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STATUTORY INSTRUMENTS

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**2012 No. 1777**

**The Poole Harbour Revision Order 2012**

**PART 2**

**HARBOUR REGULATION**

*Byelaws*

**Powers to make byelaws, etc.**

**27.**—(1) The Commissioners may from time to time make byelaws for the management and regulation of the harbour and the harbour undertaking.

(2) Without prejudice to the generality of paragraph (1) byelaws may be made under this article for all or any of the purposes set out in Schedule 2.

(3) Byelaws made under this article may—

- (a) provide that breach of a byelaw is an offence for which a person is liable on summary conviction to a fine not exceeding level 4 on the standard scale and, in the case of a continuing offence, a further fine not exceeding £50 for each day or part of a day on which the offence is continued after conviction for it;
- (b) relate to the whole or any part of the harbour;
- (c) make different provisions for different parts of the harbour or in relation to different classes of vessels or vehicles;
- (d) make different provisions for different circumstances.

(4) Any byelaw made under this article may require the payment, on application for any consent, licence or other authorisation required by the byelaw, of such reasonable fees as the Commissioners may determine.

(5) Where a person is charged with the offence of breaching a byelaw, it shall be a defence for the person to prove—

- (a) that the person charged took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;
- (b) that the person charged had a reasonable excuse for the act or failure to act; or
- (c) that the offence was not caused or facilitated by any act or neglect on the part of the person charged or on the part of any other person engaged or employed by the person charged and that all reasonable steps were taken to prevent the commission of the offence.

**Procedure for making, etc. of byelaws**

**28.**—(1) The provisions of sections 236(3) to (8) and (11) and 238 of the Local Government Act 1972<sup>(1)</sup> (which relate to the procedure for making, and evidence of, byelaws) apply to any byelaws

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(1) 1972 c.70.

made by the Commissioners under article 27 and those provisions, in their application to any such byelaws, have effect subject to the following modifications.

- (a) references to a local authority have effect as if they were references to the Commissioners;
- (b) section 236(4) has effect as if, at the end, there were inserted “and in Lloyds List or some other newspaper specialising in shipping news”; and
- (c) section 236(7) has effect as if the words “with or without modifications” were inserted after the word “confirm” in the first place where that word occurs.

(2) Where the confirming authority proposes to confirm byelaws including a modification which it considers substantial—

- (a) the Commissioners must take such steps as the authority may direct for the purpose of informing persons likely to be concerned with the modification; and
- (b) the authority must not confirm the byelaws until it is satisfied that those persons have had a reasonable opportunity to make representations to the authority on the modification.

(3) Section 238, in its application to any byelaws made under article 27, has effect as if for the reference to the proper officer of the authority there were substituted a reference to the Chief Executive of the Commissioners.

(4) The confirming authority for the purposes of section 236 in its application to byelaws made under article 27 is the Secretary of State.