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STATUTORY INSTRUMENTS

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**1998 No. 683**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Porthmadog Harbour Revision Order 1998**

*Made* - - - - - *9th March 1998*

*Coming into force* - - - - - *1st April 1998*

Whereas Cyngor Dosbarth Dwyfor was immediately before 1st April 1996 the authority engaged in improving, maintaining and managing the harbour of Porthmadog(1) and, as such authority, had applied for a harbour revision order under section 14 of the Harbours Act 1964(2);

And whereas objections to the application made pursuant to paragraph 3(a) of Schedule 3 to the said Act(3) have been withdrawn;

And whereas the Secretary of State for the Environment, Transport and the Regions is satisfied as mentioned in subsection (2)(b) of the said section 14:

Now, therefore, the Secretary of State for the Environment, Transport and the Regions (being the appropriate Minister under subsection (7) of the said section 14(4)), in exercise of the powers conferred by that section and now vested in him(5), and of all other powers enabling him in that behalf, hereby makes the following Order:—

**PART I**

**PRELIMINARY**

**Citation**

**1.** This Order may be cited as the Porthmadog Harbour Revision Order 1998 and shall come into force on 1st April 1998.

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- (1) The functions of Cyngor Dosbarth Dwyfor (as harbour authority for the harbour of Porthmadog) were on 1st April 1996 transferred to the Caernarfonshire and Merionethshire County Council by the Local Government (Wales) Act 1994 (c. 19). On 2nd April 1996 the name of the council was, with the consent of the Secretary of State for Wales, changed to Gwynedd Council under section 74 of the Local Government Act 1972 (c. 70) as amended by the Local Government (Wales) Act 1994, Schedule 15, paragraph 20(6).
- (2) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2, 3, 4(1) and 14 and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1.
- (3) Schedule 3 was amended by the Transport Act 1981, section 18 and Schedule 6, paragraphs 4(2) to (7) and 12 and by the Transport and Works Act 1992, Schedule 3, paragraph 10.
- (4) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).
- (5) S.I.1981/238 and S.I. 1997/2971.

## Interpretation

### 2. In this Order—

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847<sup>(6)</sup>;

“charges” means the charges, rates, tolls or dues which the Council are for the time being authorised to demand, take and recover in relation to the undertaking;

“the Council” means Gwynedd Council;

“the deposited plan” means the plan signed in triplicate by the Head of Ports Division in the Department of the Environment, Transport and the Regions marked “Plan referred to in the Porthmadog Harbour Revision Order 1998,” one copy of which has been deposited and is available for inspection at the harbour offices, Porthmadog, and the other two at the Department of the Environment, Transport and the Regions;

“the existing works” means the works comprised in the harbour as existing under the repealed enactments at the commencement of this Order;

“the harbour” means the area the limits of which are delineated in red on the deposited plan and the harbour estate so far as it is not within that area;

“the harbour estate” means the docks, piers, wharves, quays, berths, roads, bridges, sheds and other works and conveniences, and the lands, buildings and property, which are for the time being vested in or occupied by the Council for the purposes of the harbour;

“the harbourmaster” means the person appointed by the Council to be the harbourmaster in relation to the harbour and includes the authorised deputies and assistants of the person so appointed and any person authorised by the Council to act as harbourmaster;

“hovercraft” has the same meaning as in the Hovercraft Act 1968<sup>(7)</sup>;

“hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;

“the level of high water” means the level of mean high water springs;

“passenger boat” means a vessel licensed by the Council for the carriage of not more than 12 passengers;

“personal watercraft” means any watercraft (not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine or other mechanical means of propulsion and steered either—

- (a) by means of a handlebar-operated linkage system (with or without a rudder at the stern);
- (b) by the person or persons riding the craft using his or their body weight for the purpose; or
- (c) by a combination of the methods referred to in (a) and (b) above;

“the repealed enactments” means the enactments specified in Part I of the Schedule to this Order;

“tidal work” means so much of any work vested in the Council and existing at the commencement of this Order as is on, under or over tidal lands below the level of high water;

“the Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the undertaking” means the undertaking for the time being of the Council in connection with the harbour;

“vessel” means every description of vessel, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water, a seaplane on or in the water, a hovercraft and a hydrofoil vessel.

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<sup>(6)</sup> 1847 c. 27.

<sup>(7)</sup> 1968 c. 59.

### **Incorporation of enactments**

3.—(1) The Act of 1847 (except sections 6 to 22, 24 to 27, 42, 43, 48 to 50, 79, 80, 84 to 90, and 95 to 102) is, so far as applicable to the purposes of and not inconsistent with the provisions of this Order, hereby incorporated with this Order.

(2) The Act of 1847 as so incorporated shall have effect subject to the following modifications—

- (a) the expression “the special Act” means this Order, the expression “the undertakers” means the Council and the expression “the harbour, dock or pier” means the harbour;
- (b) sections 52 and 53 shall have effect in accordance with the provisions of Article 7 of this Order;
- (c) at the end of section 69 there shall be added the words “Provided that such sum shall not exceed one hundred pounds in total”.

### **Repeals**

4.—(1) The enactments specified in Part I of the Schedule to this Order are hereby repealed.

(2) Notwithstanding the repeal of enactments by this Order—

- (a) the Council may continue and maintain the existing works;
- (b) the transitional provisions and savings in Part II of the Schedule to this Order shall have effect.

## **PART II**

### **DUTIES AND POWERS**

#### **General powers of Council in respect of harbour**

5.—(1) The Council may, subject to the provisions of this Order, take such steps from time to time as they may consider necessary or desirable for the improvement, maintenance and management of the harbour and the facilities afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of the foregoing, the Council may—

- (a) improve, maintain, regulate and manage the harbour and, subject to the provisions of this Order, provide port facilities therein;
- (b) alter, remove and reconstruct structures and works in the harbour; and
- (c) do all other things which in their opinion are expedient to facilitate the efficient and proper carrying on of the undertaking or development of the harbour.

#### **Porthmadog Harbour Consultative Committee**

6.—(1) There shall be constituted a body to be known as the Porthmadog Harbour Consultative Committee, (in this article referred to as “the Committee”), which shall not be a committee of the Council.

(2) Subject to the provisions of paragraphs (3) and (5) of this article, the Committee shall consist of fifteen members of whom—

- (a) one shall be the chairman and one shall be the vice-chairman of the Culture and Leisure Committee of the Council or other such committee of the Council as may from time to time be appointed by the Council to administer the harbour;

- (b) four shall be the members of the Council elected to represent wards or electoral divisions in the community of Porthmadog:

Provided that, if any such member of the Council is a member of the Committee by reason of being the chairman or vice-chairman of a committee referred to in sub-paragraph (a) above, the Council shall appoint another member of the Council to the Committee;

- (c) two shall be appointed by the Council from among the other members of the Council, of whom one shall be a member elected to represent an electoral division in the area of the district of Meirionydd as it existed before 1st April 1996;
- (d) one shall be appointed by the Porthmadog Town Council from among the members of that Council;
- (e) one shall be appointed by the Porthmadog Harbour Users' Association;
- (f) one, to represent commercial interests in the harbour, shall be appointed by the Council after consultation with such persons (if any) appearing to the Council to be representative of the said interests as the Council consider appropriate;
- (g) one, to represent industrial interests in the harbour, shall be appointed by the Council after consultation with such persons (if any) appearing to the Council to be representative of the said interests as the Council consider appropriate;
- (h) one, to represent leisure interests in the harbour, shall be appointed by the Council after consultation with such persons (if any) appearing to the Council to be representative of the said interests as the Council consider appropriate;
- (i) one, to represent fishing interests in the harbour, shall be appointed by the Council after consultation with such persons (if any) appearing to the Council to be representative of the said interests as the Council consider appropriate; and
- (j) one, to represent the interests of the several owners of the freehold and leasehold interests of lands within the harbour (other than the Council), shall be appointed by the Council after consultation with those owners.

(3) If it appears to the Council in the case of the appointment referred to in sub-paragraph (e) of paragraph (2) above that the body by whom the appointment is to be made has refused or failed to appoint a member within two months after being requested by the Council to do so, or if the said body has ceased to have an identifiable existence, the appointment in question shall be made by the Council to be representative of the interests represented or formerly represented by the said body as the Council consider appropriate.

(4) The Council may from time to time co-opt additional members to the Committee (but so that such additional members shall not at any time exceed three in number) who in their opinion have special knowledge or experience that would be of value to the Committee, and such members will be eligible to serve during the period specified by the Council at the time of their co-option.

(5) It shall be the function of the Committee to consider and advise the Council upon such matters relating to the management, control and development of the harbour as may from time to time be referred to them by the Council for consideration.

(6) It shall be the duty of the Council, in so far as it is reasonably practicable to do so, to consult the Committee on all matters which, in the opinion of the Council, substantially affect the management, control and development of the harbour; and the Council shall take into consideration any advice relating thereto that may be given by the Committee, but the Council shall not be bound to act in accordance with such advice.

(7) The first meeting of the Committee shall be held as soon as reasonably practicable after the coming into operation of this Order and on such day and at such time and place as may be appointed

by the Council, who shall make arrangements for notice of the meeting to be sent by post to each member of the Committee not less than 14 days before the day so appointed.

(8) The Committee shall annually elect a Chairman and Vice-Chairman from among those of their number who are members of the Council.

(9) The Committee shall meet at least twice a year, and all meetings shall be convened by the Council.

(10) The Council shall determine the Committee's quorum and procedure.

(11) The Council shall arrange and ensure that minutes are kept of the proceedings of every meeting of the Committee.

(12) The Council shall upon request make available to the Committee such documents and information pertaining to their duties and powers in relation to the harbour as the Committee may, in the opinion of the Council, reasonably require for the proper discharge of their functions.

(13) The Council shall provide the Committee with such services and accommodation as appear to the Council to be appropriate.

### **Harbourmaster's powers**

7.—(1) In addition to the powers conferred on him by section 52 of the Act of 1847 as incorporated with this Order the harbourmaster may—

- (a) give directions prohibiting the mooring of vessels in any particular part or parts of the harbour; and
- (b) notwithstanding the provisions of section 33 of the said Act, impose terms and conditions upon which a passenger boat, hovercraft or hydrofoil vessel may enter the harbour.

(2) The said section 52 as incorporated with this Order shall not be construed so as to require the harbourmaster in an emergency to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section; but in pursuance of that section for all or any of the purposes thereof, the harbourmaster may in an emergency give general directions applicable to all vessels or to particular classes of vessels.

(3) Section 53 of the Act of 1847 as incorporated with this Order shall not be construed so as to require the harbourmaster to serve a notice in writing of his direction upon the master of a vessel, and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

### **Power to dredge**

8.—(1) The Council may from time to time deepen, dredge, scour, cleanse, alter and improve the bed and foreshore of the harbour.

(2) No materials taken up or collected in the exercise of the powers of this article shall be deposited below the level of high water except in such position as the Secretary of State may approve and subject to such conditions or restrictions as he may impose.

### **Council may provide dredgers, tugs, etc.**

9.—(1) The Council may from time to time purchase, lease, contract for or hire and may maintain and use dredgers, tugs, hoppers, barges or other powered craft—

- (a) as may be necessary or expedient for or in relation to any of the purposes mentioned in article 8 of this Order; or
- (b) for the use and accommodation of vessels within the harbour, and for this purpose they may let such craft.

(2) In addition to the said purposes the Council may purchase, lease, hire, provide and may maintain and use all such dredging and other machines, engines, craft, machinery and appliances as may be necessary or expedient for the purposes of their duties or powers in respect of the harbour.

### **Power to provide boating facilities**

**10.** The Council may construct, lay down, maintain and operate in the harbour such works for the provision of boating or marina facilities as they may consider requisite.

### **Powers as to moorings, etc.**

**11.**—(1) The Council may place, lay down, maintain and use moorings in the harbour and on land adjoining the waters of the harbour in or in respect of which they have an interest or right entitling them to do so.

(2) The Council may demand, take and recover in respect of any vessel using any of the moorings provided by the Council under this article such reasonable charges as may from time to time be prescribed by the Council.

- (a) (3) (a) The Council may grant to a person a licence to place, lay down, maintain or use existing and future moorings in the harbour.
- (b) Nothing in any such licence shall entitle a person to place, lay down, maintain and use any mooring on land in or in respect of which neither he nor the Council have an interest or right entitling him or them to do so.
- (c) The Council shall not refuse to grant a licence to a person who has an interest or right in respect of land and in respect of which the Council has no such interest or right to place, lay down, maintain and use existing moorings on that land unless they are satisfied that the placing, laying down, maintenance or use of the moorings to which the application relates would constitute a danger to or interfere with the navigation of vessels in the harbour or would in the opinion of the Council prejudice the good management and administration of the harbour.

(4) Any licence granted under paragraph (3) above shall be subject to such terms and conditions as may be specified in the licence.

(5) The Council may charge a reasonable fee for granting a licence under paragraph (3) above.

(6) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Council in placing, laying down, maintaining or using moorings; or
- (b) intentionally pulls up or removes any moorings or any poles or stakes driven into the ground for the purpose of such moorings; or
- (c) places, lays down, maintains or uses in the harbour any mooring not provided or licensed by the Council under this article; or
- (d) without reasonable excuse causes a vessel to be moored except at a mooring provided or licensed by the Council under this article or at a quay, jetty, slipway or other work;

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

(7) If—

- (a) any person contravenes sub-paragraph (c) of paragraph (6) above the Council may remove the mooring in question and recover from that person the expenses incurred in so doing;

- (b) any vessel is moored at a mooring in contravention of sub-paragraph (d) of paragraph (6) above the Council may remove that vessel to another mooring and such removal shall be carried out at the expense and risk of the owner of the vessel.

### **Powers with respect to disposal of wrecks**

**12.**—(1) In its application to the Council section 252 of the Merchant Shipping Act 1995<sup>(8)</sup> (which confers on harbour authorities within the meaning of that Act powers with respect to, any vessel sunk, stranded or abandoned in, or in or near any approach to, any harbour or tidal water under the control of a harbour authority in such manner as to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that harbour or water or approach thereto) shall have effect 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 his liability, the Council may recover from the owner of any vessel in relation to which they have exercised their powers under the said section 252 any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

- (a) (3) (a) Except in a case which is in the opinion of the Council a case of 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 them by the said section 252, other than the power of lighting and buoying, the Council have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so.
- (b) If before the notice expires the Council receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, he shall be at liberty to do so; and the Council shall not exercise the powers in the said 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 him by the Council.

(4) Notice under paragraph (3) above to the owner of any vessel may be served by the Council either by delivering it to him or by sending it to him by the recorded delivery service addressed to him at his 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, by displaying the notice at the harbour offices, Porthmadog, for the period of its duration.

(5) In this article the word “owner”, in relation to any vessel, means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof, and for the purposes of this article the word “vessel” includes any aircraft.

### **Power to deal with unserviceable vessels**

**13.**—(1) In addition to the powers conferred on the harbourmaster by section 57 of the Act of 1847 and on the Council by virtue of the Merchant Shipping Act 1995 and by other provisions of this Order, the Council may remove, sell, destroy or otherwise dispose of any vessel laid by or neglected as unserviceable in, or on land adjoining, the waters of the harbour.

(2) The Council may retain out of the proceeds of sale of any such vessel, or any part thereof, any expenses incurred by them 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

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(8) 1995 c. 21.

harbourmaster under section 57 of the Act of 1847, and shall pay the surplus, if any, to the person entitled thereto.

(3) If the proceeds of 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 debt.

(4) Except in the case of emergency, the Council shall, before exercising their powers under this article, give seven clear days' notice in writing of their intention to do so to the registered owner of the vessel and by advertisement in each of three successive weeks in a local newspaper or, if the owner or his place of business or abode is not known to the Council or is outside the United Kingdom, by displaying the notice at the harbour offices, Porthmadog, for the period of its duration.

### **Power to remove goods**

14.—(1) If any goods are left on or in any part of the harbour estate the Council may require the owner of the goods to remove them.

(2) If the goods are not removed within six hours after the Council have so required, the Council may cause them to be removed to their own or any other public warehouse or store, and such removal shall be carried out at the expense of the owner.

(3) Notwithstanding such removal on behalf of the Council the goods shall be subject to a lien for the cost of the removal, and for any charges payable by the owner in respect of the goods.

(4) The powers of the Council to prevent the removal of goods until the cost of the removal and charges payable by the owner have been paid shall extend and apply to any goods removed or placed in store under the powers of this article.

### **Power to provide parking places**

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

### **Removal of vehicles, etc.**

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

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

the Council may remove the vehicle or vessel or cause it to be removed.

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

- (a) (3) (a) Where the Council in exercise of the powers of this article remove a vehicle or vessel or cause it to be removed they shall as soon as practicable inform the police.
- (b) The expenses of and incidental to the removal of a vehicle or vessel under this article shall be recoverable by the Council from any person responsible.

(4) For the purposes of paragraph (3) above “person responsible” means—

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



(5) If the Council in exercise of the powers of this article remove a vehicle to a place not readily visible from the place whence it is so removed they shall, if and as soon as it is reasonably practicable to do so, send to the person in whose name the vehicle was, at the time it was removed, registered under the Vehicle Excise and Registration Act 1994<sup>(9)</sup> at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this article and of the place to which the vehicle has been removed.

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

### **Provision against danger to navigation**

**17.**—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Council shall as soon as is reasonably practicable notify the Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

(2) If the Council fail to notify the Trinity House as required by paragraph (1) above, or to comply in any respect with a direction given under the said paragraph they 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; but it shall be a defence for the Council to prove that all due diligence was exercised to avoid the commission of the offence.

### **Abatement of works abandoned or decayed**

**18.**—(1) Where a tidal work is abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Council at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works vested in the Council on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under paragraph (1) above.

(3) If, on the expiration of thirty days from the date when a notice under paragraph (1) above is served upon the Council, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; and any expenditure incurred by him in so doing shall be recoverable from the Council.

### **Survey of tidal works**

**19.** The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work, and any expenditure incurred by the Secretary of State in such a survey and examination shall be recoverable from the Council.

### **Permanent lights on tidal works**

**20.**—(1) The Council shall at the outer extremity of every tidal work exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Trinity House shall from time to time direct.

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(9) 1994 c. 22.

(2) If the Council fail to comply in any respect with a direction given under paragraph (1) above they shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

(3) In proceedings for an offence under paragraph (2) above, it shall be a defence for the Council to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) If in any case the defence provided by paragraph (3) above involves an allegation that the commission of the offence was due to the act or default of another person, the Council shall not, without the leave of the court, be entitled to rely on that defence unless, within a period of seven clear days before the hearing, it has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in its possession.

## PART III

### CHARGES

#### **Charges on certain floating articles**

**21.** In addition to their power to demand, take and recover ship, passenger and goods dues under section 26 of the Harbours Act 1964<sup>(10)</sup> the Council may demand, take and recover in respect of any dracone or floating dock, crane rig, drilling rig or other floating plant (not being a ship within the meaning of section 57 of the said Act) entering, using, or leaving the harbour such charges as the Council think fit, and the provisions of sections 30 and 31 of the said Act (which require lists of charges to be available for inspection and sale; and give a right of objection to ship, passenger and goods dues) shall, with any necessary modifications, apply to the charges authorised by this article as they apply to ship, passenger and goods dues.

#### **Charges for services or facilities**

**22.** The Council may demand, take and recover for services and facilities provided by them at the harbour such reasonable charges as they may determine.

#### **Payment of charges**

**23.—(1)** The several charges which the Council are for the time being authorised to demand, take and recover under this Order or any other enactment relating to the harbour may be demanded, taken and recovered by such persons, at such places, at such times and under such conditions as the Council may from time to time specify in their published list of charges and, in the case of charges payable in respect of any vessel, shall be payable before its removal from the harbour.

(2) Charges in respect of a vessel shall be payable by the owner of the vessel at the time the charges are levied or by such other person as at that time has charge of the vessel.

(3) Where charges may be recovered by the Council from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

(4) Nothing in section 30 of the Harbours Act 1964 shall require the Council to include in the list of ship, passenger and goods dues to be kept, as required by subsection (1) of that section, charges which have been reduced by virtue of any rebate or compounding arrangement in respect of a due included in the said list.

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(10) 1964 c. 40.

### **Deposit for charges**

24. The Council may require any person who is liable, or may become liable, to pay a charge to the Council to deposit with their collector, or to guarantee, such sum as in the opinion of the Council is reasonable having regard to the amount or probable amount of the charge.

### **Recovery of charges**

25. In addition to any other remedy given by this Order and by the Act of 1847 as incorporated with this Order (and, in a case where the master of a vessel in respect of which a charge is payable to the Council refuses or neglects to pay the same or any part thereof whether or not the Council's collector has gone on board the vessel and demanded the charge pursuant to section 44 of the said Act), the Council may recover any charges payable to them as a debt.

### **Payment of charges on warehoused goods**

26. Notwithstanding the provisions of article 23 of this Order, the owner or person having the charge of any goods warehoused, placed, stored or yarded in a warehouse, transit shed or area, store or yard of the Council shall, before the removal of any of the goods therefrom and at such date or dates as shall be fixed by the Council, pay such charges as shall be then due and payable on the goods.

### **Exemption of lifeboat crew from charges**

27. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and all persons brought ashore from any vessel in distress shall at all times have free ingress, passage and egress to, along and from the harbour without payment.

### **Officers exempt from charges**

28. Officers of the Department of the Environment, Transport and the Regions acting in the execution of their duty shall at all times have free ingress, passage and egress to, along and from the harbour without payment.

## **PART IV**

### **BYELAWS**

#### **General byelaws**

29. In addition to the byelaws which may be made by the Council under section 83 of the Act of 1847 the Council may make byelaws for all or any of the following purposes—

- (a) for regulating the operation and superintendence of the harbour;
- (b) for regulating the movement (including the speed) and berthing of vessels within, and the departure of vessels from, the harbour, or the removal of vessels from the harbour, and for the good order and government of vessels whilst within the harbour;
- (c) for regulating or prohibiting the mooring, careening or beaching and keeping of vessels in the harbour;
- (d) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour or on the harbour estate;

- (e) for regulating the conduct of persons in vessels or otherwise in the harbour;
- (f) for regulating the placing, maintenance and use of moorings within the harbour;
- (g) for preventing or removing obstructions or impediments within the harbour or in or near the seaward approaches to the harbour;
- (h) for regulating the removal and disposal of ballast brought by vessels entering the harbour and the supply of ballast to vessels within the harbour, so as to prevent any unnecessary obstruction by ballast;
- (i) for regulating the use of ferries within the harbour;
- (j) for regulating the use of vessels within the harbour;
- (k) for regulating or prohibiting the use of personal watercraft within the harbour;
- (l) for regulating or prohibiting the activities within the harbour of divers, surfers, water skiers and other persons engaged in similar recreational pursuits;
- (m) for regulating the holding of regattas and other public events so far as within the harbour;
- (n) for regulating the launching of vessels within the harbour and the use of slipways and landing places;
- (o) for regulating or preventing the use in the harbour or on board any vessel therein of fires, lights or any other equipment, tools or appliances which the Council consider involve risk of fire;
- (p) for the prevention of nuisances in the harbour;
- (q) for regulating the movement, speed and parking of vehicles within the harbour estate;
- (r) for regulating the exercise of the powers vested in the harbourmaster;
- (s) for securing the safety of vessels and persons using, and of property within, the harbour;
- (t) for regulating the removal or disposal of rubbish (including ballast, earth, clay or other refuse) and sewage from vessels in the harbour;
- (u) for preventing the disposal of such rubbish and sewage in the harbour.

**Byelaws as to lights, signals, etc.**

- 30.**—(1) The Council may make byelaws for all or any of the following purposes—
- (a) for prescribing the lights and signals to be carried, exhibited or made by vessels while being used, navigated or moored within the harbour;
  - (b) for prescribing the lights and signals to be exhibited or made by vessels aground within the harbour;
  - (c) for prescribing the lights and signals to be exhibited or made by wreck-marking vessels or by other devices used for marking obstructions within the harbour;
  - (d) for prescribing steering and sailing rules for regulation of vessels used or navigated within or entering or leaving the harbour;
  - (e) for prescribing the lights and signals to be exhibited or made at the entrance to any dock or at any wharf, pier or other work for assisting the navigation of vessels within the harbour.
- (2) In this article “signals” include sound signals.
- (3) Different provision may be made under this article in relation to different classes of vessel.

### **Confirmation of byelaws and fines thereunder**

- (a) **31.** (1) (a) In relation to byelaws relating to the harbour made by the Council under this Order or any other enactment, section 236 of the Local Government Act 1972(11) shall have effect subject to the following modifications—
- (i) the Secretary of State shall be the confirming authority;
  - (ii) in subsection (7), after the word “confirm” where it first occurs there shall be inserted the words “with or without modification”.
- (b) If the Secretary of State proposes to make a modification which appears to him to be substantial—
- (i) he shall inform the Council and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification; and
  - (ii) he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Council and by other persons who have been informed of it.
- (2) Byelaws made by the Council to which the foregoing provisions of this article apply may contain provisions imposing upon a person offending against a byelaw a fine not exceeding level 3 on the standard scale.

## **PART V**

### **MISCELLANEOUS**

#### **Crown rights**

**32.** Nothing in this Order shall affect prejudicially any estate, right, power, privilege, or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing herein contained shall authorise the Council to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners on behalf of Her Majesty being first had and obtained for that purpose.

#### **Saving for the Trinity House**

**33.** Nothing in this Order shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of the Trinity House.

#### **For protection of Dwr Cymru Cyfyngedig**

**34.**—(1) The following provisions of this article shall, unless otherwise agreed in writing between the Council and Dwr Cymru Cyfyngedig (in this article referred to as “the company”), have effect for the protection of the company.

(2) In this article—

“protected work” means any work, building, structure, plant, appliance, main, pipe, sewer outfall or other apparatus owned or maintained by, or under the control of, the company for the purposes of its functions as sewerage undertaker or water undertaker;

“the relevant powers” means the powers conferred on the Council by any of the following provisions of this Order—

- Article 5
- Article 8
- Article 10
- Article 11
- Article 12
- Article 13
- Article 15.

(3) In exercising the relevant powers the Council, or any person acting by arrangement with the Council, shall not without the consent of the company (which consent shall not be unreasonably withheld or delayed) damage, injuriously affect or interfere with a protected work or render unreasonably inconvenient the access to a protected work.

- (a) (4) (a) If the company have reasonable ground for believing that any protected work is likely to be damaged, injuriously affected or interfered with by reason of the exercise of the relevant powers, it may carry out such protective works or measures as are reasonably necessary to avoid or mitigate such damage, affection or interference.
- (b) If as a consequence of the exercise of the relevant powers a protected work is damaged, injuriously affected or interfered with, the company may take such steps as are reasonably necessary to make good the damage, affection or interference.
- (c) Protective works or measures which the company may carry out under sub-paragraph (a) above and the steps which the company may take under sub-paragraph (b) above shall be such as may in either case be agreed between the Council and the company or, in default of agreement, as may be settled by arbitration, and the company may recover the reasonable costs thereof from the Council (including a proper proportion of the overhead charges of the company).
- (a) (5) (a) If as a result of the exercise of the relevant powers the company reasonably incur additional expenditure in respect of the maintenance or operation of any protected work affected by the exercise of the relevant powers, or in complying with any discharge consent under Chapter II of Part III of the Water Resources Act 1991(12) in relation to a protected work, the company may recover such expenditure from the Council.
- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Council with respect to any expenditure which may be attributable to the act, neglect or default of the company, its contractors, agents, workmen or servants.

(6) Not less than two months before the Council undertake any dredging (other than maintenance dredging) in exercise of the powers of article 8 of this Order they shall consult the company.

(7) Not less than two months before the Council make, amend or revoke any byelaws under article 29 or article 30 of this Order or under section 83 of the Act of 1847 they shall consult the company.

(8) Any difference arising between the company and the Council under this article (other than a difference as to the meaning or construction of this article) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

### **For protection of Environment Agency**

**35.**—(1) The following provisions of this article shall, unless otherwise agreed in writing between the Council and the Environment Agency (in this article referred to as “the agency”), have effect for the protection of the agency.

(2) Before the Council undertake—

(a) any dredging (other than maintenance dredging) in exercise of the powers of article 8 of this Order; or

(b) any other operation authorised by this Order:

which is likely to affect adversely the main river, they shall consult the agency.

(3) Nothing in this Order or in any enactment incorporated with this Order shall prejudice or affect the application of any byelaws made under the Water Resources Act 1991 or the Land Drainage Act 1991(13) or relieve any person of the obligation to obtain any consent required under section 109 of the Water Resources Act 1991 or section 23 of the Land Drainage Act 1991.

(4) Officers of the agency acting in the execution of their duty shall at all times have free ingress, passage and egress to, along and from the harbour without payment.

(5) In this article “the main river” means so much of the River Glaslyn as is a main river within the meaning of the Water Resources Act 1991.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

*S K Reeves*  
Head of Ports Division  
Department of the Environment, Transport and  
the Regions

9th March 1998

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

## SCHEDULE

Article 4

### PART I

#### REPEALS

##### **Enactments repealed**

The Act 1 & 2 Geo.IV entitled “An Act to alter and amend an Act of his late Majesty’s Reign, intituled An Act to enable his Majesty to vest the Sands of Traeth Mawr, dividing the Counties of Carnarvon and Merioneth, in William Alexander Madocks Esquire, and for building Quays and other Works, for the Purpose of facilitating the landing, loading and unloading of Ships and Vessels frequenting the Harbour of Port Madoc, in the said County of Carnarvon”.

The Porthmadog Harbour Revision Order 1974.

### PART II

#### SAVINGS

Notwithstanding the repeal of enactments by this Order—

- (a) all the estate, right, title and interest of the Council in and to all real and personal property vested in, or held by, the Council immediately before the commencement of this Order shall continue vested in, or held by, the Council subject and without prejudice to any charges, incumbrances or claims which may affect the same;
- (b) all deeds, conveyances, grants, assurances, assignments, leases, purchases, sales, mortgages, bonds, covenants, agreements, securities and contracts and all working arrangements entered into or made and subsisting at the commencement of this Order and then in force, and all liabilities and obligations incurred before the commencement of this Order and, except where otherwise expressly provided in this Order, all the provisions of any enactment (other than the enactments so repealed) relating to the Council or the undertaking and in force at the commencement of this Order, shall continue to be binding and of as full force and effect in every respect against, or in favour of, the Council as they would or might have been against, or in favour of, the Council if this Order had not been made; and
- (c) all mortgages and other securities granted or created by the Council before the commencement of this Order shall continue as valid and available against the Council and the undertaking as if this Order had not been made.

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#### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order repeals and replaces the local legislation applying to Porthmadog harbour, namely an Act of 1821 and the Porthmadog Harbour Revision Order 1974.



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The Order re-enacts provisions of the 1974 Order with amendments, and it confers further powers on the harbour authority, Gwynedd Council (successors in title of the Trustees who were the harbour authority mentioned in the 1974 Order, article 2). The further powers include powers as to—

- (a) dredging and provision of dredgers;
- (b) boating facilities;
- (c) moorings;
- (d) the removal of unseaworthy vessels;
- (e) charging for services and facilities; and
- (f) the making of byelaws.

The Order also establishes a new consultative committee for the harbour in place of the Porthmadog Harbour Committee constituted under the 1974 Order.