 c. 59.

Extension of limits of harbour

4.—(1) The limits within which the Commissioners shall have authority shall be extended to include in addition to the limits described in section 14 (Limits of Order) of the Order of 1931 the area coloured blue on the map and deposited in accordance with the provisions of paragraph (2) of this article, together with the land, buildings, works, plant, property and conveniences of the Commissioners for the time being held by them in connection with the harbour.

(2) A map showing the said area having been signed in triplicate by an Assistant Secretary in the Department of the Environment and one copy thereof having been deposited respectively at the office of the Department of the Environment and at the office of the Department of Trade and Industry the remaining copy thereof shall be deposited at the office of the Clerk of the Commissioners.

Power to construct, maintain and improve works

5. Subject to the provisions of this Order, the Commissioners may maintain, alter and improve the harbour and may from time to time construct, maintain, alter, improve, enlarge and extend landing-places, approaches, steps, embankments, walls, piers, quays, jetties, slips, wharves, groynes, sea defences, moorings, buoys, navigation marks, cranes, lights, beacons, roads, sewers, drains, water-courses, gas and water pipes, apparatus for electric light and power, warehouses, offices, sheds and other buildings, works, apparatus, and conveniences which may be found necessary for the accommodation of vessels and traffic or for the protection of the harbour;

Provided that—

- (i) the Commissioners shall not exercise the powers of this article on any land not for the time being belonging to them except with the licence or consent of the owner and occupier of the land;
- (ii) any electric wires, mains, cables, works or apparatus constructed, erected, laid down, maintained, worked or used under the provisions of this article shall be so constructed or erected or laid down and so maintained, worked and used as to prevent interference with any telegraph line (as defined by the Telegraph Act 1878(a)) belonging to or used by the Post Office or with telecommunications by means of any such line or with any apparatus of statutory undertakers (as defined by the Public Health Act 1936(b)), or with any purpose for which such apparatus is used.

As to houseboats

6.—(1) As from the first day of the third month after the expiry of the month in which the Order comes into operation it shall not be lawful—

- (a) without the written consent of the Commissioners; or
- (b) where that consent has been given, in contravention of any terms or conditions attached to it;

to moor, place, keep or maintain in the harbour any houseboat whether or not the same shall have been so moored or placed before the commencement of this Order;

Provided that—

- (i) such consent shall not be withheld unless the Commissioners are satisfied that the mooring, placing, keeping or maintaining of the houseboat would constitute a danger to or interfere with the navigation of

(a) 1878 c. 76.

(b) 26 Geo. 5 & 1 Edw. 8. c. 49.

vessels in the harbour and the Commissioners shall on the refusal of any consent under this paragraph specify in writing the ground or grounds for such refusal;

(ii) nothing in this paragraph shall prejudice or affect any obligation existing under any enactment to obtain the consent of the port health authority for the harbour or of any local authority within whose area the houseboat is or is proposed to be moored, placed, kept, or maintained to such mooring, placing, keeping or maintaining.

(2) (a) If any houseboat shall be moored, placed, kept or maintained contrary to the provisions of sub-paragraph (1)(a) of this article the Commissioners may by notice in writing to be given in the manner hereinafter provided require the person having control of the houseboat within such period, not being less than 21 days, as may be specified in the notice to remove it out of the harbour or, if he so elects, to demolish it and remove to the satisfaction of the Commissioners any rubbish or other material resulting from the demolition.

(b) any such notice should be given by leaving it with, or sending it in a prepaid letter addressed to the person having the control of such houseboat at his usual or last known residence or (if it is not practicable after reasonable inquiry to ascertain the name and address of such person) by posting the same in a conspicuous position on such houseboat or on the land or foreshore near to such houseboat.

(3) (a) If any person fails without reasonable cause to comply with any notice given by the Commissioners under the provisions of paragraph (2) of this article or the terms or conditions of any consent he shall be liable on summary conviction to a fine not exceeding £50 and in the case of a failure to comply with any such notice the Commissioners may at any time after the expiration of the period specified in such notice either remove the houseboat referred to in the notice out of the harbour or demolish it and remove out of the harbour any rubbish or other material resulting from the demolition.

(b) Subject to paragraph (5) of this article the costs and expenses reasonably incurred by the Commissioners in or in connection with any such removal or demolition may be recovered by the Commissioners as a simple contract debt in any court of competent jurisdiction from the person having the control of such houseboat.

(4) For the purposes of paragraphs (2) and (3) of this article the owner of any houseboat shall until the contrary shall be proved be deemed to be the person having the control thereof.

(5) (a) Where any houseboat shall have been removed or demolished by the Commissioners as aforesaid the Commissioners may retain the houseboat or the materials thereof and may and shall, if so required by the owner, sell or dispose of the same or of such materials and subject as hereinafter provided retain the proceeds of such sale or disposal.

(b) For the purpose of ascertaining the amount recoverable by the Commissioners under sub-paragraph (3)(b) of this article in respect of the costs and expenses incurred by them in or in connection with the removal or demolition of any such houseboat credit shall be given for the net amount (if any) of the proceeds of the sale received by the Commissioners (after deductions of any costs and expenses incurred by the Commissioners in effecting the same) of such houseboat or the materials thereof. If such net amount shall exceed the amount of the costs and expenses incurred by the Commissioners in or in connection with such removal or demolition as aforesaid they shall pay the amount of such

excess to the owner of such houseboat which shall have been removed or demolished.

(6) Nothing in this article shall be deemed to confer on the Commissioners any rights, title or interest in or to any land (not for the time being belonging to the Commissioners) forming part of the bed or foreshore of the harbour.

(7) The powers conferred on the Commissioners by this article shall be in addition to and not in derogation of the powers conferred on the harbour-master by the Act of 1847.

Appeals under last preceding article

7.—(1) Any person aggrieved by any terms, conditions or refusal of consent or any requirement of the Commissioners under article 6 of this Order may appeal to the Secretary of State.

(2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the terms, conditions, refusal or requirement was given to the person desiring to appeal.

(3) Where application is made to the Commissioners for consent to moor, place, keep or maintain any houseboat in the harbour, then, unless within 2 months from the date on which the Commissioners receive such application or within such extended period as may at any time be agreed upon in writing between the applicant and the Commissioners, the Commissioners give written notice to the applicant of their decision on the application, the provisions of this article shall apply in relation to the application as if the consent to which it relates had been refused by the Commissioners and as if notification of their decision had been received by the applicant at the end of the said period of 2 months or at the end of the said extended period, as the case may be.

(4) On the hearing of an appeal the Secretary of State may dismiss or allow the appeal or may vary the terms, conditions or requirement appealed against by substituting therefor any terms, conditions or requirement which the Commissioners could have prescribed or imposed under the said article 6.

(5) In any case in which such an appeal lies, the document notifying the terms, conditions, refusal or requirement in the matter shall state the right of appeal to the Secretary of State and the time within which such an appeal may be brought.

(6) Where any refusal or requirement for any term or condition against which a right of appeal is conferred by this article involves the execution of any work or the taking of any action or makes it unlawful for any person to use any premises for any purpose for which they could lawfully be used up to the time of such refusal or requirement—

(a) no proceeding in respect of any failure to execute the work or take the action shall be taken;

(b) the Commissioners shall not execute any such work or take such action; and

(c) any person may use such premises for such purpose;

until the time for appealing has expired or, when an appeal is lodged, until the appeal has been disposed of or withdrawn.

(7) Where upon an appeal under this article the Secretary of State varies or reverses any refusal or requirement of the Commissioners effect shall be given to

the order of the Secretary of State and in particular any necessary consent shall be granted.

Public notice of articles 6 and 7

8.—(1) The Commissioners shall forthwith after the coming into operation of this Order cause public notice to be given of the effect of articles 6 and 7 of this Order by advertisement in one or more local newspapers published or circulating in the County of the Isle of Wight and otherwise in such manner as the Commissioners think fit.

(2) In any proceedings it shall be presumed until the contrary is proved that the provisions of the foregoing paragraph have been complied with.

Powers with respect to disposal of wrecks

9.—(1) In relation to any vessels sunk, stranded or abandoned (whether before or after the commencement of this Order) in such a manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto:—

(a) subject to sub-paragraph (b) of this paragraph, and to any enactment for the time being in force limiting liability, the Commissioners may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under section 530 of the Act of 1894 any expenses incurred by them under that section which are not reimbursed out of the proceeds of any sale effected under that section;

(b) except in a case which is in the opinion of the Commissioners a case of emergency, sub-paragraph (a) of this paragraph shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying, the Commissioners have given to the owner of the vessel not less than 48 hours' notice of their intention to do so, and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under sub-paragraph (2)(b) of the next following article, he shall be at liberty to do so, and the Commissioners shall not exercise the powers aforesaid in relation to that vessel until the expiration of 7 days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Commissioners.

(c) Except in a case which is, in the opinion of the Commissioners, a case of emergency, the Commissioners shall, before raising, removing or destroying under the powers conferred upon them by the said section 530 any vessel sunk, stranded or abandoned in the harbour or in or near any approach thereto and within a distance of 200 yards of any submarine cable placed or maintained by the Post Office in or along or across the harbour, give to the Post Office in writing as long notice as it is practicable of their intention to do so.

(2) Notice under sub-paragraph (b) of the last foregoing paragraph to the owner of any vessel may be served by the Commissioners either by delivering it to him or by sending it to him by registered post or by the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom, or, if the owner or any such place of business or abode is not

known to the Commissioners, by displaying the notice at the offices of the Commissioners for the period of its duration.

(3) In this article the expression “owner” in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof, and for the purposes of this article and article 10 the word “vessel” shall include any aircraft.

Protection of Crown interests in wrecks

10.—(1) Without prejudice to section 741 of the Act of 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906(a), the powers conferred on the Commissioners by sections 530 and 532 of the Act of 1894 shall not be exercisable—

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in subparagraph (2)(b) of this article, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which at the time when the vessel was sunk, stranded or abandoned—
 - (i) had been required to be placed at the disposal of Her Majesty or of a Government Department; and
 - (ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty’s ships of war.

(2) The Commissioners shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Trade and Industry of any decision of the Commissioners to exercise in relation to any vessel referred to in subparagraph (1)(b) of this article any of the powers conferred by sections 530 and 532 of the Act of 1894 other than the power of lighting and buoying and, except in a case which is in the opinion of the Commissioners a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State for Defence and the Secretary of State for Trade and Industry, before the expiration of a period of 14 days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Commissioners a direction by the Secretary of State for Defence or the Secretary of State for Trade and Industry that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where, in any such case as aforesaid, the Commissioners proceed to exercise those powers without the consent and before the expiration of the period mentioned in subparagraph (a) of this paragraph or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if, before the expiration of the period aforesaid, such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by article 9(1)(a) (Powers with respect to disposal of wrecks) of this Order:

(a) 1906 c. 48.

Provided that—

- (i) the Commissioners shall not be required to give notice under this paragraph in respect of any vessel in respect of which they have received a consent under sub-paragraph (1)(b) of this article, but any direction such as is referred to in sub-paragraph (b) of this paragraph accompanying that consent shall be deemed for the purposes of this paragraph and of the said article 9(1)(b) to have been duly served under sub-paragraph (b) of this paragraph;
- (ii) the prohibition on the use of explosives imposed by this paragraph shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Secretary of State for the purposes of this proviso.

(3) (a) Without prejudice to the powers of sale conferred on the Commissioners by the said section 530, the Commissioners shall hold and dispose of any wreck within the meaning of Part IX of the Act of 1894 raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section, in accordance with such directions (if any) as may be given to them by the receiver of wreck and on exercising the said power of sale in the case of any property the Commissioners shall discharge any sums payable in respect of that property by way of purchase tax or duties of Customs or Excise, and any sum so discharged shall be deemed to be expenses incurred by the Commissioners under that section.

(b) In this paragraph “duties of customs or excise” include any tax, levy or other sum to the collection of which the general provisions of the Customs and Excise Act 1952(a) relating to Customs and Excise have been applied by statute.

(4) Any limitations on the powers of the Commissioners in relation to any vessel arising by virtue of paragraph (1) or paragraph (2) of this article shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Corporation of Trinity House of Deptford Strond by section 531 of the Act of 1894.

Mooring rates and other charges

11.—(1) The Commissioners may demand and recover in respect of any vessel other than a seaplane using any mooring, in the harbour or on the banks thereof, provided on land owned by or leased to the Commissioners (except a mooring placed, laid down or used pursuant to a licence granted by the Commissioners under byelaws in that behalf made under article 18(1)(b) (Byelaws) of this Order) such reasonable rates as may from time to time be prescribed by the Commissioners.

(2) The Commissioners may demand and recover for services and facilities, other than moorings, provided by them in connection with the harbour such reasonable charges as they may from time to time determine.

Charges on certain articles

12. In addition to their power to demand, take and recover ship, passenger and goods dues under section 26 of the Act of 1964, the Commissioners may demand, take and recover in respect of any dracone, or floating dock, crane rig, drilling rig, or other floating plant which is not a ship as defined by section 57 of

(a) 1952 c. 44.

the Act of 1964, entering or leaving the harbour, such charges as they think fit; and the provisions of sections 30, 31, 32 and 34 of the Act of 1964 (which require lists of charges to be available for inspection and sale; give a right of objection to ship, passenger and goods dues; empower the Secretary of State to revise such dues, and make supplementary provision in relation to those matters) shall, with any necessary modifications, apply to the charges authorised by this article as they apply to ship, passenger and goods dues.

Conditions relating to payment of charges

13. Charges shall be payable subject to such conditions as the Commissioners may from time to time specify in their published list of charges.

Payment of charges

14.—(1) The several charges which the Commissioners are for the time being authorised to demand, take and recover in respect of vessels and goods under any enactment shall be paid before the removal from the harbour of any vessel or goods in respect of which they are due and payable and may be demanded, taken and recovered by such persons, at such places, at such times and under such regulations as the Commissioners may from time to time appoint.

(2) An officer as defined in section 307 of the Customs and Excise Act 1952, may refuse clearance of any vessel if he is satisfied that any charges payable to the Commissioners in respect of that vessel or any goods therein have not been paid.

(3) Charges payable to the Commissioners shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(4) Where charges payable to the Commissioners may be recovered by them from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

Penalty for evading payment of charges

15. If the owner of any vessel or goods or any other person at any time eludes or evades or attempts to elude or evade payment of, or wrongfully refuses to pay, any charges payable by him to the Commissioners at the time when the charges become due and payable, he shall be liable on summary conviction to pay the Commissioners the sum equal to three times the amount of the charges or £100, whichever is the less, which sum shall be a debt due to the Commissioners and shall be recoverable by them in any court of competent jurisdiction.

Payment of charges on warehoused goods

16. Notwithstanding the provisions of article 14 of this Order the owner or person having the charge of any goods warehoused, placed, stored or yarded in a warehouse, transit shed or area, store or yard of the Commissioners shall, before the removal of those goods from the warehouse, transit shed or area, store or yard and at such date or dates as shall be fixed by the Commissioners pay such charges as shall be then due and payable on those goods.

Recovery of charges

17. In addition to any other remedy given by this Order and by the Act of 1847, as incorporated with this Order and whether the demand required by section 44 of that Act has been made or not, the Commissioners may recover

any dues, rates, rents or other charges payable to them as a debt in any court of competent jurisdiction.

Byelaws

18.—(1) Without prejudice to the validity or operation of any byelaw made under section 83 of the Act of 1847 prior to the coming into operation of this Order, the Commissioners may from time to time make byelaws for all or any of the following purposes:—

- (a) for regulating or prohibiting the mooring or anchoring of vessels in the harbour;
- (b) for prohibiting any person from placing, laying down, maintaining or using any mooring (including a mooring placed or laid before the coming into operation of any such byelaw) in the harbour and on so much of the banks thereof as are vested in or leased to the Commissioners otherwise than under the authority of a licence in that behalf granted by the Commissioners in accordance with the conditions subject to which it is so granted;
- (c) for prohibiting (otherwise than in the case of an emergency) the use of any mooring laid down by the Commissioners, in respect of which a licence affording the privilege of preferential rights of user of such moorings is for the time being in force, by any person other than the licensee;
- (d) for prescribing the patterns of moorings in the harbour and otherwise for prohibiting or regulating the placing, laying down, maintaining and using of moorings in the harbour;
- (e) for securing the good and orderly conduct of persons in charge of or using vessels in the harbour;
- (f) for the regulation or prevention of the use of firearms in the harbour;
- (g) for the prevention of nuisances and offences against decency in the harbour;
- (h) for regulating and controlling in the harbour the navigation and speed of mechanically propelled vessels and preventing obstruction to vessels using the harbour;
- (i) for securing the safety of persons using the harbour;
- (j) for regulating the removal and disposal within the harbour of all rubbish;
- (k) for preventing the taking of vessels by unauthorised persons;
- (l) for preventing the discharge or deposit of noxious things or substances within the harbour except noxious things or substances the discharge or deposit of which is subject to the provisions of the Oil in Navigable Waters Acts 1955 and 1963(a).

(2) The byelaws which may from time to time be made by the Commissioners in the exercise of the powers in that behalf conferred on them by section 83 of the Act of 1847, and by paragraph (1) of this article may provide for imposing a penalty not exceeding £50 for the breach or non-observance of any of the byelaws and a penalty not exceeding £5 for each day on which an offence is continued after the conviction;

Provided that the total penalties in any case imposed for any such breach or non-observance shall not exceed £100.

(a) 1955 c. 25; 1963 c. 28.

(3) Byelaws made under sub-paragraph (1)(a) of this article may prescribe the reasonable fees payable for any licence which may be granted by the Commissioners thereunder and different fees may be prescribed for different circumstances.

(4) The Commissioners shall not, when exercising their powers under byelaws made under paragraph (1)(b) of this article,—

(a) grant a licence to any person to place, lay down, maintain, use or have moorings, on land not vested in or leased to the Commissioners, without the consent in writing of the owner and lessee thereof;

(b) unreasonably refuse to grant a licence to any owner or lessee of any land not leased to the Commissioners to place, lay down, maintain, use and have existing and future moorings, on that land and any question of whether the grant of the licence has or has not been unreasonably refused shall be determined by the Secretary of State.

(5)(a) Section 250(2) to (7) and section 252 of the Local Government Act 1933(a) shall apply to all byelaws made by the Commissioners in respect of the harbour and all penalties imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of fines.

(b) For the purposes of the provisions of the said sections 250 and 252 in their application to this section the Secretary of State shall be the confirming authority and the Commissioners shall be deemed to be a local authority within the meaning of those sections.

(c) The provisions of the said section 250 in their application to all byelaws made by the Commissioners in respect of the harbour shall have effect as if in sub-section (6) after the word “confirm” where it first occurs in the sub-section the words “with or without modification” were inserted.

Contributions to the costs of laying moorings

19. The Commissioners may contribute to the costs incurred by any person in the placing or laying down of any mooring as respects which under byelaws for the time being in force under sub-paragraph (1)(a) of article 18 (Byelaws) of this Order a licence in that behalf granted by the Commissioners is required.

Modifications of section 52 of Act of 1847 as applied

20. Section 52 of the Act of 1847 as incorporated with the Yarmouth (Isle of Wight) Harbour Orders 1931 to 1971—

(a) shall extend to empower the harbour-master to give directions prohibiting the mooring of vessels in any particular part or parts of the harbour; and

(b) shall not be construed to require the harbour-master in emergency to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section but in pursuance of that section for all or any of the purposes thereof, the harbour-master shall be entitled in emergency to give general directions applicable to all vessels or to any particular class or classes of vessels.

Directions of harbour-master need not be in writing

21. Section 53 of the Act of 1847 as incorporated with the Yarmouth (Isle of Wight) Harbour Orders 1931 to 1971 shall not be construed to require the

(a) 1933 c. 51.

harbour-master to serve a notice in writing of his directions upon the master of a vessel and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

Inquiries

22. The Secretary of State for the Environment or Secretary of State for Trade and Industry, as the case may be, may cause to be held such inquiries as he or they may consider necessary in regard to the exercise of any powers or duties (including the giving of any consent or approval or the making of any order) conferred or imposed upon him or them by or under this Order and section 290(2) to (5) of the Local Government Act 1933, shall apply to any such inquiry as if it were an inquiry held in pursuance of sub-section(1) of that section.

Repeals and amendments

23.—(a) The provisions of the Order of 1931 and of the Yarmouth (Isle of Wight) Pier and Harbour Order 1960(a) mentioned in column (1) of Part I of the Schedule to this Order are hereby repealed to the extent specified in column (2) of that part.

(b) The provisions of the Order of 1931 mentioned in column (1) of Part II of the said Schedule are hereby amended to the extent specified in column (2) of the said Part II.

Crown Rights

24. Nothing in this Order shall affect prejudicially any estate, right, power privilege or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing herein contained shall authorise the Commissioners to take, use, or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners on behalf of Her Majesty first had and obtained for that purpose.

Costs of Order

25. All costs, charges and expenses of, or in connexion with, the preparation, submission and making of this Order (other than the costs, charges and expenses which any person is lawfully ordered to pay by the Secretary of State or a joint committee of both Houses of Parliament or any costs, charges and expenses incurred in opposing the Order) shall be met by the Commissioners.

Signed by authority of the Secretary of State.

4th November 1971.

John Peyton,
Minister for Transport Industries,
Department of the Environment.

(a) see 1960 c. xxii.

SCHEDULE

PART I

**PROVISIONS OF ORDER OF 1931 AND OF THE YARMOUTH (ISLE OF WIGHT)
PIER AND HARBOUR ORDER 1960 REPEALED**

(1) Enactment	(2) Extent of repeal
THE ORDER OF 1931	
Section 11 (Power to take lands by agreement)	The words "not exceeding two acres"
Section 15 (Maintenance and improvement of undertaking)	The whole section
Section 21 (Power to levy rates)	The whole section
Section 26 (Power to vary exemptions and compound for rates)	The words from "but so that no preference" to the end of the section
Section 49 (Byelaws)	The whole section
The Schedule	The whole Schedule
THE YARMOUTH (ISLE OF WIGHT) PIER AND HARBOUR ORDER 1960	
Section 4 (Amendment of Order of 1931).	Subsection (1)

PART II

PROVISIONS OF ORDER OF 1931 AMENDED

(1) Enactment	(2) Amendment
Section 6 (Commissioners constituted and incorporated)	In subsection (4) for the words "the third Wednesday in the month of September" there shall be substituted the words "the first Thursday in the month of April".
Section 18 (Power to purchase dredgers &c.)	For the words "effecting the purposes of this Order" there shall be substituted the words "the purposes of the undertaking" and for the words "carrying into effect any of the purposes of this Order" there shall be substituted the words "any of the purposes of the undertaking".
Section 26 (Power to vary exemptions and compound for rates)	For the words "authorised by this Order" there shall be substituted the words "which the Commissioners are for the time being authorised to levy".
Section 48 (Annual account to be sent to Ministry of Transport)	In subsection (3) for the word "March" there shall be substituted the word "December".

EXPLANATORY NOTE

(This Note is not part of the Order.)

The main purpose of this Order is to extend the limits of the jurisdiction of the Yarmouth (Isle of Wight) Harbour Commissioners as the harbour authority for the harbour of Yarmouth. The extension is both seawards and inland up the river Yar to the point where it ceases to be tidal.

In addition it is proposed to confer on the Commissioners powers to construct works within the harbour and further powers for improving, maintaining and managing the harbour including powers to control the mooring and keeping of houseboats (as defined in the Order), to dispose of wrecks and to charge for the use of moorings.

It is also proposed to extend the powers of the Commissioners to levy charges under the Harbours Act 1964 and as regards the method of collecting charges. The Order extends the powers of the Commissioners to make byelaws and the extended powers will include powers to make byelaws regulating or prohibiting the mooring or anchoring of vessels within the harbour, requiring the licensing by the Commissioners of all moorings in the harbour, prohibiting the use of moorings laid down by the Commissioners except by the person licensed to use the mooring, regulating the laying down of moorings and regulating and controlling the navigation and speed of mechanically propelled vessels.

The Order also extends the powers of the harbour-master.

STATUTORY INSTRUMENTS

1972 No. 300

HARBOURS, DOCKS, PIERS AND FERRIES
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