
STATUTORY INSTRUMENTS

2000 No. 2152

The Burry Port Harbour Revision Order 2000

Part I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Burry Port Harbour Revision Order 2000 and shall come into force on 25th August 2000.

Interpretation

2.—(1) In this Order unless the context otherwise requires—

“the Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847(1);

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

“authorised works” means Works Nos. 1 to 5 and any other works authorised by this Order, or any part of such works;

“the Council” means the Carmarthenshire County Council;

“the deposited plans” and “the deposited sections” mean respectively the plans and sections (numbered Sheets 1 to 3) prepared in duplicate, signed by the Head of Ports Division in the Department of the Environment, Transport and the Regions and marked “Plans and sections referred to in the Burry Port Harbour Revision Order 2000” one copy of which is deposited at the offices of the Department of the Environment, Transport and the Regions and the other at the offices of the Council at County Hall, Carmarthen, SA31 1JP;

“the eastern breakwater” is the part of the harbour known as such and shown and referred to as such on the deposited plans;

“general direction” means a direction authorised by article 28 (General directions to vessels) below;

“the harbour” means the harbour known as Burry Port Harbour in the county of Carmarthenshire (including, in particular, East Dock, West Dock and the Outer Harbour) the area whereof is described in article 16 (Harbour limits) below, and the Schedule to this Order and, so far as the same is not within that area, includes the harbour estate;

“the harbour estate” means the piers, jetties, breakwaters, wharves, quays, berths, slipways, roads, bridges, sheds and other works and conveniences, and the lands, buildings and property of every description and of whatever nature, which are for the time being vested in, occupied or administered by the Council for the purposes of the harbour undertaking;

“the harbour map” means the map signed in duplicate by the Head of Ports Division in the Department of the Environment, Transport and the Regions, one copy of which has been

deposited at that Department and one copy of which has been deposited at the offices of the Council at County Hall, Carmarthen SA31 1JP;

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

“the harbour undertaking” means the undertaking of the Council in connection with the harbour, as from time to time authorised, or any part thereof;

“the level of high water” means the level of mean high-water springs;

“the limits of deviation” means the limits of deviation shown on the deposited plans;

“the Outer Harbour” is the part of the harbour known as such and shown and referred to as such on the deposited plans;

“reference point” means Ordnance Survey National Grid reference point;

“special direction” means a direction authorised by article 30 (Special directions to vessels) below or by section 52 of the Act of 1847;

“tidal work” means so much of any work authorised by this Order as is on, under or over tidal waters or land below the level of high water;

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

“vehicle” means a vehicle of any description and includes a trailer, caravan or machine of any kind drawn or propelled along or over land whether by animal or mechanical power and includes a hovercraft within the meaning of the Hovercraft Act 1968(2) or any other amphibious vehicle; and

“vessel” means every description of vessel, however propelled or moved, and includes hovercraft, any floating manufactured article, anything constructed or used to carry persons or goods by water, and, except for purpose of levying rates, a seaplane on or in the water;

“the western breakwater” is the part of the harbour known as such and shown and referred to as such on the deposited plans.

(2) All distances and lengths stated in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance or length.

Incorporation of enactments

3.—(1) The Act of 1847 (except sections 6 to 26, 31, 48, 53, 66 to 68, 79 to 98 and 101) so far as applicable for the purposes of and not inconsistent with this Order, is incorporated with and forms part of this Order.

(2) In construing the provisions of the Act of 1847 as so incorporated—

“the special Act” means this Order;

“the harbour, dock or pier” means the harbour;

“the undertakers” means the Council;

“vessel” has the meaning given by article 2 (Interpretation) above;

“rates” includes mooring rates and fees.

Part II

WORKS

Power to construct, etc., works

4.—(1) Subject to the provisions of this Order, the Council may, in the lines and situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, construct and maintain the works hereinafter described with all necessary works and conveniences connected therewith—

Work No. 1

An impounding wall, incorporating a reinforced concrete cill with steel flap gate bounded at both ends by existing harbour walls, having a length of 220 metres and a width of 10 metres commencing at reference point SN 244627 200264 and extending in a westerly direction and terminating at reference point SN 244439 200195.

Work No. 2

An extension of solid construction to the western breakwater formed with battered slopes in stone armouring having a length of 135 metres, commencing at the southern limit of the western breakwater at reference point SS 244461 199962 and extending in a southerly direction, and terminating at reference point SS 244489 199832.

Work No. 3

An extension of solid construction to the eastern breakwater formed with battered slopes in stone armouring having a length of 50 metres commencing at the southern limit of the eastern breakwater at reference point SN 244521 200113 and extending in a southerly direction and terminating at reference point SN 244529 200064.

Work No. 4

Piled moorings with a pontoon system to the west of the eastern wall of the Outer Harbour commencing by a bridge connection to the eastern wall at reference point SN 244654 200358 and extending in a westerly then south westerly direction for a distance of 180 metres and terminating at reference point SN 244566 200219.

Work No. 5

Piled moorings with a pontoon system to the east of the western wall of the Outer Harbour commencing by a bridge connection to the western wall at reference point SN 244439 200259 and extending in an easterly then northerly direction for a distance of 140 metres and terminating at reference point SN 244473 200378.

(2) The Council may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the authorised works.

(3) During construction of the works the Council shall implement the mitigation measures detailed in Table 13.2.2.2 of the environmental statement entitled “Burry Port Harbour Improvements” and dated February 1999 which was supplied to the Secretary of State in pursuance of paragraph A2 of Schedule 3 to the Harbours Act 1964 and made available for inspection in accordance with paragraph 3 of that Schedule.

Power to make subsidiary and accommodation works

5.—(1) Subject to the provisions of this Order, the Council may from time to time construct and maintain—

- (a) within the limits of deviation all such works, conveniences, appliances and apparatus as they from time to time deem necessary or expedient for the purposes of or in connection

with or incidental to the construction, maintenance and use of the works authorised by article 4; and

- (b) within the harbour such works for the accommodation or convenience of vessels as they think fit, including, without prejudice to the generality of the foregoing, pontoons, stagings, quays, jetties, piers, walkways, bridges, approaches, slipways, landing places, berthing heads, boat lifts, mooring posts, buoys, bollards, navigation marks and lights.

(2) Paragraph (1)(b) above shall not authorise the construction of any pontoons, stagings, quays, piers, walkways, bridges, berthing heads, boat lifts or mooring posts except within the West Dock, the East Dock and the Outer Harbour as extended by Works 2 and 3.

Power to dredge for purposes of authorised works, etc.

6.—(1) Without prejudice to the generality of article 18 (Power to dredge) below, the Council, for the purposes of constructing and maintaining the authorised works, may from time to time deepen, widen, dredge, scour, cleanse, alter and improve the bed of the sea and foreshore of the harbour and the approaches thereto and may blast any rock within the harbour or in such approaches.

(2) Subject to paragraph (3) below, all materials dredged up or removed by the Council in exercise of the powers of this article shall be the property of the Council and may be used, sold, deposited or otherwise disposed of as the Council think fit.

(3) No such materials shall be laid down or deposited—

- (a) in contravention of the provisions of any enactment as respects the disposal of waste; or
- (b) in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Power to deviate

7. In constructing the works authorised by article 4 the Council may deviate laterally from the lines or situations thereof shown on the deposited plans to the extent of the limit of deviation and may deviate vertically from the levels of those works shown on the deposited sections to any extent not exceeding three metres upwards and to such extent downwards as may be found necessary or convenient.

Strengthening of sea wall

8. The Council may undertake works for the strengthening of the walls of the Outer Harbour and the eastern breakwater and the western breakwater.

Fine for obstructing works

9. Any person who intentionally obstructs any person acting under the authority of the Council in setting out the lines of the authorised works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Tidal works not to be executed without approval of Secretary of State

10.—(1) A tidal work shall not be constructed, altered, enlarged, replaced, relaid, extended or reconstructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, altered, enlarged, replaced, relaid, extended or reconstructed in contravention of this article or of any condition or restriction imposed under this article—

- (a) the Secretary of State may by notice in writing require the Council at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and, if on the expiration of 30 days from the date when the notice is served upon the Council they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Council.

Provision against danger to navigation

11.—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof, the Council shall as soon as reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

(2) If without reasonable excuse the Council fail to notify Trinity House as required by this article or to comply in any respect with a direction given under this article, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

12.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Council at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this article.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Council, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Council.

Survey of tidal works

13. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Council.

Permanent lights on tidal works

14.—(1) After the completion of a tidal work the Council shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House shall from time to time direct.

(2) If the Council fail to comply in any respect with a direction given under this article, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction

on indictment to a fine; but it shall be a defence for the Council to prove that all due diligence was used to secure compliance with the direction.

Lights on tidal works during construction

15.—(1) The Council shall at or near a tidal work during the whole time of the construction, alteration, enlargement, replacement, relaying or extension thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Council fail to comply in any respect with a direction given under this article, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine; but it shall be a defence for the Council to prove that all due diligence was used to secure compliance with the direction.

Part III

MANAGEMENT AND REGULATION OF HARBOUR

Harbour limits

16.—(1) The area within which the Council shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Harbours Act 1964 and within which the powers of the harbour master shall be exercised, shall comprise the area which is shown coloured pink on the harbour map, being the area described in Schedule 1 to this Order, and shall include the harbour estate.

(2) In the event of any discrepancy between the harbour limits as described in paragraph (1) above and the limits shown on the harbour map, the limits described in the said paragraph shall be deemed to be correct and shall prevail.

(3) Copies of the harbour map certified by the Chief Executive of the Council to be true shall be receivable in all civil or criminal proceedings and elsewhere as evidence of the contents of the harbour map.

(4) For and incidental to their functions under this Order, the Council may employ and appoint a harbour master.

General powers of Council in respect of harbour

17.—(1) The Council may, subject to the provisions of this Order, take such steps from time to time as they may consider necessary for the improvement, maintenance and management of the harbour and the facilities (including recreational facilities) afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of the foregoing, the Council may—

- (a) improve, maintain, regulate, manage, mark and light the harbour;
- (b) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour.

Power to dredge

18.—(1) The Council may from time to time deepen, widen, dredge, scour, cleanse, alter and improve the bed of the sea and foreshore of the West Dock, the East Dock, the Outer Harbour and the

approaches thereto and may blast any rock within the West Dock, the East Dock, the Outer Harbour or in such approaches.

(2) Subject to paragraph (3) below, all materials dredged up or removed by the Council in exercise of the powers of this article shall be the property of the Council and may be used, sold, deposited or otherwise disposed of as the Council think fit.

(3) No such materials shall be laid down or deposited—

- (a) in contravention of the provisions of any enactment as respects the disposal of waste; or
- (b) in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Restriction of harbour to pleasure craft and certain other vessels

19.—(1) Notwithstanding section 33 of the Act of 1847 (Harbours, dock and piers to be free to the public on payment of rates), as incorporated by this Order, but subject to the provisions of this Order, the waters of the harbour shall be for the exclusive use of vessels falling within paragraph (2) below and accordingly the Council shall not permit any other vessel to use those waters.

(2) Each of the following vessels fall within this paragraph—

- (a) a pleasure craft;
- (b) a vessel for the carriage of not more than 100 passengers where that vessel is used for berthing, landing or embarking passengers;
- (c) a vessel which is, for the time being, used for in connection with sea fishing for profit or recreation;
- (d) a vessel for the time being employed for the purposes of any of the functions of the Council;
- (e) a vessel for the time being employed in the supply of goods for use or for sale at premises situated on lands adjacent to the harbour;
- (f) a vessel for the time being employed in connection with the provision of services at the harbour or on lands adjacent thereto;
- (g) a lifeboat or a vessel used by the coastguard service, the South Wales Sea Fisheries Committee, the Environment Agency, Dŵr Cymru Cyfyngedig, Trinity House or the Ministry of Defence.

(3) In paragraph (2) above “pleasure craft” means any vessel of not more than 50 tons gross used wholly or mainly for recreation and not for the carriage of passengers or goods for reward.

(4) For the purposes of this article, the tonnage of a vessel shall—

- (a) in the case of a vessel having a tonnage figure recorded in its certificate of registry, be taken to be that figure; and
- (b) in the case of any other vessel, be calculated in accordance with the provisions of Part III of the Merchant Shipping (Tonnage) Regulations 1997(3).

Exclusion of certain commercial vessels from harbour

20.—(1) Notwithstanding section 33 of the Act of 1847 (Harbour, dock and pier to be free to the public on payment of rates), as incorporated by this Order, and without prejudice to the provisions of article 19 (Restriction of harbour to pleasure craft and certain other vessels) above, the Council shall not permit any vessel carrying a cargo specified in paragraph (2) below to use the waters of the harbour.

(2) The cargoes referred to in paragraph (1) above are—

(3) S.I.1997/1510, amended by S.I. 1998/1915.

- (a) unpackaged scrap metal;
- (b) aggregates or fine powders;
- (c) corrosive or volatile chemicals;
- (d) radioactive material other than radio isotopes or other material used solely for the purposes of scientific research;
- (e) bulk minerals;
- (f) toxic waste;
- (g) animal slurry.

Powers as to moorings, etc.

21.—(1) The Council may provide, place, lay down, maintain, use and have moorings for vessels—

- (a) on land owned or leased by the Council or in which they hold an appropriate interest; or
- (b) with the consent in writing of the owner and lessee thereof, on any other land in the harbour.

(2) The Council may demand, receive and recover in respect of any vessel using any of the moorings provided under this article or moored to land owned or leased by the Council such charges as the Council may from time to time prescribe.

(3) The Council may compound with any person with respect to the payment of the charges prescribed under paragraph (2) above.

(4) The Council may give notice in writing to the person having the control of any vessel using any mooring in the harbour at the date this Order comes into force requiring him within 28 days to remove the mooring so as to enable the Council to provide, place or lay down moorings in accordance with paragraph (1) above.

(5) The Council shall offer to make available to the person having the control of the vessel referred to in the notice a mooring provided by them under paragraph (1) above as soon as such mooring has been laid down.

(6) If any person fails to comply with a notice given by the Council under this paragraph, the Council may at any time after the expiration of 28 days from the date of the giving of the notice remove the mooring referred to in that notice.

(7) The Council may from time to time grant to a person a licence to place, lay down, maintain, use and have existing and future moorings, for vessels in the harbour.

(8) Nothing in any such licence shall entitle a person to place, lay down, maintain, use and have any mooring on land not owned or leased by him or by the Council or in which he has no appropriate interest.

(9) Any such licence shall be valid only for a period of one year commencing with its date.

(10) The Council may charge for such a licence such fee as the Council may from time to time prescribe.

(11) Without prejudice to the generality of article 3(2) above sections 43 to 48 of the Act of 1847 shall apply in relation to fees charged under this section.

(12) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Council in setting out moorings; or
- (b) intentionally and without lawful authority pulls up or removes any mooring in the harbour or any part thereof; or

- (c) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Council under this article or at a quay, jetty, slipway or other work or to land owned or leased by the Council; or
- (d) places, lays down or maintains in the harbour any mooring not provided or licensed by the Council under this article;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) If any person places, lays down or maintains in the harbour any mooring not provided or licensed by the Council under this article, the Council may remove the mooring in question and recover from that person the expenses incurred in doing so.

(14) In this article—

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

“vessel” includes houseboat.

Power to appropriate part of harbour

22.—(1) Subject to articles 19 and 20 above, the Council may from time to time set apart and appropriate any part of the harbour for the exclusive or preferential use and accommodation of any trade, person vessel or goods or any class of trader, vessel or goods, subject to the payment of such charges and to such terms, conditions and regulations as the Council may think fit.

(2) No person or vessel shall make use of any part of the harbour so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Council, and—

- (a) the harbour master or, as the case may be, such officer, may order any person or vessel making use thereof without such consent to leave or be removed; and
- (b) the provisions of section 58 (Powers of harbour master as to mooring of vessels in harbour) of the Act of 1847 shall extend and apply with the necessary modifications to any such vessel.

Power to provide, etc., vessels, equipment, etc.

23. The Council may provide, purchase, take on lease, hire and use such vessels (including dredgers, tugs, hoppers or barges), vehicles, plant, machinery, apparatus or equipment (including dredging appliances or apparatus) as they may think necessary for the carrying on of the undertaking or otherwise effecting the purposes of this Order and may let the same on hire (with or without the services of their employees) for such sums and upon and subject to such terms and conditions as they may think fit or may sell or otherwise dispose of the same where vested in them.

Life-saving craft and appliances

24.—(1) Without prejudice to any duty or power imposed or conferred on them by any other statutory provision, for the purpose of saving life the Council may provide and maintain in or in the vicinity of the harbour—

- (a) boats or other vessels together with all necessary apparatus and equipment and buildings, structures, slipways and moorings for the operation or maintenance or accommodation of the same;
- (b) lifebuoys, lifelines and other life-saving appliances together with structures for the storage and safe keeping of such appliances.

(2) The Council may enter into arrangements with any person for the provision and maintenance of any of the facilities authorised by paragraph (1) above.

Power to arrange exhibitions, regattas, etc.

25. The Council and any person authorised by them may hold exhibitions, shows, regattas, competitions, contests and other entertainments in or in connection with the harbour.

Parking places

26. The Council may provide facilities within the harbour for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences and may make reasonable charges for the use of such facilities.

Byelaws as to harbour

27.—(1) In addition to the byelaws which may be made by the Council under section 83 of the Act of 1847, the Council may make byelaws for the good rule and government of the harbour and, without prejudice to the generality of the foregoing, for all or any of the following purposes:-

- (a) for regulating the use of pontoons, stagings, quays, jetties, piers, walkways, bridges, approaches, slipways, landing places, berthing heads, boat lifts, mooring posts, buildings, parking places and other works and facilities provided by the Council;
- (b) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour;
- (c) for regulating, preventing or licensing the conduct of all persons in vessels or otherwise in the harbour, not being members of a police force or officers or servants of the Crown whilst in the exercise of their duties as such;
- (d) for regulating the placing, laying down, maintenance and use of moorings and for prescribing the patterns and specification of moorings in the harbour;
- (e) for preventing or removing obstructions or impediments within the harbour;
- (f) for regulating the launching of vessels within the harbour;
- (g) for regulating or prohibiting the mooring, careening, beaching or anchoring and keeping of vessels in the harbour;
- (h) for regulating or preventing the use in the harbour or on board any vessel therein of fires, lights or any other equipment, tools or appliances which the Council consider involves a risk of fire and for the prevention of smoking;
- (i) for regulating the removal or disposal of rubbish (including ballast, earth or clay or other refuse) and sewage from vessels in the harbour;
- (j) for the prevention of the disposal of such rubbish and sewage as aforesaid in the harbour;
- (k) for prohibiting the use of or regulating the movement, speed and parking of vehicles within the harbour;
- (l) for requiring the use of effectual silencers and the general control of noise on vessels in the harbour;
- (m) for regulating vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality of the foregoing, for prescribing rules for regulating the speed and manner of navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating or mooring within the harbour;
- (n) for regulating the embarkation of persons into, or their disembarkation from, vessels within the harbour;

- (o) for regulating the holding of regattas and other public events in the harbour;
- (p) for prescribing the lights and signals to be exhibited or made—
 - (i) by vessels aground within the harbour;
 - (ii) by devices used for marking obstructions within the harbour;
 - (iii) for assisting the navigation of vessels within the harbour, at the entrance to any dock or at any wharf, pier or other work;
- (q) for the prevention of nuisances in the harbour;
- (r) for preventing or regulating the discharge by land or sea of any material or thing within the harbour or the approaches thereto;
- (s) for regulating or preventing fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf, or other installation or structure of any kind within the harbour;
- (t) for regulating or preventing aquaplaning, jet skiing, water skiing or diving or other recreational activities in the harbour;
- (u) for regulating or preventing bathing, and for securing the protection of bathers, within the harbour;
- (v) for regulating or preventing the use by vehicles of the foreshore within the harbour.
- (w) for regulating the use of ferries within the harbour; and
- (x) for regulating the exercise of the powers vested in the harbour master.

(2) In this article “signals” includes sound signals.

(3) Byelaws made under this article or under section 83 of the Act of 1847 may be expressed to be applicable within all or any part of the harbour and different byelaws may be so made in relation to different classes of vessels.

(4) The provisions contained in subsections (3) to (8) of section 236 and section 238 of the Local Government Act 1972(4) shall apply to all byelaws made by the Council under this article or any other enactment.

(5) In its application to byelaws made by the Council under this article subsection (7) of the said section 236 shall, subject to paragraph (6) below, be construed as if it had been amended by the insertion of the words “with or without modifications” after the word “confirm” in the first place where that word occurs.

(6) Where the confirming authority proposes to make a modification which appears to him to be substantial, then—

- (a) he shall inform the Council and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification; and
- (b) he shall not confirm the byelaws until there has elapsed such a period as he thinks reasonable for the Council and other persons who have been informed of the proposed modification to consider and comment on it.

(7) The confirming authority for the purposes of this article and of the said section 236 in its application to byelaws made by the Council shall be the Secretary of State.

(8) Byelaws made by the Council under this article may contain provisions imposing upon a person offending against any byelaw a fine on summary conviction not exceeding level 3 on the standard scale.

(9) In proceedings for an offence against byelaws made by the Council under this article or any other enactment, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

General directions to vessels

28.—(1) The Council may, after consultation with the Chamber of Shipping in each case of an exercise of the powers, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the harbour and the approaches thereto and, without prejudice to the generality of the foregoing, for any of the following purposes—

- (a) for designating areas, routes or channels in the harbour and the approaches thereto 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 requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for the purposes of this paragraph.
- (2) Directions given under paragraph (1) above may apply—
- (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction; and
 - (b) to the whole of the harbour and the approaches thereto, or to a part designated, or the designation of which is provided for, in the direction; and
 - (c) at all times or at times designated, or the designation of which is provided for, in the direction;

and every direction given under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c) above.

(3) The Council may, after consultation with the Chamber of Shipping, revoke or amend directions given under this article.

Publication of general directions

29.—(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 Council as soon as practicable once in Lloyd's List or some other newspaper specialising in shipping news; and, if the notice relates to the giving or amendment of a direction, the notice shall state a place at which copies thereof may be inspected and bought, and the price thereof.

(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 Council consider appropriate.

Special directions to vessels

30.—(1) In addition to the directions which he may give under section 52 of the Act of 1847 the harbour master may give a direction under this article—

- (a) requiring any vessel anywhere within the harbour or the approaches thereto to comply with a requirement made in or under a general direction;
- (b) prohibiting the mooring of vessels in any particular part or parts of the harbour;
- (c) regulating or requiring the movement, mooring or unmooring of a vessel, regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores otherwise than at a dock or pier.

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

- (3) The harbour master may revoke or amend a special direction.

Master's responsibility to be unaffected

31. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

Failure to comply with directions

32. The master of a vessel who fails without reasonable excuse to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Enforcement of directions

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

(2) If there is no one on board the vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with; but he shall not do so unless, after reasonable inquiry has been made, the master cannot be found.

(3) Expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Council from the owner of the vessel as if they were a charge of the Council in respect of the vessel.

Power to give directions as to loading or unloading of certain goods

34.—(1) Without prejudice to article 32 above, the Council may designate any part of the harbour for the loading and unloading of any goods to which this article applies.

(2) Where pursuant to paragraph (1) above the Council have designated a place for the loading or unloading of goods of any description the harbour master may direct that goods of that description, intended to be loaded onto or unloaded from a vessel, shall not be deposited or received elsewhere than at the place so designated; and, if any person disobeys any such direction, the Council may remove the goods to the place so designated, and any expense incurred by them in so doing shall be recoverable from that person.

(3) The goods to which this article applies are goods in bulk and goods the nature or character of which is such as, in the opinion of the Council, to give rise to special risk of contamination, taint, stain, injury or danger to other goods or to persons, property or water or to necessitate the provision of special facilities for the handling thereof or for the safety, protection, welfare or accommodation of persons employed in, or in connection with, such handling but not including fish or fishing tackle.

Power to deal with unseaworthy vessels

35.—(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847, the Council may remove, sell, destroy or otherwise dispose of any vessel laid by or neglected as unseaworthy in, or on land adjoining, the waters of the harbour or the approaches thereto.

(2) The Council may retain out of the proceeds of sale of any such vessel, or any part thereof, any expenses incurred by them in respect of the vessel or in marking, buoying, lighting or otherwise controlling the vessel or warning shipping of its presence and any expenses incurred by the harbour

master under section 57 of the Act of 1847, and shall pay the surplus, if any, to the person entitled thereto.

(3) If the proceeds of sale are insufficient to reimburse the Council for the said expenses, or there is no sale, the Council may recover the deficiency, or, where there is no sale, the whole of the expenses, from the owner.

(4) Except in a case of emergency, the Council shall, before exercising their powers under this article, give 7 clear days' notice in writing of their intention to do so to the registered owner of the vessel and by advertisement in each of three successive weeks in a local newspaper; and if before the notice expires the Council receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, the Council shall not exercise the powers of this article 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 or business at the harbour which may be given to him by the harbour master.

(5) If the owner or his place of business or abode is not known to the Council or is outside the United Kingdom, the notice mentioned in paragraph (4) above may be given by displaying it at the office of the Council for the period of its duration.

Removal of obstructions other than vessels

36.—(1) The Council may remove anything, other than a vessel, in, or on land adjoining, the waters of the harbour or the approaches thereto—

- (a) which is causing, or likely to cause, an obstruction to, or interference with, navigation;
- (b) which is causing, or likely to cause, interference with the operation of any works of the Council, or damage to any such works or to any property; or
- (c) which is in the harbour without lawful authority;

and may take such steps as appear to them to be appropriate to prevent or minimise such obstruction, interference or damage.

(2) Where the Council—

- (a) remove anything under paragraph (1) above, and
- (b) can readily identify its owner or a person whom they reasonably believe to be its owner,

the Council shall, within 28 days of its coming into their custody, give written notice to that person stating that, upon proof of ownership to the reasonable satisfaction of the Council possession may be retaken at a place named in the notice within the period specified in the notice (being not less than 14 days after the notice is served) and, if possession of the thing removed is not so retaken, it shall at the end of that period vest in the Council.

(3) The Council may, at such time and in such manner as they think fit—

- (a) dispose of anything removed under paragraph (1) above in the case of which paragraph (2) does not apply, or
- (b) notwithstanding paragraph (2) above, dispose of anything so removed,

which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

(4) If anything disposed of by the Council under this article is sold, the Council may retain out of the proceeds of sale any expenses incurred by them under this article and any surplus—

- (a) shall be paid to any person who within three months from the time when the thing came into the custody of the Council proves to the reasonable satisfaction of the Council that he was the owner thereof at that time; or

(b) if within the said period no person proves his ownership at the said time, shall vest in the Council.

(5) If the proceeds of the sale of anything removed under this article are insufficient to reimburse the Council for the said expenses, or there is no sale, the Council may recover the deficiency, or, where there is no sale, the whole of the expenses, from the person who was the owner at the time when the thing removed came into the custody of the Council or who was the owner at the time of its abandonment or loss.

Removal of vehicles

37.—(1) If a vehicle is left without the permission of the Council—

- (a) in any place where it is likely to obstruct or interfere with the use of the harbour; or
- (b) in any part of the harbour where the parking of vehicles is prohibited by notice erected by the Council;

the Council may, at the risk of the owner, remove the vehicle or cause it to be removed.

(2) Any notice erected under paragraph (1)(b) above shall be conspicuously posted in or close to the place to which it relates.

(3) Where the Council in exercise of the powers of this article remove a vehicle or cause it to be removed they shall as soon as practicable report that fact to a constable or to a police station.

(4) The expenses of and incidental to the removal of a vehicle under this article shall be recoverable from any person responsible.

(5) For the purposes of paragraph (4) above “person responsible” means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was removed under paragraph (1) above, unless he shows that he was not concerned in, and did not know of, its being put there; or
- (b) any person by whom the vehicle was put in that place.

(6) If the Council in exercise of the powers of this article remove a vehicle to a place not readily visible from the place whence it is so removed they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1971⁽⁵⁾ or any other regulations having the like effect for the time being in force, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this article and of the place to which the vehicle has been removed.

(7) A notice stating the general effect of paragraph (1) above shall be displayed in a prominent position at each place where a road accessible to vehicles enters any part of the harbour.

Boarding of vessels

38. A duly authorised officer of the Council may, on producing if so required his authority, enter and inspect a vessel in the harbour for the purposes of any enactment relating to the harbour (including any enactment so relating contained in subordinate legislation) or of any byelaw of the Council relating to the harbour, including the enforcement thereof.

General rules for navigation

39. A master who navigates his vessel in the harbour—

- (a) without due care and attention; or

(5) S.I. 1971/450.

- (b) in a manner liable to injure or endanger persons, other vessels, the banks of the harbour (whether above or below the level of high water) or any facility, structure or installation in or adjoining the harbour;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Vessels adrift

40.—(1) The owner or master of a vessel adrift in the harbour shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) It shall be a defence for the owner or master of a vessel charged with an offence under paragraph (1) of this article to prove that the vessel did not become adrift as the result of any neglect or default on his part.

PART IV

FINANCIAL AND MISCELLANEOUS

Charges for services or facilities

41.—(1) In addition to their power to demand ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Council may demand, take and recover such charges for services and facilities provided by them at the harbour as they may from time to time determine.

(2) The Council may confer total or partial exemptions from, allow rebates to or make compositions with any person with respect to charges, and may vary or extinguish any such exemption or composition.

(3) Nothing in section 30 of the Harbours Act 1964 shall require the Council to include in the list of ship, passenger and goods dues kept at the harbour office, as required by subsection (1) of that section, charges reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in the said list.

Payment of charges

42.—(1) A charge which the Council are for the time being authorised to demand, take and recover in respect of a vessel or goods or otherwise shall be payable before the removal from the harbour of any vessel or goods in respect of which they are payable, and may be demanded, taken and recovered by such persons, at such places, at such times and under such conditions as the Council may from time to time specify in their published list of charges.

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

(3) Where a charge payable to the Council may be recovered by them from more than one person, the persons from whom it may be recovered shall be jointly and severally liable.

Deposit for charges

43. The Council may, if they think fit, require any person who is or may become liable to pay charges to the Council to deposit with their collector, or to guarantee, such sum as in the opinion of the Council is reasonable having regard to the probable amount of the charges.

Recovery of charges

44. In addition to any other remedy given by this Order and by the Act of 1847 as incorporated with this Order (and, in a case where the master of a vessel in respect of which a charge is payable to the Council refuses or neglects to pay the same or any part thereof, whether or not the Council's collector has gone on board the vessel and demanded the charge pursuant to section 44 of that Act), the Council may recover any dues, rates, rents or other charges payable to them as a debt in any court of competent jurisdiction.

Power to lease, sell, etc.

45.—(1) The Council may at any time lease or grant for harbour purposes the use or occupation of, or any right or interest in, over or relating to, any lands, works, buildings, equipment or other property forming part of the harbour for such period or periods and on such terms and conditions as may be agreed between the Council and the persons taking the same.

(2) If the Council consider that any land or other property forming part of the harbour estate is no longer required for harbour purposes, the Council may—

- (a) appropriate such land or other property for other purposes, or
- (b) dispose of such land or other property in such manner whether by way of sale, exchange, lease, the creation of any easement, right or privilege, or otherwise for such period, upon such conditions and for such consideration as they think fit.

Protection for Environment Agency

46. The provisions in Schedule 2 to this Order shall have effect.

Crown rights

47.—(1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Order shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments or any right of whatever description (including any part of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

- (a) 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; or
- (b) belonging to a government department, or held in trust for Her Majesty for the purpose of a government department, without the consent in writing of that department.

(2) A consent under paragraph (1) above may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.

Repeals

48. The enactments specified in columns (1) and (2) of Schedule 3 to this Order are hereby repealed to the extent mentioned in column (3) of that Schedule.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Stephen Reeves
Head of Ports Division
Department of the Environment, Transport and
the Regions

4th August 2000