
STATUTORY INSTRUMENTS

1998 No. 1209

HARBOURS, DOCKS, PIERS AND FERRIES

The Bristol City Docks Harbour Revision Order 1998

Made - - - - - *6th May 1998*

Coming into force - - - - - *20th May 1998*

Whereas the City Council of Bristol have applied for a harbour revision order under section 14 of the Harbours Act 1964(1):

And whereas objections made pursuant to paragraph 3(2)(a) of Schedule 3 to the said Act(2) have been withdrawn:

And whereas the Secretary of State is satisfied as mentioned in subsection (2)(b) of the said section 14:

Now, therefore, the Secretary of State for the Environment, Transport and the Regions (being the appropriate Minister under subsection (7) of the said section 14(3)), in exercise of the powers conferred by that section and now vested in him(4), and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Bristol City Docks Harbour Revision Order 1998 and shall come into force on 20th May 1998.

Interpretation

2. In this Order—

“the 1961 Act” means the Bristol Corporation Act 1961(5);

(1) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2, 3, 4(1), and 14, and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1.
(2) Schedule 3 was amended by the Transport Act 1981, section 18 and Schedule 6, paragraphs 4(2) to (7) and 12, the Transport and Works Act 1992, Schedule 3, paragraph 10 and Schedule 4, Part II, S.I.1988/1336 and S.I. 1996/1946.
(3) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).
(4) S.I. 1981/238 and S.I. 1997/2971.
(5) 1961 c.xliv.

“the appointed day” means such day as the Council may (with the agreement of the Company) appoint for the purposes of Part V of this Order;

“the City Docks” means the Docks of the Council known as the Floating Harbour and all basins and other works constructed in connection therewith and includes—

- (a) the River Avon from the line coloured blue on the signed plan for the Port of Bristol Harbour Revision Order 1993(6) to Hanham Mills and all other rivers or parts of rivers, harbours, canals, pills and creeks communicating directly with that part of the river and which on 5th December 1972(7) were or are for the time being within the city; and
- (b) the banks of the River Avon from that line to Hanham Mills and the banks of all pills and creeks communicating directly with that part of the river together with a space of five yards in width on each of the banks thereof immediately above the level of mean high-water springs;

“the Company” means First Corporate Shipping Limited;

“the Council” means the City Council of Bristol;

“the docks estate” means the lands which are for the time being vested in or occupied by the Council for the purposes of their undertaking at the City Docks;

“hovercraft” has the same meaning as in the Hovercraft Act 1968(8);

“operator” and “telecommunications code system” have the same meaning as in Schedule 4 to the Telecommunications Act 1984(9);

“personal watercraft” means any watercraft (not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine or other mechanical means of propulsion and steered either—

- (a) by means of a handlebar-operated linkage system (with or without a rudder at the stern);
- (b) by the person or persons riding the craft using his or their body weight for the purpose; or
- (c) by a combination of the methods referred to in (a) and (b) above;

“the Portishead Pier estate” has the same meaning as in the City of Bristol (Portishead Docks) Act 1992(10);

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for any of the purposes of the Town and Country Planning Act 1990(11);
- (b) any other person who exercises functions under the Land Drainage Act 1991(12);
- (c) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949(13); or
- (d) any operator of a telecommunications codes system;

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

“vessel” means every description of vessel, however propelled or moved, and includes—

- (a) non-displacement craft and any thing constructed or used to carry or propel persons or goods by or across water;

(6) S.I. 1993/2974.

(7) That date is the date of the coming into operation of the Bristol Port and Harbour Revision Order 1972 (S.I. 1972/1931).

(8) 1968 c. 59.

(9) 1984 c. 12.

(10) 1992 c.xxi.

(11) 1990 c. 8.

(12) 1991 c. 59.

(13) 1949 c. 74.

- (b) any hovercraft; and
 - (c) any hydrofoil vessel;
- “works” means works of any description;
- “works licence” means a licence granted under article 5 of this Order.

PART II

LICENSING OF WORKS

Restriction of works

3.—(1) Subject to paragraph (4) below, no person other than the Council shall construct, alter, renew, or extend any works in, under or over the waters of the City Docks unless he is licensed to do so by a works licence, nor except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of article 5 of this Order.

(2) Any person who without reasonable excuse contravenes paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) The Council may by notice require a person who contravenes paragraph (1) above to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates, and to restore the site thereof to its former condition; and if that person fails to comply with the notice, the Council may carry out the work so required and recover from him the cost of so doing.

(4) Nothing in this article shall apply to—

- (a) any operations or works specifically authorised by any enactment; or
- (b) any operations or works of a statutory undertaker.

Control of certain operations and works of statutory undertakers

4.—(1) This article applies to any operations or works of a statutory undertaker in, under or over the waters of the City Docks, not being operations or works which are specifically authorised by any enactment.

(2) Subject to paragraph (3) below, a statutory undertaker shall 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 Council and has supplied the Council with such particulars as they may reasonably require.

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

(4) Any operations or works to which this article applies shall be carried out subject to any directions which may from time to time be given by the Council to the statutory undertaker, being directions such as in the opinion of the Council are necessary for the avoidance of danger and the prevention, so far as reasonably possible, of interference with navigation in the carrying out of such operations or works.

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

Licensing of works

5.—(1) The Council may, upon such terms and conditions as they think fit, grant to any person a licence to construct, alter, renew or extend works in, under or over the waters of the City Docks, notwithstanding that the works as constructed, altered, renewed or extended interfere with the public right of navigation or any other public right.

- (2) Application for a works licence shall be made in writing to the Council and shall—
- (a) be accompanied by such plans, sections and particulars of the works to which the application relates as the Council may reasonably require; and
 - (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted,

and, in granting a licence, the Council may require modifications in the plans, sections and particulars so submitted.

(3) Without prejudice to paragraph (1) above, the Council may require an applicant for a works licence, on making his application, to pay a reasonable charge in respect of the administrative expenses of dealing with the application; and different charges may be required to be paid in relation to different cases or classes of case.

- (a) On receipt of an application for a works licence the Council shall serve on the Environment Agency a copy of the application and all plans, sections and particulars incidental thereto.
- (b) The Council shall consider such observations as the Environment Agency may submit to the Council within six weeks after service on that Agency of the application and particulars as aforesaid and shall not grant a works licence before the expiry of that period.
- (c) In granting any works licence in response to such an application the Council shall impose on the applicant such terms and conditions as give effect to such reasonable requirements to prevent pollution of any watercourse, to safeguard it against damage or to secure that its efficiency for land drainage purposes is not impaired, as the Environment Agency may, within the said period, make in any observations to the Council.
- (d) The provisions of sub-paragraph (c) above are subject to the Council's duty under article 6(5) of this Order to give effect to any decision or requirement given or made by the Secretary of State under article 6(4) of this Order.

(5) Where the Council refuse to grant a works licence which has been applied for they shall give reasons in writing for the refusal.

(6) Where the Council grant a works licence upon terms or conditions or require any modifications in the plans, sections and particulars, they shall give reasons in writing for the terms and conditions imposed or the modifications required.

(7) If within three months from the receipt of the application under paragraph (2) above the Council do not grant a works licence, they shall be deemed to have refused the application.

(8) Articles 7 to 12 of the Bristol City Docks Harbour Revision Order 1995⁽¹⁴⁾ (provisions to be complied with in the case of certain works) apply in relation to works authorised by a works licence as they apply in relation to works authorised by that Order as if references to the Council were references to the holder of the works licence in question.

(9) In the carrying out of operations in pursuance of a works licence, the holder of the licence shall not—

- (a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by a statutory undertaker; or

⁽¹⁴⁾ S.I. 1995/421.

(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.

(10) Nothing in this article affects the operation in relation to any works of section 109 of the Water Resources Act 1991(15) (obstruction of main river) or section 23 of the Land Drainage Act 1991 (obstructions in other watercourses).

Appeals in respect of works licences

6.—(1) An applicant for a works licence who is aggrieved by—

- (a) a refusal of the Council to grant a licence;
- (b) any terms or conditions subject to which the licence is granted; or
- (c) any modifications required by the Council in the plans, sections and particulars submitted by the applicant,

may, within 28 days beginning with the date on which the Council notify the applicant of their decision, or the date on which the Council are, under article 5(7) of this Order, deemed to have refused the application, appeal to the Secretary of State.

(2) An appeal under paragraph (1) above shall be made by notice in writing stating the grounds of appeal.

- (a) A person who appeals under paragraph (1) above shall send to the Council a copy of his notice of appeal.
 - (b) The Council may, within 28 days from the receipt of the notice, make to the Secretary of State representations in writing on the appeal; and, if they do, they shall as soon as reasonably practicable send a copy of their representations to the appellant.
- (4) On an appeal under paragraph (1) above, the Secretary of State may—
- (a) dismiss the appeal; or
 - (b) require the Council to grant the licence or, as the case may be, to give their approval upon such terms or conditions and with such modifications (if any) of plans, sections or particulars as the Secretary of State may specify.

(5) The Council shall give effect to any decision or requirement given or made by the Secretary of State under paragraph (4) above.

PART III CHARGES

Power to make charges

7.—(1) Subject to paragraph (2) below, the Council may make such reasonable charges as they think fit for services and facilities provided by them in connection with their undertaking at the City Docks as from time to time authorised, including requirements as to the payment of interest on overdue charges.

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

(3) Nothing in this article shall affect the power to demand, take or recover charges which the Council have under or by virtue of any enactment.

(4) Without prejudice to any enactment relating to the payment or recovery of charges due to the Council—

(a) sections 27 to 41 and 44 to 46 of the Harbours, Docks, and Piers Clauses Act 1847⁽¹⁶⁾ (which provide for various matters connected with liability for and collection of rates to be taken by the undertakers), as incorporated with or applied by any enactment relating to the Council; and

(b) section 17 of the 1961 Act (recovery of rates),

shall apply to charges made under paragraph (1) above as they apply to rates payable to the Council.

Payment of charges

8.—(1) The charges which the Council are for the time being authorised to demand, take and recover in respect of vessels and goods or otherwise under any enactment shall be payable before the removal from the City Docks or the docks estate 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 Council may from time to time specify in their published list of charges.

(2) Charges payable to the Council on or in respect of—

(a) a vessel, shall be payable by the owner or master thereof; and

(b) goods, shall be payable by the owner, consignee or shipper thereof.

(3) Where charges payable to the Council may be recovered by them from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

(4) Without prejudice to the generality of paragraph (1) above, the terms and conditions as to the payment of charges which the Council may from time to time specify may include the time when a charge falls due for payment and may require such information to be given to the Council by the owner or master of a vessel or a person using a service or facility of the Council as the Council may require in connection with the assessment or collection of a charge.

Deposit for charges

9.—(1) The Council may, if they think fit, require any person who is liable, or may become liable, to pay charges to them to deposit with them, or to guarantee, such sum as in their opinion is reasonable having regard to the amount or probable amount of the charges.

(2) Where such a person fails to deposit or guarantee the sum of money required the Council may detain in the City Docks or in the docks estate 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.

Penalty for evading payment of charges

10. If the owner of any vessel or goods or any other person at any time eludes or attempts to elude or evade payment of, or wrongly refuses to pay, any charges payable by him to the Council at the time when they become due and payable, he shall be liable to pay to the Council a sum equal to three times the amount of such charges, which sum shall be a debt due to the Council and shall be recoverable by the Council in the same manner as penalties imposed by the Harbours, Docks, and Piers Clauses Act 1847 may be recovered, or by action in any court of competent jurisdiction.

(16) 1847 c. 27.

PART IV

BYELAWS

General byelaws

11.—(1) In addition to the byelaws which may be made by the Council under the Bristol Dock Acts and Orders 1848 to 1992 in relation to the City Docks and the docks estate the Council may make byelaws for all or any of the following purposes—

- (a) for regulating the use, operation and management of the City Docks and the docks estate;
- (b) for regulating vessels in the City Docks and their entry into and departure from the City Docks and the good order and government of vessels within the City Docks;
- (c) 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 City Docks;
- (d) for requiring vessels using the City Docks to be constructed and equipped in accordance with reasonable specifications prescribed by the Council;
- (e) for regulating the use of any works or facilities provided by the Council at the City Docks or the docks estate;
- (f) for prohibiting the use by vessels of specified parts of the City Docks without the consent of the harbour master;
- (g) for regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the City Docks and at the docks estate;
- (h) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the City Docks or the docks estate;
- (i) for regulating the conduct of persons within the City Docks and the docks estate, not being members of a police force or officers or servants of the Crown whilst in the exercise of their duties;
- (j) for preventing or removing obstructions or impediments within the City Docks;
- (k) for prescribing the circumstances in which the Council may impound any vessel in the City Docks not having a licence in respect of those Docks under section 18 of the 1961 Act (as it applies to the City Docks) together with its cargo and other contents;
- (l) for regulating the removal and disposal of ballast brought by vessels entering the City Docks and the supply of ballast to vessels within the City Docks so as to prevent any unnecessary obstruction by ballast;
- (m) for preventing the disposal of any waste matter in the City Docks or the docks estate except at places or in a manner prescribed by the Council;
- (n) for requiring the use of effectual silencers on vessels in the City Docks and the control of noise generally in the City Docks and the docks estate;
- (o) for regulating the use of yachts, sailing boats, rowing boats, personal watercraft and other small vessels;
- (p) for regulating the holding of regattas and other public events and entertainments within the City Docks and the docks estate;
- (q) for prohibiting the use of the City Docks by vessels for the purpose of facilitating or otherwise in connection with any such events or entertainments as are mentioned in subparagraph (p) above;
- (r) for regulating the launching of vessels within the City Docks;

- (s) for regulating or preventing the use of fires or lights within the City Docks and the docks estate, and on or within any vessel in the City Docks;
- (t) for regulating the movement, speed and parking of vehicles within the docks estate;
- (u) for regulating fishing for marine creatures of any type and by whatever means from any vessel, or any pier, jetty, wharf or other installation or structure of any kind within or adjoining the City Docks;
- (v) for regulating or preventing bathing, and for securing the protection of bathers, within the City Docks; and
- (w) for regulating the exercise of the powers vested in the harbour master.

(2) In this article “signals” includes sound signals.

(3) Different byelaws may be made under this article in relation to different classes of vessel and in relation to different parts of the City Docks and the docks estate.

(4) The Council shall have the same powers of sale in respect of any vessel and its cargo and other contents impounded under any byelaw made under this article as if the Council had taken possession of the vessel under section 252 of the Merchant Shipping Act 1995(17) (Powers of harbour and conservancy authorities in relation to wrecks).

(5) The Council may recover as charges any costs or expenses reasonably incurred by them in impounding any vessel under any byelaw made under this article.

Confirmation of byelaws

12.—(1) The provisions contained in subsections (3) to (8) of section 236 and section 238 of the Local Government Act 1972(18) shall apply to all byelaws made after the coming into force of this Order by the Council under the Bristol Dock Acts and Orders 1848 to 1992 or this Order.

(2) In its application to byelaws made under the Bristol Dock Acts and Orders 1848 to 1992 or this Order subsection (7) of the said section 236 shall have effect, subject to paragraph (3) below, as if after the word “confirm” in the second place where that word occurs there were inserted the words “with or without modification”.

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

- (i) he shall inform the Council and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification; and
- (ii) he shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for the Council and other persons who have been informed of the proposed modification to consider and comment on it.

(4) The confirming authority for the purposes of this article and of the said section 236 in its application to byelaws made under the Bristol Docks Acts and Orders 1848 to 1992 or this Order shall be the Secretary of State.

Offences against byelaws

13. Byelaws made by the Council under the Bristol Dock Acts and Orders 1848 to 1992 or this Order may contain provisions for the imposition on any person offending against any byelaw of a fine on summary conviction not exceeding level 4 on the standard scale and in the case of a continuing offence a fine not exceeding one-tenth of that level for each day on which the offence is continued after conviction for it.

(17) 1995 c. 21.

(18) 1972 c. 70.

PART V

PORTISHEAD PIER ESTATE

Establishment of Company as harbour authority for Portishead Pier estate

14. On the appointed day the Company shall become the harbour authority for the Portishead Pier estate and the Council shall cease to be the harbour authority in respect thereof.

Transfer of functions, property etc.

15.—(1) On the appointed day the Portishead Pier estate shall be transferred to and vested in the Company.

(2) Articles 4 to 7 of the Port of Bristol Harbour Revision Order 1993(19) (which provide for the transfer of statutory powers and duties, the saving of byelaws and agreements and the continuance of proceedings) shall apply in relation to the transfer of the Portishead Pier estate by this Order as if—

- (a) references to the designated harbour were references to the Portishead Pier estate;
- (b) references to the operative date were references to the appointed day;
- (c) references to the undertaking of the Council at the designated harbour were references to the powers, duties, rights and liabilities of the Council in relation to the Portishead Pier estate as they exist immediately before the appointed day; and
- (d) the reference in article 4(1) to the Bristol Dock Acts and Orders 1848 to 1986 were a reference to the Bristol Dock Acts and Orders 1848 to 1992.

PART VI

SAVINGS

Crown rights

16.—(1) Nothing in this Order shall affect 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 government department.

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

Saving for Trinity House

17. Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.

PART VII

AMENDMENTS AND REPEALS

Amendments of 1961 Act

18.—(1) The 1961 Act, in its application to the City Docks and the docks estate, shall be amended as follows.

- (2) In section 4(1) (Interpretation), for the definition of “vessel” there shall be substituted—
““vessel” means every description of vessel, however propelled or moved, and includes—
- (a) non-displacement craft and any thing constructed or used to carry or propel persons or goods by or across water; and
 - (b) a hovercraft (within the meaning of the Hovercraft Act 1968) and a hydrofoil vessel.”.

- (3) In section 18 (Craft not to be navigated etc. in port unless licensed)—
- (a) in subsection (2), at the end there shall be added the words “and such licence may be granted subject to such reasonable conditions as the Council thinks fit”; and
 - (b) after subsection (4) there shall be inserted the following—

- “(5) This section shall not apply to any vessel—
- (a) which (not being a barge) appears to the Council to be used wholly or mainly for the carriage of goods or materials;
 - (b) in respect of which any part of the City Docks is for the time being appropriated under section 33 (Power to appropriate lands and works for particular trades, etc.) of the Bristol Corporation (West Dock) Act 1971(20); or
 - (c) by reason only of its presence in the City Docks whilst proceeding from a place outside those Docks to another such place.”.

(4) In section 22 (Power to refuse or revoke licences for craft), for subsections (1) and (2) there shall be substituted—

“(1) Upon an application made in accordance with section 18 (Craft not to be navigated etc. in port unless licensed) of this Act the Council shall not refuse to grant a licence in respect of a vessel except on one or more of the following grounds, namely—

- (a) that it appears to the Council that the vessel is not in such a condition as to be able to be safely used in the City Docks;
- (b) that there is no suitable place available for mooring the vessel;
- (c) that it appears to the Council that the vessel is not intended to be used for the purposes of navigation and that its nature, appearance or condition is such that its presence or use is likely adversely to affect the amenity of the City Docks; or
- (d) that any fee payable in respect of the vessel under section 31 (Licence fees) of this Act in the case of a previous licence has not been paid.

(2) The Council shall not revoke a licence under the said section 18 in respect of a vessel except—

- (a) upon one or more of the grounds specified in paragraphs (a) to (c) of subsection (1) above;

- (b) where any fee payable under the said section 31 in respect of the licence has not been paid within 30 days of its falling due; or
- (c) where it appears to the Council that there has been a failure to comply with any condition of the licence.”.

(5) In section 25 (Penalty for working or navigating craft contrary to Act), in subsection (1), after the word “navigated” there shall be inserted the words “or moored”.

(6) For section 31 (Licence fees) there shall be substituted—

“**31.** The Council may demand and take reasonable fees in respect of the grant or renewal of any licences under this Part of this Act and different fees may be demanded and taken in respect of different circumstances and different classes of vessels.”.

(7) References in the 1961 Act to craft shall be construed as references to vessels or a vessel, as the case may be.

Repeals

19. The enactments listed in the Schedule to this Order are hereby repealed to the extent specified in the third column of that Schedule.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

S K Reeves
Head of Ports Division
Department of the Environment, Transport and
the Regions

6th May 1998

Status: This is the original version (as it was originally made). UK
Statutory Instruments are not carried in their revised form on this site.

SCHEDULE

Article 19

REPEALS

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
1918 c.xlii.	The Bristol Corporation Act 1918.	Section 64.
1961 c.xliv.	The Bristol Corporation Act 1961.	In section 4(1), the definition of “craft”. Section 8. In section 18, in subsection (1), the words from “in the case” to “applies)” and the Proviso. In section 25, the Proviso. Section 30. The Third and Fifth Schedules.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prohibits the carrying out of certain works in the City Docks except under a licence from The City Council of Bristol (“the Council”), the applicant for the Order. It empowers the Council to charge for services and facilities provided by them at the City Docks and confers modern byelaw-making powers upon the Council.

The Order makes provision for the transfer to First Corporate Shipping Limited of the Portishead Pier undertaking.

The Order also amends or repeals certain provisions of existing local legislation regarding the City Docks.