
STATUTORY INSTRUMENTS

2021 No. 130

The Fowey Harbour Revision Order 2021

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Fowey Harbour Revision Order 2021 and shall come into force on 11th March 2021.

(2) The Fowey Harbour Orders 1937 to 2001 and this Order may be cited together as the Fowey Harbour Orders 1937 to 2021.

Interpretation

2.—(1) In this Order—

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

“the Order of 1937” means the Fowey Harbour Order 1937(2);

“the Order of 1960” means the Fowey Harbour Order 1960(3);

“the Order of 1980” means the Fowey Harbour Revision Order 1980(4);

“the Order of 2001” means the Fowey Harbour Revision Order 2001(5);

“the Fowey Harbour Orders 1937 to 2001” means the Order of 1937, the Order of 1980 and the Order of 2001;

“ashore” means all those parts of the harbour which are not constituted of land covered by water at the level of low water;

“the Commissioners” means the Fowey Harbour Commissioners;

“Fowey Harbour Port User Group” means the consultative body of that name established by the Commissioners in accordance with the requirements of article 16 of the Order of 2001;

“general direction” means a direction given under article 4 of this Order;

“harbour” means the harbour as defined in article 3 (interpretation) of the Order of 1937 the limits of which are described in article 22 (limits of Order) of the Order of 1937;

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

(1) [1847 c. 27.](#)

(2) [1 Edw. 8. & 1 Geo. 6. c. lxxii.](#)

(3) [8 & 9 Eliz. 2 c. xxi.](#)

(4) [S.I. 1981/124.](#)

(5) [S.I. 2001/2184.](#)

“harbour operations” includes—

- (a) the marking, lighting or dredging of the harbour or any part thereof,
- (b) the berthing, mooring, dry docking or storage of a vessel,
- (c) the laying and maintenance of moorings or other similar apparatus in the harbour,
- (d) the warehousing, sorting, weighing or handling of goods,
- (e) the movement of goods and vehicles (including parking, designated and prohibited areas, speed limits, removal from the harbour),
- (f) the towing, or moving of a vessel,
- (g) the loading or unloading of goods, or embarking or disembarking of passengers,
- (h) energy generation,
- (i) the control of use of the harbour by members of the public and other third parties (including movement, conduct, authorised activities, designated and prohibited areas) but not so as to cause an interference with any public right of way;

“the harbour premises” means land adjacent to the wet harbour area for the time being vested in, or occupied or administered by the Commissioners as part of the harbour undertaking and occupied wholly or mainly for the purposes of activities there carried on, which may include docks, quays, piers, wharves, berths, locks, breakwaters, landing places, yards, roads, carparks, sheds, other buildings and all other works and conveniences, land and premises;

“harbour undertaking” means the undertaking for the time being of the Commissioners as set out in the Fowey Harbour Orders 1937 to 2021;

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“jet bike” 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 water 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 their body weight for the purpose, or
- (c) by a combination of the methods referred to in (a) and (b) above;

“land” includes land covered by water except where expressly stated otherwise;

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

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

“special direction” means a direction given under article 7 of this Order;

“Trinity House” means the Corporation of Trinity House of Deptford Strond(6);

“vehicle” includes any vehicle propelled on rails, any machinery on wheels or caterpillar tracks, trailers, caravans, bicycles, and mobile homes and includes a hovercraft or any other amphibious vehicle;

“vessel” includes a ship, boat, houseboat, raft or water craft of any description, however propelled or moved, and includes non-displacement craft, a jet bike, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious

vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily);

“wet harbour area” means those parts of the area described in articles 3 (interpretation) and 22 (limits of Order) of the Order of 1937 which are covered by water at the level of low water.

(2) All situations, points, directions, distances, lengths, dimensions, areas and other measurements stated in this Order shall be construed as if the words “or thereabouts” were inserted after each such situation, point, direction, distance, length, dimension, area or other measurement.

Incorporation of provisions of Harbours, Docks and Piers Clauses Act 1847

3.—(1) The Act of 1847 (except sections 6 to 26, 28 to 31, 42, 48 to 50, 66, 67, 70, 92 and 101), so far as applicable to the purposes and not inconsistent with the provisions of this Order and the Order of 1937 respectively, is hereby incorporated with this Order and the Order of 1937 subject to the modifications stated in paragraphs (2) to (4) below.

(2) Section 63 of the Act of 1847 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”.

(3) Section 69 of the Act of 1847 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”.

(4) In construing the provisions of the Act of 1847 as incorporated with this Order and the Order of 1937 respectively—

- (a) the expression “the special Act” means this Order and the Order of 1937 respectively, the expression “the undertakers” means the Commissioners and the expression “the harbour, dock, or pier” shall mean the harbour as defined in article 2(1) of this Order,
- (b) 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,
- (c) 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 if in the circumstances it is not reasonably practicable for the harbour master to serve a written notice on the master, and in such circumstances the said reference may be construed as including the communication of the notice orally or otherwise.