

1988 No. 1677

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Mostyn Docks Harbour Empowerment Order 1988**

*Made* - - - - 22nd September 1988

*Coming into force* - 23rd September 1988

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The Secretary of State for Transport in exercise of the powers conferred by section 16 of the Harbours Act 1964(a) and now vested in him(b) and of all other powers enabling him in that behalf, and on the application of Mostyn Docks Limited, hereby makes the following Order:-

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1. This Order may be cited as the Mostyn Docks Harbour Empowerment Order 1988 and shall come into force on 23rd September 1988.

**Interpretation**

2. In this Order, except where the context otherwise requires-
  - “the Company” means Mostyn Docks Limited;
  - “the dock estate” means the docks, quays, land and premises at any time belonging to, vested in or occupied by the Company and used, intended to be used or set aside for the purposes of the dock undertaking;
  - “the dock undertaking” means the undertaking of the Company at the harbour as authorised by this Order;
  - “the harbour” means the area mentioned in article 4 of this Order within which the Company shall exercise jurisdiction as a harbour authority;
  - “level of high water” means the level of mean high-water springs;
  - “signed plan” means the plan signed in triplicate by an Under Secretary in the

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(a) 1964 c.40; section 16 and Schedule 3 were amended by the Transport Act 1981 (c.56) Schedule 6, paragraphs 4(1) to (8) and 14(2) and (3).

(b) See S.I. 1981/238.

Department of Transport, two copies of which have been deposited at that Department and one copy of which has been deposited at the offices of the Company situated at Mostyn Docks, Mostyn, Holywell, Clwyd, CH8 9HE;

“special direction” means a direction given under article 6 of this Order;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“vessel” means a ship, boat or raft of any description, including a hovercraft within the meaning of the Hovercraft Act 1968(a) or any other amphibious vehicle or a seaplane and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily).

#### **Incorporation of Harbours, Docks, and Piers Clauses Act 1847**

3.—(1) The Harbours, Docks, and Piers Clauses Act 1847(b) (except sections 6 to 21, 24, 25, 31, the proviso to section 32, sections 42, 48 to 50 and 83 to 90), so far as applicable to the purposes of and not inconsistent with the provisions of this Order, is hereby incorporated with this Order subject to the following modifications, that is to say:—

- (a) section 23 shall be read and have effect as if the words “provided that no such lease be granted for a longer term than three years” were omitted;
- (b) section 63 shall be read and have effect as if for the words from “liable to” to the end of the section there were substituted the words “be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100”; and
- (c) section 69 shall be read and have effect as if for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding £400”.

(2) In construing the provisions so applied the expression “the special Act” means this Order.

## **PART II**

### **LIMITS OF JURISDICTION**

#### **Limits of jurisdiction**

4. The area within which the Company shall exercise jurisdiction as a harbour authority and within which the powers of the harbour master shall be exercised shall comprise the dock estate, together with so much of the Dee Estuary below the level of high water as is shown coloured pink on the signed plan, being an area within the following imaginary straight lines:—

- (a) a line from a point at 53°19.25'N, 3°16.23'W to a point at 53°19.72'N, 3°15.72'W;
- (b) a line from that point to a point at 53°19.40'N, 3°15.05'W;
- (c) a line from that point to a point at 53°19.13'N, 3°16.47'W.

## **PART III**

### **BYELAWS**

#### **Byelaws as to harbour**

5.—(1) Subject to the provisions of this Order, the Company may make byelaws for the good rule and government of the harbour and, without prejudice to the generality of

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(a) 1968 c.59.

(b) 1847 c.27.

the foregoing, the Company may make byelaws applicable within all or any part of the harbour for all or any of the following purposes:-

- (a) for the purposes specified in section 83 of the Harbours, Docks, and Piers Clauses Act 1847;
- (b) for regulating the use of any works and facilities provided by the Company;
- (c) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour;
- (d) for regulating the conduct of all persons in the harbour, not being-
  - (i) members of a police force;
  - (ii) officers or servants of the Crown;
  - (iii) members of a fire brigade acting in pursuance of the Fire Services Act 1947(a); or
  - (iv) officers of the Welsh Water Authority;

whilst in the exercise of their duties as such;

- (e) for regulating the placing, maintenance and use of moorings;
- (f) for preventing and removing obstructions or impediments within the harbour;
- (g) for regulating the launching of vessels within the harbour;
- (h) for regulating or prohibiting the use in the harbour or on board any vessel therein of fires, lights or any other equipment, tools or appliances which the Company considers involves a risk of fire;
- (i) for prohibiting persons from smoking in the harbour;
- (j) for prohibiting the use of or regulating the movement, speed and parking of vehicles within the harbour;
- (k) for requiring the use of effectual silencers on vessels in the harbour;
- (l) for regulating vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality of the foregoing, for prescribing rules for regulating the speed and manner of navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating or mooring within the harbour;
- (m) for regulating the embarkation of persons into, or their disembarkation from, vessels within the harbour;
- (n) for prescribing the lights and signals to be exhibited or made-
  - (i) by vessels aground within the harbour;
  - (ii) by vessels used for marking obstructions within the harbour; and
  - (iii) at the entrance to any dock or at any wharf, pier or other work for assisting the navigation of vessels within the harbour;
- (o) for prohibiting or regulating the discharge into the harbour of any material or substance;
- (p) for regulating fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf or other installation or structure of any kind within the harbour;
- (q) for regulating or prohibiting bathing, and for securing the protection of bathers, within the harbour;
- (r) for regulating or prohibiting the use by vehicles of the foreshore within the harbour; and
- (s) for imposing upon any person contravening or failing to comply with any byelaw under this article a fine not exceeding £400, recoverable on summary conviction.

(2) In this article "signals" includes sound signals.

(3) Byelaws under this article-

- (a) may make different provision in relation to different classes of vessels; and
- (b) may otherwise make different provision for different circumstances.

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(a) 1947 c.41.

(4) Subsections (3) to (8) and (11) of section 236 and section 238 of the Local Government Act 1972(a) (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made by the Company under this article as if the Company were a local authority and the secretary of the Company were a proper officer of a local authority; and as if, in subsection (7) of section 236 of that Act, after the words "the confirming authority may confirm" there were inserted the words "with or without modifications" and, at the end of that subsection there were added the following proviso:-

"Provided that where the Secretary of State proposes to make a modification to a byelaw which appears to him to be substantial he shall inform the Company and require it to take any steps which he considers to be necessary for informing persons likely to be concerned with the modification; and he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for the consideration of, and comment upon, the proposed modification by the Company and by any other persons who have, or are likely to have, been informed of it."

## PART IV

### SPECIAL DIRECTIONS

#### Special directions

6.—(1) The harbour master may give a special direction in respect of a vessel anywhere in the harbour for any of the following purposes:-

- (a) regulating or requiring the movement, berthing, mooring or unmooring of the vessel;
- (b) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (c) as to the use of the motive power of the vessel;
- (d) prohibiting or restricting the use of fires or lights;
- (e) regulating the loading, discharging, storing and safeguarding of cargo, fuel, water or stores, and the dispatch of the business of the vessel at the dock estate;
- (f) as to the use of ballast;
- (g) requiring the removal of the vessel from any part of the harbour if-
  - (i) it is on fire;
  - (ii) it is in such condition as to be liable to become immobilised or waterlogged, to sink, or to constitute a danger to life or property;
  - (iii) it is making an unlawful use of the dock estate;
  - (iv) it is interfering with the use of the dock estate by other vessels, or otherwise interfering with the proper use of the dock estate or the dispatch of business thereat;
  - (v) its removal is necessary to enable maintenance or repair work to be carried out to the dock estate;

and requiring its removal outside the harbour if such removal is considered by the harbour master to be necessary in order to avoid danger to life (including wildlife) or to property.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

#### Failure to comply with special directions

7. The master of a vessel who without reasonable excuse fails to comply with a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

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(a) 1972 c.70.

### **Enforcement of special directions**

8.—(1) Without prejudice to any other remedy available to the Company, if a special direction is not complied with within a reasonable time, the harbour master may put persons aboard 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 attend to a special direction, the harbour master may proceed as if the direction had been given and not complied with:

Provided that the powers of this paragraph shall 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.

(3) Expenses incurred by the Company in the exercise of the powers conferred by paragraph (1) above shall be recoverable by them as if they were a charge of the Company in respect of the vessel.

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

9. The giving of a special direction shall 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 his vessel, to persons on board the vessel, to the cargo or any other person or property.

## **PART V**

### **POWERS OF COMPANY**

#### **Subsidiaries**

10. The Company may enter into arrangements with any of its subsidiaries for the transfer to that subsidiary from the Company or any of its other subsidiaries in such manner and on such terms (including payments by any of the parties to the arrangements to any other of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of the Company, or, as the case may be, that other subsidiary, relating to the dock undertaking:

Provided that, in the case of a transfer of the whole or any part of the dock undertaking, the transferees shall be subject to all the restrictions, liabilities and obligations in respect of the dock undertaking or that part (as the case may be) which the Company or other transferors are subject and shall perform all the duties of the Company or those transferors under this Order in respect of the dock undertaking or that part.

#### **Power to make charges**

11.—(1) Subject to paragraph (2) below, the Company may make such reasonable charges as it thinks fit for services and facilities provided by it or its subsidiaries in connection with the dock undertaking.

(2) Paragraph (1) above does not authorise the levying of ship, passenger or goods dues within the meaning of the Harbours Act 1964.

(3) Nothing in this article shall affect any power of the Company to demand, take or recover charges which it has under or by virtue of any enactment or rule of law.

#### **Use of dock undertaking**

12. The Company may appropriate and set apart any part of the dock undertaking for the exclusive use of any particular vessel or class of vessel.

#### **Power to remove goods**

13.—(1) If any goods are left on or in any part of the dock undertaking the Company

may require the owner to remove them and if the goods are not so removed within six hours after the requirement has been made the Company may cause the goods to be removed to its own or any other public warehouse or store.

(2) Any such removal shall be carried out at the expense and risk of the owner of the goods.

(3) Notwithstanding any such removal on behalf of the Company, the goods shall be liable to a general lien for the cost of removal, and for any charges payable to the Company by the owner.

(4) The power of the Company to prevent the recovery of the goods until the cost of removal and the charges have been paid shall extend and apply to any goods removed or placed in store under this article.

#### **Restriction on levying ship, passenger and goods dues**

14. The Company shall not have power to levy charges of any of the kinds mentioned in paragraphs (a), (b) and (c) of the definition of "ship, passenger and goods dues" in section 57 of the Harbours Act 1964 where the vessel in question is of less than 50 gross registered tonnes, or under 24 metres in length, except to the extent that use is made of the dock estate in respect of the vessel, its passengers or cargo.

## **PART VI**

### **MISCELLANEOUS AND GENERAL**

#### **Obstruction of officers**

15. Any person who—

- (a) intentionally obstructs an officer of the Company acting in pursuance of this Order; or
- (b) without reasonable excuse fails to comply with a requirement properly made by such an officer; or
- (c) without reasonable excuse fails to give such an officer any information which he may reasonably require for the purpose of the performance of his functions; or
- (d) in giving such information makes a statement which he knows to be false;

shall be liable on summary conviction to a fine not exceeding £400.

#### **Crown rights**

16.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Order shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

- (a) belonging to 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) belonging to 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.

(2) Consent under paragraph (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

#### **Saving for Trinity House**

17. None of the provisions of this Order shall prejudice or derogate from any of the powers, rights, duties or privileges of Trinity House.

**Saving for The Mersey Docks and Harbour Company**

18. None of the provisions of this Order shall prejudice or affect the exercise by The Mersey Docks and Harbour Company of any of its rights, powers, duties or privileges.

**Saving for Welsh Water Authority**

19. None of the provisions of this Order shall prejudice or affect the exercise by the Welsh Water Authority of any of their rights, powers, duties or privileges; and without prejudice to the generality of the foregoing, nothing in this Order shall affect the operation of any byelaws made by the Authority under section 34 of the Land Drainage Act 1976(a).

**Repeal of Mostyn Dock Order 1889**

20. The Mostyn Dock Order 1889(b) and the Schedule thereto are hereby repealed.

Signed by authority of the Secretary of State

22 September 1988

*J. W. S. Dempster*  
An Under Secretary in the Department of Transport

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order establishes Mostyn Docks Limited as a statutory harbour authority, defines the limits of jurisdiction of the Company and confers upon it certain incidental powers in connection with the dock undertaking at Mostyn.

The applicant for this Order is Mostyn Docks Limited.

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(a) 1976 c.70.  
(b) See 1889 c.lvi.

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