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STATUTORY INSTRUMENTS

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**2023 No. 680**

The Portreath, Portscatho and Portwrinkle  
Harbour Empowerment Order 2023

PART 1

PRELIMINARY

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Portreath, Portscatho and Portwrinkle Harbour Empowerment Order 2023 and shall come into force on 17th July 2023.

(2) This Order extends to England and Wales.

**Interpretation**

2.—(1) In this Order—

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847<sup>(1)</sup>;

“the Act of 1964” means the Harbours Act 1964;

“the Act of 1995” means the Merchant Shipping Act 1995<sup>(2)</sup>;

“the Council” means Cornwall Council;

“harbours” means the harbours of Portreath, Portscatho and Portwrinkle the limits of which are defined in the Schedule (limits of the harbours);

“harbour facilities” means shipping, fisheries, marine, recreational, leisure, tourism and retail facilities (including buildings);

“harbour limits plans” means the Portreath Harbour Limits Plan, the Portscatho Harbour Limits Plan, and the Portwrinkle Harbour Limits Plan<sup>(3)</sup>;

“harbour master” means any person appointed as such by the Council, and includes the duly authorised deputies and assistants of the harbour master and any person for the time being authorised by the Council to act, either generally or for a specific purpose, in the capacity of harbour master;

“harbour premises” means land above the level of low water within the areas shown outlined red on the harbour limits plans for the time being vested in or occupied or administered by the Council as part of the undertaking and occupied wholly or mainly for the purpose of activities there carried on; which may include docks, quays, piers, wharves, berths, locks, breakwaters, landing places, yards, roads, car parks, sheds, buildings and all other works and conveniences, land and premises, shown for illustrative purposes shaded green on the harbour limits plans;

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(1) 1847 c. 27.

(2) 1995 c. 21.

(3) The harbour limits plans may be inspected during working hours at the principal office of Cornwall Council, New County Hall, Treyew Road, Truro TR1 3AY and via the Council’s harbours website at [www.cornwallharbours.co.uk](http://www.cornwallharbours.co.uk).

“the Harbour Revision Order” means the Cornwall Harbours Harbour Revision Order 2023<sup>(4)</sup>;

“land” includes land covered by water;

“level of high water” means the level of mean high water spring tides;

“level of low water” means the level of mean low water spring tides;

“Portreath Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Portreath Harbour Limits Plan referred to in the Portreath, Portscatho and Portwrinkle Harbour Empowerment Order 2023” one copy of which is deposited at the offices of the Marine Management Organisation and one copy at the principal office of the Council;

“Portscatho Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Portscatho Harbour Limits Plan referred to in the Portreath, Portscatho and Portwrinkle Harbour Empowerment Order 2023” one copy of which is deposited at the offices of the Marine Management Organisation and one copy at the principal office of the Council;

“Portwrinkle Harbour Limits Plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed Portwrinkle Harbour Limits Plan referred to in the Portreath, Portscatho and Portwrinkle Harbour Empowerment Order 2023” one copy of which is deposited at the offices of the Marine Management Organisation and one copy at the principal office of the Council;

“Trinity House” means the Corporation of Trinity House of Deptford Strond<sup>(5)</sup>;

“undertaking” means the harbours undertaking for the time being of the Council relating to any or all of the harbours;

“vessel” includes a ship<sup>(6)</sup>, boat, houseboat, raft or craft of any description, however propelled or moved, and includes non-displacement craft, watercraft, a hydrofoil vessel, or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily);

“watercraft” means any type of craft which—

- (a) is capable of moving under its own mechanical power,
- (b) is used, navigated or situated wholly or partially in or on water; and
- (c) is capable of being used to carry one or more persons,

but does not include a ship or fishing vessel within the meanings given in section 313(1) of the Act of 1995.

(2) All situations, points, directions, distances, lengths, dimensions, areas and other measurements stated in this Order shall be construed as if the words “or thereabouts” were inserted after each such situation, point, direction, distance, length, dimension, area or other measurement.

(3) In this Order longitude and latitude are stated by reference to the World Geodetic System (WGS84), revised in 1984 and further revised in 2004.

### **Incorporation of provisions of Harbours, Docks and Piers Clauses Act 1847**

3.—(1) The Act of 1847 (except sections 6 to 26, 28 to 31, 42, 48 to 50, 67, 70, 84 to 92 and 99 to 102) (so far as applicable to the purposes and not inconsistent with the provisions of this Order) is incorporated with this Order subject to the modifications stated in paragraphs (2) to (4).

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(4) S.I. 2023/675.

(5) The Corporation of Trinity House, Tower Hill, London EC3N 4DH.

(6) As defined in section 57 (interpretation) of the Harbours Act 1964 (c. 40).

(2) Section 63 of the Act of 1847 (penalty on vessels lying near the entrance of harbour or dock without permission) shall have effect subject to the modification that for the words from “liable to” to the end of the section there are substituted the words “guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

(3) Section 69 of the Act of 1847 (combustible matters on quays, &c., to be removed) shall have effect subject to the modification that for the words from “shall forfeit” to the end of the section there are substituted the words “shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale”.

(4) In construing the provisions of the Act of 1847 as incorporated with this Order—

- (a) the expression “the special Act” means this Order;
- (b) the expression “the undertakers” means the Council;
- (c) the expression “the harbour, dock, or pier” shall mean the harbours, and includes those docks, piers, berths, quays, landing places and wharves forming part of the harbour premises;
- (d) for the definition of the word “vessel” in section 3 of the Act of 1847 (interpretation) there shall be substituted the definition of that word in article 2(1) of this Order;
- (e) the reference in section 53 of the Act of 1847 (penalty on shipmasters not complying with directions of the harbour master) to notice of a direction by the harbour master served upon a vessel shall not be construed as requiring the notice to be in writing if in the circumstances it is not reasonably practicable for the harbour master to serve a written notice on the master, and in such circumstances the said reference may be construed as including the communication of the notice orally or otherwise.