

STATUTORY INSTRUMENTS

2018 No.

HARBOURS, DOCKS, PIERS AND FERRIES

The Newport (IoW) Harbour Revision Order 2018

Made - - - ***

Laid before Parliament ***

Coming into force - ***

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The Isle of Wight Council has applied in accordance with section 14(2)(a) of the Harbours Act 1964 (“the Act”) for a harbour revision order under section 14 of the Act.

The Secretary of State, as the appropriate Minister for the purposes of that section, has by an order made under section 42A of the Act delegated the functions of the appropriate Minister under section 14 of the Act to the Marine Management Organisation.

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b) of the Act and in exercise of the powers conferred by section 14(1), makes the following Order .

PART I

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Newport Harbour Revision Order 2018 and shall come into force on []2018

(2) The Act of 1852, the Order of 1898, the Order of 1988 and this Order may be cited together as the Newport Harbour Provisions 1852 to 2018.

Interpretation

2.—(1) For the purposes of the Newport Harbour Provisions 1852 to 2018 - —

“the Act of 1847” means the Harbours, Docks, and Piers Clauses Act 1847

“the Act of 1852” means the River Medina Navigation Act 1852;

“the Order of 1898” means the River Medina Navigation Order 1898;

“the Order of 1968” means the Newport (Isle of Wight) Harbour Revision Order 1968

“the Order of 1988” means the Newport (Isle of Wight) Harbour Revision Order 1988;

“the Council” means the Isle of Wight Council;

“general direction” means any direction given or proposed to be given under article 4;

“the harbour” means Newport Harbour as comprised within the harbour limits, including the harbour premises;

“the harbour limits” means the limits of the harbour specified in article 3

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

“the harbour premises” means the quays, piers, landing places and all other works, lands and buildings for the time being vested in, or occupied or administered by, the Council as part of their harbour undertaking;

“the harbour undertaking” means the undertaking of the Council authorised by the Newport Harbour Provisions 1852 to 2018;

“jet bike” means any personal watercraft propelled by a water- jet engine or other mechanical means of propulsion and steered either —

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

“special direction” means any direction given or proposed to be given under article 7;

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

“vessel” means a ship, boat, raft, pontoon or water craft of any description and includes non-displacement craft, jet bike, seaplane and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle used or capable of being used as a means of transportation, storage or access on or under the water, and in article 11 of the Order of 1988 (Powers with respect to the disposal of wrecks) and article 12 of the Order of 1988 (Protection of Crown interests in wrecks) any aircraft;

“works” means the carrying out of any activity involving construction or the alteration, renewal, extension, breaking up or demolition of any structure or vessel and any engineering, mining or other operations.

2) All meanings ascribed to words by the Act of 1852, the Order of 1898, the Order of 1968 and the Order of 1988 shall apply to this Order except in the case of a discrepancy whereupon the meaning ascribed by this Order shall apply

The Harbour Limits

3.—(1) The limits of the harbour within which the Council exercise jurisdiction as a harbour authority and the powers of the Harbour Master may be exercised are –

- a) The limits of the area within a line drawn from a parish boundary marker at 50° 44' 022 N 01° 16' 862 W (1) by the north side of a public house called “The Folly”, on the eastern bank of the river Medina, thence on a bearing of 272°, to the western bank of that river to a position at 50° 44' 025 N 01° 17' 112 W (2). Whence along the line of the mean high water mark up the western bank of the river Medina to a position at 50° 42' 116 N 01° 17' 539 W(3). At the north end of the weir, then running across the weir and the tributaries of the river Medina called Lukely Brook to a position at 50° 42' 114 N 01° 17' 542 W(4) at the south end of the weir. Whence along the line of the high water mark up the southern bank of the river Medina to 50° 41' 970 N 01° 17' 373 W(5) at the western end of the weir across the weir and the river medina, to a position at 50° 41' 970 N 01° 17' 368 W(6) at the eastern end of the weir. Whence along the line of the high water mark up the eastern bank of the river

Medina to southern side of Island harbour lock at 50° 43' 510 N 01° 16' 810 W(7) then across the Lock channel to the opposite side at 50° 43' 520 N 01° 16' 795 W (8). Whence along the line of the high water mark up the eastern bank of the river Medina to position at 50° 43' 890 N 01° 16' 620 W(9) on the southern side of the tributary, then across the mouth of the tributary to position at 50° 43' 905 N 01° 16' 620 W(10) on the northern bank. Whence along the line of the high water mark to the start point at the parish boundary marker, on the eastern bank of the river at 50° 44' 022 N 01° 16' 862 W(1) to the north side of a public house called "The Folly". (All coordinates in degrees, minutes and decimals of minutes and based on WGS 84 datum); and include-

b) The extent of those parts of the Harbour Premises not within that area.

(2) In the event of any discrepancy between the descriptions of the boundaries of the harbour referred to in paragraph (1) and the boundaries shown on the harbour map the description of the boundaries shall prevail over the harbour map.

(3) In this article-

"the harbour map" has the same meaning as that ascribed to the "signed map" in the Order of 1988

"the level of high water" means the level of mean high water spring tides; and

"WGS84" means the World Geodetic System, revised in 1984 and further revised in 2004.

PART 2

HARBOUR REGULATION

General and special directions

Power to make general directions as to use of harbour, etc.

4.—(1) The Council may, in accordance with the requirements of article 5, give or amend directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation, the safety of persons, the protection of property, and the prevention or amelioration of environmental harm in the harbour.

(2) A direction under this article may apply—

- (a) to all vessels or to a class or type of vessel; or;
- (b) to persons designated in the direction; or
- (c) to the whole of the harbour or to a part; or
- (d) at all times or at certain times or at certain states of the tide;

and every direction under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) (c) and (d).

(3) The Council may revoke a direction given under paragraph (1)

(4) For the purposes of this article, "environmental harm" means significant harm to the health of living organisms or other interference with the ecological systems of which they form part.

Procedure for giving general directions

5.—(1) Subject to paragraph (7), if the Council proposes to give or amend a direction under article 4 (general directions), it must:

- (a) give notice in writing of the proposal to the Chamber of Shipping and the Royal Yachting Association and to such other persons or organisations as it considers appropriate for the purposes of the application of this provision (in this article called “the designated consultees”),
- (b) consult with the designated consultees upon the proposal, including allowing a period of not less than 6 weeks from the date notice has been given by it to those consultees for each of them to make written representations to the Council on the proposal;
- (c) have regard to any representations made by the designated consultees during that consultation;
- (d) give notice in writing to the designated consultees, following the consultation, as to whether the Council proposes to proceed with the proposal and, if so, specifying whether it is making any modifications to the proposal and their reasons for so doing; and
- (e) if the Council proposes to proceed to make or amend the direction and any of the designated consultees has made representations against the proposal, invite each designated consultee who has made such representations, within 28 days from the date of the notice given to him under sub-paragraph (d) or such longer period as may be specified in that notice, to confirm in writing if they maintain an objection to the proposal.

(2) Where the Council has complied with the requirements of paragraph (1) in relation to a proposal to give or amend a direction, they may proceed to give or amend the direction if:

- (a) none of the designated consultees has made representations against the proposal;
- (b) none of the designated consultees, having made representations against the proposal, gives notice to the Council under paragraph (1)(e) maintaining an objection to the proposal; or
- (c) an objection to the proposal has been maintained but the requirements specified in paragraph (3) have been complied with.

(3) Where a designated consultee has given notice to the Council under paragraph (1)(e) that they maintain an objection to the proposal, the following procedure applies:

- (a) the issue must be referred to an independent person (the adjudicator) to be agreed between the Council and each of the designated consultees maintaining an objection to the proposal or, failing agreement, appointed on the application of any such party by the President of the London Maritime Arbitrators Association;
- (b) the adjudicator must, so far as is reasonably practicable within three months of the referral, first provide a reasonable opportunity for each of the parties to make representations to or be heard by the adjudicator and then make a report in writing to the Council with findings and reasoned recommendations on the issue, a copy of which must also be provided by the adjudicator to the each of the other parties;
- (c) the Council must decide whether to exercise the power to make or amend the direction having regard to the report and recommendations contained in the report of the adjudicator (but shall not be bound to give effect to the recommendations) and, once they have so decided, it must give notice in writing to the designated consultees of its decision and of the reasons for that decision.

(4) If the Council wishes to exercise the power to make or amend a direction in a form materially different from both the form notified to the parties under paragraph (1)(d) and that recommended by the adjudicator under paragraph (3)(b), they must proceed, unless the designated consultees otherwise agree in writing, as if the proposal is a new proposal to which paragraph (1) applies.

(5) Except as otherwise provided for in paragraph (3), an adjudicator appointed under that paragraph may determine the procedure for the making of representations and the conduct of any hearing under that paragraph.

(6) The costs incurred by the adjudicator and by each of the parties on any referral under paragraph (3) are to be paid by such one or more of the parties to the referral as the adjudicator may direct.

(7) Subject to paragraph (8) paragraphs (1) to (6) do not apply where the Council proposes in the interests of navigational safety to make or amend a direction applying to vessels or persons under article 4 (general directions to vessels):

(a) in an emergency; or

(b) for the purpose of making temporary provision for an intended activity or operation in the harbour which is expected to commence less than 4 months after the Council is notified of or otherwise becomes aware of it and to last not more than 28 days and which the Council considers it appropriate to make such provision, after taking into account other activities and operations in the harbour which may be affected by it.

(8) Where pursuant to paragraph (7) the Council proceeds to make or amend or revoke a direction without complying with paragraphs (1) to (6), it must:

(a) give notice of the direction or amendment as soon as is practicable to those persons who would otherwise have been designated consultees had paragraph (1)(a) applied; and

(b) if a direction or amendment or revocation of a direction is to continue in force for a period of more than 3 months from the date of that notice, apply the procedures specified under paragraphs (1) (b) to (e) and (2) to (6) of this article to the question of the retention of the direction or amendment or revocation of the direction in force after that period as they apply under those provisions to a proposal to make or amend a direction.

Publication of general directions.

6.—(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 Council as soon as practicable once in a newspaper circulating in the locality of the harbour and shall state a place at which copies of the general direction may be inspected.

(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 Council to be appropriate.

Special directions as to use of the harbour, etc.

7.—(1) The harbour master may give a direction which applies to a vessel within the harbour limits for one or more of the following purposes—

(a) requiring compliance with a requirement made in or under—

(i) a general direction;

- (ii) a provision of the Newport Harbour Provisions 1852 to 2018; or
 - (iii) a byelaw or other enactment of local application to the harbour or to the Council;
 - (b) regulating or requiring the movement, berthing, mooring or unmooring of a vessel;
 - (c) requiring the removal of a vessel from any part of the harbour if—
 - (i) it is on fire;
 - (ii) it is in such condition as to be liable to become immobilised or waterlogged, or to sink, or to constitute a danger to life or property;
 - (iii) it is making an unlawful use of the harbour or interfering with the reasonable use or enjoyment of the harbour by other persons or vessels or the carrying on of business in the harbour;
 - (iv) it is necessary to enable maintenance or repair work to be carried out in the harbour or to premises adjacent to the harbour;
 - (v) its removal is considered by the harbour master to be necessary in order to ensure the safety of persons or the protection of property, flora or fauna or of any part of the harbour referred to in paragraph (4);
 - (d) regulating the loading, discharging, storing or safeguarding of the cargo, fuel, water or stores of a vessel and the discharge of its business at the harbour;
 - (e) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
 - (f) regulating the speed of a vessel;
 - (g) regulating the use of the motive power of a vessel;
 - (h) prohibiting or restricting the use of fires, lights pyrotechnics, fireworks, guns, explosive devices, or lasers; or
 - (i) as to the discharge or use of ballast.
- (2) The harbour master may give a direction which applies to—
- (a) a person;
 - (b) all vessels;
 - (c) all vessels of a particular class
- within the harbour for one or more of the purposes in paragraph (1)(a).
- (3) The harbour master may give a direction which applies to a person within the harbour for the purpose in paragraph (1)(h).
- (4) A special direction may be given in the interests of the conservation of, or prevention of damage to, any part of the harbour where that part has been designated, or otherwise given special protection or status, under any enactment by reason of its natural beauty, fauna, flora or archaeological or geological or physiographical features or any other natural features.
- (5) A special direction may be given orally or in writing or in any other manner considered by the harbour master to be appropriate and, where it is in respect of a vessel, must be addressed to the master of that vessel.
- (6) Where a special direction is to be given which applies to a person, the harbour master must, where possible, specify a particular person to whom the direction is addressed, either by name or by a description sufficient to enable the person to be readily identified.
- (7) The harbour master may amend or revoke a special direction.

Failure to comply with directions

8.—(1) A person who fails to comply with a general direction or 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 it shall be a defence for the person charged to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Enforcement of special directions

9.—(1) Without prejudice to any other remedy available to the Council, if a special direction in respect of or applying to a vessel 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) Except in an emergency, the powers conferred by paragraph (1) may only be exercised at least 48 hours after the giving of the special direction.

(3) Expenses incurred by the Council in the exercise of the powers conferred by paragraph (1) above shall be recoverable by it as if they were a charge of the Council in respect of the vessel.

Master's responsibility in relation to directions

10.—The giving of a general direction or a special direction in respect of or applying to a vessel shall not diminish nor in any other way affect the responsibility of the master of the vessel in respect of which the direction is given in relation to the vessel, to persons on board the vessel, to the cargo or to any other person or property.

Revocation of Byelaws

11.—(1) The Council may from time to time make byelaws for the revocation of byelaws made under the Newport Harbour Provisions 1863 to 2018 and under all other powers them enabling.

(2) Byelaws made under this article shall be made under the common seal of the Council, and shall not have effect until the requirements of this article have been satisfied.

(3) Upon the byelaws having been made, notice of the same shall be given in one or more local newspapers circulating in the area to which the byelaws apply.

(4) For at least one month after the making of byelaws, a copy of the byelaws shall be deposited at the offices of the Council and shall at all reasonable hours be open to public inspection without payment.

(5) The Council shall have regard to all representations received during the period when the byelaws have been made available for public consultation, in order to decide whether to confirm the byelaws, with or without amendments.

(6) A copy of the byelaws, when confirmed by the Council, shall be printed and deposited at the offices of the Council, and shall at all reasonable hours be open for public inspection without payment.

PART 3

MISCELLANEOUS AND GENERAL

General Functions of the Council

12.—(1) The Council may, subject to the provisions of this Order, take all such steps from time to time as they may consider necessary or desirable for the maintenance, operation, management and improvement of the harbour, the harbour premises and the facilities (including recreational facilities) afforded therein or in connection therewith, and for the conservation of the harbour's flora, fauna and geological and physiographical features of special interest.

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

(a) improve, maintain, regulate, manage, mark and light the harbour and the harbour premises and provide harbour facilities therein;

(b) subject to obtaining the necessary rights in or over land –

(i) execute and place in and over the harbour and the harbour premises such structures, works and equipment as are required; and

(ii) operate, maintain, renew, alter, extend, demolish and reconstruct structures, works and equipment in the harbour and the harbour premises (including those executed or placed pursuant to paragraph (i) above); and

(c) do all other things which in its opinion are expedient to facilitate the operation, improvement or development of the harbour undertaking

(3) The Council shall, from time to time, formulate and publish a management plan in relation to their maintenance, conservation, operation, management and improvement of the harbour undertaking.

(4) In the exercise of the powers of sub-paragraph (2)(b) above, the Council shall not –

(a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or

(b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus,

without the consent of the statutory undertaker concerned.

Incorporation of the Act of 1847

13.—(1) The Act of 1847 (except sections 6 to 26, 28, 31, 33, 49, 50, 53, 54, 66, 67, 75, 76, 79 and 80), so far as applicable to the purposes and not inconsistent with the provisions of this Order, is hereby incorporated with each of the Newport Harbour Provisions 1852 to 2018 subject to the modifications stated in paragraphs (2) to (5) below.

(2) Sections 61, 62, 64, 71, 72 and 73 shall have effect subject to the modification that for the words “level 1 on the standard scale” there are substituted the words “level 3 on the standard scale”.

(3) Section 63 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 “be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

(4) Section 69 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”.

(5) Section 78 shall have effect subject to the modification that for the words “erect any lighthouse or beacon, or exhibit or allow to be exhibited any light, beacon, or sea-mark,” there are substituted the words “allow to be exhibited any permanent light, beacon, or sea-mark,”.

- (6) In interpreting the provisions of the Act of 1847 as incorporated with this Order –
- (a) the expression “the special Act” means this Order, the expression “the undertakers” shall mean the Council and the expression “the harbour, dock, or pier” shall mean the harbour as defined by article 2(1) of this Order;
 - (b) for the definition of the word “vessel” in section 3 of the Act of 1847 there shall be substituted the definition of that word in article 2(1) of this Order;
 - (c) The provisions of this article shall supersede any provisions of the Act of 1852, the Order of 1898, the Order of 1968 and the Order of 1988 which incorporate the Act of 1847 or any part or provision of that Act.

Power to grant tenancies and to dispose of land

14—(1) The Council may, for the purposes of or in connection with the management of the harbour undertaking, dispose of, lease or grant the use or occupation of, or any right or interest in or over, any land, works, buildings, machinery, equipment or other property forming part of the harbour premises for such period, at such rents and for such other considerations and on such terms and conditions as shall be agreed between the Council and the person taking the same.

(2) The Council may also dispose of, appropriate to another use for which the Council has statutory powers or grant the use or occupation of, any property held by them for the purpose of the harbour undertaking, which they consider to be surplus to that required by them for the purposes of the harbour undertaking.

Commercial Activities

15—(1) The Council may carry on a trade or business of any kind that conduces to the efficient and economical performance by the Council of the management of the harbour including a trade or business carried on in conjunction with another person.

(2) Without prejudice to the generality of paragraph (1) the Council may invest in and promote, or join with any other person in forming, investing in and promoting, companies for investing in, using or developing for any purpose, or for carrying on any trade or business in, the harbour.

Harbour Services and facilities

16—(1) The Council shall have power, within the confines of their statutory duties, to provide, maintain, operate and improve such harbour services and facilities in, or in the vicinity of, the harbour as it may consider necessary or desirable and to take such action as it considers incidental to the provision of such services and facilities.

(2) No other provisions of the Newport Harbour Revision Provisions shall prejudice or derogate from the generality of paragraph (1)

Boarding of vessels

17. Any duly authorised officer of the Council may, on producing written authority signed by the harbour master, enter and inspect a vessel in the harbour —

(a) for the purposes of any enactment relating to the Council or of any byelaw of the Council or any general or special direction, including the enforcement thereof; or

(b) to prevent or attend to any incident that is likely to cause injury to persons or damage to property or the environment if left unattended

but, except in an emergency, no entry shall be made under this article without notice first having been given to the owner or the person appearing to have charge of the vessel; and the notice shall have annexed to it a copy of this article.

Information for purpose of landing charges

18.—(1) When any passengers are embarked on or disembarked from or cargo loaded onto or unloaded from a vessel within the harbour the owner or master of the vessel, if requested to do so by the Council, shall provide to the Council details in writing of the number of persons embarking on or disembarking from the vessel and the weight, quantity, volume and composition of cargo being loaded onto or unloaded from the vessel so as to enable the Council to determine whether any of the Council's published landing fees or other charges are payable in respect of those persons or cargo, in accordance with section 26(2) of the Harbours Act 1964 or other legislation applicable to the harbour.

(2) A request made under paragraph (1) may apply to a single vessel movement or (in the case of a vessel which habitually uses the harbour) to every occasion upon which the vessel arrives at or departs from the harbour.

(3) The owner or master of a vessel in respect of which a request is made under paragraph (1) shall provide the details so requested within such period (being not less than 24 hours) after the arrival of the vessel as may be specified by the Council, and in any event prior to the departure of the vessel.

(4) Paragraph (1) shall not apply in relation to non-commercial vessels occupying moorings within the harbour under licences granted by the Council, nor to vessels paying visitor berthing rates to the Council.

(5) For the purposes of paragraph (4) "non-commercial vessel" means any vessel used for sport or recreation other than a vessel which is carrying, or is available to carry, members of the general public for hire or reward.

(6) Any person who, without reasonable excuse, fails to comply with any requirement made under paragraph (1), or who in compliance with such a requirement provides any information which he knows to be false, or recklessly provides information which is false in any material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Obstruction of officers

19.—(1) Any person who —

(a) intentionally obstructs or threatens an officer of the Council acting in pursuance of the performance of his functions;

(b) without reasonable excuse fails to give such an officer any information (including his name, address, telephone number and email address) which the officer may require for the purpose of the performance of his functions,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Any person who in giving such information makes a statement which he knows to be false shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Crown Rights

20.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Order shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any, channel, creek, bay or estuary)

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Council, without the prior consent in writing of that Council; or

(b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the prior consent in writing of that government department.

(2) A consent under paragraph (1) may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate

Saving for Trinity House

21.—Nothing in this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.

Notices

22.—(1) Without prejudice to the discretion of the harbour master under article 7(4) and subject to the following provisions of this article, and to the other provisions of this Order, a notice or other document required or authorised to be served for the purposes of this Order, or any direction given under this Order, shall be in writing and may be served by first class post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) Where a person on whom a notice or other document is to be served has agreed in writing that service may be by email, or other electronic means, the Council may employ this method of service until such time as the person informs it in writing that they are no longer willing to receive notices or documents by email or by such other electronic means.

(4) For the purposes of section 7 of the Interpretation Act 1978^a as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, his last known address at the time of service.

^a 1978 c.30.

(5) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person whose name and address cannot be ascertained after reasonable inquiry—

- (a) in the case of a notice or document to be served on any person as having an interest on, or as the occupier of, any land, it may be served by —
 - (i) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
 - (ii) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land;
- (b) in the case of a notice or document relating to a vessel (including a wreck), it may be served by exhibiting it in a conspicuous position on or near the vessel, or handed to a member of the crew, unless it would not be reasonably practicable to exhibit the notice or document in this manner, or if the notice or document would not be likely to be seen if it were so exhibited;
- (c) in the case of any other notice or document or a notice or document that is not capable of being served pursuant to paragraph 5(b) it may be served by displaying it at the office of the harbour master for the period of its duration.

(6) This article shall not be taken to exclude the employment of any method of service not expressly provided by it.

Amendment and Repeal

23. (1) The 1988 Order shall have effect as if:

(a) In article 2 (Interpretation): -

- i. in the definition of “harbour” for “the inland tidal waters and creeks forming part of the River Medina in the borough shown coloured grey on the signed map being the harbour as it existed immediately before the making this Order but excluding the Western Creek beyond the confluence of the River Medina with the Lukely Brook at the weir south of the bridge carrying the Medina Way over the River Medina and including the harbour estate” there shall be substituted the definition ascribed to it by article 2 (Interpretation) of this Order.
- ii. In the definition of “vessel” for “includes any vessel, ship, lighter, keel, barge, boat, raft, pontoon, hovercraft (as defined by the Hovercraft Act 1968 and craft of any kind howsoever navigated, propelled or moved and any seaplane on the surface of the water and in article 11 (Powers with respect to disposal of wrecks) and article 12 (Protection of Crown interests in wrecks) of this Order any aircraft” there shall be substituted the definition ascribed to it by article 2 (Interpretation) of this Order.

(b) In article 8 (As to houseboats): -

- i. for paragraph (2)(d) after “at reasonable cost” there shall be added the words “or in a manner that is reasonably acceptable to the Council”;
- ii. there shall be added an additional paragraph 2(f) as follows:-

“that by virtue of its condition, appearance or state of repair the houseboat is likely to have a detrimental impact on the amenities of the harbour”;

iii. for paragraph there were substituted the following: -
“£400” shall be deleted and there were substituted the
words “Level 3 on the standard scale”.

(2) The 1968 Order shall have affect as if in article 6(2) the following: -

“Provided that a charge shall not be payable under this paragraph in respect of any vessel in any case where all appropriate dues have been paid to the Corporation” shall be deleted.

Signed by authority of the Marine Management Organisation

[Date]

An authorised member of the Marine Management Organisation

[Signed]