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STATUTORY INSTRUMENTS

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**2012 No. 1777**

**The Poole Harbour Revision Order 2012**

**PART 2**

**HARBOUR REGULATION**

*Management and control of harbour*

**General functions in respect of harbour**

5.—(1) The Commissioners must take such steps as they may consider necessary or desirable from time to time for the conservancy, protection, regulation, maintenance, operation, management and improvement of—

- (a) the harbour and its approaches; and
- (b) the harbour facilities.

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

- (a) improve, maintain, regulate, manage, mark and light the harbour and provide harbour facilities;
- (b) acquire any undertaking or part of an undertaking;
- (c) turn their resources to account;
- (d) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour; and
- (e) subject to obtaining the necessary right in or over land—
  - (i) place, execute, operate, maintain, renew, alter, remove and reconstruct structures and works and equipment in the harbour; and
  - (ii) provide, maintain and operate railways and related works and facilities on the harbour premises;

(3) This article is without prejudice to the powers of the Commissioners under or by virtue of any other enactment.

**Declaration of draught, etc., of vessel**

6.—(1) The master of a vessel entering, leaving or intending to enter or leave the harbour must, if required to do so by the harbourmaster, state—

- (a) the length overall, beam and draught of the vessel;
- (b) the tonnage of the vessel;
- (c) its last port of call and destination;
- (d) particulars of its cargo;

- (e) particulars of its ownership and of any agents acting for the vessel while remaining in the harbour;
- (f) particulars of any defect which may affect the vessel's ability to navigate safely;
- (g) such other particulars relating to the vessel as the Commissioners may require.

(2) The information referred to in paragraph (1) must be given orally or, if the harbourmaster so requires, in writing in a form prescribed by the Commissioners copies of which shall be provided by the harbourmaster.

(3) The master of a vessel who in response to a requirement under paragraph (1) without reasonable excuse gives incorrect information is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale, without prejudice to any right of the Commissioners to compensation for loss or damage caused.

(4) For the purpose of this article "draught" means—

- (a) in relation to a hovercraft or hydrofoil vessel, its draught when afloat and not supported on a cushion of air or on foils or by any other means; and
- (b) in relation to a seaplane, its draught when afloat.

#### **Vessels adrift**

7.—(1) If a vessel is adrift in the harbour, the following person is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale—

- (a) if the master is on board the vessel, the master;
- (b) otherwise, the owner.

(2) It is a defence for the person charged with an offence under paragraph (1) to prove that the vessel did not become adrift as the result of any neglect or default on the part of that person.

#### **Power to appropriate parts of harbour, etc.**

8.—(1) Notwithstanding anything in article 3 or any other local enactment, the Commissioners may from time to time set apart or appropriate any part of the harbour, or any lands, works, buildings, machinery, equipment or other property of the Commissioners in the harbour, for the exclusive, partial or preferential use or accommodation of any particular trade, activity, person, vessel or class of vessels or goods, subject to the payment of such reasonable charges and to such terms, conditions and regulations as the Commissioners think fit.

(2) Without prejudice to the generality of paragraph (1) the Commissioners may exercise the powers of this article in relation to any part of the harbour during and for the purposes of any regatta, boat race or other event or function.

(3) No person or vessel may, otherwise than in accordance with the terms, conditions and regulations of the setting apart or appropriation, make use of any part of the harbour or any lands, works, buildings, machinery, equipment or other property so set apart or appropriated without the consent of an authorised officer, and—

- (a) an authorised 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 of the 1847 Act apply with appropriate modifications in relation to any such vessel.

## Moorings

### Power to lay down moorings

9.—(1) The Commissioners may place, lay down, maintain, renew, use or remove such moorings in the harbour as they consider necessary or desirable for the convenience of vessels—

- (a) on land owned or leased by them or which they are entitled to use for that purpose; and
- (b) on any other land in the harbour, with the consent in writing of the owner and any lessee.

(2) The Commissioners may make reasonable charges in respect of any vessel using any moorings provided under this article.

### Licensing of moorings

10.—(1) The Commissioners may from time to time grant a licence to any person to place, lay down, maintain, renew and use moorings, buoys and similar apparatus for vessels in the harbour.

(2) A licence—

- (a) may be granted for such a period and on such terms and conditions as the Commissioners think fit; and
- (b) may relate to one mooring, or to several moorings.

(3) The Commissioners may make reasonable charges for the grant of a licence under this article.

### Offences as to moorings, etc.

11.—(1) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Commissioners in setting out moorings in the harbour;
- (b) intentionally and without lawful authority pulls up or removes any mooring or any part of any mooring in the harbour;
- (c) places, lays down, maintains, renews or has in the harbour any mooring not provided under article 9 or licensed under article 10;
- (d) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Commissioners or at a quay, jetty or other work provided for the mooring of vessels; or
- (e) without reasonable excuse causes or permits a vessel to be moored at a mooring provided under article 9 or licensed under article 10 which the person concerned is not entitled to use;

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

(2) If any person commits an offence under paragraph (1)(c) the Commissioners may remove the mooring in question and recover from that person the expenses incurred in doing so as a debt.

(3) Subject to paragraph (6), if any person commits an offence under paragraph (1)(d) or (1)(e) the Commissioners may—

- (a) remove the vessel, including any tackle with the vessel;
- (b) sell or otherwise dispose of the vessel and tackle; and
- (c) recover out of the proceeds of sale—
  - (i) any unpaid charge payable under article 9;

- (ii) any unpaid licence fee payable under article 10; and
- (iii) the expenses of removal and disposal under this paragraph.

(4) If the proceeds of sale under paragraph (3)(b) are sufficient to allow the Commissioners to recover all amounts permitted by paragraph (3)(c), the Commissioners shall hold any proceeds of sale on trust for the owner.

(5) If—

- (a) the proceeds of sale under paragraph (3)(b) are insufficient to allow the Commissioners to recover all amounts permitted by paragraph (3)(c); or
- (b) there is no sale of the vessel,

the Commissioners may recover the amounts referred to in paragraph (3)(c) net of any proceeds of sale from the owner as a debt.

(6) The Commissioners must not exercise their power to remove a vessel under paragraph (3) unless—

- (a) they have given to the owner seven clear days' notice in writing of their intention to do so; or
- (b) it is an emergency.

(7) Where paragraph (6)(b) applies, the Commissioners must notify the owner that they have removed the vessel as soon as reasonably practicable afterwards.

*Directions to vessels, etc.*

**General directions to vessels**

**12.**—(1) The Commissioners may give directions under this article (“general directions”) in respect of vessels in, or proposing to enter, or leaving, the harbour—

- (a) for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the harbour; or
- (b) for the conservation of any part of the harbour which has been designated, or has otherwise been given special protection or status, under any enactment by reason of its natural beauty, flora, fauna or archaeological or geological or physiographical features or any other natural features.

(2) Without prejudice to the generality of paragraph (1) the Commissioners may give general directions for any of the following purposes—

- (a) for designating areas, routes, fairways or channels in the harbour or the approaches which vessels are to use, or refrain from using, for movement, mooring or anchorage;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) for regulating the speed of vessels;
- (d) for requiring the use of any equipment (including engines) forming part of or carried on the vessel;
- (e) for prohibiting—
  - (i) entry into the harbour by a vessel which for any reason would be or would be likely to become a danger—
    - (A) to other vessels in the harbour, or to persons, property, flora or fauna in the harbour; or
    - (B) to any part of the harbour such as is referred to in paragraph (1)(b); and

- (ii) entry into or navigation within any designated fairway or channel during any temporary obstruction of the fairway or channel;
  - (f) for prohibiting entry into or movement in the harbour or the approaches by vessels at times of poor visibility due to the weather or to the presence of dust or smoke provided that no direction given under this sub-paragraph prevents the entry into the harbour or the approaches of any vessel seeking refuge from stress of weather;
  - (g) requiring the master of a vessel to give to the harbourmaster information relating to the vessel reasonably required by the harbourmaster for effecting any of the purposes of this paragraph;
  - (h) for prescribing the action to be taken in relation to vessels which have become adrift, or sunk, or run aground;
  - (i) so far as is necessary for the safety of navigation, for requiring or regulating the use of tugs in relation to a vessel.
- (3) A general direction may apply—
- (a) to all vessels or to a class of vessels designated in the direction; or
  - (b) to the whole of the harbour or the approaches or to a part designated in the direction; or
  - (c) at all times or at times designated in the direction.
- (4) The Commissioners may revoke or amend any general direction.

### **Publication of general directions**

**13.**—(1) Subject to paragraphs (2) to (4), the Commissioners must not give, amend or revoke a general direction unless they have caused a notice of their intention to do so to be published, not less than 28 days before—

- (a) once in Lloyd’s List or some other newspaper specialising in shipping news; and
  - (b) once in a local newspaper circulating in the area of the harbour.
- (2) A notice is valid for the purposes of paragraph (1) only if—
- (a) it states where copies of any existing directions and the Commissioners’ proposals may be inspected free of charge;
  - (b) it states that such copies are available for purchase, the price payable and how an order may be placed;
  - (c) it states that representations in relation to the proposals may be made to the Commissioners in writing by a specified date, not being less than 28 days from the date of the notice.
- (3) If representations are made before the date specified under paragraph (2)(c), the Commissioners must not give, amend or revoke a direction without considering those representations.
- (4) In an emergency—
- (a) paragraphs (1) to (3) do not apply; and
  - (b) the Commissioners must publish the general directions which have been given, amended or revoked as soon as reasonably practicable afterwards in such manner as the Commissioners consider appropriate.

### **Special directions to vessels**

**14.**—(1) The harbourmaster may give directions under this article (“special directions”) in respect of a vessel anywhere in the harbour for any of the following purposes—

- (a) requiring persons to comply with a requirement made in or under a general direction;
  - (b) regulating or requiring the movement, berthing, mooring or unmooring of the vessel;
  - (c) requiring the removal from any part of the harbour of a vessel if—
    - (i) it is on fire; or
    - (ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink, or to constitute a danger to life or property; or
    - (iii) it is making an unlawful use of the harbour or interfering with the reasonable use or enjoyment of the harbour by other vessels or persons or the dispatch of business in the harbour; or
    - (iv) its removal is necessary to enable maintenance or repair work to be carried out in the harbour or to premises adjacent to the harbour;
  - (d) requiring its removal outside the harbour if such removal is considered by the harbourmaster to be necessary in order to avoid danger to life or to property;
  - (e) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores and the dispatch of its business at the harbour;
  - (f) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
  - (g) regulating the speed of the vessel;
  - (h) regulating the use of the motive power of the vessel;
  - (i) prohibiting or restricting the use of fires or lights;
  - (j) regulating the discharge or use of ballast;
  - (k) to aid the conservation of any part of the harbour which has been designated, or otherwise has been given special protection or status, under any enactment by reason of its natural beauty, fauna, flora, or archaeological or geological or physiographical features or any other natural features.
- (2) In an emergency the harbourmaster may give special directions applicable to all vessels or to a particular class of vessels for any of the purposes mentioned in paragraph (1).
- (3) A special direction may be given in any manner the harbourmaster considers appropriate.
- (4) The harbourmaster may revoke or amend a special direction.

### **Failure to comply with directions**

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

- (2) It is a defence for a person charged with an offence under paragraph (1) to prove—
- (a) that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;
  - (b) that they had a reasonable excuse for acting or failing to act;
  - (c) that the offence was not caused or facilitated by any act or neglect on their part or on the part of any other person engaged or employed by them and that all reasonable steps were taken to prevent the commission of the offence; or
  - (d) that they had reasonable grounds for supposing that non-compliance with the direction was necessary to secure the safety of any vessel or its cargo, or that in the circumstances compliance was impracticable.

### **Enforcement of special directions**

16.—(1) Without prejudice to any other remedy available to the Commissioners, if a special direction is not complied with within a reasonable time, the harbourmaster may 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) Subject to paragraph (3), if there is no one on board a vessel to attend to a special direction, the harbourmaster may proceed as if the direction had been given and not complied with.

(3) Paragraph (2) does not allow the harbourmaster to exercise powers under paragraph (1)—

- (a) in relation to a vessel other than a lighter, unless the master cannot be found after reasonable inquiry has been made; and
- (b) in relation to a lighter, unless it is obstructing or interfering with navigation.

(4) Expenses incurred by the Commissioners in the exercise of the powers conferred by paragraph (1) shall be recoverable as if they were a charge of the Commissioners in respect of the vessel.

### **Master's responsibility in relation to directions**

17. 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 in respect of which the direction is given in relation to the vessel, to persons on board the vessel, to the cargo or any other person or property.

### **Directions as to loading or unloading of goods**

18.—(1) The Commissioners 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) the Commissioners have designated a place for the loading or unloading of certain types of goods the harbourmaster may direct that such goods, intended to be loaded onboard or unloaded from a vessel, must not be deposited or received elsewhere than at the place so designated.

(3) If any person disobeys a direction given under paragraph (2)—

- (a) the Commissioners may remove the goods to the designated place and recover the expenses incurred from that person as a debt; and
- (b) the removal shall be at the risk of that person.

(4) The goods to which this article applies are goods which are loaded or unloaded in connection with any trade or business, goods in bulk and goods the nature or character of which is such as, in the opinion of the Commissioners, 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 of the goods or for the safety, protection, welfare or accommodation of persons employed in, or in connection with, such handling.

### *Wrecks, obstructions and dangers*

### **Powers with respect to disposal of wrecks**

19.—(1) In its application to the Commissioners, section 252 of the 1995 Act has effect subject to the provisions of this article and article 20.

(2) Subject to paragraph (3), and to any enactment limiting liability of the owner, the Commissioners may recover from the owner of any vessel in relation to which they have exercised their powers under section 252 any expenses reasonably incurred by the Commissioners under that

section in relation to that vessel which are not reimbursed out of the proceeds of sale (if any) within the meaning of that section.

- (3) The Commissioners may recover expenses under paragraph (2) only if—
- (a) the powers under section 252 were exercised in an emergency;
  - (b) before exercising powers under section 252(2)(a) or (c), the Commissioners—
    - (i) gave the owner not less than 48 hours' notice of their intention to do so; and
    - (ii) did not receive within that period written notice of the owner's intention to dispose of the vessel; or
  - (c) they exercised powers under section 252(2)(a) or (c) in the circumstances set out in paragraph (4) of this article.
- (4) If the Commissioners receive a notice under paragraph (3)(b)(ii), they must not exercise powers under section 252(2)(a) or (c)—
- (a) for seven days after receiving the counter-notice; and
  - (b) until they are satisfied that—
    - (i) the owner is not proceeding with the disposal with all reasonable diligence; or
    - (ii) the owner is not complying with directions given by the Commissioners for the purpose of preventing interference with navigation.
- (5) In this article the expression "owner" in relation to any vessel means the present owner or, as the case may require, the person who was the owner of the vessel at the time of the sinking, stranding or abandonment of the vessel.

### **Protection of Crown interest in wrecks**

- 20.**—(1) Without prejudice to section 308(1) of the 1995 Act, the Commissioners must not exercise powers under section 252(2)(a) or (c) of that Act—
- (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 duty as such;
  - (b) except with the consent of the Secretary of State, in relation to any vessel 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, of Her Majesty's ships of war.
- (2) The Secretary of State's consent is not required under paragraph (1)(b) in cases of emergency.
- (3) The Commissioners must exercise their functions under section 252(2)(c) and (d) in accordance with any direction issued to them by the receiver of wreck.
- (4) If the Commissioners exercise their power under section 252(2)(c) to sell property on which customs or excise duties are payable—
- (a) they must pay those duties; and
  - (b) they may recover such expenses from the proceeds of sale.
- (5) The limitation on the powers of the Commissioners in paragraph (1) shall be disregarded for the purposes of section 253(1)(b) of the 1995 Act.



### **Power to deal with abandoned vessels, etc.**

21.—(1) The Commissioners may remove, sell, destroy or otherwise dispose of any vessel abandoned or neglected on the harbour premises or other land adjoining the waters of the harbour.

(2) The Commissioners may reimburse themselves out of the proceeds of sale of any such vessel, or any part of any such vessel, for any expenses incurred by them or the harbourmaster in respect of the vessel and must pay the surplus, if any, to the owner.

(3) If—

- (a) the proceeds of sale under paragraph (1) are insufficient to allow the Commissioners to recover all amounts permitted by paragraph (2); or
- (b) there is no sale of the vessel,

the Commissioners may recover the amounts referred to in paragraph (2) net of any proceeds of sale from the owner as a debt.

(4) Except in an emergency the Commissioners must not exercise their powers under paragraph (1) unless they have given to the owner 28 clear days' notice in writing of their intention to do so and—

- (a) in any case in which mooring or other fees are or have been payable to the Commissioners in respect of the vessel, such fees have not been paid; or
- (b) in any case in which no such fees are payable but the presence of the vessel in the harbour is governed by terms and conditions agreed with the Commissioners, there is a substantial breach of the terms and conditions.

(5) Where, in an emergency, the Commissioners exercise their powers under paragraph (1) without notice, they must notify the owner that they have exercised their powers in relation to the vessel as soon as reasonably practicable afterwards.

### **Removal of obstructions other than vessels or wreck**

22.—(1) Without prejudice to their powers under any other enactment the Commissioners may remove anything which is causing or likely to become an obstruction or impediment to the proper use of any part of the harbour, or is abandoned or left without lawful authority anywhere on the harbour premises, other than—

- (i) a vessel; or
- (ii) wreck within the meaning of Part IX of the 1995 Act; or
- (iii) anything placed or constructed by any person under the provisions of any enactment, or of a consent or licence given or issued by the Commissioners.

(2) If anything removed by the Commissioners under paragraph (1) is known to the Commissioners to be, or is so marked as to be readily identifiable as, the property of any person, the Commissioners must within 28 days of its coming into their custody give notice to that person in accordance with paragraph (3).

(3) A notice is valid for the purposes of paragraph (2) only if it—

- (a) specifies the thing removed;
- (b) states that, upon proof of ownership to the reasonable satisfaction of the Commissioners, possession of the thing may be retaken at a place specified in the notice within the time to specified, being not less than 14 days after the date when the notice is served; and
- (c) summarises the effect of paragraphs (4)(a), (5), (6) and (7) of this article.

(4) The Commissioners may sell or dispose of anything removed by them under paragraph (1)—

- (a) where a notice is served under paragraph (2), at any time after the period specified in the notice;
  - (b) where no such notice is served, at any time after the expiry of a period of 14 days commencing with the date of the removal.
- (5) Notwithstanding any other provision of this article, the Commissioners may, without notice, at such time and in such manner as they think fit, sell or dispose of anything which is of a perishable or obnoxious nature, or the custody of which involves unreasonable expense or inconvenience.
- (6) Where the Commissioners sell anything in accordance with paragraph (4) or paragraph (5) they—
- (a) may recover out of the proceeds of sale the expenses of removal and sale or disposal under this article; and
  - (b) must pay any surplus proceeds of sale to any person proving to the reasonable satisfaction of the Commissioners within 56 days of the date of the sale to be the owner of the thing at the time of the removal.
- (7) If anything removed under this article—
- (a) is sold by the Commissioners, and the proceeds of sale are insufficient to reimburse them for the amount of the expense incurred in the exercise of their powers of removal and sale; or
  - (b) is unsaleable;
- the Commissioners may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner when the thing removed came into the custody of the Commissioners, or who was the owner at the time of its abandonment or loss.

### **Removal of vehicles**

- 23.—**(1) If a vehicle is left without permission of the Commissioners—
- (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 premises where the parking of vehicles is prohibited by a sign displayed by the Commissioners; or
  - (c) in a parking place provided by the Commissioners within the harbour premises, for a longer period than 24 hours or such other period as may be specified in a sign displayed by the Commissioners;
- the Commissioners may, at the risk of the owner, remove the vehicle or cause it to be removed.
- (2) Any sign is validly displayed for the purposes of paragraph (1)(b) or (c) only if it is conspicuously displayed at or close to the place to which it relates.
- (3) Where the Commissioners exercise the power of paragraph (1) they must inform the police as soon as practicable afterwards.
- (4) The Commissioners may recover the expenses of and incidental to the exercise of the power of paragraph (1) from any person responsible.
- (5) For the purposes of paragraph (4) “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), unless it is shown that the owner was not concerned in, and did not know of, it being put there; or
  - (b) any person who put the vehicle in that place.
- (6) If the Commissioners in exercise of the power of paragraph (1) remove a vehicle to a place which is not readily visible from its original position, they must (unless the vehicle is not registered

in the United Kingdom) give notice as soon as reasonably practicable afterwards to the person registered as the keeper of the vehicle for the purposes of regulations made under the Vehicle Excise and Registration Act 1994(1) at the registered address of that person stating—

- (a) that the Commissioners have exercised the power in paragraph (1); and
- (b) the place to which the vehicle has been removed.

(7) The Commissioners must display a sign stating the general effect of paragraph (1) in a prominent position at each place where a road accessible to vehicles enters any part of the harbour premises.

### **Immobilisation of vehicles illegally parked**

**24.**—(1) If a vehicle is left on the harbour premises in the circumstances within article 23(1) an authorised officer may—

- (a) fix an immobilisation device to the vehicle while it remains in the place in which the officer finds it; or
- (b) move it from that place to another place on the harbour premises and fix an immobilisation device to it in that other place.

(2) The power under paragraph (1) is validly exercised only if—

- (a) the notices required by paragraph (8) were on display when the vehicle was left on the harbour premises; and
- (b) the authorised officer affixes to the vehicle a notice—
  - (i) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device; and
  - (ii) specifying the steps to be taken in order to secure its release, including any charge payable.

(3) A vehicle to which an immobilisation device has been fixed in accordance with this article may only be released from that device by or under the direction of an authorised officer.

(4) The Commissioners must ensure that a vehicle to which an immobilisation device has been fixed in accordance with paragraph (1) is released from that device when the steps specified in accordance with paragraph (2)(b)(ii) have been taken.

(5) Any person who, without being authorised to do so in accordance with paragraph (3), removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this article is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) Where a vehicle is moved in accordance with this article before an immobilisation device is fixed to it, any power of removal under article 23 which was exercisable in respect of that vehicle immediately before it was so moved shall continue to be exercisable while the vehicle remains in the place to which it was so moved.

(7) In this article “immobilisation device” means any device or appliance which is approved as an immobilisation device for the purposes of section 104 of the Road Traffic Regulation Act 1984(2).

(8) The Commissioners must cause a notice stating the general effect of paragraph (1) to be displayed in a prominent position at each place where a road accessible to vehicles enters any part of the harbour premises.

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(1) 1994 c.22.  
(2) 1984 c.27.

### **Power to remove goods**

**25.**—(1) If any goods are left on or in any part of the harbour premises the Commissioners may give notice that the goods must be removed within a specified period (which must not be less than six hours)—

- (a) where reasonably practicable, to the owner of the goods in person;
- (b) otherwise, by affixing a written notice to the goods.

(2) Upon the expiry of the notice, the Commissioners may cause the goods to be removed to a warehouse or store; and such removal shall be carried out at the expense and risk of the owner.

(3) Notwithstanding such removal on behalf of the Commissioners, the goods shall be subject to a lien for the cost of removal, and for any charges payable to the Commissioners by the owner in respect of the goods.

(4) The Commissioners may, if they think fit, after giving seven days' notice to the owner of the goods, and shall if so required by the owner of the goods, sell or otherwise dispose of the goods, in such manner as they think fit and reimburse themselves out of the proceeds of sale, and the Commissioners shall hold any surplus of such proceeds on trust for the person entitled to the proceeds.

(5) In this article, "goods" includes vehicles which are being exported or imported through the harbour.

### **Lights detrimental to navigation**

**26.**—(1) The Commissioners may by notice require a person placing or using in or near the waters of the harbour a light which is likely to mislead persons navigating in those waters or to interfere with the safe navigation of vessels—

- (a) within a reasonable time specified in the notice, at the option of the recipient of the notice—
  - (i) to screen or alter the light so that it ceases to be likely to mislead persons, or to interfere with the safe navigation of vessels, or
  - (ii) to extinguish or remove the light; and
- (b) not to use the light except as so screened or altered or, as the case may be, not to use or replace the light; and
- (c) to consult with the Commissioners before placing or using another light in lieu of the light to which the notice relates.

(2) A person who fails to comply with a notice given under this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) It is a defence for a person charged with an offence under this article to prove that compliance with the notice would involve the contravention by any person of any enactment.

(4) Nothing in this article shall apply to any light displayed in accordance with any direction given by the Secretary of State.

### *Byelaws*

### **Powers to make byelaws, etc.**

**27.**—(1) The Commissioners may from time to time make byelaws for the management and regulation of the harbour and the harbour undertaking.

(2) Without prejudice to the generality of paragraph (1) byelaws may be made under this article for all or any of the purposes set out in Schedule 2.

(3) Byelaws made under this article may—

- (a) provide that breach of a byelaw is an offence for which a person is liable on summary conviction to a fine not exceeding level 4 on the standard scale and, in the case of a continuing offence, a further fine not exceeding £50 for each day or part of a day on which the offence is continued after conviction for it;
- (b) relate to the whole or any part of the harbour;
- (c) make different provisions for different parts of the harbour or in relation to different classes of vessels or vehicles;
- (d) make different provisions for different circumstances.

(4) Any byelaw made under this article may require the payment, on application for any consent, licence or other authorisation required by the byelaw, of such reasonable fees as the Commissioners may determine.

(5) Where a person is charged with the offence of breaching a byelaw, it shall be a defence for the person to prove—

- (a) that the person charged took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;
- (b) that the person charged had a reasonable excuse for the act or failure to act; or
- (c) that the offence was not caused or facilitated by any act or neglect on the part of the person charged or on the part of any other person engaged or employed by the person charged and that all reasonable steps were taken to prevent the commission of the offence.

#### **Procedure for making, etc. of byelaws**

**28.**—(1) The provisions of sections 236(3) to (8) and (11) and 238 of the Local Government Act 1972<sup>(3)</sup> (which relate to the procedure for making, and evidence of, byelaws) apply to any byelaws made by the Commissioners under article 27 and those provisions, in their application to any such byelaws, have effect subject to the following modifications.

- (a) references to a local authority have effect as if they were references to the Commissioners;
- (b) section 236(4) has effect as if, at the end, there were inserted “and in Lloyds List or some other newspaper specialising in shipping news”; and
- (c) section 236(7) has effect as if the words “with or without modifications” were inserted after the word “confirm” in the first place where that word occurs.

(2) Where the confirming authority proposes to confirm byelaws including a modification which it considers substantial—

- (a) the Commissioners must take such steps as the authority may direct for the purpose of informing persons likely to be concerned with the modification; and
- (b) the authority must not confirm the byelaws until it is satisfied that those persons have had a reasonable opportunity to make representations to the authority on the modification.

(3) Section 238, in its application to any byelaws made under article 27, has effect as if for the reference to the proper officer of the authority there were substituted a reference to the Chief Executive of the Commissioners.

(4) The confirming authority for the purposes of section 236 in its application to byelaws made under article 27 is the Secretary of State.

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(3) 1972 c.70.

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

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