
WELSH STATUTORY INSTRUMENTS

2011 No. 1565

The Saundersfoot Harbour Empowerment Order 2011

PART 4

MANAGEMENT AND REGULATION OF HARBOUR

Harbour limits

22.—(1) The Commissioners have and may exercise the functions conferred on them by this Order and the powers of a harbour authority and local lighthouse authority within the area comprised in—

- (a) the works;
- (b) the car park; and
- (c) the area below the level of high water bounded by an imaginary line drawn from the eastern extremity of Coppet Hall Point in the community of Saundersfoot southwards to the eastern extremity of Monkstone Point in the community of St Mary out Liberty.

(2) Schedule 5 contains the harbour map setting out the area referred to in paragraph (1) edged in green.

(3) The Commissioners may demand dues and other charges under article 33 and the 1964 Act within the area comprised in—

- (a) the works;
- (b) the car park; and
- (c) so much of the foreshore and the bed of the sea as is enclosed by the works and a line drawn from the seaward extremity of the mole which runs in an approximately north-easterly direction to the seaward side of the mole running approximately east-south-east, which is marked in a broken red line on the harbour map.

General powers

23.—(1) Subject to the other provisions of this Order, the Commissioners may take such steps from time to time as they consider necessary or desirable for the maintenance, operation, management and improvement of the harbour and the accommodation and facilities (including navigation facilities) available in or in connection with the harbour.

(2) In particular, the Commissioners may—

- (a) improve, maintain, regulate, manage, mark and light the harbour and any works in it;
- (b) improve, alter and maintain any bunds, embankments, walls, roads (except public highways), footways, approaches, steps, landing places, piers, quays, jetties, slips, wharves, groynes, sea defences, berthing heads, mooring posts, mooring buoys, moorings, stagings, piles, booms, dolphins, bollards, mooring rings, fenders, walkways, buoys, navigation marks, cranes, lights, beacons, sewers, drains, watercourses, gas and water pipes, apparatus for electric light and power and for telecommunications, warehouses,

offices, sheds and other works, buildings and facilities which they consider necessary to secure the purposes of this Order, including the accommodation or convenience of vessels, vehicles or other traffic or for the protection of the harbour;

- (c) do any other thing (including the provision of facilities or the carrying on of any business) which, in their opinion, is in the interests of the proper carrying on or development of the harbour or can advantageously be undertaken by them by virtue of their activities in relation to the harbour; and
- (d) make such other use as the Commissioners consider appropriate of any resources so far as they are not required for the purposes of the undertaking.

(3) Subject to the provisions of this Order, the Commissioners may by agreement purchase and hold for the purposes of this Order any land in addition to that vested in the Commissioners under this Order.

Power to dredge

24.—(1) Subject to the provisions of this Order, the Commissioners may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the harbour and its approaches, and may blast any rock in that area.

(2) Subject to the provisions of this Order, any material (other than any wreck within the meaning of Part 9 of the Merchant Shipping Act 1995(1)) from time to time dredged up or removed is the property of the Commissioners who may use, appropriate or dispose it as they think fit.

(3) Subject to the provisions of this Order, no dredged materials are to 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 Welsh Ministers.

Moorings

25.—(1) The Commissioners may provide, place, lay down, maintain, renew, use, have or 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, on any other land in the harbour;

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

(2) The Commissioners may issue permits on such conditions (including conditions as to payment) as they think fit authorising the holder of the permit to use or allow the use of any moorings provided by the Commissioners under this article.

(3) The Commissioners may compound with any person with respect to the payments referred to in paragraph (2).

- (a) (4) (a) The Commissioners 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 that person within 28 days to remove the mooring so as to enable the Commissioners to provide moorings in accordance with paragraph (1).
- (b) The Commissioners must 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) as soon as such mooring has been laid down.
- (c) If any person fails to comply with a notice given by the Commissioners under this paragraph, the Commissioners 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.

(1) 1995 c. 21.

- (a) (5) (a) The Commissioners 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 entitles a person to place, lay down, maintain, renew or use and have any mooring on land not owned or leased by that person or by the Commissioners or in which that person has no appropriate interest.
- (c) The Commissioners may charge for such a licence such reasonable fee as the Commissioners may from time to time prescribe.

Obstruction of moorings

26.—(1) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Commissioners in setting out moorings;
- (b) intentionally and without lawful authority pulls up or removes the whole or any part of any moorings from the harbour;
- (c) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Commissioners under this Order; or
- (d) places, lays down, maintains, renews or has in the harbour any mooring not provided or licensed by the Commissioners under this Order;

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

(2) If any person commits an offence under paragraph (1)(c) the Commissioners may at any time after the expiration of seven days from the date of the offence—

- (a) remove the vessel, including any tackle with the vessel;
- (b) dispose of it; and
- (c) recover out of the proceeds of sale—
 - (i) any unpaid charge payable under article 33;
 - (ii) any unpaid licence fee payable under article 25; and
 - (iii) the expenses of removal and disposal under this paragraph;

and will hold any surplus proceeds of sale on trust for the owner of the vessel.

(3) If the owner of a vessel removed under paragraph (2) is unknown and cannot after diligent inquiry be found, the Commissioners may apply to the Magistrates' Court for an order giving the appropriate directions as to the disposal by the Commissioners of any surplus proceeds of sale.

(4) If any person commits an offence under paragraph (1)(d), the Commissioners may remove the mooring in question and recover from that person the expenses incurred in doing so.

Removal of obstructions other than vessels, vehicles and wreck

27.—(1) Without prejudice to their powers under any other enactment (including one contained in this Order) the Commissioners may remove anything which is causing or likely to become an obstruction or impediment to the proper use of any part of the harbour other than—

- (a) a vessel;
- (b) a vehicle; or
- (c) wreck within the meaning of Part 9 of the Merchant Shipping Act 1995(2).

(2) 1995 c. 21.

(2) If anything removed by the Commissioners under paragraph (1) is known to the Commissioners to be, or is marked so as to be readily identifiable as, the property of any person, the Commissioners must, within one month of its coming into their custody, give notice in accordance with paragraph (6) to that person and, if possession of the thing is not retaken within the period specified in and in accordance with the terms of the notice, it will at the end of that period vest in the Commissioners.

(3) If the ownership of anything removed by the Commissioners under paragraph (1) which is not known or marked is not within three months of its coming into the custody of the Commissioners proved to their reasonable satisfaction, it will vest in the Commissioners.

(4) The Commissioners may, at such time and in such manner as they think fit, dispose of anything which is of a perishable or obnoxious nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the Commissioners under this article, and if it is sold the proceeds of sale will be applied by the Commissioners in payment of the expenses incurred by them under this article in relation to the thing, and any balance—

- (a) must be paid to any person who within three months from the time when the thing came into the custody of the Commissioners proves to the reasonable satisfaction of the Commissioners ownership of that thing at that time; or
- (b) if within the relevant period no person proves ownership, it will vest in the Commissioners.

(5) If anything removed under this article—

- (a) is sold by the Commissioners and the proceeds of sale are insufficient to reimburse them for the amount of the expenses incurred in the exercise of their powers of removal; or
- (b) is unsaleable;

the Commissioners may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner when the thing removed came into the custody of the Commissioners or who was the owner at the time of its abandonment or loss.

(6) A notice given under paragraph (2) must specify the thing removed and state that upon proof of ownership to the reasonable satisfaction of the Commissioners possession may be taken at a place and time specified in the notice, being not less than 14 days after the date when the notice is served.

(7) The Commissioners must not under the powers of this article remove anything placed or constructed by any person under the provisions of any enactment or of a consent or licence given or issued by the Commissioners.

Power to appropriate parts of harbour

28.—(1) The Commissioners may set apart and appropriate any part of the on-shore facilities of the harbour for the exclusive or preferential use and accommodation of any particular trade, activity, person, vessel or class of vessels, or goods, subject to such terms, conditions and regulations as the Commissioners think fit.

(2) No person or vessel may make use of any part of the harbour set apart or appropriated under this article without the consent of the harbour master.

(3) The harbour master may order any person or vessel without consent under paragraph (2) to leave or be removed from any part of the harbour set apart or appropriated under this article.

(4) The provisions of section 58 (powers of harbour master as to moving of vessels in harbour) of the 1847 Act extend and apply with the necessary modifications to and in relation to any vessels ordered to leave or be removed under paragraph (3).

(5) Nothing in this article authorises the prohibition of navigation within any part of the harbour, nor does it authorise interference with the public right of way across public slipways and public quays.

Life-saving craft and appliances

29.—(1) For the purpose of saving life the Commissioners may provide and maintain in or in the vicinity of the harbour—

- (a) boats or other vessels together with all necessary apparatus and equipment and buildings, structures, slipways and moorings for their operation, maintenance or accommodation; and
- (b) lifebuoys, lifelines and other life-saving appliances together with structures for their storage and safekeeping.

(2) The Commissioners may enter into arrangements with any person for the provision and maintenance of any of the facilities authorised by paragraph (1).

Byelaws as to harbour

30.—(1) In addition to the byelaws which may be made by the Commissioners under section 83 of the 1847 Act, the Commissioners may make byelaws for the good rule and government of the harbour including 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 Commissioners;
- (b) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons in the harbour;
- (c) 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 whilst in the exercise of their duties as such;
- (d) for regulating the placing, laying down, maintenance and use of moorings and for prescribing the patterns and specification of moorings;
- (e) for preventing or removing obstructions or impediments within the harbour;
- (f) for regulating the launching of vessels within the harbour;
- (g) for regulating or prohibiting the mooring, careening, beaching or anchoring and keeping of vessels in the harbour;
- (h) for regulating or preventing the use in the harbour or on board any vessel of fires, lights or any other equipment, tools or appliances which the Commissioners consider involves a risk of fire and for the prevention of smoking;
- (i) for regulating the removal or disposal of rubbish (including ballast, earth or clay or other refuse) and sewage from vessels in the harbour;
- (j) for the prevention of the disposal of such rubbish and sewage in the harbour;
- (k) for prohibiting the use of or regulating the movement, speed and parking of vehicles within the harbour;
- (l) for requiring the use of effectual silencers and the general control of noise on vessels in the harbour;
- (m) for regulating vessels in the harbour and their entry into and departure from the harbour 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;
- (n) for regulating the embarkation of persons into, or their disembarkation from, vessels within the harbour;
- (o) for regulating the holding of regattas and other public events in the harbour;

- (p) 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;
 - (q) for the prevention of nuisances in the harbour;
 - (r) for prohibiting or regulating the discharge by land or sea of any material or thing within the harbour or the approaches thereto;
 - (s) for regulating or prohibiting 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;
 - (t) for regulating or prohibiting aquaplaning, jet skiing, water skiing or diving or other recreational activities in the harbour, but not as to prohibit the use for navigation of yachts, sailing boats, sailboards, rowing boats, rowing punts, pleasure craft and other small craft;
 - (u) for regulating or prohibiting bathing, and for securing the protection of bathers, within the harbour;
 - (v) for regulating or prohibiting the use by vehicles of the foreshore within the harbour;
 - (w) for regulating the use of ferries within the harbour; and
 - (x) for regulating the exercise of the powers vested in the harbour master.
- (2) In this article “signals” (“*signalau*”) includes sound signals.
- (3) Byelaws made under this article or under section 83 of the 1847 Act may be expressed to be applicable within all or any part of the harbour and different byelaws may be made in relation to different classes of vessels.
- (4) The provisions contained in subsections (3) to (8) of section 236 and section 238 of the Local Government Act 1972(3) apply to all byelaws made by the Commissioners under this article or any other enactment.
- (5) In its application to byelaws made by the Commissioners under this article subsection (7) of the said section 236 is, subject to paragraph (6), to be construed as if it had been amended by the insertion of the words “with or without modifications” after the word “confirm” in the first place where that word occurs.
- (6) Where the confirming authority proposes to make a modification which appears to it to be substantial, then—
- (a) it must inform the Commissioners and require them to take any steps it thinks necessary for informing persons likely to be concerned with that modification; and
 - (b) it must not confirm the byelaws until there has elapsed such a period as it thinks reasonable for the Commissioners and other persons who have been informed of the proposed modification to consider and comment on the proposal.
- (7) The confirming authority for the purposes of this article and of the said section 236 in its application to byelaws made by the Commissioners is the Welsh Ministers.
- (8) Byelaws made by the Commissioners under this article may contain provisions imposing upon a person offending against any byelaw a fine on summary conviction not exceeding level 3 on the standard scale.
- (9) The byelaws made by the former Commissioners on 13 April 1971, as confirmed by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales on 28 April 1971,

and as purported to be modified by the National Assembly for Wales on 3 November 2003, are deemed to be byelaws made by the Commissioners under this article and subsequently confirmed by the Welsh Ministers.

(10) For the avoidance of doubt, byelaws made by the Commissioners under paragraph (1) may amend or revoke, either wholly or partially, the byelaws deemed to have been made and confirmed by virtue of paragraph (9).

Removal of vehicles

31.—(1) If a vehicle is left without permission of the Commissioners—

- (a) in any place where it is likely to obstruct or interfere with the use of the harbour;
- (b) in any part of the car park or harbour premises where the parking of vehicles is prohibited by a sign displayed by the Commissioners; or
- (c) in a parking place provided by the Commissioners within the car park or harbour premises, for a longer period than 24 hours or such other period as may be specified in a sign displayed by the Commissioners;

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

(2) Any sign erected under paragraph (1)(b) or (c) must be conspicuously displayed at or close to the place to which it relates.

(3) Where the Commissioners in exercise of the powers of this article remove a vehicle or cause it to be removed the Commissioners must as soon as practicable inform the police.

(4) The expenses of and incidental to the removal and retention of a vehicle under this article are recoverable from any person responsible.

(5) For the purposes of paragraph (4) “person responsible” (“*person sy'n gyfrifol*”) means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was removed under paragraph (1), unless the owner shows that he or she was not concerned in, and did not know of, its being put there;
- (b) any person by whom the vehicle was put in that place; or
- (c) any person convicted of an offence under section 2 of the Refuse Disposal (Amenity) Act 1978(4) in consequence of the putting of the vehicle in that place.

(6) If the Commissioners in exercise of the powers of this article remove a vehicle to a place not readily visible from the place from which it was removed they must, 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 at the owner’s last known address, registered address or the address where the vehicle is ordinarily kept, notice that the Commissioners have exercised the powers of this article and of the place to which the vehicle has been removed.

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

Immobilisation of vehicles illegally parked

32.—(1) If a vehicle is left on the harbour premises in contravention of article 31 an authorised officer of the Commissioners may—

- (a) fix an immobilisation device to the vehicle while it remains in the place in which the authorised officer found it; or

(4) 1978 c. 3.

- (b) move it from that place to another place on the harbour premises and fix an immobilisation device to it in that other place.
- (2) The person fixing the device must also affix to the vehicle a notice—
- (a) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device;
 - (b) specifying the steps to be taken in order to secure its release; and
 - (c) giving such other information as may be prescribed by the Commissioners.
- (3) A vehicle to which an immobilisation device has been fixed in accordance with this article may only be released from that device by or under the direction of a person authorised by the Commissioners to give such a direction.
- (4) Subject to paragraph (3), a vehicle to which an immobilisation device has been fixed in accordance with this article must be released from that device on payment in any manner specified in the notice affixed under paragraph (2), of such charge in respect of the release as the Commissioners may prescribe.
- (5) Any person who, without being authorised to do so in accordance with paragraph (3), removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this article is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) Where a vehicle is moved in accordance with this article before an immobilisation device is fixed to it, any power of removal under article 31 which was exercisable in respect of that vehicle immediately before it was moved continues to be exercisable while the vehicle remains in the place to which it was moved.
- (7) In this article “immobilisation device” (“*dyfais atal symud*”) means any device or appliance which is approved as an immobilisation device for the purposes of section 104 of the Road Traffic Regulation Act 1984(5).
- (8) A sign stating the general effect of paragraph (1) must be displayed in a prominent position at each place where a road accessible to vehicles enters any part of the harbour premises.