
STATUTORY INSTRUMENTS

2023 No. 675

The Cornwall Harbours Harbour Revision Order 2023

PART 1

PRELIMINARY

Citation, commencement and extent

1.—(1) This Order may be cited as the Cornwall Harbours Harbour Revision Order 2023 and shall come into force on 14th July 2023.

(2) This Order extends to England and Wales.

Commencement Information

II Art. 1 in force at 14.7.2023, see [art. 1\(1\)](#)

Interpretation

2.—(1) In this Order—

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

“the Act of 1964” means the Harbours Act 1964;

“the Act of 1995” means the Merchant Shipping Act 1995⁽²⁾;

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

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

“the Board” means the Cornwall Harbours Board constituted by Part 2;

“Bude Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Bude Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023” one copy of which is deposited with the offices of the Marine Management Organisation and one copy at the principal office⁽³⁾ of the Council;

“charges” means the charges, rates, tolls and dues which the Council is for the time being authorised to demand, take and recover in relation to the undertaking;

“commercial refuelling activities” means recharging or emptying (in whole or part) a vessel with fuel in exchange for financial payment or other valuable consideration;

⁽¹⁾ 1847 c. 27.

⁽²⁾ 1995 c. 21.

⁽³⁾ New County Hall, Treyew Road, Truro TR1 3AY.

“Cornwall Harbours User Group” means the relevant consultative body or bodies established by the Council in accordance with the requirements of article 13 (advisory bodies);

“the Council” means Cornwall Council;

“electronic communications network” has the meanings given by section 32 of the Communications Act 2003⁽⁴⁾ (meaning of electronics communications networks and services);

“enactment” means any enactment whether public general or local and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“Existing Port of Penryn Reserve” means the sum of £683,000 held as a reserve fund at the date of this Order for the Port of Penryn;

“Existing Port of Truro Reserve” means the sum of £725,000 held as a reserve fund at the date of this Order for the Port of Truro;

“financial year” means any period of 12 months ending on thirty first day of March;

“functions” includes powers and duties;

“general direction” means a direction given under article 31 (power to make general directions as to use of the harbours, etc.);

“general reserve fund” means the reserve fund to be established, maintained and used by the Council under article 17 (general reserve fund);

“harbours” means the ports and harbours of Bude, Newquay, Penryn, Penzance, Prince of Wales Pier (in Falmouth), St Ives and Truro, the limits of which are defined in Schedule 1 (limits of the harbours);

“harbour facilities” means shipping, fisheries, marine, recreational, leisure, tourism and retail facilities (including buildings);

“harbour limits plans” means the Bude Harbour Limits Plan, the Newquay Harbour Limits Plan, the Port of Penryn Harbour Limits Plan, the Penzance Harbour Limits Plan, the Prince of Wales Pier Harbour Limits Plan, the St Ives Harbour Limits Plan and the Port of Truro Harbour Limits Plans⁽⁵⁾;

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

“harbour operations” includes—

- (a) the marking, lighting or dredging of the harbours or any part thereof;
- (b) the berthing, storage, mooring or dry docking 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 harbours);
- (f) the towing, or moving of a vessel;
- (g) the loading or unloading of goods, or embarking or disembarking of passengers;
- (h) energy generation or storage;

⁽⁴⁾ 2003 c. 21.

⁽⁵⁾ The harbour limits plans may be inspected during working hours at the principal office of Cornwall Council, New County Hall, Treyew Road, Truro TR1 3AY and via the Council’s harbours website at www.cornwallharbours.co.uk.

- (i) the control of use of the harbours 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;

“harbour premises” means land above the level of low water within the areas shown outlined red on the harbour limits plans for the time being vested in or occupied or administered by the Council as part of the undertaking and occupied wholly or mainly for the purpose of activities there carried on; which may include docks, quays, piers, wharves, berths, locks, breakwaters, landing places, yards, roads, car parks, sheds, buildings and all other works and conveniences, land and premises, shown for illustrative purposes shaded green on the harbour limits plans;

“harbours revenue” means and includes all moneys receivable by the Council for and in relation to the undertaking other than borrowed moneys and moneys which ought to be carried to capital account;

“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;

“land” includes land covered by water;

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

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

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

“Newquay Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Newquay Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023” one copy of which is deposited at the offices of the Marine Management Organisation and one copy at the principal office of the Council;

“operator” has the meaning given by paragraph 2 of Schedule 3A to the Communications Act 2003 (the electronic communications code);

“Penzance Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Penzance Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023” one copy of which is deposited at the offices of the Marine Management Organisation and one copy at the principal office of the Council;

“Port of Penryn Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Port of Penryn Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023” one copy of which is deposited at the offices of the Marine Management Organisation and one copy at the principal office of the Council;

“Port of Penryn Reserve Fund” means the reserve fund that may be established and maintained by the Council for the Port of Penryn under article 16 (Port of Penryn reserve fund);

“Port of Truro Harbour Limits Plans” means the three plans prepared in duplicate and signed on behalf of the Marine Management Organisation, one copy of each of which is deposited at the offices of the Marine Management Organisation and one copy of each at the principal office of the Council, and marked respectively—

- (a) the “Signed Port of Truro (Overview) Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023”;
- (b) the “Signed Port of Truro (North) Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023”; and

Status: Point in time view as at 14/07/2023.

Changes to legislation: There are currently no known outstanding effects for the The Cornwall Harbours Harbour Revision Order 2023, PART 1. (See end of Document for details)

(c) the “Signed Port of Truro (South) Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023”;

“Port of Truro Reserve Fund” means the reserve fund that may be established and maintained by the Council for the Port of Truro under article 15 (Port of Truro reserve fund);

“Prince of Wales Pier Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Prince of Wales Pier Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023” one copy of which is deposited at the offices of the Marine Management Organisation and one copy at the principal office of the Council;

“special direction” means a direction given under article 34 (special directions);

“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⁾ (coast protection authorities);
- (c) any operator of an electronic communications network;

“St Ives Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed St Ives Harbour Limits Plan referred to in the Cornwall Harbours Harbour Revision Order 2023” one copy of which is deposited at the offices of the Marine Management Organisation and one copy at the principal office of the Council;

“Trinity House” means the Corporation of Trinity House of Deptford Strond⁽⁸⁾;

“undertaking” means the harbours undertaking for the time being of the Council relating to any or all of the harbours as authorised by this Order and the Acts and Orders listed in Schedule 5 (Acts and Orders) (to the extent that those Acts and Orders relate to the harbours or any one of them);

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

“vessel” includes a ship⁽⁹⁾, boat, houseboat, raft or craft of any description, however propelled or moved, and includes non-displacement craft, watercraft, a hydrofoil vessel, or any amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily);

“watercraft” means any type of craft which—

- (a) is capable of moving under its own mechanical power;
- (b) is used, navigated or situated wholly or partially in or on water; and
- (c) is capable of being used to carry one or more persons,

but does not include a ship or fishing vessel within the meanings given in section 313(1) of the Act of 1995.

(2) The definitions of the harbours in this Order shall apply to those Acts and Orders listed in Schedule 5 (Acts and Orders) (to the extent those Acts and Orders relate to the harbours or any one of them).

⁽⁶⁾ 1990 c. 8.

⁽⁷⁾ 1949 c. 74, section 1 was amended by the Local Government Act 1972 (c. 70), Schedule 30.

⁽⁸⁾ The Corporation of Trinity House, Tower Hill, London EC3N 4DH.

⁽⁹⁾ As defined in section 57 (interpretation) of the Harbours Act 1964 (c. 40).

(3) 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.

(4) In this Order longitude and latitude are stated by reference to the World Geodetic System (WGS84), revised in 1984 and further revised in 2004.

Commencement Information

I2 Art. 2 in force at 14.7.2023, see [art. 1\(1\)](#)

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, 67, 70, 84 to 92 and 99 to 102) (so far as applicable to the purposes and not inconsistent with the provisions of this Order) is incorporated with this Order subject to the modifications stated in paragraphs (2) to (5).

(2) Section 33 of the Act of 1847 (harbour, dock, and pier free to the public on payment of rate) shall not apply to the Prince of Wales Pier.

(3) Section 63 of the Act of 1847 (penalty on vessels lying near the entrance of harbour or dock without permission) 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 “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 of the Act of 1847 (combustible matters on quays, &c., to be removed) 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) In construing the provisions of the Act of 1847 as incorporated with this Order—

- (a) the expression “the special Act” means this Order;
- (b) the expression “the undertakers” means the Council;
- (c) the expression “the harbour, dock, or pier” shall mean the harbours, and includes those docks, piers, berths, quays, landing places and wharves forming part of the harbour premises;
- (d) for the definition of the word “vessel” in section 3 of the Act of 1847 (interpretation) there shall be substituted the definition of that word in article 2(1) of this Order;
- (e) the reference in section 53 of the Act of 1847 (penalty on shipmasters not complying with directions of the harbour master) 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.

Commencement Information

I3 Art. 3 in force at 14.7.2023, see [art. 1\(1\)](#)

Status:

Point in time view as at 14/07/2023.

Changes to legislation:

There are currently no known outstanding effects for the The Cornwall Harbours Harbour Revision Order 2023, PART 1.