
STATUTORY INSTRUMENTS

2021 No. 43

The Weymouth Harbour Revision Order 2021

PART 6

MISCELLANEOUS AND GENERAL

Advisory bodies

28.—(1) The Council must establish one or more advisory body or bodies which the Council must consult on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.

(2) The Council must make arrangements for every such advisory body to meet not less than twice a year.

(3) The Council must take into consideration within a reasonable time period any matter, recommendation or representation which may from time to time be referred or made to it by such an advisory body whether or not that advisory body has been consulted by the Council on the matter, recommendation or representation so referred or made.

(4) The advisory body or bodies established pursuant to this article must consist of such number or numbers of persons appointed by the Council as the Council from time to time considers appropriate.

(5) Appointments to any such advisory body must be made by the Council in accordance with a scheme prepared by it for that purpose and the scheme must provide for the appointment of persons who, in the opinion of the Council, are representative of persons having an interest in the functioning of the harbour.

(6) Any such advisory body may determine its own quorum and procedure and must appoint a chairperson.

(7) An individual member of any such advisory body may, on giving notice in writing to the chairperson of that body, send a substitute person to any meeting of the body.

(8) A member of such an advisory body may hold office for the period of three years from the date of this appointment and at the end of that period will be eligible for reappointment.

(9) A member of such an advisory body may resign their office at any time by notice in writing given to the Council.

Development of land etc.

29.—(1) The Council may, subject to obtaining the necessary rights in or over land—

- (a) use or develop for any purpose, and deal with, any land within or in the vicinity of the harbour; or
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a Company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the harbour,

provided that it is conducive to the improvement, maintenance or management of the harbour in an efficient and economical manner.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of the Council referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Council would not itself have the power to do that thing.

Powers to grant tenancies and to dispose of land

30.—(1) The Council may, for the purposes of or in connection with the carrying on of the harbour undertaking, lease or grant the use or occupation of, or any right or interest in or over, any lands, works, buildings, machinery, equipment or other property forming part of the harbour for such period, at such rents and other considerations and on such terms and conditions as it thinks fit.

(2) The Council may also dispose of, or grant the use or occupation for any purpose of, any lands, works, buildings, machinery, equipment or other property vested in it if it considers that—

- (a) the property is surplus to that which is required for the purpose of the harbour; or
- (b) it would conduce to the improvement, maintenance or management of the harbour in an efficient and economical manner for the property to be held by a person other than the Council, for such consideration and on such terms and conditions as it thinks fit.

(3) The powers conferred in this article in relation to the Inner Harbour North may be exercised by the Council in respect of the Inner Harbour North, in addition to and not subject to the restrictions contained in the Order of 1996.

Power to appropriate lands and works for particular uses, etc.

31.—(1) Notwithstanding anything in any statutory provision of local application the Council may from time to time for the purpose of or in connection with the management of the harbour set apart and appropriate any part of the harbour for the time being vested in, or occupied or administered by the Council as part of the harbour undertaking 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 Council may think fit.

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

- (a) the harbour master, or as the case may be, such officer, may order any person or vessel making use of the harbour 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 the necessary modifications to and in relation to such vessels.

Other commercial activities

32.—(1) The Council may, in addition to any other powers conferred on the Council—

- (a) carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person; or
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a Company, for carrying on any part of the harbour undertaking or carrying on at any place a trade or business of any kind,

provided that it is conducive to the improvement maintenance or management of the harbour in an efficient and economical manner.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of a Council referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Council would not itself have the power to do that thing.

(3) The powers of the Council under this article are additional to the powers of the Council under section 37 (Powers of harbour authorities to acquire a harbour business or shares in a harbour business) of the Docks and Harbours Act 1966⁽¹⁾.

Power to delegate functions

33. Subject to paragraph 9B of Schedule 2 to the Act of 1964⁽²⁾ (functions which cannot be delegated under a power conferred by a harbour revision order), the Council may delegate the performance of any of its functions to be carried out by any such Company as is referred to in article 32(1)(b).

Moorings

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

- (a) on land owned or leased by it or in which it holds an appropriate interest; or
- (b) with the consent in writing of the owner and lessee thereof, on any other land in the harbour, as it considers necessary or desirable for the convenience of vessels.

(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 reasonable charges as the Council may from time to time prescribe.

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

(4) Subject to paragraph (5), 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 them within 28 days to remove the mooring so as to enable the Council to provide moorings in accordance with paragraph (1) above.

(5) The Council shall offer to make available to the person having the control of the vessel referred to in the notice a mooring provided by it under paragraph (1) above as soon as such mooring has been laid down.

(6) If any person fails to comply with a notice given by the Council under paragraph (4), 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.

(7) Subject to paragraphs (8) and (9) the Council 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.

(8) Nothing in any licence granted under paragraph (7) shall entitle a person to place, lay down, maintain, renew or use and have any mooring on land not owned or leased by them or by the Council or in which they have no appropriate interest.

(9) A licence granted under paragraph (7) shall be valid only for a period of a maximum of one year commencing with the date on which it is granted.

(1) 1966 c.28; section 37(3) was repealed by the Transport and Works Act 1992 (c.42), Schedule 4 (Part II).

(2) 1964 c.40.

(10) The Council may charge for a licence granted under paragraph (7) such reasonable fee as the Council may from time to time prescribe.

(11) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Council 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 Council under this article; or
- (d) places, lays down, maintains, renews or has 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 commits an offence under paragraph (11)(d) above, 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.

Bunkering

35.—(1) The Council may from time to time grant to a person with or without conditions a licence to carry out commercial refuelling activities related to vessels in the harbour.

(2) Nothing in any licence granted under paragraph (1) shall entitle a person to carry out commercial refuelling activities from on land not owned or leased by them or by the Council or in which they have no appropriate interest.

(3) Any licence granted under paragraph (1) shall be valid only for a period of one year commencing with the date on which it is granted.

(4) The Council may charge for a licence granted under paragraph (1) such reasonable fee as the Council may from time to time prescribe.

(5) Any person who without reasonable excuse carries out or permits a commercial refuelling activity related to a vessel in the harbour except in accordance with a licence issued by the Council under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Aids to navigation

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

(2) The Council shall not exercise the powers of paragraph (1) above without the approval of the Trinity House.

Power to dredge

37. The Council, as may appear to it 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 it 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 it.

Repair of landing places, etc.

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

(2) The Council may by notice require the owner or occupier of a relevant feature which in the opinion of the Council 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 Council’s reasonable 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) that person shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and
- (b) the Council 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 Council 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 Council notice of the appeal accompanied by a copy of the statement of appeal; and the Council shall, within 21 days of receipt of the notice, be entitled to furnish to the Secretary of State its 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 with respect to disposal of wrecks

39.—(1) In its application to the Council, section 252 of the Merchant Shipping Act 1995 (powers of harbour and conservancy authorities in relation to wrecks) has effect in relation to the harbour and its approaches 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 a person’s liability, the Council may recover from the owner of any vessel sunk, stranded or abandoned on or after the date of coming into force of this Order in relation to which it has exercised its powers under section 252 any expenses reasonably incurred by it under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the Council an 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 it by section 252, other than the power of lighting and buoying, the Council has given to the owner of the vessel not less than 48 hours’ notice of its intention to do so.

(4) If before the notice expires the Council receive from the owner counter-notice in writing that the owner desires to dispose of the vessel themselves, the owner shall be at liberty to do so; and the Council shall not exercise the powers in 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 the owner by the Council.

(5) Notice under paragraph (3) above to the owner of any vessel may be served by the Council either by delivering it to the owner or by sending it to the owner by registered post or the recorded delivery service addressed to the owner at their 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 Council, or is not in the United Kingdom, by displaying the notice at the harbour office of the Council and electronically on the harbour website for the period of its duration.

(6) 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.

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

Powers to deal with unseaworthy vessels

40.—(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847 (unseaworthy vessels to be altogether removed from the harbour) and on the Council by section 252 of the Merchant Shipping Act 1995 (Powers of harbour and conservancy authorities in relation to wrecks) the Council may sell, break up or otherwise dispose of any vessel which is unseaworthy and has been laid by or neglected in the harbour or on land immediately adjoining the harbour.

(2) The Council may retain out of the proceeds of sale of such vessel, or any part of such proceeds, any expenses incurred by it in respect of the vessel, or in marking, buoying, lighting or otherwise controlling the vessel or warning shipping of its presence and any expenses incurred by the harbour master under section 57 on the Act of 1847 and shall pay the surplus, if any, to the person or body entitled to that surplus.

(3) If the proceeds of the sale are insufficient to reimburse the Council for the said expenses, or there is no sale, the Council may recover the deficiency, or where there is no sale, the whole of the expenses, from the owner as a simple contract debt.

(4) Except in the case of emergency, the Council shall, before exercising its powers under this article, give 14 days’ notice in writing of its intention to do so to the registered owner of the vessel and by advertisement in each of two successive weeks in a local newspaper circulating in the area of the harbour, provided that, if the registered owner or their place of business or address is not known to the Council or is outside of the United Kingdom, the notice may be given by displaying it at the principal office of the Council and electronically on the Council’s website for two successive weeks.

Removal of obstructions other than vessels

41.—(1) The Council 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 to the harbour.

(2) The Council may take such steps as appear to it to be appropriate to prevent or minimise such obstruction or interference for the purposes of paragraph (1).

(3) If anything removed by the Council under paragraph (1) above is so marked as to be readily identifiable as the property of any person, the Council shall, within 28 days of its coming into the Council's custody, give written notice to that person stating that—

- (a) upon proof of ownership to the reasonable satisfaction of the Council, and
- (b) upon payment of any reasonable expenses incurred by the Council under this article,
- (c) possession may be retaken 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).

(4) If for the purposes of this article possession of anything removed is not so retaken it shall at the end of that period vest in the Council.

(5) Notwithstanding the provisions of paragraph (3) above the Council may, at such time and in such manner as it thinks fit, dispose of anything removed under paragraph (1) above—

- (a) which is not so marked as to be readily identifiable as the property of any person; or
- (b) which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

(6) If anything disposed of by the Council under this paragraph is sold, the Council shall place a notice at the harbour office and on the harbour website for a period of 28 days giving details of the property sold and may retain out of the proceeds of sale any expenses incurred by it under this article, and any surplus from the proceeds—

- (a) shall be paid to any person who within 24 months from the time when the property came into the custody of the Council proves to the reasonable satisfaction of the Council that they were the owner at that time; or
- (b) if within the said period no person proves their ownership at the said time, shall vest in the Council.

(7) If the proceeds of sale of anything removed under this article are insufficient to reimburse the Council for the expenses set out in paragraph (6), or there is no sale because the property is unsaleable, the Council may—

- (a) recover the deficiency, or
- (b) where there is no sale, recover the whole of the expenses, from the person who was the owner at the time when the property removed came into the custody of the Council or who was the owner at the time of its abandonment or loss.

Saving for Trinity House

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

Notices

43.—(1) Except where this Order expressly provides otherwise, a notice or other document required or authorised to be given for the purposes of this Order, or any direction given under this Order, must be in writing and be sent by first class post.

(2) Where the person on whom a notice or other document to be sent for the purposes of this Order is a body corporate, the notice or document is duly given if it is given to the secretary or clerk of that body.

(3) Where a person on whom a notice or other document is to be given has agreed in writing that notices may be given by email, or other electronic means, the Council may provide notices by that means until such time as the person informs it in writing that they are no longer willing to receive notices or documents by email or by such other electronic means.

(4) For the purposes of section 7 of the Interpretation Act 1978(3) as it applies for the purposes of this article, the proper address of a person in relation to the giving of a notice or document under paragraph (1) is, if they have given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, their last known address at the time of service.

(5) Where for the purposes of this Order a notice or other document is required or authorised to be given on a person whose name and address cannot be ascertained after reasonable inquiry—

- (a) in the case of a notice or document to be served on a person as having an interest in, or as the occupier of, any land, it may be given by —
 - (i) addressing it to them by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
 - (ii) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land;
- (b) in the case of a notice or document relating to a vessel (including a wreck), it may be given by exhibiting it in a conspicuous position on or near the vessel (unless it would not be reasonably practicable to exhibit the notice or document in this manner or if the notice or document would not be likely to be seen if it were so exhibited) or by handing it to a member of the crew; and
- (c) in the case of any other notice or document or a notice or document that is not capable of being given pursuant to sub-paragraph (b) it may be given by displaying it at the office of the harbour master for the period of its duration.

Crown Rights

44.—(1) Nothing in this Order shall—

- (a) prejudicially affect any estate, right, power, privilege, authority or exemption of the Crown,
- (b) authorise the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or interests in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary) belonging to—
 - (i) Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners, or
 - (ii) 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)(b) may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.

Saving for existing Byelaws etc.

45. Any byelaw, regulation, licence, lease, consent or other agreement made, issued, entered into or granted by the Council in relation to the harbour undertaking and in force immediately on or before the date on which this Order comes into force, shall, notwithstanding the repeals and amendments set out in articles 46, 47 and Schedule 2 of this Order, continue to have effect.

Amendment of the Acts of 1854, 1879, 1887, 1914 and Orders of 1930 and 1988

- 46.**—(1) the Act of 1854 is amended as follows—
- (a) in Section XLIII omit “and Pier”,
 - (b) in Section LII omit “Pier and” in the fourth line and “Pier Rates and” starting in the fifth line,
 - (c) in Section LVIII omit “and Pier respectively”,
 - (d) in Section LX omit “or Pier”, and
 - (e) in Section LXI omit “and Pier” and “from each other and” in the fourth line.
- (2) the Act of 1879 is amended as follows—
- (a) in Section 2 omit “the clauses of the Harbour, Docks and Piers Clauses Act 1847, with respect to the construction of the harbour, dock, or pier,”,
 - (b) in Section 3 omit “The expression “the harbour, dock or pier” in the Harbours, Docks, and Piers Clauses Act, 1847, means the bridge and the works by this Act authorised;”, and
 - (c) in Section 26 omit “Board of Trade” and substitute “Department for Transport”.
- (3) the Act of 1887 is amended as follows—
- (a) in Section 4 omit “The Harbours Docks and Piers Clauses Act 1847 (except sections 16,17,18 and 19 unless the Board of Trade otherwise require)”,
 - (b) in Section 20 omit “not exceeding twenty-one years” and the words “and a lessee shall have and may exercise all the same powers of making levying and recovering the said charges as the Corporation have or might exercise under this Act and shall be subject to the same provisions as to accounts and otherwise as the Corporation are subject under the provisions of this part of this Act”,
 - (c) in Section 22—
 - (i) insert “reasonable” before “rates” in the second line,
 - (ii) omit “not exceeding those set forth in Schedule E and Schedule F respectively to the Act of 1854”,
 - (iii) in subsection 1 insert “reasonable” before “rate”,
 - (iv) in subsection 1 omit “of not exceeding twopence”,
 - (v) in subsection 2 insert “reasonable” after “such” in the fourth line,
 - (vi) in subsection 2 omit “not exceeding sixpence” starting in the fourth line,
 - (vii) in subsection 2 omit “sixpence” and substitute “the reasonable special rates” in the penultimate line.
 - (d) For Section 23 substitute “Subject to the provisions of this Act sections XXXI and XXXII of the Act of 1854 shall extend and apply to the piers”,
 - (e) in Section 33 omit “five pounds” and substitute “level 3 on the standard scale”,
 - (f) in Section 41 omit “Board of Trade” and substitute “Department for Transport”,
 - (g) in Section 92 omit “Provided that if there be any surplus on the pier revenue after payment of all expenses and outgoings and the said ten per centum on the moneys from time to time expended by the Corporation for or in relation to the piers such surplus shall be expended in reducing the rates as herein-before by this Act provided and for no other purpose”,
 - (h) in Section 93 omit—
 - (i) “On the security of the harbour revenue and borough fund and borough rate— For the purposes of the harbour forty thousand pounds;”

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- (ii) “On the security of the pier revenue and borough fund and borough rate— For the purposes of the new pier thirty thousand pounds;” and
 - (iii) “For the purposes of the Pile Pier forty-one thousand three hundred pounds.”
- (4) the Act of 1914 is amended as follows—
- (a) in Section 3 omit “The Harbours Docks and Piers Clauses Act 1847” to the end of the section, and
 - (b) in Section 114 omit “Board of Trade” and substitute “Department for Transport”.
- (5) the Order of 1930 is amended as follows—

For Article 11 substitute “Section 7 of the Act of 1914 and Articles 6 to 10 (inclusive) of the Order of 1925 shall with any necessary modifications extend and apply to the exercise of the powers of this Order as if the same were re-enacted in this Order.”

- (6) the Order of 1988 is amended as follows—
- (a) in Article 2 for the definition of “the Harbour” substitute “the Harbour” means the area described in article 6(1) of the Weymouth Harbour Revision Order 2021, and
 - (b) The plan deposited in connection with the Order of 1988 (therein called the “signed plan”) shall be treated as being amended accordingly.

Revocation and Repeal

47. On the date of this Order the enactments mentioned in the first and second columns of the Schedule 2 to this Order shall be revoked or repealed (as appropriate) to the extent specified in the third column of that Schedule.