
STATUTORY INSTRUMENTS

2023 No. 470

The Dee Estuary Conservancy Harbour Revision Order 2023

PART 1

PRELIMINARY

Citation, commencement and extent

1.—(1) This Order may be cited as the Dee Estuary Conservancy Harbour Revision Order 2023 and comes into force on [] 2023.

(2) This Order extends to England and Wales.

Interpretation

2.—(1) In this Order—

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

“the 1889 Act” means the Dee Conservancy Act 1889(2);

“the 1995 Act” means the Merchant Shipping Act 1995(3);

“aids to navigation” includes lights, buoys, beacons and signals including sound and electronic signals and any structure required to house the same;

“the Chamber of Shipping” means the trade association for the United Kingdom shipping industry, incorporated under the name ‘The Chamber of Shipping Limited’ and having its registered office address at 30 Park Street, London SE1 9EQ;

“the channels” means the navigable channels through the estuary designated by the conservancy authority under article 13(2)(a) of this Order;

“charges” means the charges, rates, tolls and dues which the conservancy authority is for the time being authorised to demand, take and recover under and by virtue of this Order;

“the conservancy authority” means the Natural Resources Body for Wales;

“the company” means Mostyn Docks Limited (which is registered in England and Wales with the number 1517767 and whose registered office address is The Port of Mostyn, Coast Road, Mostyn, Holywell, Flintshire CH8 9HE) or its successor from time to time as statutory harbour authority for the port);

“the conservancy undertaking” means the undertaking of the conservancy authority authorised by the 1889 Act and this Order;

“dredging licence” means a licence granted under article 29 of this Order;

“the estuary” means the area consisting of so much of the sea and the river Dee and its estuary below the level of high water between National Grid reference point SJ39632 65874 (Wilcox

(1) 1847 c. 27.
(2) 1889 c. clvi.
(3) 1995 c. 21.

Point) and an imaginary straight line connecting National Grid reference point SJ12962 85088 (Point of Ayr) with National Grid reference point SJ20263 88505 (Hilbre Point) and all channels, bars, sandbanks and shoals belonging to or situated within such area and all tributaries, streams, havens, creeks, bays and inlets communicating with it so far as the tide flows and reflows over the same;

“fish”, where used as a verb, means fishing (whether from a vessel or otherwise) by net, line, speargun or otherwise and includes both trawling and the placing or laying of pots for prawn, crab and lobster and the harvesting of cockles by any means, and “fishing” is to be construed accordingly;

“general direction” means a direction given under article 13 of this Order;

“goods” means all articles and merchandise of every description and includes fish, livestock and animals;

“the harbour master” means any natural person appointed as such by the conservancy authority in accordance with section 51 (appointment of harbour, dock or pier master) of the 1847 Act, and includes the duly authorised deputies and assistants of the harbour authority and any other person for the time being authorised by the conservancy authority to act, either generally or for a specific purpose, in the capacity of harbour master;

“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;

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

“mooring” includes buoys and other apparatus provided for the mooring of vessels;

“owner” when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and that person’s agent in relation to them; and when used in relation to a vessel includes any part-owner, broker, charterer, agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel;

“the port” means the area described in article 4 of the Mostyn Docks Harbour Empowerment Order 1988(4), as extended by the Mostyn Docks Harbour Revision Order 2016(5);

“property” means any property whether real or personal;

“Secretary of State” means the Welsh Ministers in relation to any function that has been devolved to the Welsh Ministers;

“small vessel” means a vessel of less than 15 metres in length;

“special direction” means a direction given under article 15 of this Order;

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for any of the purposes of the Town and Country Planning Act 1990(6);
- (b) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949(7); or

(4) S.I. 1988/1677.

(5) S.I. 2016/75; see article 3.

(6) 1990 c. 8.

(7) 1949 c. 74; section 1 was amended by the Local Government Act 1972 (c. 20), Schedule 30.

(c) any operator of an electronic communications code network within the meaning of the Communications Act 2003⁽⁸⁾;

“tidal work” means so much of any work within the estuary 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⁽⁹⁾;

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

“vessel” means every description of vessel and watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation of persons or goods on water;

“works” means works of any description and includes the reclamation of land reasonably required for the purpose of executing works; and

“works licence” means a licence granted under article 28 (licensing of works) of this Order.

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

(3) A vessel of any description is a ship for the purposes of the application of the Harbours Act 1964 to the conservancy undertaking.

Incorporation of Harbours, Docks and Piers Clauses Act 1847

3.—(1) The 1847 Act (except sections 6 to 25, 28, 31, 32, 35, 42, 48 to 50, 60, 67, and 83 to 90), so far as applicable to the purposes of this Order, is incorporated with this Order subject to the modifications stated in paragraphs (2) to (4).

(2) Section 63 (penalty on vessels lying near the entrance of harbour or dock without permission) has 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 is liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

(3) Section 69 (removal of combustible matter on quay, dock or wharf) has effect subject to the modification that for the words from “shall forfeit” to the end of the section there are substituted the words “is liable on summary conviction to a fine not exceeding level 4 on the standard scale”.

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

(a) the expression—

(i) “the special Act” means this Order,

(ii) “the undertakers” means the conservancy authority, and

(iii) “the harbour, dock, or pier” means the estuary;

(b) for the definition of the word “owner” in section 3 of the 1847 Act there is substituted the definition of that word in article 2(1);

(c) for the definition of the word “vessel” in section 3 of the 1847 Act there is substituted the definition of that word in article 2(1); and

(d) the reference in section 53 of the 1847 Act to notice of a direction by the harbour master served upon a vessel is not to 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

⁽⁸⁾ 2003 c. 21; the term “electronic communications code” is defined in section 151.

⁽⁹⁾ The Corporation of Trinity House, Tower Hill, London EC3N 4DH.

notice on the master, and in such circumstances the said reference may be construed as including the communication of the notice orally or otherwise.