
STATUTORY INSTRUMENTS

2009 No. 2325

The Penzance Harbour Revision Order 2009

PART 2

HARBOUR REGULATION

Limits of harbour

18.—(1) The limits of the harbour within which the Council shall exercise jurisdiction and the harbour master shall exercise his powers shall be the area described in the Schedule.

(2) The area described in paragraph (1) is, for the purpose of identification only, shown edged red on sheet 4 of the deposited plans.

Commencement Information

II Art. 18 in force at 18.9.2009, see [art. 1](#)

Moorings

19.—(1) The Council may provide, place, lay down, maintain, renew, use or remove such moorings, buoys and similar apparatus for vessels—

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

(2) The Council 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 Council such charges as the Council may from time to time prescribe.

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

(4) The Council 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 Council to provide, place or lay down moorings in accordance with paragraph (1).

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

(6) The Council may from time to time grant a licence to any person to place, lay down, maintain, renew and use moorings, buoys and similar apparatus for vessels in the harbour.

(7) Nothing in any such licence shall entitle a person to place, lay down, maintain, renew and use and have any mooring on land not owned or leased by him or by the Council or in which he has no appropriate interest.

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(8) Any licence granted under paragraph (6) shall be valid only for a period of one year commencing with the date on which it takes effect.

(9) The Council may charge a reasonable fee for the grant of a licence under this article.

(10) Sections 43 to 46 of the Act of 1847 shall apply in relation to fees charged under this article.

(11) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Council in setting out moorings; or
- (b) intentionally and without lawful authority pulls up or removes any mooring in the harbour or any part of it; or
- (c) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Council under this article or at a quay, jetty, slipway or other work or to land owned or leased by the Council; or
- (d) places, lays down or maintains in the harbour any mooring not provided or licensed by the Council 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.

(12) If any person places, lays down or maintains in the harbour any mooring not provided or licensed by the Council under this article, the Council may remove the mooring in question and recover from that person the expenses incurred in doing so.

(13) In this article—

“mooring” includes any buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels;

“vessel” includes houseboat.

Commencement Information

I2 Art. 19 in force at 18.9.2009, see [art. 1](#)

Parking places

20. The Council may provide facilities within the harbour for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences and may make reasonable charges for the use of such facilities.

Commencement Information

I3 Art. 20 in force at 18.9.2009, see [art. 1](#)

Removal of vehicles etc

21.—(1) If a vehicle or boat is left without the permission of the Council—

- (a) in any place where it is likely to obstruct or interfere with the use of the authorised works; or
- (b) in any part of the authorised works where the parking of vehicles or boats is prohibited by notice erected by the Council,

the Council may, at the risk of the owner, remove the vehicle or boat or cause it to be removed.

(2) Any notice erected under paragraph (1)(b) shall be conspicuously posted in or close to the place to which it relates.

(3) Where the Council in exercise of the powers of this article remove a vehicle or boat or cause it to be removed they shall as soon as practicable report that fact to a constable or to a police station.

(4) The expenses of and incidental to the removal of a vehicle or boat under this article shall be recoverable from any person responsible.

(5) For the purposes of paragraph (4) “person responsible” means—

- (a) the owner of the vehicle or boat at the time when it was put in the place from which it was removed under paragraph (1), unless the owner shows that he was not concerned in, and did not know of, its being put there; or
- (b) any person by whom the vehicle or boat was put in that place.

(6) If the Council in exercise of the powers of this article remove a vehicle to a place not readily visible from the place whence it is so removed they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 2002(1) or any other regulations having the like effect for the time being in force, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this article and of the place to which the vehicle has been removed.

(7) A notice stating the general effect of paragraph (1) shall be displayed in a prominent position at each place where a road accessible to vehicles enters any part of the works.

Commencement Information

I4 Art. 21 in force at 18.9.2009, see [art. 1](#)

Byelaws

22.—(1) The Council may make byelaws for the good rule and government of the harbour and, without prejudice to the generality, for all or any of the following purposes—

- (a) for regulating the use of pontoons, stagings, quays, jetties, piers, walkways, bridges, approaches, slipways, landing places, berthing heads, boat lifts, mooring posts, buildings, parking places and other works and facilities provided by the Council;
- (b) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the harbour;
- (c) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour;
- (d) for regulating, preventing or licensing the conduct of all persons in vessels or otherwise in the harbour, not being members of a police force or officers or servants of the Crown or members of a fire and rescue authority acting in pursuance of the Fire and Rescue Services Act 2004(2) whilst in the exercise of their duties as such;
- (e) for regulating the placing, laying down, maintenance and use of moorings and for prescribing the patterns and specifications of moorings in the harbour;
- (f) for preventing or removing obstructions or impediments within the harbour;
- (g) for regulating the launching of vessels within the harbour;

(1) S.I. 2002/2742.

(2) 2004 c. 21.

- (h) for regulating or prohibiting the mooring, careening, beaching or anchoring and keeping of vessels in the harbour;
 - (i) for regulating or preventing the use in the harbour or on board any vessel in the harbour of fires, lights or any other equipment, tools or appliances which the Council consider involves a risk of fire and for the prevention of smoking;
 - (j) for regulating the removal or disposal of rubbish (including ballast, earth or clay or other refuse) and sewage from vessels in the harbour;
 - (k) for the prevention of the disposal of such rubbish and sewage from vessels, in the harbour;
 - (l) for prohibiting the use of or regulating the movement, speed and parking of vehicles within the harbour;
 - (m) for requiring the use of effectual silencers and the general control of noise on vessels in the harbour;
 - (n) for regulating vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality, 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;
 - (o) for regulating the embarkation of persons into, or their disembarkation from, vessels within the harbour;
 - (p) for regulating the holding of regattas and other public events in the harbour;
 - (q) for prescribing the lights and signals to be exhibited or made—
 - (i) by vessels aground within the harbour;
 - (ii) by devices used for marking obstructions within the harbour;
 - (iii) for assisting the navigation of vessels within the harbour, at the entrance to any dock or at any wharf, pier or other work;
 - (r) for the prevention of nuisances in the harbour;
 - (s) for preventing or regulating the discharge by land or sea of any material or thing within the harbour or the approaches to it;
 - (t) for regulating or preventing 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;
 - (u) for regulating or preventing aquaplaning, jet skiing, water skiing or diving or other recreational activities in the harbour;
 - (v) for regulating or preventing bathing, and for securing the protection of bathers, within the harbour;
 - (w) for regulating or preventing the use by vehicles of the foreshore within the harbour;
 - (x) for regulating the use of ferries within the harbour and the conduct of boatmen, ferryman and others plying for hire in the harbour and of persons resorting to any works constructed or operated by the Council; and
 - (y) for regulating the exercise of the powers vested in the harbour master.
- (2) In this article “signals” includes sound signals.
- (3) Byelaws made under this article, section 83 of the Act of 1847 and section 42 of the Act of 1883 may—
- (a) provide for imposing upon persons offending against them, or against any condition, requirement or direction imposed, made or given under such byelaws, fines not exceeding level 3 on the standard scale;

- (b) relate to the whole of the harbour or to any part of it;
- (c) make different provisions for different parts of the harbour or in relation to different classes of vessels or vehicles.

(4) In proceedings for an offence against byelaws made by the Council under this article, section 83 of the Act of 1847 or section 42 of the Act of 1883, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

(5) The powers of this article are in addition to the powers conferred by section 83 of the Act of 1847 and section 42 of the Act of 1883.

Commencement Information

I5 Art. 22 in force at 18.9.2009, see [art. 1](#)

Byelaws as to pleasure boats

23. The powers of the Council to make byelaws under section 185 of the Local Government Planning and Land Act 1980(3) (pleasure boats byelaws) shall apply in relation to pleasure boats and vessels operating in the harbour.

Commencement Information

I6 Art. 23 in force at 18.9.2009, see [art. 1](#)

Confirmation of byelaws

24.—(1) The provisions contained in subsections (3) to (8) of section 236 and section 238 of the Local Government Act 1972(4) shall apply to all byelaws made after the coming into force of this Order, by the Council under this Order, section 83 of the Act of 1847 and section 42 of the Act of 1883.

(2) In its application to byelaws made under this Order, section 83 of the Act of 1847 and section 42 of the Act of 1883, subsection (7) of section 236 shall have effect, subject to paragraph (3), as if after the word “confirm” in the first 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 the confirming authority to be substantial, then—

- (a) the confirming authority shall inform the Council and require them to take any steps the confirming authority thinks necessary for informing persons likely to be concerned with that modification; and
- (b) the confirming authority shall not confirm the byelaws until there has elapsed such period as the confirming authority 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 section 236 in its application to byelaws made under this Order, section 83 of the Act of 1847 and section 42 of the Act of 1883 shall be the Secretary of State.

(3) 1980 c. 65.

(4) 1972 c. 70.

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Commencement Information

I7 Art. 24 in force at 18.9.2009, see [art. 1](#)

General directions to vessels

25.—(1) The Council may, after consultation with the Chamber of Shipping in each case of an exercise of the powers, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the harbour and the approaches to it and, without prejudice to the generality of what is stated above, for any of the following purposes—

- (a) for designating areas, routes or channels in the harbour and the approaches to it which vessels are to use, or refrain from using, for movement or mooring;
 - (b) for securing that vessels move only at certain times or during certain periods;
 - (c) for requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for the purposes of this paragraph.
- (2) Directions given under paragraph (1) may apply—
- (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction; and
 - (b) to the whole of the harbour and the approaches to it, or to a part designated, or the designation of which is provided for, in the direction; and
 - (c) at all times or at times designated, or the designation of which is provided for, in the direction,

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

(3) The Council may, after consultation with the Chamber of Shipping, revoke or amend directions given under this article.

Commencement Information

I8 Art. 25 in force at 18.9.2009, see [art. 1](#)

Publication of general directions

26.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Council as soon as practicable once in Lloyd's List or some other newspaper specialising in shipping news; and, if the notice relates to the giving or amendment of a direction, the notice shall state a place at which copies of it may be inspected and bought, and the price of such copies.

(2) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Council consider appropriate.

Commencement Information

I9 Art. 26 in force at 18.9.2009, see [art. 1](#)

Special directions to vessels

27.—(1) In addition to the directions which the harbour master may give under section 52 of the Act of 1847 the harbour master may give a direction under this article—

- (a) requiring any vessel anywhere within the harbour or the approaches to it to comply with a requirement made in or under a general direction;
- (b) prohibiting the mooring of vessels in any particular part or parts of the harbour;
- (c) regulating or requiring the movement, mooring or unmooring of a vessel; and
- (d) regulating the manner in which a vessel takes in or discharges passengers, cargo, fuel, water or ship's stores otherwise than at a quay or pier.

(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.

Commencement Information

I10 Art. 27 in force at 18.9.2009, see [art. 1](#)

Master's responsibility to be unaffected

28. 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 the master's vessel, persons onboard, its cargo or any other person or property.

Commencement Information

I11 Art. 28 in force at 18.9.2009, see [art. 1](#)

Failure to comply with directions

29. The master of a vessel who fails without reasonable excuse 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.

Commencement Information

I12 Art. 29 in force at 18.9.2009, see [art. 1](#)

Enforcement of directions

30.—(1) Without prejudice to any other remedy available to the Council, if a special direction is not complied with within a reasonable time the harbour master may, where practicable, 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 the vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with; but the harbour master shall not do so unless, after reasonable inquiry has been made, the master cannot be found.

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(3) Expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Council from the owner of the vessel as if they were a charge of the Council in respect of the vessel.

Commencement Information

I13 Art. 30 in force at 18.9.2009, see [art. 1](#)

Exemptions, rebates, etc., in respect of charges

31.—(1) The Council may confer total or partial exemption from, allow rebates to, or make compositions with, any person with respect to charges and may vary or extinguish any such exemption or composition.

(2) Nothing in section 30 of the Harbours Act 1964 shall require the Council to include, in the list of ship, passenger and goods dues kept at the harbour office as required by subsection (1) of that section, charges reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in that list.

Commencement Information

I14 Art. 31 in force at 18.9.2009, see [art. 1](#)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Order revoked in part by [S.I. 2023/675 Sch. 4](#)