
STATUTORY INSTRUMENTS

1994 No. 3162

The Gloucester Harbour Revision Order 1994

PART III

POWERS OF TRUSTEES

General powers of Trustees

6. Without prejudice to any other power conferred upon the Trustees but subject to the provisions of this Order, the Trustees may take all such steps from time to time as they consider necessary or desirable for the maintenance, operation and improvement of the harbour and for those purposes and without prejudice to the generality of the foregoing the Trustees may—

- (a) improve, regulate and manage the harbour and provide harbour facilities therein; and
- (b) do all other things which in their opinion are expedient to facilitate the operation, improvement or development of the harbour.

Navigation aids

7.—(1) Subject to the provisions of this article, the Trustees may erect or place, alter, discontinue or remove aids to navigation within the harbour and, upon obtaining any necessary interest in land, in any place adjacent to the harbour.

(2) The Trustees shall not exercise the powers of paragraph (1) above in any place adjacent to the harbour without the approval of the Trinity House nor within the harbour limits of any other harbour authority or on land immediately adjacent thereto without the approval in writing of that authority.

(3) In this article, “aids to navigation” includes lights, buoys, beacons and signals including sound and electronic signals and any structure required to house the same.

Removal of obstructions other than vessels

8.—(1) The Trustees 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 thereto and may take such steps as appear to them to be appropriate to prevent or minimise such obstruction or interference.

(2) If anything removed by the Trustees under paragraph (1) above is so marked as to be readily identifiable as the property of any person, the Trustees shall, within 28 days of its coming into their custody, give written notice to that person stating that, upon proof of ownership to the reasonable satisfaction of the Trustees, 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) and, if possession of the thing removed is not so retaken, it shall at the end of that period vest in the Trustees.

- (a) (3) (a) Notwithstanding the provisions of paragraph (2) above the Trustees may, at such time and in such manner as they think fit, dispose of anything removed under paragraph (1) above which is not so marked as to be readily identifiable as the property of any person

or which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

(b) If anything disposed of by the Trustees under this paragraph is sold, the Trustees may retain out of the proceeds of sale any expenses incurred by them under this article, and any surplus—

(i) shall be paid to any person who within three months from the time when the thing came into the custody of the Trustees proves to the reasonable satisfaction of the Trustees that he was the owner thereof at that time; or

(ii) if within the said period no person proves his ownership at the said time, shall vest in the Trustees.

(4) If the proceeds of sale of anything removed under this article are insufficient to reimburse the Trustees for the said expenses, or there is no sale because the thing is unsaleable, the Trustees may recover the deficiency, or, where there is no sale, the whole of the expenses, from the person who was the owner at the time when the thing removed came into the custody of the Trustees or who was the owner at the time of its abandonment or loss.

Repair of landing places etc.

9.—(1) In this article, “relevant feature” means any landing place, embankment, structure or other work in the harbour or on land immediately adjoining the waters of the harbour other than one under the control or management of the Trustees.

(2) The Trustees may by notice require the owner or occupier of a relevant feature which in the opinion of the Trustees 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 satisfaction of the harbour master 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 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) he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and

(b) the Trustees 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 Trustees 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 Trustees notice of his appeal accompanied by a copy of his statement of appeal; and the Trustees shall, within 21 days of receipt of the notice, be entitled to furnish to the Secretary of State their 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.

General directions to vessels

10.—(1) The Trustees may, after consultation with the Chamber of Shipping and the Royal Yachting Association, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the harbour and, without prejudice to the generality of the foregoing, for any of the following purposes—

- (a) for designating areas, routes or channels in the harbour 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 securing that vessels make use of descriptions of navigation aids specified in the direction;
- (d) for prohibiting—
 - (i) entry into or movement in the harbour by vessels at times of poor visibility due to the weather or any other condition;
 - (ii) entry into the harbour by a vessel which for any reason would be or be likely to become a danger to other vessels in the harbour; and
 - (iii) entry into or navigation within any main navigation channel during any temporary obstruction thereof;
- (e) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for effecting any of the purposes of this paragraph.

(2) Any direction given under this article shall be consistent with and without prejudice to any regulations made by the Secretary of State under section 31 of the Severn Bridges Act 1992⁽¹⁾.

(3) A direction under this article may apply—

- (a) to all vessels or to a class of vessels designated in the direction; or
- (b) to the whole of the harbour or to a part designated in the direction; or
- (c) at all times or at times designated in the direction; and every direction under this article shall specify the extent of its application in relation to the matters referred to in subparagraphs (a), (b) and (c) of this paragraph.

(4) The Trustees may, after consultation with the Chamber of Shipping and the Royal Yachting Association, revoke or amend any general direction.

Special directions to vessels

11.—(1) A direction under this article may be given by the harbour master to a vessel anywhere in the harbour, requiring it to comply with a requirement made in or under a general direction and, so far as required for the ease, convenience or safety of navigation, for either of the following purposes—

- (a) regulating or requiring the movement, mooring or unmooring of a vessel;
- (b) regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores otherwise than at a dock or pier.

(2) A direction under this article may be given in any manner considered by the harbour master to be appropriate.

(1) 1992 c. 3.

Publication of general directions

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

(2) In an emergency, notice of the giving of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the harbour master to be appropriate.

Failure to comply with directions

13.—(1) The master of a vessel who fails 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.

(2) In any proceedings for an offence under paragraph (1) of this article it shall be a defence for the person charged that he had reasonable grounds for believing that non-compliance with the direction in question was necessary to secure the safety of any vessel or to prevent injury to any person or damage to any vessel or cargo, or that in the circumstances compliance was impracticable.

Enforcement of directions

14.—(1) Without prejudice to any other remedy available to the Trustees, if a special direction is not complied with within a reasonable time, the harbour master may 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 a 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 powers of this paragraph shall not be exercised in relation to a vessel unless, after reasonable enquiry has been made, the master cannot be found.

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

Master’s responsibility in relation to direction

15. 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 his vessel, to persons on board, to its cargo or to any other person or property.

Byelaws

16.—(1) In addition to the byelaws which may be made by the Trustees under section 83 of the Harbours, Docks, and Piers Clauses Act 1847(2) the Trustees may, from time to time, make such byelaws as they think fit with reference to all or any of the following—

- (a) regulating the navigation, berthing, mooring, careening and beaching of vessels and their speed and manner of navigation within the harbour;
- (b) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour and to navigation aids of every description which are used in connection with the harbour;

(2) 1847 c. 27.

- (c) regulating the conduct of all persons within the harbour not being members of a police force or officers or servants of the Crown whilst in exercise of their duties;
 - (d) regulating the placing, maintenance and use of moorings within the harbour;
 - (e) preventing and removing obstructions or impediments within the harbour;
 - (f) prohibiting or regulating the discharge of ballast, ashes, refuse, rubbish and other materials in the harbour;
 - (g) regulating vessels in the harbour and their entry into, use of and departure from the harbour and, without prejudice to the generality of the foregoing, 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;
 - (h) regulating or prohibiting the activities within the harbour of divers, surfers, water-skiers, jet-skiers and other persons engaged in similar recreational pursuits;
 - (i) prescribing the lights and signals to be exhibited or made—
 - (i) by vessels aground within the harbour; and
 - (ii) by vessels used for marking obstructions within the harbour;
 - (j) regulating the launching of vessels within the harbour;
 - (k) regulating or prohibiting the use of fire and lights within the harbour and within any vessel within the harbour;
 - (l) regulating the movement, speed and parking of vehicles within the harbour;
 - (m) regulating the control of domestic animals within the harbour.
- (2) In this article, “signals” includes sound and electronic signals.
- (3) Byelaws made under this article may—
- (a) provide for imposing upon persons offending against them fines not exceeding level 3 on the standard scale;
 - (b) relate to the whole of the harbour or any part thereof;
 - (c) make different provisions for different parts of the harbour, or in relation to different classes of vessels.
- (4) Subsections (3) to (8) and (11) of section 236 and section 238 of the Local Government Act 1972⁽³⁾ (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made by the Trustees under this article as if the Trustees were a local authority and the clerk to the Trustees were a proper officer of a local authority; but, subject to paragraph (5) below, the Secretary of State may confirm the byelaws with such modifications as he thinks fit.
- (5) Where the Secretary of State proposes to make a modification which appears to him to be substantial, then—
- (a) he shall inform the Trustees and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification; and
 - (b) he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for the Trustees and other persons who have been informed of the proposed modification to consider and comment on it.
- (6) Section 12 (Inquiries) of the Gloucester Harbour Order 1959⁽⁴⁾ shall be amended by the substitution of the words “article 16 (Byelaws) of the Gloucester Harbour Revision Order 1994” for the words “section 9 (Byelaws) of the Gloucester Harbour Revision Order 1988”.

(3) 1972 c. 20.

(4) See 1959 c. xxxvii; section 12 was amended by the Gloucester Harbour Revision Order 1988 (S.I.1988/1040), article 9(4).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
