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STATUTORY INSTRUMENTS

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**2017 No. 601**

**The Folkestone Harbour Revision Order 2017**

**PART 1**

**PRELIMINARY**

**Citation and commencement**

1. This Order may be cited as the Folkestone Harbour Revision Order 2017 and shall come into force on 1st August 2017.

**Interpretation**

2.—(1) In this Order—

“the 1991 Order” means the Sealink (Transfer of Folkestone Harbour) Harbour Revision Order 1991(1);

“the Act of 1807” means the Act for constructing a pier and harbour at or near the town of Folkestone in the County of Kent enacted on 25th July 1807(2);

“the Act of 1818” means the Act for altering and amending the Act of 1807, and for other purposes, enacted on 19 March 1818(3);

“the Act of 1844” means the Act to enable the South-eastern Railway Company to complete and maintain a branch railway and approach to the Harbour of Folkestone, and for other purposes, enacted on 4th July 1844(4);

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(5);

“the Act of 1885” means the South Eastern Railway (Various Powers) Act 1885(6);

“the Act of 1992” means the Folkestone Harbour Act 1992(7);

“the area of works” means the area within the limits of deviation and the revetment working area and the parts of the Inner Harbour and the Outer Harbour in the immediate vicinity of buildings being constructed in accordance with article 4(4);

“the Company” means Folkestone Harbour Company Limited which is registered in England and Wales with the number 02447559;

“the deposited plans”, “the deposited sections” and “the deposited map” mean respectively the plans, sections and map (numbered sheets HRO1 to HR05) prepared in duplicate, each signed on behalf of the Marine Management Organisation and marked “Folkestone Harbour Revision Order 2017 Plans, Sections and Map”, one copy of which is deposited at the offices of the

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(1) [S.I. 1991/237](#).

(2) 47 Geo.III c.ii.

(3) 58 Geo. III c.xxi.

(4) 7 & 8 Vict. c.lxix.

(5) [1847 c.27](#).

(6) 1885 c.cxxxvii.

(7) [1992 c.6](#).

Marine Management Organisation and the other at the office of the Company at Port Office, Folkestone Harbour, Kent CT20 1QH;

“general direction” means a direction given or proposed to be given under article 27;

“the harbour” means Folkestone Harbour as comprised within the harbour limits;

“the harbour arm” means the pier projecting into the sea in a south-easterly and easterly direction from the south-eastern end of South Quay and on which stands a lighthouse at its tip;

“the harbour limits” means the limits of the harbour specified in article 20;

“the harbour limits map” means the deposited map numbered sheet HR05 and titled “Harbour Limits Map”;

“the harbour master” means a person appointed as such by the Company and includes his deputies and assistants and any other person for the time being authorised by the Company to act, either generally or for a specific purpose, in the capacity of harbour master;

“harbour premises” has the meaning given by article 20(5);

“high water” means mean high water spring tides;

“the level of high water” means the level of mean high water spring tides;

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

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“master”, in relation to a vessel, means any person having or taking command, charge, management or conduct of the vessel for the time being;

“owner” in relation to any vessel, includes any part-owner, any charterer (including but not limited to a charterer by demise) or any mortgagee in possession of the vessel;

“personal watercraft” means any watercraft (not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine or other mechanical means of propulsion and steered either—

- (a) by means of a handlebar-operated linkage system (with or without a rudder at the stern); or
- (b) by the person or persons riding the craft using body weight for the purpose; or
- (c) by a combination of the methods referred to in paragraphs (a) and (b);

“the revetment working area” means the area labelled “Revetment working area and temporary rock storage” on sheet HR02 of the deposited plans;

“special direction” means a direction under article 30;

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

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

“the undertaking” means the undertaking of the Company at the harbour as authorised from time to time;

“vessel” means a ship, boat, raft or water craft of any description and includes non-displacement craft, personal watercraft, seaplane and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hovercraft, hydrofoil vessel or any other amphibious vehicle, used or capable of being used as a means of transportation on water; and

“the works” means the works authorised by this Order or, as the case may require, any of, or any part of, those works.

(2) All situations, distances, points, coordinates, directions, areas, lengths, dimensions or other measurements stated in this Order (other than the limits of deviation) shall be construed as if the words “or thereabouts” were inserted after each such situation, distance, point, coordinate, direction, area, length, dimension or other measurement and distances between points on a work shall be taken to be measured along that work.

(3) Coordinates specified in this Order are in degrees, minutes and decimals of minutes and shall be construed as references to WGS84 coordinates.

(4) In paragraph (3) “WGS84” means the World Geodetic System, revised in 1984 and further revised in 2004.

### **Incorporation of the Harbours, Docks and Piers Clauses Act 1847**

**3.—**(1) The Act of 1847 (except sections 6 to 25, 28, 31, the proviso to section 32, 48 to 50, 67, 77, 81, 82, 86 to 90, 97 to 103 and so much of the proviso to section 83 as follows the words “the special Act”), so far as applicable to the purposes, and not inconsistent with, the provisions of this Order, is incorporated with, and forms part of this Order subject to the modifications stated in paragraphs (2) to (6).

(2) Section 33 shall not apply to the harbour arm, the work authorised by article 4, or South Quay except so much of its northern face as faces those parts of the harbour to the west of East Pier and the north of South Quay known as the Inner Harbour and the Outer Harbour.

(3) Section 63 shall have effect subject to the modification that for the words from “liable to” to the end of the section there are substituted the words “be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

(4) Section 69 shall have effect subject to the modification that for the words from “shall forfeit” to the end of the section there are substituted the words “shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale”.

(5) Section 85 shall have the effect as if for the words from “in the prescribed manner” to the end of the section there were substituted the words “by the Secretary of State”.

(6) In construing the provisions of the Act of 1847 as incorporated with this Order—

- (a) the expression “the special Act” means this Order, the expression “the undertakers” means the Company and the expression “the harbour, dock, or pier” shall mean the harbour;
- (b) the expression “limits” and “the prescribed limits” mean the harbour limits;
- (c) for the definition of the word “vessel” in section 3 of the Act of 1847 there shall be substituted the definition of that word in article 2 (1) of this Order; and
- (d) the reference in section 53 of the Act of 1847 to notice of a direction by the harbour master served upon a vessel shall not be construed as requiring the notice to be in writing.

(7) The words “and the Harbours, Docks and Piers Clauses Act 1847” in section 2, and section 57, of the Act of 1885 and article 8(3) of the 1991 Order are revoked.