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## STATUTORY INSTRUMENTS

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# 1997 No. 2949

## The Portland Harbour Revision Order 1997

### PART II

#### HARBOUR REGULATION

##### Transfer of jurisdiction

4.—(1) On the day this Order comes into force the Queen's Harbour Master shall cease to be the harbour authority for the harbour and to have any duties, powers, rights, privileges or authorities in respect of it, and the Company shall become the harbour authority.

(2) The area within which the Company shall have jurisdiction for the purposes of pilotage under Part I of the Pilotage Act 1987<sup>(1)</sup> shall include (in addition to the harbour) so much of the area outside the harbour as lies to the west of a straight line drawn from a point at Latitude 50°32.922'N, Longitude 02°24.867'W (Grove Point, Portland) to a point at Latitude 50°37.450'N, Longitude 02°19.317'W (White Nothe, Weymouth), but excluding Weymouth Harbour.

##### General functions of Company

5.—(1) The Company may, subject to the provisions of this Order, take all such steps from time to time as they may consider necessary or desirable for the maintenance, operation, management and improvement of the harbour, the harbour premises and the facilities (including recreational facilities) afforded therein or in connection therewith, and for the conservation of the harbour's flora, fauna and geological and physiographical features of special interest.

(2) For those purposes and without prejudice to the generality of the foregoing, the Company may—

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

(3) The Company shall, from time to time, formulate and publish a management plan in relation to their maintenance, conservation, operation, management and improvement of the harbour undertaking.

(4) In the exercise of the powers of sub-paragraph (2)(b) above, the Company shall not—

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(1) 1987 c. 21.

- (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**

6.—(1) The Company shall establish a committee, to be known as the Portland Harbour Consultative Committee, which they shall consult (except in a case of special urgency or where it would be seriously detrimental to the commercial interests of the Company to do so) on all matters substantially affecting the conservation, protection, regulation, management, maintenance and improvement of the harbour and its navigation.

(2) Subject to the provisions of this article, the Consultative Committee shall consist of not less than twelve members appointed by the Company, of whom—

- (a) two shall be appointed on the nomination of the Council (one of whom to represent the body for the time being responsible for emergency planning);
- (b) one shall be appointed on the nomination of the Nature Conservancy Council for England;
- (c) one shall be appointed on the nomination of the Royal Yachting Association;
- (d) one shall be appointed on the nomination of the Southern Sea Fisheries Committee;
- (e) one, to represent shipping interests in the harbour, shall be appointed on the nomination of the Chamber of Shipping;
- (f) one, to represent the defence interests in the harbour, shall be appointed on the nomination of the Defence Evaluation and Research Agency (but only whilst Schedule 2 to this Order remains in force);
- (g) one, to represent commercial interests in the harbour, other than shipping and fishing, shall be appointed after consultation with such persons (if any) appearing to the Company to be representative of those interests as the Company consider appropriate;
- (h) one, to represent local fishing interests in the harbour, shall be appointed after consultation with such persons (if any) appearing to the Company to be representative of those interests as the Company consider appropriate;
- (i) one, to represent the local conservation interests in the harbour, shall be appointed after consultation with such persons (if any) appearing to the Company to be representative of those interests as the Company consider appropriate;
- (j) up to four may be appointed to represent such persons interested in the harbour, other than those mentioned in the preceding sub-paragraphs of this paragraph, as the Company from time to time think fit.

(3) If it appears to the Company in the case of any of the appointments referred to in sub-paragraphs (a) to (f) of paragraph (2) above that the body by whom the nomination is to be made has refused or failed to nominate a member after being requested by the Company to do so, or if the body by whom any of the said nominations is to be made has ceased to have an identifiable existence, the appointment in question may be made by the Company after consultation with such persons (if any) appearing to the Company to be representative of the interests represented, or formerly represented, by the nominating body specified in the relevant sub-paragraph of paragraph (2) above as the Company consider appropriate.

(4) The Company shall not be obliged to appoint a person who is duly nominated in accordance with any of sub-paragraphs (a) to (f) of paragraph (2) above but may request the body or bodies who made the nomination to nominate another person.

(5) The term of office of a member of the Consultative Committee shall be three years from the date of his appointment and, on ceasing to hold office, he shall be eligible for re-appointment: Provided that a member of the Consultative Committee may at any time by notice in writing to the Company resign his office.

(6) The Consultative Committee may determine its own quorum and procedure.

(7) The Company shall appoint the Chairman of the Consultative Committee.

(8) Without prejudice to the generality of paragraph (1) above, the Company shall consult the Consultative Committee on proposals to—

- (a) formulate and publish a management plan under article 5(3) of this Order;
- (b) impose or vary any charges in relation to recreational use of the harbour and its use by small vessels;
- (c) make byelaws;
- (d) construct or license any significant works in the harbour; or
- (e) carry out or license dredging.

(9) The Company shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by the Consultative Committee, whether or not it has been consulted by the Company on the matter, recommendation or representation so referred or made.

### **Aids to navigation**

7.—(1) In addition to their powers under section 201 of the Merchant Shipping Act 1995(2) (powers of harbour authorities as local lighthouse authorities) but subject to obtaining any necessary interest in or over land, the Company may erect or place, alter, discontinue or remove aids to navigation in any place adjacent to the harbour.

(2) The Company shall not exercise the powers of paragraph (1) above—

- (a) without the approval of the Trinity House; or
- (b) within the limits of Weymouth Harbour or on land immediately adjacent thereto, without the approval of the Council in writing.

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

8.—(1) The Company may remove anything, other than a vessel, causing or likely to become an obstruction to, or cause interference with, navigation in any part of the harbour or any approach thereto and may take such steps as appear to them to be appropriate to prevent or minimise such obstruction or interference.

(2) If anything removed by the Company under paragraph (1) above is so marked as to be readily identifiable as the property of any person, the Company shall, within 28 days of its coming into their custody, give written notice to that person stating that, upon proof of ownership to the reasonable satisfaction of the Company, possession may be re-taken at a place named in the notice within the period specified in the notice (being not less than 14 days after the notice is served) and, if possession of the thing removed is not so retaken, it shall at the end of that period vest in the Company.

- (a) (3) (a) Notwithstanding the provisions of paragraph (2) above the Company may, at such time and in such manner as they think fit, dispose of anything removed under paragraph (1) above which is not so marked as to be readily identifiable as the property of any person or which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

- (b) If anything disposed of by the Company under this paragraph is sold, the Company may retain out of the proceeds of sale any expenses incurred by them under this article, and any surplus—
  - (i) shall be paid to any person who within three months from the time when the thing came into the custody of the Company proves to the reasonable satisfaction of the Company that he was the owner thereof at that time; or
  - (ii) if within the said period no person proves his ownership at the said time, shall vest in the Company.

(4) If the proceeds of sale of anything removed under this article are insufficient to reimburse the Company for the said expenses, or there is no sale because the thing is unsaleable, the Company may recover the deficiency, or, where there is no sale, the whole of the expenses, from the person who was the owner at the time when the thing removed came into the custody of the Company or who was the owner at the time of its abandonment or loss.

#### **As to use of harbour premises**

9.—(1) The Company may from time to time set apart and appropriate any part of the harbour premises and waters adjacent thereto for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Company may think fit.

(2) No person or vessel shall make use of any part of the harbour premises and waters adjacent thereto so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Company; and—

- (a) the harbour master or, as the case may be, such officer, may order any person or vessel making use thereof without such consent to leave or be removed; and
- (b) the provisions of section 58 (powers of harbour master as to mooring of vessels in harbour) of the Act of 1847 shall extend and apply with appropriate modifications in relation to any such vessel.

#### **Moorings**

10.—(1) The Company may provide, place, lay down, maintain, renew, use, have and remove such moorings within the harbour—

- (a) on land owned or leased by them or in which they hold an appropriate interest; or
- (b) with the consent in writing of the owner and lessee thereof, on any other land in the harbour,

as they consider necessary or desirable for the convenience of vessels.

(2) The Company may demand, receive and recover in respect of any vessel using any of the moorings provided under this article or moored to land owned or leased by the Company such reasonable charges as the Company may from time to time prescribe.

(3) The Company may compound with any person with respect to the payment of the charges prescribed under paragraph (2) above.

- (a) (4) (a) The Company may give notice in writing to the person having the control of any vessel using any mooring in the harbour at the date this Order comes into force requiring him within 28 days to remove the mooring so as to enable the Company to provide moorings in accordance with paragraph (1) above.
- (b) The Company shall offer to make available to the person having the control of the vessel referred to in the notice a mooring provided by them under paragraph (1) above as soon as such mooring has been laid down.

- (c) If any person fails to comply with a notice given by the Company under this paragraph, the Company 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.
- (a) (5) (a) The Company may from time to time grant to a person with or without conditions a licence to place, lay down, maintain, renew, use and have existing and future moorings, for vessels in the harbour.
- (b) Nothing in any such licence shall entitle a person to place, lay down, maintain, renew or use and have any mooring on land not owned or leased by him or by the Company or in which he has no appropriate interest.
- (c) Any such licence shall be valid only for a period of one year commencing with the date on which it is granted.
- (d) The Company may charge for such a licence such reasonable fee as the Company may from time to time prescribe.
- (6) Any person who—
  - (a) intentionally obstructs any person acting under the authority of the Company in setting out moorings;
  - (b) intentionally and without lawful authority pulls up or removes any mooring in the harbour or any part thereof;
  - (c) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Company under this article; or
  - (d) places, lays down, maintains, renews or has in the harbour any mooring not provided or licensed by the Company under this article,

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

(7) If any person commits an offence under paragraph (6)(d) above, the Company may remove the mooring in question and recover from that person the expenses incurred in doing so.

(8) In this article “mooring” includes any buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels.

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

**11.—**(1) In this article, “relevant feature” means any landing place, jetty, embankment, structure or other work in the harbour or on land immediately adjoining the waters of the harbour other than one under the control or management of the Company.

(2) The Company may by notice require the owner or occupier of a relevant feature which in the opinion of the Company is, or is likely to become, by reason of its insecure condition or want of repair—

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

to remedy its condition to the Company’s satisfaction within a reasonable time (not being less than 21 days) specified in the notice.

(3) 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 the notice or such other time as the Secretary of State on an appeal may substitute therefor—

- (a) he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and

- (b) the Company may carry out the work required by the notice and may recover the expenses of so doing from the person on whom the notice was served.
- (4) A notice under this article shall have annexed to it a copy of this article.
- (5) A person aggrieved by a notice served by the Company under this article may, during the period of 21 days beginning with the date on which the notice was served, appeal to the Secretary of State against the notice.
- (6) An appeal under paragraph (5) above shall be made by notice in writing stating the grounds of the appeal.
- (7) A person who appeals under paragraph (5) above shall give to the Company notice of his appeal accompanied by a copy of his statement of appeal; and the Company shall, within 21 days of receipt of the notice, be entitled to furnish to the Secretary of State their observations on the appeal.
- (8) On an appeal under paragraph (5) above, the Secretary of State shall either quash the notice, modify its requirements or dismiss the appeal.

#### **Power to grant permits in respect of certain pleasure craft**

**12.—**(1) The Company may grant upon such terms and conditions as they think fit permits to the persons in charge of or navigating pleasure craft used for carrying paying passengers within the harbour, and may charge for such a permit a reasonable fee in respect of the administrative expenses of processing the application for the permit.

(2) Any such permit may be granted for such period as the Company may think fit, and may be suspended or revoked by the Company; but the existence of the power to suspend or revoke the permit shall be specifically mentioned in the permit itself.

(3) In deciding whether to grant, suspend or revoke any permit pursuant to paragraphs (1) and (2) above, the Company shall only have regard to the interests of safe navigation within the harbour.

(4) Except with the written permission of the Company, no person shall carry, or permit to be carried, paying passengers in a pleasure craft unless the person in charge of it and any other person navigating it have been granted a permit under this article and the conditions of the permit are complied with, or at any time during the suspension of the permit.

(5) Any person who contravenes or otherwise fails to comply with paragraph (4) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Any person aggrieved by the withholding, suspension, or revocation of any permit under the provisions of this article may appeal to a magistrates' court held after the expiration of two clear days after such withholding, suspension, or revocation: Provided that the person so aggrieved shall give 24 hours' written notice of such appeal, and the ground thereof, to the Company and the court shall have power to make such order as they see fit and to award costs, such costs to be recoverable summarily as a civil debt.

(7) In this article, "pleasure craft" means any vessel which has a passenger certificate issued by the Secretary of State pursuant to regulations under sections 85 and 86 of the Merchant Shipping Act 1995 or which is licensed by the Council under section 94 of the Public Health Acts Amendment Act 1907<sup>(3)</sup>.

#### **Power to dredge**

**13.—**(1) The Company, as may appear to them to be necessary or desirable for the purposes of the harbour undertaking, may deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the harbour and the approaches thereto, and may blast any rock in that area,

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(3) 1907 c. 53.

and they may use, appropriate or dispose of the materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995) from time to time dredged by them.

(2) No materials so dredged shall 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.

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

**14.—**(1) In its application to the Company, section 252 of the Merchant Shipping Act 1995 (which confers on bodies which are harbour authorities within the meaning of that Act powers with respect to any vessel sunk, stranded or abandoned in, or in or near any approach to, any harbour or tidal water in such manner as to be an obstruction or danger to navigation) shall have effect in relation to the harbour and the approaches thereto in relation to a vessel sunk, stranded or abandoned before, as well as after, the coming into force of this Order.

(2) Subject to paragraph (3) below, and to any enactment for the time being in force limiting his liability, the Company may recover from the owner of any vessel in relation to which they have exercised their powers under the said section 252 any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

- (a) (3) (a) Except in a case which is in the opinion of the Company a case of emergency, paragraph (2) above shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 252, other than the power of lighting and buoying, the Company have given to the owner of the vessel not less than 48 hours' notice of their intention to do so.
- (b) If before the notice expires the Company receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, he shall be at liberty to do so; and the Company shall not exercise the powers in the said section 252 in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Company.

(4) Notice under paragraph (3) above to the owner of any vessel may be served by the Company either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom or, if the owner or any such place of business or abode is not known to the Company, or is not in the United Kingdom, by displaying the notice at the office of the Company for the period of its duration.

(5) In this article "owner", in relation to any vessel, means the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof.

(6) The powers conferred on the Company by this article shall be in addition to and not in derogation of any other powers exercisable by them for or with respect to the removal of wrecks within the harbour and the approaches thereto.

### **General byelaws**

**15.—**(1) The Company may make such byelaws as they think fit for the efficient management and regulation of the harbour and the harbour premises.

(2) Without prejudice to the generality of paragraph (1) above, the Company may, from time to time, make such byelaws as they think fit with reference to all or any of the following—

- (a) regulating the use of any works and facilities provided by the Company;

- (b) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour or the harbour premises and to any aids to navigation which are used in connection with the harbour;
- (c) regulating the conduct of all persons in the harbour or the harbour premises, not being—
  - (i) members of a police force;
  - (ii) officers or servants of the Crown; or
  - (iii) members of a fire brigade,whilst in the exercise of their duties as such;
- (d) regulating the placing, maintenance and use of moorings within the harbour;
- (e) preventing and removing obstructions or impediments within the harbour or the harbour premises;
- (f) regulating the launching of vessels from the harbour premises;
- (g) regulating or prohibiting the use on the harbour premises, in the harbour or on board any vessel therein of fires, lights, tobacco or any other substance, equipment, tools or appliances which the Company consider involve a risk of fire, explosion or chemical reaction;
- (h) prohibiting the use of or regulating the use, movement, speed, placing, loading, unloading, driving and parking of vehicles within the harbour premises;
- (i) requiring the use of silencers or other similar apparatus, and the control of noise generally on vessels in the harbour;
- (j) regulating the navigation of vessels in the harbour and their entry into and departure therefrom 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;
- (k) regulating the embarkation of persons on, or their disembarkation from, vessels within the harbour;
- (l) prescribing the lights and signals to be exhibited or made—
  - (i) by vessels aground within the harbour;
  - (ii) by vessels or other devices 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;
- (m) prohibiting or regulating the discharge into the harbour of any material or substance;
- (n) regulating or prohibiting fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf, breakwater or other installation or structure of any kind within the harbour, from any vessel within the harbour or from the foreshore where such fishing interferes with the operation of the port or the safety of navigation in the harbour;
- (o) regulating or prohibiting bathing within the harbour;
- (p) regulating or prohibiting the use by vehicles of the foreshore within the harbour premises;
- (q) regulating the berthing, mooring and anchoring of vessels in any part of the harbour or the harbour premises, and regulating the careening and beaching of vessels within the harbour premises;
- (r) regulating the use within the harbour of yachts, sailing boats, rowing boats, pleasure craft, windsurfers, personal watercraft and other small craft;
- (s) regulating or prohibiting the activities within the harbour of divers, surfers, underwater swimmers, water-skiers and other persons engaged in similar recreational pursuits;



- (t) regulating the conveyance to and the laying down at or on the harbour premises of all goods intended for shipment;
  - (u) regulating the control of animals within the harbour or the harbour premises;
  - (v) preventing the disposal of any waste matter except at places or in a manner prescribed by the Company;
  - (w) regulating the conveyance, landing, laying down, discharge and removal of goods, gear, equipment, timber, logs, floats, or rafts of timber and other items within the harbour or the harbour premises;
  - (x) regulating the exercise of the powers vested in the harbour master; and
  - (y) for the purposes specified in section 83 of the Act of 1847.
- (3) In this article “signals” includes sound signals.
- (4) Byelaws made under this article may—
- (a) provide for imposing upon a person offending against them, or against any condition, requirement or direction imposed, made or given thereunder, a fine not exceeding level 4 on the standard scale on summary conviction;
  - (b) relate to the whole of the harbour or the harbour premises or to any part thereof;
  - (c) make different provisions for different parts of the harbour or the harbour premises or in relation to different classes of vessels or vehicles; and
  - (d) otherwise make different provision for different circumstances.
- (5) Where a person is charged with an offence against a byelaw in force under this article, it shall be a defence for the person to prove—
- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;
  - (b) that he had a reasonable excuse for his act or failure to act; or
  - (c) that the offence was not caused or facilitated by any act or neglect on his part or on the part of any person engaged or employed by him and that all reasonable steps were taken to prevent the commission of the offence.
- (a) (6) (a) The provisions of section 236(3) to (8) and (11) and 238 of the Local Government Act 1972(4) (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made by the Company under this article; and those provisions, in their application to any such byelaws, shall have effect subject to the modification that for the references to a local authority there are substituted references to the Company.
- (b) Subsection (7) of the said section 236, in its application to any such byelaws, shall (subject to sub-paragraph (c) below) be modified by the insertion of the words “with or without modifications” after the word “confirm” in the second place where that word occurs.
- (c) Where the confirming authority proposes to make a modification which appears to him to be substantial, then—
- (i) he shall inform the Company and require them to take any steps which he considers to be necessary for informing persons likely to be concerned with the modification; and
  - (ii) 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.

- (d) The said section 238, in its application to any such byelaws, shall have effect subject to the modification that for the reference to the proper officer of the authority there is substituted a reference to the Secretary of the Company.
- (e) The confirming authority for the purposes of the said section 236 in its application to the Company shall be the Secretary of State.
- (a) (7) (a) Schedule 1 to this Order (which contains provisions for the general regulation of the harbour and the harbour premises) shall have effect, and its provisions shall be deemed to be byelaws made by the Company under this article and subsequently confirmed by the Secretary of State.
- (b) For the avoidance of doubt, byelaws made by the Company under this article may amend or revoke, either wholly or partially, the provisions of that Schedule.

### **General directions to vessels**

**16.—**(1) The Company may, after consultation with the Chamber of Shipping 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 harbour and, without prejudice to the generality of the foregoing, for any of the following purposes:

- (a) for designating areas, routes or fairways in the harbour 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 harbour by a vessel which for any reason would be or be likely to become a danger to other vessels in the harbour, or to persons, property, flora or fauna in the harbour or within the harbour premises; and
    - (ii) entry into or navigation within either of the main fairways during any temporary obstruction thereof;
  - (e) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for effecting any of the purposes of this paragraph.
- (2) A direction under this article may apply—
- (a) to all vessels or to a class of vessels designated in the direction; or
  - (b) to the whole of the harbour or to a part designated in the direction; or
  - (c) at all times or at times designated in the direction,

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

(3) The Company may, after consultation with the Chamber of Shipping except in cases of emergency, revoke or amend any general direction.

### **Publication of general directions**

**17.—**(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in an emergency, be published by the Company as soon as practicable

once in a newspaper circulating in the locality of the harbour and, if the notice relates to the giving or amendment of a direction, shall state a place at which copies thereof may be inspected and bought and the price thereof.

(2) 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 Company to be appropriate.

### **Special directions**

**18.**—(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) 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) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores, and the dispatch of its business at the harbour premises;
- (d) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (e) prohibiting or restricting the use of fires or lights;
- (f) regulating the use of ballast;
- (g) requiring the removal from any part of the harbour of the vessel 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 harbour or interfering with the reasonable use or enjoyment thereof by other vessels or persons or the dispatch of business thereat; or
  - (iv) its removal is necessary to enable maintenance or repair work to be carried out to the harbour premises; and
- (h) 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.

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

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

**19.**—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) In any proceedings for an offence under paragraph (1) above, it shall be a defence for the person charged to prove that he had reasonable grounds for believing that non-compliance with the direction in question was necessary to secure the safety of any vessel or to prevent injury to any person or damage to any vessel or cargo, or that in the circumstances compliance was impracticable.

### **Enforcement of directions**

**20.**—(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 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: 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 directions**

**21.** The giving of a general direction or 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.