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STATUTORY INSTRUMENTS

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**2001 No. 416**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Port of Tyne Harbour Revision Order 2001**

*Made* - - - - - *13th February 2001*

*Coming into force* - - - - - *1st March 2001*

Whereas the Port of Tyne Authority have applied for a harbour revision order under section 14 of the Harbours Act 1964(1) (hereinafter called “the Act”):

And whereas no objection to the application has been made pursuant to Schedule 3(2) to the Act;

And whereas the Secretary of State for the Environment, Transport and the Regions is satisfied as mentioned in subsections (2)(b) and (2B) 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:—

**Citation and commencement**

- 1.—(1) This Order may be cited as the Port of Tyne Harbour Revision Order 2001.
- (2) This Order shall come into force on 1st March 2001.

**Interpretation**

2. In this Order—
  - “the appointed day” means such day as the Authority may appoint for the purposes of article 3 of this Order;
  - “the Authority” means the Port of Tyne Authority;
  - “dredging licence” means a licence under article 7 of this Order;
  - “the level of high-water” means the level of mean high-water springs;

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(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 substituted by S.I.1999/3445.  
(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.

“Northumberland Dock” means the area shown outlined in blue on the signed plan, being an area enclosed by an imaginary line commencing on the western side of the entrance to Northumberland Dock at point NZ 433808 566165 (point A) extending in a north-westerly direction to a point NZ 433794 566173 (point B) then extending in a northerly direction along the western river wall to a point NZ 433779 566241 (point C) then extending in a westerly direction along that wall to a point NZ 433730 566233 (point D) then extending in a north-westerly and northerly direction along that wall to a point NZ 433709 566300 (point E) then extending in a generally easterly direction along the jetty of the former Maypole Lead Works to a point NZ 433920 566342 (point F) then extending in a south-south-easterly direction along the boundary between the land of the Authority and of Northumbrian Water plc to a point NZ 433930 566300 (point G) then extending in a westerly direction along that boundary to a point NZ 433909 566295 (point H) then extending in a southerly direction along that boundary to a point NZ 433908 566241 (point J) then extending in an easterly direction along that boundary to a point NZ 433957 566241 (point K) then extending in a generally south-westerly direction along the eastern side of Northumberland Dock to a point NZ 433889 566184 (point L) then extending in a westerly direction across the entrance of Northumberland Dock to point A.

“operator” and “telecommunications code system” have the meanings given by paragraph 1(1) of Schedule 4 to the Telecommunications Act 1984<sup>(5)</sup>;

“the Port” has the same meaning as in the Port of Tyne Reorganisation Scheme 1967<sup>(6)</sup>;

“the signed plan” means the plan marked “Port of Tyne Harbour Revision Order 2000” signed in duplicate by the Head of Ports Division in the Department of the Environment, Transport and the Regions, one copy of which has been deposited at the offices of that Department and the other at the offices of the Authority at Maritime House, Tyne Dock, South Shields, Tyne & Wear NE34 9PT;

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for the purposes of the Town and Country Planning Act 1990<sup>(7)</sup>;
- (b) any other person who exercises functions under the Land Drainage Act 1991<sup>(8)</sup>;
- (c) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949<sup>(9)</sup>; and
- (d) any operator of a telecommunications code system.

### **Power to close Northumberland Dock**

3.—(1) Notwithstanding anything contained in any enactment or rule of law, the Authority may, on such day as they may by resolution appoint, close Northumberland Dock and the facilities therein.

(2) The date appointed by the Authority by resolution as the date for the closure of Northumberland Dock under this article shall be a date not less than two months after the date of the resolution.

(3) Not less than 28 days before the appointed day the Authority shall publish in Lloyd’s List newspaper and in at least one local newspaper circulating in Newcastle-upon-Tyne a notice containing a copy of the resolution and explaining the effect thereof.

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(5) 1984 c. 12.

(6) Contained in S.I. 1968/942.

(7) 1990 c. 8.

(8) 1991 c. 59.

(9) 1949 c. 74; section 1 was amended by the Local Government Act 1972 (c. 20), Schedule 30.

## **Repeal of section 6 of Tyne Improvement Act 1957**

4. On the appointed day section 6 of the Tyne Improvement Act 1957(10) (Work No. 3 to form part of river Tyne) shall be repealed.

## **Restriction of dredging**

5.—(1) Subject to paragraph (3) below, no person other than the Authority shall dredge on, under or over tidal waters or land below the level of high water in the Port unless he is licensed so to do by a dredging licence, and no such person shall do so 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 7 of this Order.

(2) The Authority may by notice require a person who contravenes this article to abate or rectify, within a reasonable time specified in the notice, any operation or omission to which the contravention relates and to restore the site thereon to its former condition; and if he fails to comply with the notice, the Authority may carry out the works so required and may recover from him the cost of so doing.

(3) Nothing in this article shall apply to—

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

(4) 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.

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

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

(2) Subject to paragraph (3) below, a statutory undertaker shall not carry out any operations to which this article applies unless it has given notice of its intention to do so to the Authority and has supplied the Authority 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 Authority of the operations as soon as reasonably practicable.

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

(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.

## **Licence to dredge**

7.—(1) The Authority may upon such terms and conditions as they think fit grant to any person a licence to dredge in any part of the Port.

(2) Application for a dredging licence shall be made in writing to the Authority and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence, and in granting any such licence the Authority may require modifications in the plans, sections and particulars so submitted.

(3) The following provisions of the Port of Tyne Act 1990<sup>(11)</sup> shall apply in relation to a dredging licence as they apply in relation to a works licence within the meaning of that Act:—

- (a) subsections (2) to (8) of section 5 (Works licences);
- (b) section 6 (Appeals in respect of works licences);
- (c) section 7 (Protection of Crown interests); and
- (d) section 8 (Saving for Trinity House).

(4) Subject to paragraphs (5) and (6) below, any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995<sup>(12)</sup>) taken up or collected by means of dredging in pursuance of a dredging licence shall be the property of the holder of the licence and he may use, sell or otherwise dispose of or remove or deposit the materials as he thinks fit.

(5) No such material shall be laid down or deposited in any place within the Port below the level of high water except in such positions as may be approved by the Authority and subject to such conditions as may be imposed by the Authority.

(6) If it appears to the holder of the dredging licence that the Authority have unreasonably withheld their approval under paragraph (5) above or that any condition imposed by the Authority under that paragraph is unreasonable, he may appeal to the Secretary of State whose decision shall be binding upon the parties.

#### **Repeal of section 14 of Tyne Improvement Act 1925**

8. Section 14 of the Tyne Improvement Act 1925<sup>(13)</sup> (Prohibition against dredging &c. without licence) is hereby repealed.

#### **Saving for other enactments**

9. Nothing in this Order shall affect the operation of any order, regulation or other instrument made under the Customs and Excise Management Act 1979<sup>(14)</sup> or the Public Health (Control of Disease) Act 1984<sup>(15)</sup>.

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

*Stephen Reeves*  
Head of Ports Division  
Department of the Environment, Transport and  
the Regions

13 February 2001

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<sup>(11)</sup> 1990 c. xxxi.

<sup>(12)</sup> 1995 c. 21. See section 255(1).

<sup>(13)</sup> 1925 c. xxxiii.

<sup>(14)</sup> 1979 c. 2.

<sup>(15)</sup> 1984 c. 22.

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## **EXPLANATORY NOTE**

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

This Order enables the Port of Tyne Authority to close Northumberland Dock. It also contains modern powers for the Authority to regulate dredging in the Port.