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STATUTORY INSTRUMENTS

2021 No. 31

HARBOURS, DOCKS, PIERS AND FERRIES

The Broads Authority (Transfer of Mutford Lock) Harbour Revision Order 2021

Made - - - - - *14th January 2021*

Laid before Parliament *21st January 2021*

Coming into force - - - *19th February 2021*

The Broads Authority has applied for a harbour revision order in accordance with section 14(2)(a) of the Harbours Act 1964(1) (“the Act”).

The Secretary of State, as the appropriate Minister for the purposes of that section, has by an Order(2) made under section 42A of the Act(3) delegated the functions of the appropriate Minister under section 14 of the Act(4) to the Marine Management Organisation(5).

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b), and in exercise of the powers conferred by section 14(1) and (3) of the Act makes the following Order.

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- (1) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4(1) and 14 and section 40 and Schedule 12 (Part II); by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 1; by S.I. 2006/1177, regulation 2 and the Schedule (Part 1); by the Planning Act 2008 (c. 29), section 36 and Schedule 2, paragraphs 8 and 9; and by S.I. 2009/1941, article 2 and Schedule 1, paragraph 12 and by the Criminal Justice Act 1982 (c. 48), sections 37 and 46. Section 54 (orders and regulations) was amended by the Transport Act 1981 (c. 56) sections 18 and 40 and Schedule 6, paragraph 5(3) and Schedule 12 (Part II) and by the Marine and Coastal Access Act 2009 (c. 23), section 315 and Schedule 21, paragraphs 1 and 3(2).
- (2) See S.I. 2010/674.
- (3) Section 42A was inserted, in relation to England and Wales, by section 315 of, and paragraphs 1 and 3(1) of Schedule 21 to the Marine and Coastal Access Act 2009 (c. 23).
- (4) For the definition of “the Minister” see section 57(1) of the Harbours Act 1964 (c. 40).
- (5) The Marine Management Organisation was established by section 1 of the Marine and Coastal Access Act 2009 (c. 23).

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Broads Authority (Transfer of Mutford Lock) Harbour Revision Order 2021 and shall come into force on 19th February 2021.

Interpretation

2. In this Order—

“the Act of 1827” means the Act entitled “An Act for making and maintaining a Navigable Communication for ships and other vessels between the City of Norwich and the Sea at or near Lowestoft in the County of Suffolk”(6);

“the Act of 1988” means the Norfolk and Suffolk Broads Act 1988(7);

“A.B. Ports” means Associated British Ports;

“the adjoining land” means the land adjoining Mutford Lock which is described in the Schedule to this Order;

“the Authority” means the Broads Authority established by section 1 of the Act of 1988;

“the day of transfer” means the day this Order comes into force;

“Mutford Lock” means the lock which is described in the Schedule to this Order;

“the signed plan” means the plan prepared in duplicate, signed by the Chief Executive Officer of the Marine Management Organisation and marked “Signed plan referred to in the Broads Authority (Transfer of Mutford Lock) Harbour Revision Order 2021, one copy of which is deposited at the offices of the Marine Management Organisation and the other at the principal office of the Authority and available on the Authority’s website(8); and

“the yellow land” means that part of Mutford Lock coloured yellow on the signed plan.

PART 2

HARBOUR JURISDICTION

Harbour Jurisdiction

3.—(1) On and from the day of transfer Mutford Lock and the adjoining land shall, subject to paragraph 3 of this article and article 8 of this Order form part of the navigation area defined in section 8(1) of the Act of 1988 and the Authority shall become the harbour authority for Mutford Lock and the adjoining land.

(2) The eastern limit of the navigation area referred to in paragraph (1) on and from the day of transfer is shown by the line marked “Proposed Limit of Harbour Jurisdiction” on the signed plan running between Latitude 52.474514 Longitude 1.711342, Latitude 52.474573 Longitude 1.711465 and Latitude 52.474802 Longitude 1.711617.

(3) Subsection (5) of section 8 of the Act of 1988 shall not apply to Mutford Lock.

(6) 1827 7 & 8 Geo. 4 c. xlii.

(7) 1988 c. 4.

(8) Yare House, 62-64 Thorpe Rd, Norwich, NR1 1RY. The Broads Authority website can be found at: <https://www.broads-authority.gov.uk/about-us/how-we-work/transparency/consultations>.

PART 3

MISCELLANEOUS AND GENERAL

Saving of Agreements etc.

4. All deeds, contracts, bonds, agreements, notices and demands affecting A.B. Ports as harbour authority for Mutford Lock and the adjoining land and in force immediately before the day of transfer (other than any agreement or deed the parties to which include both A.B. Ports and the Authority) shall (insofar as they relate to A.B. Ports as harbour authority for Mutford Lock) on and from that day—

- (a) be as binding and of as full force and effect in every respect, and
- (b) may be enforced as fully and effectively against or in favour of the Authority as if (except in any case where the Authority as agent for A.B. Ports is already a party thereto) the Authority instead of A.B. Ports had been a party thereto or bound thereby or entitled to the benefit thereof.

Continuance of proceedings

5. Any cause of action, arbitration or other proceeding, pending or existing immediately before the day of transfer by or in favour of or against A.B. Ports as harbour authority for Mutford Lock and the adjoining land or by or in favour of or against the Authority as agent for A.B. Ports in relation to A.B. Ports as harbour authority for Mutford Lock and the adjoining land (other than an action, arbitration or proceeding which is or may be an issue between A.B. Ports and the Authority) may—

- (a) be maintained, prosecuted or continued by or in favour of or against the Authority, and
- (b) may be amended in such manner as may be necessary for that purpose.

Charges

6. On and from the day of transfer the Authority may charge for the use of Mutford Lock such sums as the Authority think fit having regard to the cost of maintaining and operating the lock.

Operations Arrangements

7. On and from the day of transfer the Authority may make such arrangements as they deem expedient for the operation of Mutford Lock.

Saving for Trinity House

8. The Authority shall not provide, alter, discontinue the use of or remove any lighthouse, buoy or beacon as defined in section 223 of the Merchant Shipping Act 1995⁽⁹⁾ in relation to the construction, maintenance or operation of Mutford Lock without the written consent of the Corporation of Trinity House of Deptford Strond.

Amendments to the Norfolk and Suffolk Broads Act 1988

9. The Act of 1988 is amended as follows.

- (a) In section 8(1) –
 - (i) after “Haddiscoe New Cut and its banks” omit –

(9) 1995 c. 21.

- “and”;
- (ii) after sub-paragraph (d) insert –
- “; and;
- (e) Mutford Lock and the adjoining land as defined in article 2 of the Broads Authority (Transfer of Mutford Lock) Harbour Revision Order 2021.”;
- (iii) after “but does not include any part of the Haven or” insert –
- “except in relation to paragraph (e).”;
- (b) In Schedule 2 Part 1 paragraph 1(b) after “the area (consisting of Mutford Lock and adjoining land owned by Associated British Ports)” omit “owned by Associated British Ports” and after paragraph (1) insert –
- “(1A) Paragraph 1(b) is subject to section 8(3) which provides for the area of Mutford Lock and the adjoining land as defined in article 2 of the Broads Authority (Transfer of Mutford Lock) Harbour Revision Order 2021 to form part of the navigation area.”.

Signed by authority of the Marine Management Organisation

Tom McCormack
Chief Executive Officer
An employee of the Marine Management
Organisation

14th January 2021

SCHEDULE

Article 2

DESCRIPTIONS

Mutford Lock means the lock authorised by the Act of 1827 and comprises the following areas:

- (a) the areas of land and water coloured blue on the signed plan and measuring approximately 869.9 square metres but excluding the bridge structures within the areas cross-hatched black on that plan; and
- (b) the areas of land and water coloured yellow on the signed plan and measuring approximately 352 square metres and 228.7 square metres respectively and excluding the bridge structures within the areas cross-hatched black on that plan.

The adjoining land means the land adjoining Mutford Lock and comprises the areas coloured red on the signed plan and measuring approximately 2861 square metres and 461.4 square metres respectively.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is consequent upon the Port of Lowestoft (Transfer of Mutford Lock) Harbour Revision Order 2021 (S.I. 2021/32), which provides for the transfer of Mutford Lock and adjoining land held with Mutford Lock from Associated British Ports to the Broads Authority.

The Port of Lowestoft (Transfer of Mutford Lock) Harbour Revision Order 2021 provides for the area coloured blue and the adjoining land coloured red on the signed plan to be vested in the Broads Authority. Some areas of land remain in control of the Suffolk County Council as highway authority, these include the road, pedestrian and cyclist bridges and are coloured yellow on the signed plan.

This Order provides for Mutford Lock and the adjoining land to become part of the navigation area within the jurisdiction of the Broads Authority for the purpose of the Norfolk and Suffolk Broads Act 1988 and for the Broads Authority to become the harbour authority for Mutford Lock and the adjoining land.

The signed plan referred to in Article 2 may be inspected during working hours at the principal office of the Broads Authority Yare House, 62-64 Thorpe Rd, Norwich, NR1 1RY and on the Broads Authority website:

<https://www.broads-authority.gov.uk/about-us/how-we-work/transparency/consultations>

An impact assessment has not been prepared for this Order as there is no, or no significant, impact predicted on businesses, charities, voluntary bodies or the public sector.

An Explanatory Memorandum is available on the UK legislation website, www.legislation.gov.uk.