

ELIZABETH II



1988 CHAPTER xxxiv

An Act to confer new powers on the Harwich Harbour Board; to change their name to the Harwich Haven Authority; and for other purposes.

[20th December 1988]

WHEREAS—

- (1) The Harwich Harbour Board were incorporated by the Harwich Harbour Act 1863 as the Harwich Harbour Conservancy Board for the purposes of preserving and improving Harwich Harbour and for the management and regulation of the Harbour: 1863 c. 71.
- (2) That and other Acts and Orders relating to the Harbour Board were consolidated and new powers conferred upon the Harbour Board by the Harwich Harbour Act 1974 for the purpose, in particular, of the protection and regulation of navigation within the Harbour and the approaches to the Harbour in the area designated as the Harwich seaward area: 1974 c. i.
- (3) It is expedient that the limits of the Harwich seaward area be extended as in this Act provided and that other powers be conferred on the Board as contained in this Act:
- (4) It is further expedient that the other provisions of this Act be enacted:
- (5) A map marked “Map of Harwich seaward area” showing the limits of the Harwich seaward area as proposed to be extended by this Act has been

deposited in the office of the Clerk of the Parliaments, in the Private Bill Office of the House of Commons, and in the respective offices of the Secretary of State for Transport and the Chief Executive of the Board at Harwich:

(6) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

Citation.

1.—(1) This Act may be cited as the Harwich Harbour Act 1988.

(2) The Harwich Harbour Act and Orders 1973 to 1984 and this Act may be cited together as the Harwich Harbour Acts and Orders 1973 to 1988.

Interpretation.
1974 c. i.

2. In this Act, unless the context otherwise requires, words and expressions to which meanings are assigned by the Harwich Harbour Act 1974 have the same respective meanings; and—

“the Act of 1974” means the Harwich Harbour Act 1974;

“the Board” means the Harwich Harbour Board.

PART II

FUNCTIONS AND POWERS

Extension of
seaward limit
of jurisdiction.

3.—(1) The Harwich seaward area within which the Board and the harbour master have jurisdiction in accordance with the Act of 1974 is hereby extended to include the area described in Schedule 1 to this Act.

S.I. 1979/1656.

(2) Subject as hereinafter provided, all enactments conferring rights, powers, privileges and immunities or imposing duties, obligations and liabilities upon the Board, and all byelaws and regulations made by the Board, which relate to or are in force in the Harwich seaward area as described in the Act of 1974 and extended by the Harwich Harbour Revision Order 1979 shall relate to, and have effect in, the Harwich seaward area as extended by this section; and the Harwich Harbour Acts referred to in the provisions set out in Part II of Schedule 3 to the Act of 1974 and that Act shall have effect as if—

(a) references therein to those Acts or that Act included this Act; and

(b) references therein to the Harwich seaward area included that area as extended by this section.

Amendment of
section 12 of Act
of 1974.

4. Section 12 (Provision of moorings) of the Act of 1974 shall be amended as follows:—

(a) after subsection (1), there shall be inserted the following:—

“(1A) Where the Board have provided, placed or laid down any mooring, buoy or similar apparatus under subsection (1) above they may by agreement make the same available to any person on such conditions, including conditions as to payment, as they think fit.”.

(b) In subsection (2), after the word “cause” in both places where it occurs, there shall be inserted the words “or permit”.

5. Section 24 (Licensing of moorings) of the Act of 1974 shall be amended as follows:—

(a) After subsection (2) there shall be inserted the following:—

“(2A) A licence may be granted under this section unconditionally or subject to conditions specifying the number and type of vessels which may be moored at the mooring, buoy or similar apparatus, and to such other terms and conditions, as the Board think fit.”.

(b) After subsection (3) there shall be inserted the following:—

“(3A) Where any licence granted under this section relates to any land in the Harbour or the Harwich seaward area in which the Board have any right or interest, the Board may require the applicant for or holder of the licence (as the case may be) to pay, in addition to the fee charged under subsection (3) above, such sum as the Board think fit for the grant or renewal by them of such rights (if any) as he may require in order to exercise the powers of the licence.”.

(c) After subsection (7) there shall be inserted the following:—

“(8) (a) In this subsection—

“harbour authority” means the Felixstowe Dock and Railway Company, the Harwich Dock Company Limited and Sealink Harbours Limited, or any of those authorities;

“relevant licence” means a licence proposed to be granted under this section in circumstances where the applicant for the licence requires to obtain from the Board such rights as are mentioned in subsection (3A) of this section.

(b) The Board shall not grant any relevant licence in respect of any mooring, buoy or similar apparatus proposed to be placed, laid down, altered, renewed or extended, or maintained, and used within the limits of jurisdiction of any harbour authority without the consent of the harbour authority exercising such jurisdiction:

(c) The consent of a harbour authority under paragraph (b) above shall be in writing and may be given subject to such reasonable conditions as the harbour authority may require but shall not be unreasonably withheld:

(d) Any difference arising between the Board and a harbour authority under this subsection shall be determined by an arbitrator to be agreed upon between the parties, or, failing agreement, appointed on the application of either party after notice in writing to the other of them, by the President of the Institution of Civil Engineers.”

6.—(1) In this section—

“the appropriate person” means—

(a) in the case of a designated mooring, any person to whom the mooring is made available by the Board; and

(b) in the case of a private mooring, the holder of the licence relating to the mooring;

“designated mooring” means a mooring provided, placed or laid down by the Board under section 12 (Provision of moorings) of the Act of 1974;

PART II
—cont.
Amendment of
section 24 of Act
of 1974.

Removal of
moorings, etc.

PART II
—cont.

“mooring” means any mooring, buoy or similar apparatus for the mooring of vessels but does not include any works authorised by a works licence under section 20 of the Act of 1974 or specifically authorised by any enactment;

“private mooring” means a mooring provided by any person other than the Board pursuant to a licence under section 24 (Licensing of moorings) of the Act of 1974.

(2) (a) The powers of this subsection may be exercised where it is necessary to move or require the removal of a mooring—

- (i) in the interests of the proper management of that and other moorings and, in particular, (without prejudice to the generality of the foregoing) with a view to increasing the number of moorings which may be accommodated in the area where the mooring specified in the notice is situated;
- (ii) in order to enable the Board to designate navigable channels and anchorages;
- (iii) by reason of any change in the position of a deep water channel; or
- (iv) in order to permit the carrying out by the Board or any other authority or body of works or operations in pursuance of any statutory functions.

(b) Notwithstanding anything in any terms or conditions relating to a mooring, the Board may at any time give notice to the appropriate person—

- (i) in the case of a designated mooring, stating the intention of the Board to move the mooring after the expiry of such period (being not less than 14 days) and to such place as may be specified in the notice;
- (ii) in the case of a private mooring, requiring the appropriate person to move the mooring within such period (being not less than 14 days) and to such place as may be so specified.

(c) At the end of the period specified in any notice under this subsection relating to a designated mooring, the Board may move the mooring.

(3) If any person—

- (a) fails to move any private mooring in accordance with a notice given under subsection (2) of this section; or
- (b) places, lays down, alters, renews, extends or maintains a mooring in contravention of subsection (1) (c) of section 19 of the Act of 1974;

the Board may remove the mooring and recover from that person the expenses incurred in so doing.

(4) If a vessel is moored at a mooring—

- (a) which has been placed, laid down, altered, renewed, extended or maintained in contravention of subsection (1) (c) of section 19 of the Act of 1974; or
- (b) which, after the expiry of the period specified in a notice under subsection (2) above, remains in the position from which, as indicated by the notice, the Board intend or require its removal;

the Board may remove that vessel and such removal shall be carried out at the expense and risk of the owner of the vessel.

(5) Nothing in this section shall apply to the moorings of the Felixstowe Dock and Railway Company at the locations described in Part I of Schedule 2 to this Act or the mooring of Sealink Harbours Limited at the location mentioned in Part II of that Schedule, or to any vessel at any of those moorings.

PART III

HARBOUR REGULATION

7.—(1) The Board may by notice in writing require a person placing or using in or near the waters of the Harbour or the Harwich seaward area a light which is likely to mislead persons navigating in those waters or to interfere with the safe navigation of vessels—

Lights detrimental to navigation.

- (a) within a reasonable time specified in the notice, at his option—
 - (i) to screen or alter the light so that it ceases to be likely to mislead persons, or to interfere with the safe navigation of vessels, as aforesaid, or;
 - (ii) to extinguish or remove the light; and
- (b) thereafter not to use the light except as so screened or altered or, as the case may be, not to use or replace the light; and
- (c) to consult with the Board before placing or using another light in lieu of the light to which the notice relates.

(2) A person who fails to comply with a notice given under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to a fine.

(3) It shall be a defence for a person charged with an offence under this section to prove that compliance with the notice would involve the contravention by any person of any enactment (including any enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978).

1978 c. 30.

(4) Nothing in this section shall apply to any light displayed in accordance with any direction given by the Secretary of State.

8. Section 33 (Special directions as to vessels) of the Act of 1974 shall be amended as follows:—

Further powers to give special directions.

- (a) in subsection (2), for the expression “either of the following purposes”, there shall be substituted “any of the following purposes”;
- (b) after paragraph (b) of the said subsection (2), there shall be inserted the following paragraphs:—
 - “(c) specifying the precautions to be taken in respect of apparatus, machinery and equipment on a vessel;
 - (d) requiring or regulating the use of the motive power, of a vessel;
 - (e) prohibiting or restricting the use of fires or lights on a vessel;
 - (f) requiring the removal from any area in which the power to give directions under this section is exercisable of a vessel if—
 - (i) it is on fire;
 - (ii) it is in a condition where it is liable to become immobilised or waterlogged, or to sink;
 - (iii) it is interfering with the use of the Harbour by other vessels, or is otherwise interfering with the proper use of the Harbour or the dispatch of business therein; or
 - (iv) its removal is necessary to enable maintenance or repair work to be carried out to the Harbour or to premises adjacent thereto.”; and

PART III
—cont.

(c) after subsection (2) there shall be inserted the following:—

“(2A) A direction under this section may also be given, so far as required for safety of navigation, for requiring or regulating the use of tugs in relation to a vessel.”.

Amendment of
section 8 of
Ipswich Port
Authority Act
1986.

1986 c. xv.

Power to obtain
information as
to vessels.

9. In section 8 of the Ipswich Port Authority Act 1986 (Regulation of traffic), for “the Harwich Harbour Act and Orders 1973 to 1984” there shall be substituted “the Harwich Harbour Acts and Orders 1973 to 1988”.

10.—(1) In this section—

“master” means any person for the time being having or taking the command, charge, possession or management of a vessel whether lawfully or wrongfully;

“owner” means the owner of a vessel and any person having any interest in a vessel (whether as joint owner, lessee, mortgagee or otherwise) and includes a person letting a vessel for hire whether or not that person owns the vessel; and

“vessel” means any vessel named or identified in a notice under this section.

(2) Where, with a view to performing a function conferred on them by or under any enactment, the Board consider that they ought to have information as to the master or the owner, as the case may be, of any vessel which is or has been in the harbour, they may serve a notice on any person reasonably believed by them to be the master or owner, or to have been the master or owner at any date specified in the notice, requiring the recipient to furnish to the Board within a period specified in the notice (which shall not be less than 14 days beginning with the day on which the notice is served) the following information:—

(a) the name and address of any person whom the recipient of the notice believes to be the master or owner of the vessel, or to have been such master or owner at any date specified in the notice; or

(b) the capacity in which any person who is or has been or is believed by the recipient of the notice to be or have been the master has or takes command, charge, possession or management of the vessel, or had or took such command, charge, possession or management at any date specified in the notice; or

(c) the nature of the interest in or control over the vessel, at any date specified in the notice, of any person who is or has been or is believed by the recipient of the notice to be or have been the owner.

(3) A notice under this section shall—

(a) name or otherwise identify the vessel in respect of which it is served;

(b) specify the function for the purpose of the performance of which the notice is served; and

(c) specify the enactment by or under which that function is to be performed.

(4) A notice shall not be served under this section on any person who, at the date of service, is believed by the Board to be no longer the master or owner of the vessel named or identified in the notice if the Board believe that more than 6 months have elapsed since the recipient ceased to be such owner or master.

(5) A person who—

- (a) fails, without reasonable excuse, to comply with the requirements of a notice served on him under subsection (2) above; or
- (b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;

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

PART III
—cont.

PART IV

MISCELLANEOUS

11. The provisions of the Harbours, Docks, and Piers Clauses Act 1847 (as incorporated in the Act of 1974) specified in column (1) of Part I of Schedule 3 to this Act and the provisions of the Act of 1974 specified in column (1) of Part II of that schedule (being sections creating the offences broadly described in column (2) of that schedule) shall each have effect (in the case of the said Act of 1847, as so incorporated) as if the maximum penalty which may be imposed on summary conviction of any offence specified in the section were a penalty not exceeding the amount specified in column (4) of that schedule instead of a penalty of, or not exceeding, the amount specified in column (3) of that schedule.

Increase in
penalties.
1847 c. 27.

12.—(1) The name of the Harwich Harbour Board is hereby changed to the Harwich Haven Authority with effect from the first day of the third month after the expiry of the month current at the passing of this Act.

Change of name.

(2) The change of name effected by subsection (1) above shall not affect the rights or obligations of the Board or of any person, or render defective any legal proceedings, and references to the Board in any agreement, deed, lease, licence or other instrument shall be read as references to the Harwich Haven Authority.

(3) Any enactment in which reference is made to the Authority by its former name shall have effect as if for that reference there were substituted “the Harwich Haven Authority”.

13. In section 3 (Interpretation) of the Act of 1974, for the definition of “the harbour master”, there shall be substituted the following:—

Amendment of
section 3 of Act
of 1974.

“‘the harbour master’ means the harbour master of the Board and includes his authorised deputies and assistants and any person authorised by the Board to act in that capacity;”.

14. In the determination of an application for a works licence or a dredging licence under the Act of 1974, regard may be had to any obstruction to or interference with navigation, or congestion, within the Board’s area of jurisdiction, or any impairment of the discharge by the Board of their statutory functions, which it appears may be occasioned directly or indirectly by the works or dredging, as the case may be, to which the application relates, and such a licence may be refused, or granted subject to terms and conditions, where this appears necessary in order to reduce or avoid the risk of such obstruction, interference, congestion or impairment.

Works and
dredging licences.

- PART IV**
—cont.
Amendment
of section 25 of
Act of 1974.
- 15.** Section 25 (Prohibition on pollution, etc., of Harbour) of the Act of 1974 shall be amended by the insertion, in subsection (1) (a), after the word “article” of the words “(including any liquid or any solids in suspension)”.
- Payments to members of Board.**
- 16.—**(1) The Board may pay to individual Board members such salary, fees, allowances and expenses as the Board may determine.
- (2) The Board shall prepare an annual statement of the amounts of such payments made during the preceeding 12 months.
- S.I. 1974/991. (3) Article 8 (Expenses) of the Harwich Harbour Revision Order 1973 is hereby revoked.
- Reserve fund.**
- S.I. 1981/1095. **17.** Section 58 (Reserve fund) of the Act of 1974 shall have effect as if, for the sum of £2,000,000 specified in subsection (1) (as that subsection has effect in accordance with article 3 of the Harwich Harbour Revision Order 1981) there were substituted the sum of £8,000,000.
- Saving for Coast Protection Act 1949.**
- 18.** Section 84 (Saving for Coast Protection Act 1949) of the Act of 1974 shall apply to this Act as it applies to the Act of 1974.
- Saving for Trinity House.**
- 19.** Nothing in this Act shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of the Trinity House.
- Crown rights.**
1865 c. 120.
- 20.** Section 41 (Saving rights of the Crown, its lessees &c.) of the Harwich Harbour Act 1865 (as set out in Part II of Schedule 3 to the Act of 1974) shall apply to the exercise of the powers of this Act.
- Repeals.**
- 21.** The enactments specified in columns (1) and (2) of Schedule 4 to this Act are hereby repealed to the extent mentioned in column (3) of that schedule.

SCHEDULES

SCHEDULE 1

Section 3.

DESCRIPTION OF ADDED SEAWARD AREA

An area bounded by—

- (a) A straight line drawn from a position on the existing outer limit of jurisdiction at latitude $51^{\circ} 57.40'$ north, longitude $01^{\circ} 24.02'$ east in an east by northerly direction to a position in latitude $51^{\circ} 59.00'$ north, longitude $01^{\circ} 37.25'$ east.
- (b) A straight line from position latitude $51^{\circ} 59.00'$ north, longitude $01^{\circ} 37.25'$ east, drawn in a south-south-westerly direction parallel to the axis of the Shipwash Bank, to position latitude $51^{\circ} 53.76'$ north, longitude $01^{\circ} 34.03'$ east (the assigned position of the Shiphead Lighted Buoy).
- (c) A straight line drawn from position latitude $51^{\circ} 53.76'$ north, longitude $01^{\circ} 34.03'$ east, in a west by northerly direction through the assigned position of the Cork Sand Beacon to rejoin the existing outer limit of jurisdiction in position latitude $51^{\circ} 55.25'$ north, longitude $01^{\circ} 24.45'$ east.

SCHEDULE 2

Section 6.

POSITIONS OF MOORINGS EXCLUDED FROM THE POWERS OF REMOVAL

PART I—POSITIONS OF MOORINGS OF THE FELIXSTOWE DOCK AND RAILWAY COMPANY

- Latitude $51^{\circ} 57.02'$ north, longitude $01^{\circ} 18.90'$ east (Mooring No. 1)
Latitude $51^{\circ} 56.96'$ north, longitude $01^{\circ} 18.94'$ east (Mooring No. 2)
Latitude $51^{\circ} 56.93'$ north, longitude $01^{\circ} 18.95'$ east (Mooring No. 3)

PART II—POSITION OF MOORING OF SEALINK HARBOURS LIMITED

- Latitude $51^{\circ} 56.96'$ north, longitude $01^{\circ} 14.65'$ east
Latitude $51^{\circ} 56.96'$ north, longitude $01^{\circ} 14.49'$ east

Section 11.

1847 c. 27.

SCHEDULE 3

INCREASE OF PENALTIES

PART I—PROVISIONS OF THE HARBOURS, DOCKS, AND PIERS CLAUSES ACT 1847
AS INCORPORATED IN THE ACT OF 1974

Section of Act of 1847 (1)	Description of offence (2)	Old penalty or maximum penalty (3)	New maximum penalty (4)
61	Failure to furnish or fix hawsers, etc., to moorings.	Level 1.	Level 3.
62	Wilfully cutting moorings.	Level 1.	Level 3.
63	Placing of vessels near the entrance of dock without permission.	Level 1 and £1 per hour.	Level 3 and £40 per hour.
69	Failure to move combustible material after notice.	Level 1.	Level 4.
73	Throwing ballast, etc., into dock.	Level 1.	Level 3.

PART II—PROVISIONS OF THE ACT OF 1974

Section of Act of 1974 (1)	Description of offence (2)	Old penalty or maximum penalty (3)	New maximum penalty (4)
18 (3)	Failure to repair landing place or embankment.	Level 3 and a daily fine of £20.	Level 4 and a daily fine of one-tenth of level 4.
19 (2)	Contravention of restriction on works, dredging or mooring.	Level 4 and a daily fine of £20.	Level 5.
25	Pollution of harbour or endangering or impeding of shipping.	Level 3 and a daily fine of £20.	Level 4 and a daily fine of one-tenth of level 4.
30	Improper navigation by master.	Level 3.	Level 4.
31	Causing or permitting vessel to be adrift.	Level 3.	Level 4.
35	Failure to comply with general or special direction.	Level 3.	Level 4.
38 (3)	Failure to comply with direction given under byelaws.	Level 1.	Level 3.
43 (3)	Further offences as to dangerous goods.	Level 3.	The statutory maximum.
51 (2)	Refusal to provide information or document.	Level 3.	Level 4.
72	Obstruction of harbour master or officer or servant.	Level 3.	Level 4.
75	Failure to state name, etc., and to produce pass or authority.	Level 1.	Level 2.

SCHEDULE 4

Section 21.

REPEALS

	Chapter or S.I. number (1)	Short title (2)	Extent of repeal (3)
5	S.I. 1974/991.	Harwich Harbour Revision Order 1973.	Article 8 (Expenses).
10	1974 c. i.	Harwich Harbour Act 1974.	In subsection (2) of section 19 (Restriction on works, dredging and moorings), the words "and to a daily fine not exceeding £20".

— *or* —

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR PAUL FREEMAN
Controller and Chief Executive of Her Majesty's Stationery Office and
Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

£2.60 net

ISBN 0 10 513488 0



Harwich Harbour Act 1988

CHAPTER xxxiv

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Citation.
2. Interpretation.

PART II

FUNCTIONS AND POWERS

3. Extension of seaward limit of jurisdiction.
4. Amendment of section 12 of Act of 1974.
5. Amendment of section 24 of Act of 1974.
6. Removal of moorings, etc.

PART III

HARBOUR REGULATION

7. Lights detrimental to navigation.
8. Further powers to give special directions.
9. Amendment of section 8 of Ipswich Port Authority Act 1986.
10. Power to obtain information as to vessels.

PART IV
MISCELLANEOUS

Section

11. Increase in penalties.
12. Change of name.
13. Amendment of section 3 of Act of 1974.
14. Works and dredging licences.
15. Amendment of section 25 of Act of 1974.
16. Payments to members of Board.
17. Reserve fund.
18. Saving for Coast Protection Act 1949.
19. Saving for Trinity House.
20. Crown rights.
21. Repeals.

SCHEDULES:

SCHEDULE 1—Description of added seaward area.

SCHEDULE 2—Positions of moorings excluded from the powers of removal.

SCHEDULE 3—Increase of penalties.

SCHEDULE 4—Repeals.