

---

STATUTORY INSTRUMENTS

---

**2023 No. 690**

**The Dee Estuary Conservancy  
Harbour Revision (No. 2) Order 2023**

**PART 1**

**PRELIMINARY**

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Dee Estuary Conservancy Harbour Revision (No. 2) Order 2023 and comes into force on the 21st day after the day on which it is made.

(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<sup>(1)</sup>;

“the 1889 Act” means the Dee Conservancy Act 1889<sup>(2)</sup>;

“the 1995 Act” means the Merchant Shipping Act 1995<sup>(3)</sup>;

“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;

---

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

“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 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);

---

(4) S.I. 1988/1677.

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

(6) 1990 c. 8.

- (b) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949(7); or
- (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

---

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

(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.

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

## PART 2

### ESTUARY REGULATION

#### **General functions of the Natural Resources Body for Wales in relation to the conservancy undertaking**

4.—(1) The Natural Resources Body for Wales continues to be the conservancy authority, harbour authority and local lighthouse authority for the estuary (referred to in this Order as “the conservancy authority”), pursuant to the 1889 Act and this Order and may, subject to the provisions of this Order, take all such steps from time to time as it may consider necessary or desirable for the—

- (a) conservancy, maintenance, protection, regulation, operation, management and improvement of the estuary and its facilities, including recreational facilities; and
- (b) conservation of the estuary’s flora, fauna and geological and physiographical features of special interest.

(2) For the purposes mentioned in paragraph (1) but without limiting its scope, the conservancy authority may—

- (a) improve, maintain, regulate, manage, mark and light the estuary;
- (b) subject to obtaining the necessary rights in or over land—
  - (i) execute and place in and over the estuary such structures, works and equipment as are required; and
  - (ii) operate, maintain, renew, alter, extend, demolish, remove and reconstruct structures, works and equipment in the estuary (including those executed or placed in accordance with sub-paragraph (i)); and
- (c) do all other things which in its opinion are expedient to facilitate the operation, improvement or development of the conservancy undertaking.

(3) The conservancy authority may, from time to time, formulate and publish a management plan in relation to its conservancy, maintenance, protection, regulation, operation, management and improvement of the conservancy undertaking.

(4) In exercising its powers under paragraph (2)(b), the conservancy authority may not—

- (a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker, or
- (b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus,

without the consent of the statutory undertaker concerned.

#### **Consultative Committee**

5.—(1) The conservancy authority must establish a committee, to be known as the Dee Estuary Consultative Committee, which it must, except in a case of special urgency, consult on all matters substantially affecting the conservancy, maintenance, protection, regulation, operation, management and improvement of the estuary and its navigation.

(2) Subject to paragraphs (3) to (6), the committee is to consist of up to sixteen members appointed by the conservancy authority, of whom—

- (a) two each are to be appointed on the nomination of—
  - (i) Wirral Metropolitan Borough Council, and
  - (ii) Flintshire County Council;
- (b) one is to be appointed on the nomination of each of—
  - (i) Cheshire West and Chester Council,
  - (ii) Natural England<sup>(10)</sup>,
  - (iii) the Royal Yachting Association<sup>(11)</sup>,
  - (iv) the company, and
  - (v) the Maritime and Coastguard Agency<sup>(12)</sup>;
- (c) one, to represent local fishing interests in the estuary, is to be appointed after consultation with such persons (if any) as the authority considers appropriate, being a person who appears to it to be representative of those interests;
- (d) two, to represent commercial interests in the estuary, other than fishing, are to be appointed after consultation with such persons (if any) as the authority considers appropriate, being persons who appear to it to be representative of those interests;
- (e) one, to represent local conservation interests in the estuary, is to be appointed after consultation with the Dee Estuary Conservation Group and with such other persons (if any) as the authority considers appropriate, being a person who appears to it to be representative of those interests;
- (f) one, to represent local recreational interests in the estuary, other than fishing, is to be appointed after consultation with the Inland Waterways Association and with such other persons (if any) as the authority considers appropriate, being a person who appears to it to be representative of those interests; and
- (g) no more than two may be appointed to represent such persons having an interest in the estuary, in addition to those mentioned in sub-paragraphs (a) to (f), as the conservancy authority may from time to time consider appropriate to appoint.

(3) In the case of any of the appointments referred to in sub-paragraphs (a) or (b) of paragraph (2), if—

- (a) it appears to the conservancy authority that the body by whom the nomination is to be made has refused or failed to nominate a member after being requested by the authority to do so, or
- (b) the body by whom a nomination is to be made has ceased to have an identifiable existence,

the appointment in question may be made by the authority as it considers appropriate, after consultation with such persons (if any) appearing to it to be representative of the interests represented, or formerly represented, by the nominating body specified in the relevant sub-paragraph.

(4) The conservancy authority is not obliged to appoint a person who is nominated under sub-paragraph (a) or (b) of paragraph (2) but may request the body or bodies who made the nomination to nominate another person.

---

<sup>(10)</sup> Natural England, whose head office address is at Foss House, Kings Pool, 1-2 Peasholme Green, York YO1 7PX.

<sup>(11)</sup> Royal Yachting Association, registered in England and Wales with company number 00878357 and whose registered office address is RYA House, Ensign Way, Hamble SO31 4YA.

<sup>(12)</sup> The Maritime and Coastguard Agency, whose head office address is at Spring Place, 105 Commercial Road, Southampton SO15 1EG.

(5) The term of office of a member of the committee is three years from the date of their appointment and, on ceasing to hold office, the member is to be eligible for re-appointment.

(6) A member of the committee may at any time, by notice in writing to the conservancy authority, resign their office.

(7) The committee may determine its own quorum and procedure and may establish one or more sub-committees for any purpose connected with its functions under this article.

(8) In addition to its members, the conservancy authority must appoint from among them the chairperson of the committee.

(9) Notwithstanding the duty to consult mentioned in paragraph (1), the conservancy authority must consult the committee on proposals to—

- (a) formulate and publish a management plan under article 4(3);
- (b) impose or vary any charges in relation to use of the estuary;
- (c) make byelaws;
- (d) construct or license any significant works in the estuary; or
- (e) carry out or license dredging.

(10) The conservancy authority must take into consideration any matter, recommendation or representation which may from time to time be referred or made to it by the committee, whether or not the committee has been consulted by the authority in relation to that matter, recommendation or representation.

#### **Aids to navigation**

6.—(1) In addition to its powers under section 201 of the 1995 Act (powers of harbour authorities as local lighthouse authorities) but subject to obtaining any necessary interest in or over land, the conservancy authority may erect or place, alter, discontinue or remove aids to navigation in any place immediately adjacent to the estuary.

(2) The conservancy authority must not exercise the powers under paragraph (1) without the approval of Trinity House.

#### **Removal of obstructions other than vessels and wreck**

7.—(1) Without prejudice to its powers under any other enactment, including any enactment contained in this Order, the conservancy authority may remove any item which is causing, or likely to become, an obstruction or impediment to the proper use of any part of the estuary other than—

- (a) a vessel; or
- (b) wreck within the meaning of Part 9 of the 1995 Act.

(2) If any item removed by the conservancy authority under paragraph (1) is known to the authority to be, or is so marked as to be readily identifiable as, the property of any person, the authority must, within one month of the item coming into its custody, give notice in accordance with paragraph (7) to that person and, if possession of the item is not retaken within the period specified in and in accordance with the terms of the notice, property in the item vests in the authority at the end of that period.

(3) If the ownership of any item removed by the conservancy authority under paragraph (1) is unknown and cannot be identified, whether through insufficiency or absence of marking, and is not proved to the reasonable satisfaction of the authority within three months of coming into its custody, property in that item vests in the authority.

(4) The conservancy authority may, at such time and in such manner as it thinks fit, sell or otherwise dispose of any item which is of a perishable or obnoxious nature, or the custody of which

involves unreasonable expense or inconvenience notwithstanding that property in it has not vested in the authority under this article.

(5) Where an item is sold under paragraph (4), the conservancy authority must publish a notice on one occasion in a newspaper circulating in the locality of the estuary and electronically on the conservancy authority's website<sup>(13)</sup> for a period of 28 days giving the details of the property sold and may retain out of the proceeds of sale any expenses incurred by it under this article in relation to the item, and any balance—

- (a) must be paid to any person who within three months from the time when the item came into the custody of the authority proves to its reasonable satisfaction that they were the owner of it at the time when it came into the authority's custody; or
- (b) if no person proves ownership within the period mentioned in sub-paragraph (a), such balance vests in the authority at the end of that period.

(6) If any item removed under this article—

- (a) is sold by the conservancy authority and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred in the exercise of its powers of removal, or
- (b) is unsaleable,

the authority may recover the deficiency or the whole of the expenses, as the case may be, from the person who was its owner at the time when the item removed came into the custody of the authority or who was its owner at the time of its abandonment or loss.

(7) A notice given under paragraph (2) in relation to an item must—

- (a) be in writing,
- (b) specify the item removed, and
- (c) state that upon proof of ownership to the reasonable satisfaction of the conservancy authority possession of it may be taken—
  - (i) at a place specified in the notice, and
  - (ii) within the time specified, being not less than 14 days after the date when the notice is served.

(8) The conservancy authority must not, under this article, remove any item that has been placed or constructed by any person pursuant to any enactment, or under the provisions of a consent or licence given or issued by the authority under that enactment.

## **Moorings**

**8.—(1)** The conservancy authority may provide, place, lay down, maintain, renew, use, have or remove such moorings within the estuary—

- (a) on land owned or leased by it or in which it holds an interest, or
- (b) with the consent in writing of the owner and (if appropriate) lessee thereof, on any other land in the estuary,

as it considers necessary or desirable for the convenience of vessels.

(2) The conservancy authority may issue permits on such conditions, including conditions as to payment, as it thinks fit authorising the holder of the permit to use or allow the use of any moorings provided by the authority under this article.

(3) The conservancy authority may enter into such arrangement as it sees fit with any person with respect to the payments referred to in paragraph (2).

---

(13) Available at <https://naturalresources.wales/about-us/what-we-do/how-we-regulate-you/information-for-mariners-on-the-dee-estuary/?lang=en>.

(4) The conservancy authority—

- (a) may give notice in writing to the person having the control of any vessel using any mooring in the estuary at the date this Order comes into force requiring that person within 28 days to remove the mooring in order to enable the authority to provide moorings in accordance with paragraph (1); and
- (b) may offer to make available to the person mentioned in paragraph (a) a mooring provided by it under paragraph (1) as soon as such mooring has been laid down.

(5) If any person fails to comply with a notice given by the conservancy authority under paragraph (4), the authority may at any time after the expiration of 28 days from the date of the giving of the notice remove the mooring referred to in that notice.

(6) The conservancy authority may from time to time, with or without imposing conditions, including any fee that the authority may prescribe, grant to a person a licence to place, lay down, maintain, renew, use or have existing or future moorings, for vessels in the estuary.

(7) Nothing in any licence granted under paragraph (6) entitles a person to place, lay down, maintain, renew, use or have any mooring on land not owned or leased by that person or by the conservancy authority.

(8) The conservancy authority may charge, in relation to the granting of a licence, such reasonable fee as it may from time to time prescribe.

(9) Any person who—

- (a) intentionally obstructs any person acting under the authority of the conservancy authority in setting out moorings,
- (b) intentionally and without lawful authority pulls up or removes any moorings or any part of such moorings from the estuary,
- (c) without reasonable excuse causes or permits a vessel to be moored in the estuary except at a mooring provided or licensed by the conservancy authority under this article, or
- (d) places, lays down, maintains, renews or has in the estuary any mooring not provided or licensed by the conservancy authority under this article,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) If any person commits an offence under paragraph (9)(c) the conservancy authority may at any time after the expiration of 7 days from the date of that offence—

- (a) remove the vessel, including any tackle on or associated with the vessel, or
- (b) sell or otherwise dispose of the vessel and any tackle mentioned in sub-paragraph (a).

(11) Where a vessel is sold or disposed of under paragraph (10)(b), the conservancy authority may recover out of the proceeds of sale or disposal—

- (a) any unpaid charge payable under paragraph (2),
- (b) any unpaid licence fee payable under paragraph (6), and
- (c) the expenses of removal or disposal under paragraph (10),

and must hold any surplus proceeds of sale or disposal on trust for the owner of the vessel.

(12) If the owner of a vessel removed under paragraph (10)(a) is unknown and cannot after diligent inquiry be found, the conservancy authority may apply to the Magistrates' Court for an order giving appropriate directions as to the disposal by the authority of any surplus proceeds of sale.

(13) If any person commits an offence under paragraph (9)(d), the conservancy authority may remove the mooring in question and recover from that person the expenses incurred in doing so.



### **Repair of landing places, etc.**

**9.**—(1) The conservancy authority may by written notice given to the owner or occupier of a pier, landing place, embankment, structure or other work which in the opinion of the authority is, or is likely to become, by reason of its insecure condition or want of repair—

- (a) dangerous to persons or vessels using the estuary, or
- (b) a hindrance to the navigation of the estuary,

require that owner or occupier to remedy its condition to the authority's satisfaction within such reasonable period of time as is specified in the notice.

(2) If a person to whom notice is given under this article fails without reasonable excuse to comply with the notice within the time stated in it, or such other time as the Secretary of State on an appeal may substitute for it, that person is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where a person fails to comply with a notice mentioned in paragraph (1), the conservancy authority may carry out the works it considers necessary to remedy the condition of the pier, landing place, embankment, structure or other work in question and may recover the expenses of doing so from the person on whom the notice was served.

(4) A notice under paragraph (1) must have annexed to it a copy of this article.

(5) A person wishing to dispute a notice served by the conservancy authority under this article may, during the period of 42 days beginning with the date on which the notice was served upon them, appeal to the Secretary of State against the notice.

(6) An appeal under paragraph (5) must be made by notice in writing stating the grounds of the appeal.

(7) A person who appeals under paragraph (5) must provide to the conservancy authority a copy of the notice of the appeal and statement of grounds.

(8) The conservancy authority may, within 21 days following receipt of the notice and statement of grounds in accordance with paragraph (7), provide to the Secretary of State its observations on the appeal.

(9) Where an appeal has been made under paragraph (5), the Secretary of State must either—

- (a) quash the notice,
- (b) modify its requirements, or
- (c) dismiss the appeal.

### **Power to dredge**

**10.**—(1) Subject to the provisions of this Order, the conservancy authority may from time to time deepen, dredge, scour, cleanse, alter or improve so much of the bed, shores and channels of the estuary and the approaches to it as the authority considers appropriate.

(2) Subject to paragraphs (3) and (4) the conservancy authority may use, appropriate or dispose of, any material, other than any wreck within the meaning of Part 9 of the 1995 Act, that has from time to time been dredged by it.

(3) Any material dredged under paragraph (2) must not be deposited below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(4) The conservancy authority must not dispose of any material dredged under paragraph (2) within the area of the Port of Liverpool as defined in the Mersey Docks and Harbour Act 1971<sup>(14)</sup>

---

(14) 1971 c. lvii.

without the written consent of the Mersey Docks and Harbour Company<sup>(15)</sup> and the Acting Conservator of the River Mersey, such consent not to be unreasonably withheld.

### **Power with respect to disposal of wrecks**

**11.**—(1) In the application of the 1995 Act to the conservancy authority, section 252 (powers of harbour and conservancy authorities in relation to wrecks) of that Act has effect in relation to a vessel sunk, stranded or abandoned before as well as after the making of this Order, and any reference in that section to the Secretary of State is to be treated as a reference to the Secretary of State as defined in article 2(1).

(2) Subject to paragraph (3), and to any enactment for the time being in force limiting its liability, the conservancy authority may recover from the owner of any vessel in relation to which it has exercised its powers under section 252 of the 1995 Act any expenses reasonably incurred by it under that section in relation to that vessel which are not reimbursed out of the proceeds of sale (if any) within the meaning of those sections.

(3) Except in a case which is in the opinion of the conservancy authority a case of emergency, paragraph (2) does not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on it by section 252 of the 1995 Act, other than the power of lighting and buoys, the authority has given to the owner of the vessel not less than 48 hours' notice of its intention to do so.

(4) If before the notice expires, the conservancy authority receives from the owner counter-notice in writing that the owner desires to dispose of the vessel itself, the owner will be at liberty to do so, and the conservancy authority must not exercise the powers in section 252 in relation to that vessel until the expiration of—

- (a) seven days from the receipt of the counter-notice, and
- (b) any further continuous period during which the owner of the vessel proceeds with the disposal of the vessel with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to the owner by the authority.

(5) A notice under paragraph (3) to the owner of a vessel may be served by the conservancy authority—

- (a) by delivering it to the owner,
- (b) by sending it to the owner by registered post or recorded delivery service, addressed to the owner at his or her last known place of business or abode in the United Kingdom, or
- (c) if the identity of the owner or any such place of business or abode is not known to the authority, or is not in the United Kingdom, by displaying the notice at such places as the authority considers appropriate for the period of duration of the notice.

(6) In this article “owner”, in relation to any vessel means, as the case may be—

- (a) the present owner, or
- (b) the person who was the owner of the vessel at the time of the sinking, stranding or abandonment of it.

(7) The powers conferred on the conservancy authority by this article are in addition to and not in derogation of any other powers exercisable by it for or with respect to the removal of wrecks within the estuary and the approaches to it.

---

<sup>(15)</sup> The Mersey Docks and Harbour Company Limited, registered in England and Wales with company number 07438262 and whose registered office address is Maritime Centre, Port of Liverpool, Liverpool, Merseyside L21 1LA.

## General byelaws

12.—(1) The conservancy authority may from time to time make byelaws for the efficient management and regulation of the estuary.

(2) Without prejudice to the generality of paragraph (1), the conservancy authority may make byelaws under this article for any of the purposes set out in Schedule 1.

(3) Byelaws made under this article may—

- (a) provide for imposing upon persons offending against them, or against any condition, requirement or direction imposed, made or given under them, on summary conviction, fines not exceeding level 4 on the standard scale;
- (b) relate to the whole of the estuary or to any part of it;
- (c) make different provisions for different parts of the estuary or in relation to different classes of vessels or vehicles; and
- (d) otherwise make different provision for different circumstances.

(4) Where a person is charged with an offence against a byelaw in force under this article it is a defence—

- (a) that the offence was not caused or facilitated by any act or neglect on the part of that person or on the part of any other person engaged or employed by that person, and
- (b) if that person was at the material time the owner or master of a vessel, that all reasonable steps were taken to prevent the commission of the offence.

(5) The provisions of—

- (a) section 236(3), with the exception of the words “Subject to subsection (3A) below, the”,
- (b) section 236(4) to (8) and (11), and
- (c) section 238,

of the Local Government Act 1972<sup>(16)</sup> (“the 1972 Act”) (which relate to the procedure for making, and evidence of, byelaws) apply to any byelaws made by the conservancy authority under this article as if the authority was a local authority for the purposes of the 1972 Act, other than a council for a principal area in Wales.

(6) The provisions referred to in paragraph (5), in their application to any byelaws made under this article, have effect subject to the modification that for the references to a local authority there are substituted references to the conservancy authority.

(7) Section 236(7) of the 1972 Act, in its application to any byelaws made under this article is, subject to sub-paragraph (8), to be read as if it were modified by the insertion of the words “with or without modifications” after the word “confirm” in the second place where that word occurs.

(8) Where the confirming authority proposes to make a modification which appears to it to be substantial, then—

- (a) it must inform the conservancy authority and require it to take any steps it thinks necessary for informing persons likely to be concerned with the modification; and
- (b) it must not confirm the byelaws until there has elapsed such period as it thinks reasonable for the conservancy authority and other persons who have been informed of the proposed modification to consider it and comment upon it.

(9) The confirming authority for the purposes of this article and of section 236 (procedure for byelaws) of the 1972 Act in its application to the conservancy authority is the Secretary of State.

---

<sup>(16)</sup> 1972 c. 70.

(10) Schedule 2 to this Order (which contains provisions for the general management and regulation of the estuary)—

- (a) has effect from the date of this Order coming into force as if its provisions were byelaws made by the conservancy authority under this article and subsequently confirmed by the Secretary of State; and
- (b) ceases to have effect upon the confirmation of byelaws made under this article.

### **General directions to vessels**

13.—(1) The conservancy authority may, after consultation with—

- (a) the Dee Estuary Consultative Committee,
- (b) the Chamber of Shipping, and
- (c) the Royal Yachting Association,

except in cases of emergency, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the estuary.

(2) The conservancy authority may in particular give directions for, but not limited to, any of the following purposes—

- (a) for designating areas, routes or channels in the estuary which vessels are to use or refrain from using for movement, mooring or anchorage;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) for securing that vessels make use of descriptions of aids to navigation specified in the direction;
- (d) for prohibiting—
  - (i) entry into the estuary by a vessel which for any reason would be, or be likely to become, a danger to other vessels in the estuary, or to persons, property, flora or fauna in the estuary; and
  - (ii) entry into, or navigation within, the channels during any temporary obstruction of them;
- (e) for prohibiting entry into, or movement in, the estuary or its approaches by vessels, other than small vessels, at times of poor visibility due to the weather or the presence of dust or smoke, subject to the condition in sub-paragraph (f);
- (f) the condition mentioned in sub-paragraph (e) is that no direction given under that sub-paragraph prevents the entry into the estuary or its approaches of any vessel seeking refuge from the stress of weather;
- (g) for requiring the master of a vessel to give to the harbour master information relating to the vessel which is reasonably required by the harbour master for effecting any of the purposes of this paragraph.

(3) A direction under this article may apply—

- (a) to all vessels or to a class of vessels designated, or for which the designation is provided for, in the direction; or
- (b) to the whole of the estuary or to a part designated, or for which the designation is provided for, in the direction; or
- (c) at all times or at times designated, or for which the designation is provided for, in the direction,

and every direction given under this article must specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c).

(4) The conservancy authority may, after consultation with the Dee Estuary Consultative Committee, the Chamber of Shipping and the Royal Yachting Association, except in cases of emergency, revoke or amend any general direction given under this article.

### **Publication of general directions**

**14.**—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction must, except in an emergency, be published by the conservancy authority as soon as reasonably practicable on the conservancy authority's website and once—

- (a) in a newspaper specialising in shipping news, or
- (b) if there is no newspaper of the description referred to in paragraph (a), in a suitable local newspaper.

(2) If the notice mentioned in paragraph (1) relates to the giving or amendment of a direction, the notice must state a place at which copies may be inspected and purchased, and the price of them.

(3) In an emergency, notice of the giving of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the conservancy authority to be appropriate.

### **Special directions**

**15.**—(1) The harbour master may give a direction under this article in respect of a vessel anywhere in the estuary for any of the following purposes—

- (a) requiring persons to comply with a requirement made in or under a general direction;
- (b) regulating or requiring the movement, anchorage, berthing, mooring or unmooring of the vessel;
- (c) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (d) prohibiting or restricting the use of fires or lights, including false lights;
- (e) specifying requirements as to the use of ballast;
- (f) requiring the removal of the vessel from any part of the estuary for one or more of the following reasons—
  - (i) the vessel is on fire;
  - (ii) the vessel is in such condition as to be liable to become immobilised, waterlogged, or to sink;
  - (iii) the vessel is making an unlawful use of the estuary or interfering with the reasonable use or enjoyment of it by other vessels or persons, or the dispatch of business in it;
  - (iv) the vessel's removal is necessary to enable maintenance or repair work to be carried out in the estuary;
  - (v) the vessel's removal is considered by the harbour master to be necessary in order to avoid danger to life (including wildlife) or to property; or
  - (vi) the vessel's removal is considered by the harbour master to be necessary to avoid danger to flora or fauna or to geological or physiographical features of the harbour.

(2) In deciding whether to give a direction under this article in any particular case, the harbour master must have regard to all the circumstances of that case and, in particular, to the safety of any person or vessel, whether in or outside the harbour, and including the vessel which would be the subject of the direction.

(3) In an emergency the harbour master may give a special direction applicable to all vessels or to a particular class of vessel for any of the purposes mentioned in paragraph (1).

(4) A special direction may be given orally or in writing or in any manner considered by the harbour master to be appropriate.

(5) The harbour master may revoke or amend a special direction.

#### **Failure to comply with directions**

**16.**—(1) A person who fails to comply with a general direction or a special direction is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Without prejudice to any other defence, it is a defence for a person charged with an offence under paragraph (1) that the person had reasonable grounds for believing that to comply with the direction in question would have endangered life or imperilled the safety of any vessel or its cargo, or that for other reasons compliance with the direction was impracticable.

#### **Enforcement of special directions**

**17.**—(1) Without prejudice to any other remedy available to the conservancy authority, if a special direction is not complied with within a reasonable time, the harbour master may put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no-one on board a vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with.

(3) The powers of paragraph (2) must not be exercised—

(a) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or

(b) in relation to a lighter unless it is obstructing or interfering with navigation.

(4) Expenses incurred by the conservancy authority in the exercise of the powers conferred by paragraph (1) are recoverable by it as if they were a charge of the authority in respect of the vessel.

#### **Master's responsibility in relation to directions**

**18.** The giving of a general direction or a special direction does not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to—

(a) that vessel,

(b) persons on board that vessel,

(c) cargo on board that vessel, or

(d) any other person or property.

## **PART 3 CHARGES**

#### **Charges for services or facilities**

**19.** In addition to its power to demand ship, passenger and goods dues under section 26 (charges for services or facilities) of the 1964 Act, the conservancy authority may demand, take and recover

such reasonable charges for services and facilities provided by it within the estuary as it may from time to time determine.

### **Payment of charges**

**20.**—(1) The charges which the conservancy authority is for the time being authorised to demand, take and recover in respect of vessels and goods or otherwise under any enactment must be payable before the removal from the estuary of any vessel or goods in respect of which they are payable, and may be demanded, taken and recovered by such persons, at such places, at such times and under such terms and conditions as the authority may from time to time specify in its published list of charges.

(2) Charges payable to the conservancy authority shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(3) Where charges payable to the conservancy authority may be recovered by it from more than one person, the persons from whom they may be recovered are jointly and severally liable.

(4) Without prejudice to the generality of paragraph (1), the terms and conditions as to the payment of charges which the conservancy authority may from time to time specify—

(a) may include the time when a charge falls due for payment, and

(b) may require such information to be given to the authority by—

(i) the owner or master of a vessel, or

(ii) a person using a service or facility of the authority,

as the conservancy authority may require in connection with the assessment or collection of a charge.

### **Compounding arrangements and rebates**

**21.**—(1) The conservancy authority may confer total or partial exemptions from, or allow rebates to or make compositions with any person with respect to charges, and may vary or extinguish any such exemption, rebate or composition.

(2) Nothing in section 30 (duty to make available for inspection etc. certain charges) of the 1964 Act requires the conservancy authority to include in the list of ship, passenger and goods dues kept at the harbour office, as required by subsection (1) of that section, charges reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in that list.

### **Deposit for charges**

**22.**—(1) The conservancy authority may require a person who incurs or is about to incur a charge to deposit with it, or to guarantee, such sum of money as is, in the opinion of the authority, reasonable having regard to the amount or probable amount of the charge.

(2) Where such a person fails to deposit or guarantee the sum of money required the conservancy authority may detain in the estuary the vessel or goods in respect of which the charge has been or will be incurred, until the requirement has been complied with or the charge paid.

### **Liens for charges**

**23.**—(1) A person who by agreement with the conservancy authority collects charges on its behalf and who pays or gives security for the payment of charges on goods in that person's possession has a lien on those goods for the amount paid or security given.

(2) A person being a wharfinger or carrier who does not have personal liability for the payment of charges may pay or by agreement with the conservancy authority give security for charges on goods in that person's custody.

(3) Where paragraph (2) applies, the person has a like lien on the goods for the amount of the charges as that person would have in respect of their charges for safe custody or carriage of the goods, as the case may be.

### **Exemptions from dues**

**24.**—(1) Except as may be agreed between the conservancy authority and the Secretary of State or person concerned or as may be specifically laid down by statute, nothing in any enactment authorising the conservancy authority to levy dues authorises it to levy dues on—

- (a) a vessel—
  - (i) belonging to or in the service of Her Majesty or any member of the Royal Family;
  - (ii) in the service of HM Revenue and Customs and not carrying goods for reward;
  - (iii) belonging to or used by a lifeboat service whilst employed in or in connection with the functions of that service;
  - (iv) in the service of a police force or other emergency service; or
  - (v) belonging to or in the service of Trinity House;
- (b) HM Revenue and Customs or an officer or other person employed in their service in respect of a vessel or goods under customs seizure or in respect of goods or other articles belonging to, or in the care or service of, HM Revenue and Customs;
- (c) an officer of HM Revenue and Customs or any other person employed in their service; or
- (d) a person employed by the Secretary of State for Defence while in the execution of that person's duty.

(2) An officer of the Department for Transport in the execution of that officer's duty is at all times exempt from dues in respect of a vessel belonging to or in the service of the Department.

(3) No dues are payable by any small vessel.

(4) No dues are payable by any vessel navigating—

- (a) from Dee Locks on the Shropshire Union Canal to Chester Weir, or
- (b) to Dee Locks on the Shropshire Union Canal from Chester Weir.

(5) No dues in respect of passengers or goods may be demanded by the conservancy authority in relation to any vessel that is inbound from the sea to the port or outbound for the sea from the port.

(6) In this article "dues" means ship, passenger and goods dues which the conservancy authority may demand under section 26 (charges for services or facilities) of the 1964 Act.

### **Harbour master may prevent sailing of vessels**

**25.** The harbour master may prevent the removal or sailing from the estuary of any vessel until evidence has been produced to the harbour master of the payment of any charges payable in respect of—

- (a) the vessel,
- (b) any passengers on it, or
- (c) any goods carried by it.



## PART 4

### CONTROL OF WORKS AND DREDGING IN ESTUARY

#### **Restriction of works and dredging**

**26.**—(1) Subject to paragraph (4), no person other than the conservancy authority may in the estuary—

- (a) construct, alter, renew or extend any works; or
- (b) dredge,

unless that person is licensed to do so as provided in paragraph (2).

(2) The person mentioned in paragraph (1)—

- (a) must—
  - (i) in the case of works, have a works licence, and
  - (ii) in the case of dredging, have a dredging licence,
- (b) must comply with all the terms and conditions, if any, upon which the licence is granted, and
- (c) must carry out the works or dredging in accordance with plans, sections and particulars approved, as the case may be, under—
  - (i) article 28 (licensing of works), or
  - (ii) article 29 (licence to dredge).

(3) The conservancy authority may by notice require a person who contravenes this article, within a reasonable time specified in the notice—

- (a) to remove, abate or rectify any work, operation or omission to which the contravention relates, and
- (b) to restore the site of that work, operation or omission to its former condition, and

if the person fails to comply with the notice, the authority may carry out the works required to restore the site and may recover from that person the cost of so doing.

(4) Nothing in this article applies to—

- (a) any operations or works specifically authorised by any enactment;
- (b) any operations or works of a statutory undertaker; or
- (c) any routine maintenance works that in the opinion of the conservancy authority will have no detrimental impact on the safety of navigation in the estuary.

(5) Any person who, without reasonable excuse, contravenes this article is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Control of certain operations and works of statutory undertakers**

**27.**—(1) This article applies to any operations or works in the estuary of a statutory undertaker on, under or over tidal waters or land below the level of high water, not being operations or works which are specifically authorised by an enactment.

(2) Subject to paragraph (3), a statutory undertaker must not carry out any operations or works to which this article applies unless it has given notice of its intention to do so to the conservancy authority and has supplied the authority with such particulars as it may reasonably require.

(3) Where, in an emergency, it is impracticable to give notice as required by paragraph (2), the statutory undertaker must inform the conservancy authority of the operations or works as soon as reasonably practicable.

(4) Any operations or works to which this article applies must be carried out in accordance with any directions which may from time to time be given by the conservancy authority to the statutory undertaker, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in consequence of the carrying out of the operations or works.

(5) Any person who, without reasonable excuse, contravenes this article is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Licensing of works**

**28.**—(1) The conservancy authority may upon such terms and conditions as it thinks fit grant to any person a licence to construct, place, alter, renew or maintain works in the estuary on, under or over tidal waters or land below the level of high water, notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, placed, altered, renewed, or maintained.

(2) Application for a works licence must be made in writing to the conservancy authority and must—

- (a) be accompanied by plans, sections and particulars of the works to which the application relates;
- (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable them to enjoy the benefits of the licence and, if not, the action taken or to be taken to enable the applicant to obtain such rights if the licence is granted.

(3) In granting a licence, the conservancy authority may require modifications to be made to the plans, sections and particulars submitted to it by the applicant.

(4) The conservancy authority may require an applicant for a works licence, on making the application for it, to pay a reasonable fee in respect of the administrative expenses of dealing with the application.

(5) As a condition of the granting of a licence, the conservancy authority may require a licensee, being an applicant to whom a licence has been granted or the applicant's successor, where works are constructed pursuant to the licence, to pay a reasonable fee in respect of the authority's administrative expenses and overheads in supervising or inspecting, where necessary, the construction or maintenance of the works.

(6) If the conservancy authority decides to grant a works licence it must give notice of its decision to the applicant.

(7) Where the conservancy authority refuses to grant a works licence which has been applied for it must give reasons in writing for its refusal.

(8) Where the conservancy authority—

- (a) grants a works licence upon terms or conditions, or
- (b) requires any modification in the plans and particulars,

it must give reasons in writing for the terms and conditions imposed or the modifications required.

(9) If within three months from the date of making an application under paragraph (2) the conservancy authority does not notify to the applicant its decision whether to grant a works licence, it must be deemed to have refused the application.

(10) Articles 31 to 35 apply in relation to the holder of a works licence with respect to the works which are authorised by the licence as they do in relation to the conservancy authority with respect to

tidal works, with the modification that for all references in those articles to the conservancy authority or authority, as the case may be, there are substituted references to the holder of the works licence.

(11) The grant of a licence under this article has effect for the purposes of article 26 (restriction of works and dredging) and confers no other authority for the carrying out of the operations covered by the licence.

(12) In the carrying out of any works or operations under a works licence, the holder of the licence must not—

- (a) interfere with, damage or otherwise injuriously affect, any apparatus belonging to or maintained by any statutory undertaker; or
- (b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus,

without the consent of the statutory undertaker concerned.

### **Licence to dredge**

**29.**—(1) The conservancy authority may upon such terms and conditions as it thinks fit grant to any person a licence to dredge in any part of the estuary.

(2) Application for a dredging licence must be made in writing to the conservancy authority and must be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations in respect of which the application is made.

(3) In granting a licence, the conservancy authority may require modifications to be made to the plans, sections and particulars submitted to it by the applicant.

(4) Paragraphs (4) to (9) and (12) of article 28 (licensing of works) apply in relation to a dredging licence as they apply in relation to a works licence.

(5) The grant of a licence under this article has effect for the purpose of article 26 (restriction of works and dredging) and confers no other authority for the carrying out of the operations covered by the licence.

### **Appeals in respect of works or dredging licences**

**30.**—(1) Where—

- (a) the conservancy authority has refused to grant a works licence or a dredging licence and the applicant for the licence is aggrieved by the refusal; or
- (b) the conservancy authority—
  - (i) has granted a licence mentioned in sub-paragraph (a) upon terms or conditions, or
  - (ii) has required modifications to be made to the plans, sections or particulars submitted by the applicant, and

the applicant is aggrieved by the authority's decision as to such terms or conditions, or as to such modifications,

the applicant may appeal to the Secretary of State.

(2) An appeal under paragraph (1) must be made within 28 days from—

- (a) the date on which the conservancy authority gives notice of its decision, or
  - (b) the date on which it is deemed—
    - (i) under article 28(9) in relation to a works licence, or
    - (ii) under articles 28(9) and 29(4) in relation to a licence to dredge,
- to have refused the application.

(3) An appeal under paragraph (1) must be made by notice in writing stating the grounds of the appeal.

(4) A person who appeals to the Secretary of State under this article must at the same time send a copy of the notice of appeal to the conservancy authority.

(5) The conservancy authority—

- (a) must as soon as reasonably practicable, but not later than 28 days from receipt of the notice of appeal, provide all relevant documents to the Secretary of State,
- (b) may submit to the Secretary of State its written observations on the appeal, and
- (c) if it wishes to submit observations under sub-paragraph (b), must do so not later than 28 days from the receipt of the notice of appeal.

(6) Where an appeal has been made under this article the Secretary of State may confirm, vary or revoke the decision appealed against and may require any consequential amendments to be made, including—

- (a) amendments to the terms and conditions to which the licence is subject, or
- (b) modifications of plans, sections or particulars.

(7) The conservancy authority must give effect to any decision given, or requirement made, by the Secretary of State under paragraph (6).

### **Lights on tidal works during construction**

**31.**—(1) The conservancy authority must at or near a tidal work, during the whole time of the construction, extension, enlargement, alteration, replacement or re-laying in respect of such work—

- (a) exhibit every night from sunset to sunrise such lights, if any, and
- (b) take such other steps for the prevention of danger to navigation,

as the Secretary of State may from time to time direct.

(2) If the conservancy authority fails to comply with any direction given under paragraph (1), it is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Provision against danger to navigation**

**32.**—(1) In the case of injury to, or destruction or decay of, a tidal work or any part of it, the conservancy authority must—

- (a) as soon as reasonably practicable notify Trinity House, and
- (b) lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may from time to time direct.

(2) If the conservancy authority fails—

- (a) to notify Trinity House as required by paragraph (1), or
- (b) to comply with any requirement of a direction given under paragraph (1),

the authority is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Abatement of works abandoned or decayed**

**33.**—(1) Where a tidal work is abandoned, or allowed to fall into decay, the Secretary of State may by notice in writing require the conservancy authority at its own expense either—

- (a) to repair and restore the work or any part of it, or

(b) to remove the work and restore the site to its former condition,  
in either case to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting—

(a) partly of a tidal work, and

(b) partly of works on or over land above the level of high water,

is abandoned or allowed to fall into decay and that part of the work on or over land above the level of high water is in such a condition as to interfere, or to cause reasonable apprehension that it may interfere, with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion of it, in any notice under paragraph (1).

(3) If, on the expiration of 30 days from the date when a notice under paragraph (1) is served upon the conservancy authority, it has failed to comply with the requirements of the notice, the Secretary of State may execute the work specified in the notice and any expenditure incurred by the Secretary of State in so doing is recoverable from the conservancy authority.

### **Survey of tidal works**

**34.** If the Secretary of State considers it expedient to do so, the Secretary of State may order a survey and examination of—

(a) a tidal work, or

(b) the site upon which it is proposed to construct a tidal work,

and any expenditure incurred by the Secretary of State in relation to any such survey and examination is recoverable from the conservancy authority.

### **Permanent lights on tidal works**

**35.—**(1) After the completion of a tidal work the conservancy authority must, at the outer extremity of that work—

(a) exhibit every night from sunset to sunrise, such lights, if any, and

(b) take such other steps, if any, for the prevention of danger to navigation,

as Trinity House may from time to time direct.

(2) If the conservancy authority fails to comply in any respect with a direction given under paragraph (1) it is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **PART 5**

### **MISCELLANEOUS AND GENERAL**

#### **Local inquiries**

**36.—**(1) The Secretary of State may cause to be held such inquiries as may be considered necessary in regard to the exercise of any powers or duties conferred or imposed upon the Secretary of State and the giving of any consent or approval under this Order.

(2) Section 250(2) to (5) of the Local Government Act 1972(17), applies to an inquiry held under paragraph (1) as if it were an inquiry held under section 250(1) of that Act and the conservancy authority were a local authority.

### **Defence of due diligence**

**37.**—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2), it is a defence for the conservancy authority to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The provisions referred to in paragraph (1) are—

- (a) article 31 (lights on tidal works during construction),
- (b) article 32 (provision against danger to navigation), and
- (c) article 35 (permanent lights on tidal works).

(3) Where the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to the act or default of another person, the conservancy authority is not, without permission of the court, entitled to rely on that defence unless, within a period of seven clear days before the hearing, it has served on the prosecutor a notice in writing giving such information as is in its possession identifying, or assisting in the identification of, that other person.

### **Boarding of vessels**

**38.**—(1) Subject to paragraph (2), a duly authorised officer of the conservancy authority may, on producing that officer's authority if so required, enter and inspect a vessel in the estuary—

- (a) for the purposes of—
  - (i) any enactment relating to the estuary (including any enactment contained in subordinate legislation), or
  - (ii) any byelaw of the conservancy authority relating to the estuary, including the enforcement of it; and
- (b) to prevent or extinguish fire.

(2) Except in an emergency, no entry is to be made under this article unless notice in writing has first been given to—

- (a) the owner, or
- (b) the person appearing to have charge,

of the vessel at least 48 hours in advance.

(3) A copy of this article must be annexed to any notice given under paragraph (2).

### **Obstruction of officers**

**39.**—(1) Any person who—

- (a) intentionally obstructs an officer of the conservancy authority acting for the purposes of this Order;

---

(17) 1972 c. 70; subsection (2) has been amended by the Statute Law (Repeals) Act 1989 (c. 43), section 1(1) and Schedule 1, Part IV; subsection (3) by the Criminal Justice Act 1982 (c. 48), sections 38 and 46; and subsection (4) by the Housing and Planning Act 1986 (c. 63), section 49(2) and Schedule 12, Part III. Article 2 of and Schedule 1 to, The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) transferred the functions of the Secretary of State under section 250 of the Local Government Act 1972, in so far as exercisable in relation to Wales, to the National Assembly for Wales. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

- (b) without reasonable excuse fails to comply with a requirement properly made by a duly authorised officer of the conservancy authority; or
- (c) without reasonable excuse fails to give an officer of the conservancy authority any information which the officer may reasonably require for the purpose of the performance of that officer's functions,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who, in giving the information mentioned in paragraph (1)(c), makes a statement which that person knows to be false is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Crown Rights**

**40.**—(1) Nothing in this Order prejudices or derogates from any estate, right, power, privilege, authority or exemption of the Crown.

(2) In particular, nothing in this Order authorises any person to take, use, enter upon or in any manner interfere with, any land or interest in land (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) belonging to—

- (a) Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners, or
- (b) a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that department.

(3) A consent under paragraph (2) may be given unconditionally, or subject to terms and conditions.

### **Saving for Trinity House**

**41.** Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

### **For the protection of the company**

**42.** Schedule 3 to this Order has effect for the protection of the company.

### **For the protection of the Mersey Docks and Harbour Company**

**43.** Nothing in this Order prejudices or derogates from the exercise by the Mersey Docks and Harbour Company of any of its rights, powers, duties or privileges.

### **Repeals and revocation**

**44.**—(1) The provisions of the 1889 Act mentioned in paragraph (2) are repealed.

(2) The provisions of the 1889 Act referred to in paragraph (1) are the entire Act except sections 35 and 36 and so much of section 7 as applies to those sections for the purposes of their interpretation.

(3) The Dee Estuary Conservancy Harbour Revision Order 2023(18) is revoked.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

Signed by authority of the Secretary of State for Transport

21st June 2023

*Victoria Race*  
Deputy Director, Maritime Strategy and  
Programmes  
Department for Transport