

[201X] No. [ ]  
**HARBOURS, DOCKS, PIERS AND FERRIES**  
The Weymouth Harbour Revision Order [201X]

*Made - - - - [ ]*  
*Laid before Parliament [ ]*  
*Coming into force - - [ ]*

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#### SCHEDULES

Schedule 1: Revocation / Repeal

Schedule 2: Acts and Orders

Weymouth and Portland Borough Council has applied in accordance with section 14(2)(a) of the Harbours Act 1964(a) (“the Act”) for a harbour revision order under section 14.

The Secretary of State, as the appropriate Minister for the purposes of section 14, has by an order(b) under section 42A of the Act(c) delegated the functions of the appropriate Minister under section 14(d) to the Marine Management Organisation(e).

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b) and in exercise of the powers conferred by section 14(1) and (3), makes the following Order.

(a) 1964 c.40; section 14 was amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 14(1) and 14 and section 40 and Schedule 12 (Part II), by the Transport and Works Act 1992 (c.42), section 63(1) and Schedule 3, paragraph 1, by S.I. 2006/1177, regulation 2 and the Schedule (Part I), by the Planning Act 2008 (c.29), section 36 and Schedule 2, paragraphs 8 and 9, by S.I. 2009/1941, article 2(1) and Schedule 1, paragraph 12 and by the Criminal Justice Act 1982 (c.48), sections 37 and 46. Section 54 (orders and regulations) was amended by the Transport Act 1981 (c.56), sections 18 and 40 and Schedules 6 and 12 (Part II) and by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(2).

(b) S.I. 2010/674.

(c) Section 42A was inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(1).

(d) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(e) The Marine Management Organisation was established by the Marine and Coastal Access Act 2009 (c.23), section 1.

## PART 1

### PRELIMINARY

#### **Citation and commencement**

**1.**—(1) This order may be cited as the Weymouth Harbour Revision Order 201[X] and shall come into force on [ ].

#### **Interpretation**

**2.** — (1) In this Order—

“the Act of 1847” means the Harbour Docks and Piers Clauses Act 1847(**a**);

“the Act of 1854” means the Weymouth and Melcombe Regis Markets and Pier Act 1854(**b**);

“the Act of 1879” means the Weymouth and Melcombe Regis Bridge Act 1879(**c**);

"the Act of 1887" means the Weymouth and Melcombe Regis Corporation Act 1887(**d**);

"the Act of 1914" means the Weymouth and Melcombe Regis Corporation Act 1914(**e**);

“the Order of 1996” means the Weymouth Harbour Revision Order 1996(**f**);

“aids to navigation” includes lights, buoys, beacons and signals including sound and electronic signals and any structure required to house the same;

“the council” means Weymouth and Portland Borough Council

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

"commercial refuelling activities" includes recharging or emptying (in whole or part) a vessel with fuel in exchange for financial payment or other valuable consideration.

“electronic communications network” has the meanings given by section 32 to the Communications Act 2003(**g**);

“functions” includes powers and duties;

“general direction” means a direction given under article 21 of this Order;

“harbour” means the harbour of Weymouth the limits of which include the harbour premises and are defined in article 6 of this Order;

"harbour facilities" includes, but is not limited to, shipping, fisheries, marine, recreational, leisure, tourism and retail facilities (including buildings).

"harbour limits plan" means the plan deposited with this Order and entitled 'Harbour Limits Plan', one copy of which is deposited with the offices of the [Marine Management Organisation] and the other at the principal office of the Council.

“the harbour master” means any person appointed as such by the Council, and includes his duly authorised 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 docks, quays, piers, wharves, berths, breakwaters, landing places, roads, sheds, buildings and all other works and conveniences, land and premises at any time used, intended to be used or set aside for the purposes of, or in connection with, the harbour undertaking, which at the date of this Order includes the areas shown shaded blue on the harbour premises plan;

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(a) 1847 c. 27

(b) 17 & 18 Victoria 1 c. xxxv

(c) 42 & 43 Victoria 1 c. xii

(d) 50 & 51 Victoria 1 c. cliii

(e) 4 & 5 Geo. 5 c. clxxiv

(f) S.I. 1996/15

(g) 2003 c.21

“the harbour premises plan” means the plan deposited with this Order and entitled 'Harbour Premises Plan', one copy of which is deposited with the offices of the [Marine Management Organisation] and the other at the principal office of the Council;

"harbour revenue" means and includes all moneys receivable by the Council for and in relation to the harbour undertaking other than borrowed moneys and moneys which ought to be carried to capital account;

“the harbour undertaking” means the undertaking carried on by the Council at and in connection with the harbour authorised by this Order and the Acts and Orders listed in Schedule 2 (to the extent that those Acts and Orders relate to the harbour);

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

"Inner Harbour North" means that part of the harbour which is described in the Schedule to the Order of 1996 and which, for the purposes of identification only, is shown edged red on the signed plan deposited with that Order;

“land” includes land covered by water;

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

“master”, in relation to a vessel, means any person having or taking command, charge, management or conduct of the vessel for the time being;

"operator has the meaning given by paragraph 2 Schedule 3A to the Communications Act 2003;

“jet ski” 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 water 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); or

(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;

“seaplane” includes a flying boat and any other aircraft designed to manoeuvre on water but not a hovercraft or hydrofoil vessel;

“special direction” means a direction given under article 33 of this Order;

“statutory undertaker” means —

(a) any person who is a statutory undertaker for any of the purposes of the Town and Country Planning Act 1990**(a)**;

(b) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949**(b)**;

(c) any operator of an electronic communications;

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

“vehicle” includes any vehicle propelled on rails, any machinery on wheels or caterpillar tracks, trailers, caravans and mobile homes and includes a hovercraft or any other amphibious vehicle;

“vessel” means a ship, boat, houseboat, raft or water craft of any description, however propelled or moved, and includes non-displacement craft, a jet ski, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily);

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**(a)** 1990 c.8

**(b)** 1949 c. 74, section 1 was amended by the Local Government Act 1972 (c. 70), Schedule 30.

(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) Reference points specified in this Order shall be construed as references to Latitude and Longitude reference points.

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

**3.** —(1) The Act of 1847 (except sections 6 to 26, 28, 31, 42, 48 to 50, 67, 70, 92 and 101), (so far as applicable to the purposes and not inconsistent with the provisions of this Order, the Act of 1854, the Act of 1887 and the Act of 1914 respectively), is hereby incorporated with this Order, the Act of 1854, the Act of 1887 and the Act of 1914 respectively subject to the modifications stated in paragraphs (2) to (5) below.

(2) 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”.

(3) 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”.

(4) In construing the provisions of the Act of 1847 as incorporated with this Order, the Act of 1854, the Act of 1887 and the Act of 1914 respectively —

(a) the expression “the special Act” means this Order, the Act of 1854, the Act of 1887 and the Act of 1914 respectively, the expression “the undertakers” means the Council and the expression “the harbour, dock, or pier” shall mean the harbour, the breakwaters and includes those docks, piers, berths, quays, landing places and wharves forming part of the harbour premises;

(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 reference in section 53 of the Act of 1847 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.

## **PART 2**

### **JURISDICTION, HARBOUR LIMITS AND GENERAL FUNCTIONS**

#### **Jurisdiction**

**4.** — (1) The Council shall exercise jurisdiction as a harbour authority within the meaning of section 57 Harbours Act 1964, and the powers of the harbourmaster shall be exercisable within the harbour.

(2) For and incidental to the performance of their functions under this Order, the Council may employ and appoint harbour masters.

(3) The Council shall, within the harbour, be a local lighthouse authority within the meaning of section 201 of the Merchant Shipping Act 1995(a)

### **General functions**

**5.**—(1) The Council may, subject to the provisions of this Order, take all such steps from time to time as it considers necessary or desirable for the maintenance, operation, management and improvement of the harbour, the harbour approaches and the harbour 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 those purposes and without prejudice to the generality of the foregoing, the Council may—

- (a) improve, maintain, regulate, manage, mark and light the harbour 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 such structures, works and equipment as are required; and
  - (ii) operate, maintain, renew, alter, extend, demolish and reconstruct structures, harbour facilities, works and equipment in the harbour (including those executed or placed pursuant to sub-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, publish and review a business plan ('Harbour Business Plan') in relation to their maintenance, conservation, operation, management and improvement of the harbour undertaking, which it shall have regard to when performing its functions.

(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.

(5) This article is without prejudice to the powers of the Council under or by virtue of any other enactment.

### **Harbour Limits**

**6.** — (1) The limits of the harbour of Weymouth within which the Council shall exercise jurisdiction as a harbour authority and the powers of the harbour master may be exercised shall comprise: —

(a) the area below the level of high water included within a line drawn from a point on the shoreline at Nothe Fort (position 50° 36.42'N, 02° 26.6'W) in a 090.0 degrees (true) direction to the north-east corner of the dockyard port of Portland (position 50° 36.42'N, 02° 23.88'W) and thence in a 343.5 degrees (true) direction for 1.675 nautical miles to the shoreline (position 50° 38.01'N, 02° 24.60'W)'; and then following the level of high water around the coast of Weymouth Bay and up the River Wey as far as Westham Embankment (position 50° 36.71'N, 02° 27.39'W) (beneath Westham Bridge) (but not including Westham Bridge) and then in a straight line across Westham Embankment to the opposite bank of the River Wey (position 50° 36.71'N, 02° 27.49'W) and then following the level of high water down the River Wey and around the coast to a point on the shoreline at Nothe Fort (position 50° 36.42'N, 02° 26.6'W); such area shown shaded blue on the harbour limits plan; and

(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 this article and the boundaries shown on the harbour limits plan or the harbour premises plan the descriptions in question shall prevail over said plans.

### PART 3 FINANCES

#### **Application of finances**

7. — (1) The Council shall apply the harbour revenue in manner following and not otherwise:-

- (a) first in payment of the working and establishment expenses and cost of maintenance of the harbour;
- (b) secondly in payment of the interest on any moneys borrowed by the Council for the harbour under any statutory borrowing power;
- (c) thirdly in payment of all other expenses properly chargeable to harbour revenue;
- (d) fourthly to an account established as a reserve fund for the harbour.

Any surplus revenue from the harbour undertaking in any year and the income of the reserve fund so long as that fund amounts to a sum equivalent to at least the gross revenue of the Council in connection with the harbour undertaking in the immediately preceding financial year shall be applied to the improvement of the harbour undertaking.

#### **Reserve fund**

8.— (1) The Council shall establish and maintain a reserve fund.

(2) The Council shall carry to a reserve fund such part of its receipts on revenue account as shall be available for the purpose until in any year the fund amounts to a sum at least equivalent to the gross revenue of the Council in connection with the harbour undertaking in the immediately preceding financial year and if the fund at any time falls below that amount the Council shall carry to the fund so much of any such receipts as is required to restore the fund to that amount and is available for the purpose.

- (3) Any reserve fund established or maintained under this article shall from time to time be applied by the Council in their discretion—
- (a) in or towards meeting any deficiency on harbour revenue account in any year; or
  - (b) to meet any extraordinary claim or demand in respect of the harbour undertaking; or
  - (c) in or towards payment of the cost of renewing, improving, extending or replacing any part of the works forming part of the harbour undertaking or any vessels, plant or equipment of the Council connected to the harbour undertaking; or
  - (d) for improving the operational area and the navigation of the harbour and the approaches to the harbour; or
  - (e) for any other lawful purpose sanctioned by the Council and connected with the harbour undertaking.

### **Borrowing powers**

**9.**—(1) Notwithstanding anything contained in any enactment, the Council may from time to time, for the general purposes of the harbour undertaking, borrow upon the security of all or any of the harbour revenue and property and by any method or methods which it sees fit such sums of money as it considers necessary.

(2) Moneys borrowed under paragraph (1) may be applied only to purposes to which capital money is properly applicable.

(3) For the purposes, but without prejudice to the generality, of paragraph (2) purposes to which capital money is properly applicable shall be deemed to include –

- (a) any major works of repair or maintenance of any part of the works forming part of the harbour undertaking;
- (b) the payment of any interest falling due within the five years immediately following the date of the borrowing of any sum of money borrowed by the Council under this article;
- (c) the repayment within 12 months from the date of borrowing of any sum for the time being outstanding by way of principle on any amount previously borrowed; and
- (d) a payment relating to pensions paid or to be paid to past or present employees of the Council whose employment related to the harbour undertaking or to the family or dependants of such persons.

## **PART 4**

### **CHARGES**

#### **Charges other than ship, passenger and goods dues.**

**10.** The Council may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig, or floating platform or any other vessel not being a ship as defined by section 57 of the 1964 Act entering, using or leaving the harbour such reasonable charges as they may determine and sections 30 and 31 of the 1964 Act shall with all necessary modification apply to the charges authorised by this article as they may apply to ship, passenger and goods dues demanded under section 26 of the Harbours Act 1964.

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

**11.**—In addition to article 10 of this Order and its power to demand ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Council may demand, take and recover such reasonable charges for services and facilities (including pontoons) provided by the Council at the harbour as it may from time to time determine.

### **Payment of charges**

**12.**— (1) The charges which the Council is for the time being authorised to demand, take and recover in respect of vessels and goods or otherwise under any enactment shall be payable before the removal from the harbour or the harbour premises of any vessel or goods in respect of which they are payable, and may be demanded, taken and recovered by such persons, at such places, at such times and under such terms and conditions as the Council may from time to time specify in their published list of charges.

(2) Charges payable to the Council on or in respect of—

- (a) a vessel, shall be payable by the owner or master thereof;
- (b) goods, shall be payable by the owner, consignee or shipper thereof.

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

(4) Without prejudice to the generality of paragraph (1) above, the terms and conditions as to the payment of charges which the Council may from time to time specify may include the time when a charge falls due for payment and may require such information to be given to the Council by the owner or master of a vessel or a person using a service or facility of the Council as the Council may require in connection with the assessment or collection of a charge.

### **Compounding arrangements and rebates**

**13.**— (1) The Council may confer total or partial exemptions from, allow rebates to or make compositions with any person with respect to charges, and may vary or extinguish any such exemption or composition.

(2) Nothing in section 30 of the Harbours Act 1964 shall require the Council to include in the list of ship, passenger and goods dues kept at the harbour office, as required by subsection (1) of that section, charges reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in the said list.

### **Deposit for charges**

**14.**— (1) The Council may, if it thinks fit, require a person who incurs or is about to incur a charge to deposit with them, or to guarantee, such sum of money as is, in the opinion of the Council, reasonable having regard to the amount or probable amount of the charge.

(2) Where such a person fails to deposit or guarantee the sum of money required the Council may detain in the harbour the vessel or goods in respect of which the charge has been or will be incurred, until the requirement has been complied with or the charge paid.

### **Liens for charges**

**15.—** (1) A person who by agreement with the Council collects charges on their behalf and who pays or gives security for the payment of charges on goods in his possession shall have a lien on those goods for the amount paid or security given in respect thereof.

(2) A wharfinger or carrier who is not himself liable for the payment of charges may pay or by agreement with the Council give security for charges on goods in his custody, and in that event he shall have a like lien on the goods for the amount of those charges as he would have in respect of his charges for safe custody or carriage of the goods, as the case may be.

### **Refusal to pay charges for landing place**

**16.—** The harbour master may prevent a vessel from using a landing place provided by the Council, if the master of the vessel refuses to pay the charges for such use.

### **Exemptions from harbour dues**

**17.—** (1) Except insofar as may be agreed between the Council and the government department or person concerned the Council shall not be entitled to demand harbour dues from, or in respect of—

(a) a vessel—

(i) in the service of HM Revenue and Customs in the execution of their core duties and not carrying persons or goods for reward;

(ii) belonging to or used by a lifeboat service whilst employed in or in connection with the core functions of that service;

(iii) in the service of a police force or other emergency service in the execution of their core duties and not carrying persons or goods for reward;

(b) HM Revenue and Customs or any officer or other person employed in their service in execution of their core duties in respect of a vessel or goods under customs seizure, or in respect of goods or other articles belonging to, or in the care or service of, HM Revenue and Customs;

(c) an officer of HM Revenue and Customs or any other person employed in their service while in the execution of their core duties;

(d) a person employed by the Secretary of State for Defence while in the execution of core duties.

(2) Officers of the Department for Transport in the execution of their core duties shall at all times be exempt from dues.

(3) In this article “dues” means ship, passenger and goods dues which the Council may demand under section 26 of the 1964 Act.

### **Recovery of charges**

**18. —** 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 that Act), the Council may recover any charges payable to them as a debt in any court of competent jurisdiction.

### **Harbour master may prevent sailing of vessels**

**19.** — The harbour master may prevent the removal or sailing from the harbour of any vessel until evidence has been produced to him of the payment of any charges payable in respect of the vessel or of passengers thereon or of the goods imported or exported therein.

## PART 5

### GENERAL DIRECTIONS, SPECIAL DIRECTIONS AND BYELAWS

#### **General byelaws**

**20.** —(1) The Council may make such byelaws as it thinks fit for the efficient management and regulation of the harbour.

(2) Without prejudice to the generality of paragraph (1), the Council may, from time to time, make such byelaws as it thinks fit with reference to all or any of the following—

- (a) regulating the use of any works and facilities provided by the Council;
- (b) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour and to any aids to navigation which are used in connection with the harbour;
- (c) regulating the conduct of all persons within the harbour, not being—
  - (i) members of a police force;
  - (ii) officers or servants of the Crown; or
  - (iii) members of a fire brigade,

whilst in the exercise of their duties as such;

- (d) regulating the placing, maintenance and use of moorings within the harbour;
- (e) preventing and removing obstructions or impediments within the harbour or the harbour premises;
- (f) regulating the launching of vessels into the harbour and /or from the harbour premises;
- (g) regulating or prohibiting the use in the harbour or on board any vessel therein of fires, lights, tobacco or any other substance, equipment, tools or appliances which the Council considers involves a risk of fire, explosion or chemical reaction;
- (h) prohibiting the use of or regulating the use, movement, speed, placing, loading, unloading, driving and parking of vehicles within the harbour premises;
- (i) requiring the use of silencers or other similar apparatus, and the control of noise generally on vessels in the harbour;
- (j) regulating the navigation of vessels in the harbour and their entry into and departure therefrom and, without prejudice to the generality of the foregoing, for prescribing rules for regulating the speed and manner of navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating or mooring within the harbour;
- (k) regulating the embarkation of persons on, or their disembarkation from, vessels within the harbour;
- (l) prescribing the lights and signals to be exhibited or made—
  - (i) by vessels aground within the harbour;
  - (ii) by vessels or other devices used for marking obstructions within the harbour; and
  - (iii) at the entrance to any dock or at any wharf, pier or other work for assisting the navigation of vessels within the harbour;

- (m) prohibiting or regulating the discharge into the harbour of any material or substance;
- (n) regulating or prohibiting fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf, breakwater or other installation or structure of any kind within the harbour, from any vessel within the harbour or from the foreshore where such fishing interferes with the operation of the port or the safety of navigation in the harbour;
- (o) regulating or prohibiting bathing within the harbour;
- (p) regulating or prohibiting the use by vehicles of the foreshore within the harbour premises;
- (q) regulating the berthing, mooring and anchoring of vessels in any part of the harbour and regulating the careening and beaching of vessels within the harbour;
- (r) regulating the use within the harbour of yachts, sailing boats, rowing boats, pleasure craft, windsurfers, kitesurfers, jet skis, jet kayaks, flyboards, other personal watercraft and other small craft;
- (s) regulating or prohibiting the activities within the harbour of divers, surfers, underwater swimmers, water-skiers and other persons engaged in similar recreational pursuits (including those engaged on a commercial basis);
- (t) regulating the conveyance to and the laying down at or on the harbour premises of all goods intended for shipment;
- (u) regulating the control of animals within the harbour;
- (v) preventing the disposal of any waste matter except at places or in a manner prescribed by the Council;
- (w) regulating the conveyance, landing, laying down, discharge and removal of goods, gear, equipment, timber, logs, floats, or rafts of timber and other items within the harbour or the harbour premises;
- (x) regulating the exercise of the powers vested in the harbour master; and
- (y) for the purposes specified in section 83 of the Act of 1847.

But such byelaws shall not come into operation until the same have received the allowance and the confirmation of the Secretary of State which shall be sufficient for all purposes.

(3) In this article “signals” includes sound signals.

(4) Byelaws made under this article may—

- (a) provide for imposing upon a person offending against them, or against any condition, requirement or direction imposed, made or given thereunder, a fine not exceeding level 4 on the standard scale on summary conviction;
- (b) relate to the whole of the harbour or to any part thereof;
- (c) make different provisions for different parts of the harbour or in relation to different classes of vessels or vehicles; and
- (d) otherwise make different provision for different circumstances.

(5) Where a person is charged with an offence against a byelaw in force under this article, it shall be a defence for the person to prove—

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

(6) The provisions of sections 85 to 90 of the Act of 1847 (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made by the Council under this article; and those provisions, in their application to any such byelaws, shall have effect.

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

**21.**—(1) The Council may, in accordance with the requirements of article 22, give or amend a direction for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation, the safety of persons and the protection of property, flora and fauna in the harbour.

(2) A direction under this article may apply—

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

and every direction must 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).

**Procedure for giving, amending or revoking general directions**

**22.**—(1) Subject to paragraph (7), if the Council propose to give, amend or revoke a general direction, they 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 (“designated consultees”);
- (b) consult with the designated consultees upon the proposal and allow a period of not less than 6 weeks from the date of the notice given in accordance with sub-paragraph (a) for written representations to be made by the designated consultees to the Authority regarding the proposal;
- (c) have regard to any representations made by designated consultees during consultation;
- (d) give notice in writing to the designated consultees following 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 its reasons for so doing;
- (e) if the Council proposes to proceed with the proposal and a designated consultee has made representations against the proposal, invite that designated consultee to confirm in writing whether they maintain their objection to the proposal within 28 days from the date of the notice given in accordance with sub-paragraph (d), or such longer period as the Council may specify.

(2) Where the Council have complied with paragraph (1), it may proceed to give, amend or revoke a general direction if:

- (a) none of the designated consultees has made representations against the proposal;
- (b) none of the designated consultees which made representations against the proposal has confirmed in writing that they are maintaining their objection to the proposal in accordance with paragraph (1)(e); or

(c) where a designated consultee has maintained an objection in accordance with paragraph (1)(e), the requirements of paragraph (3) have been complied with.

(3) Where a designated consultee has confirmed in writing to the Council that they maintain their objection to a proposal—

(a) the issue must be referred to an independent person (“the adjudicator” appointed—  
(i) by agreement between the Council and each designated consultee maintaining an objection in accordance with paragraph (1)(e) (“the parties”);  
or

(ii) failing agreement, by the President of the London Maritime Arbitrators Association on the application of either of the parties;

(b) so far as is reasonably practicable within three months of the referral, the adjudicator must:

(i) provide a reasonable opportunity for the parties to make representations to or be heard by the adjudicator at a hearing; and

(ii) make a written report to the parties with findings and recommendations on the issue;

(c) the Council must decide whether to exercise the power to give, amend or revoke the general direction having regard to the adjudicator’s report (but they are not bound to give effect to any recommendations) and, once they have decided, must give notice in writing to the designated consultees of their decision and the reasons for that decision.

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

(5) The costs incurred by the adjudicator and the parties from a referral under paragraph (3) are to be paid by one of more of the parties as the adjudicator may direct.

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

(7) Paragraphs (1) to (6) do not apply where in the interests of navigational safety the Council proposes to give or amend a general direction—

(a) in an emergency; or

(b) relating to a intended activity or operation within the harbour which—

(i) is expected to commence less than 4 months after the Council is notified or otherwise becomes aware of it;

(ii) is to last less than 28 days; and

(iii) the Council considers that the giving or amending of a general direction in relation to that activity or operation is required, taking into account other activities or

operations in the harbour which may be affected.

(8) Where the Council proceeds to give or amend a general direction in accordance with paragraph (7), it must—

- (a) as soon as is practicable give notice of the direction or amendment to those persons who would have been designated consultees had paragraph (1)(a) applied; and
- (b) if the direction or amendment is intended to continue in force for more than 3 months, apply the procedure under paragraphs (1)(b) to (e) and (2) to (6) to the direction or amendment with the following modifications—
  - (i) a reference to the ‘proposal’ in those paragraphs is to be read as a reference to the direction or amendment; and
  - (ii) a reference to the Council ‘proceeding’ with a proposal is to be read as a reference to the Council determining that the direction or amendment should remain in force.

### **Publication of general directions**

**23.**—(1) Subject to paragraph (3), the Council must publish a notice of the giving, amendment or revocation of a general direction as soon as practicable on one occasion in a newspaper circulating in the locality of the harbour.

(2) The notice must state a place at which copies of the general direction may be inspected.

(3) In an emergency, the Council may give notice of the giving or amendment of a general direction in any matter which it considers to be appropriate.

### **Special directions**

**24.**—(1) The harbour master may give a special direction in respect of a vessel anywhere in the harbour for any of the following purposes:

- (a) requiring persons to comply with a requirement made in or under a general direction;
- (b) regulating or requiring the movement, anchorage, berthing, mooring or unmooring of the vessel;
- (c) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores, and the dispatch of its business at the harbour premises;
- (d) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (e) prohibiting or restricting the use of fires or lights;
- (f) regulating the use of ballast;
- (g) requiring the removal from any part of the harbour of the vessel if—
  - (i) it is on fire;
  - (ii) it is in such condition as to be liable to become immobilised or waterlogged, 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 thereof by other vessels or persons or the dispatch of business thereat; or
  - (iv) its removal is necessary to enable maintenance or repair work to be carried out to the harbour premises; and
- (h) requiring its removal outside the harbour if such removal is considered by the harbour master to be necessary in order to avoid danger to life (including wildlife) or to property.

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

(3) The harbour master may revoke or amend a special direction.

#### **Failure to comply with directions**

**25.**—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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

#### **Enforcement of directions**

**26.**—(1) Without prejudice to any other remedy available to the Council, if a special direction is not complied with within a reasonable time, the harbour master may put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no-one on board a vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with:

Provided that the powers of this paragraph shall not be exercised—

- (a) in relation to a vessel other than a lighter unless, after reasonable inquiry has been made, the master cannot be found; or
- (b) in relation to a lighter unless it is obstructing or interfering with navigation.

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

#### **Master's responsibility in relation to directions**

**27.** — The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, to persons on board the vessel, to the cargo or any other person or property.

## PART 6 MISCELLANEOUS AND GENERAL

#### **Advisory bodies**

**28.**—(1) The Council must establish one or more advisory body or bodies which the Council must consult on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.

(2) The Council must make arrangements for every such advisory body to meet not less than twice a year.

(3) The Council must take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by such an advisory body whether or not that advisory body has been consulted by the Council on the matter, recommendation or representation so referred or made.

(4) The advisory body or bodies established pursuant to this article must consist of such number or numbers of persons appointed by the Council as the Council from time to time considers appropriate.

(5) Appointments to any such advisory body must be made by the Council in accordance with a scheme prepared by them for that purpose and the scheme must provide for the appointment of persons who, in the opinion of the Council, are representative of persons having an interest in the functioning of the harbour.

(6) Any such advisory body may determine its own quorum and procedure and must appoint a chairman.

(7) An individual member of any such advisory body may, on giving notice in writing to the chairman of that body, send a substitute to any meeting of the body.

(8) A member of such an advisory body may hold office for the period of three years from the date of this appointment and at the end of that period will be eligible for reappointment.

(9) A member of such an advisory body may resign his office at any time by notice in writing given to the Council.

### **Development of land etc.**

**29.**—(1) If it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner, the Council may, subject to obtaining the necessary rights in or over land —

(a) use or develop for any purpose, and deal with, any land within or in the vicinity of the harbour; or

(b) form, invest in and promote, or join with another person in forming, investing in and promoting, a Company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the harbour.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of the Council referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Council would not itself have the power to do that thing.

### **Powers to grant tenancies and to dispose of land**

**30.**—(1) The Council may, for the purposes of or in connection with the carrying on of the undertaking, lease or grant the use or occupation of, or any right or interest in or over, any lands, works, buildings, machinery, equipment or other property forming part of the harbour for such period, at such rents and other considerations and on such terms and conditions as it thinks fit.

(2) The Council may also dispose of, or grant the use or occupation for any purpose of, any lands, works, buildings, machinery, equipment or other property vested in them if it considers that—

- (a) the property is surplus to that which is required for the purpose of the harbour; or
- (b) it would conduce to the improvement, maintenance or management of the harbour in an efficient and economical manner for the property to be held by a person other than the Council, for such consideration and on such terms and conditions as they think fit.

(3) For the avoidance of doubt it is hereby declared that powers conferred in the Order of 1996 do not restrict the powers conferred in this article 30 in relation to the Inner Harbour North and that the powers contained in this article 30 may be exercised by the Council in respect of the Inner Harbour North, in addition to and not subject to the restrictions contained in the Order of 1996.

### **Power to appropriate lands and works for particular uses, etc.**

**31.—** (1) Notwithstanding anything in any statutory provision of local application the Council may from time to time for the purpose of or in connection with the management of the harbour set apart and appropriate any part of the harbour for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Council may think fit.

(2) no person or vessel shall make any use of any part of the harbour so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Council and –

- (a) the harbour master, or as the case may be, such officer, may order any person or vessel making use of the harbour without such consent to leave or be removed; and
- (b) the provisions of section 58 (Powers of harbour master as to mooring of vessels in harbour) of the Act of 1847 shall extend and apply with the necessary modifications to and in relation to such vessels.

### **Other commercial activities**

**32.—**(1) If it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner, the Council may, in addition to any other powers conferred on the Council—

- (a) carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person; or
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a Company, for carrying on any part of the undertaking or carrying on at any place a trade or business of any kind.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of a Council referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Council would not itself have the power to do that thing.

(3) The powers of the Council under this article are additional to the powers of the Council under section 37 of the Docks and Harbours Act 1966(a).

### **Power to delegate functions**

**33.**— Subject to paragraph 9B of Schedule 2 to the Harbours Act 1964(b) (functions which cannot be delegated under a power conferred by a harbour revision order), the Council may delegate the performance of any of its functions to be carried out by any such Company as is referred to in article 32(1)(b).

### **Moorings**

**34.** —(1) The Council may provide, place, lay down, maintain, renew, use, have and remove such moorings within the harbour—

- (a) on land owned or leased by it or in which they hold an appropriate interest; or
  - (b) with the consent in writing of the owner and lessee thereof, on any other land in the harbour,
- as it considers necessary or desirable for the convenience of vessels.

(2) The Council may demand, receive and recover in respect of any vessel using any of the moorings provided under this article or moored to land owned or leased by the Council such reasonable charges as the Council may from time to time prescribe.

(3) The Council may compound with any person with respect to the payment of the charges prescribed under paragraph (2) above.

(4) (a) The Council may give notice in writing to the person having the control of any vessel using any mooring in the harbour at the date this Order comes into force requiring him within 28 days to remove the mooring so as to enable the Council to provide moorings in accordance with paragraph (1) above.

(b) The Council shall offer to make available to the person having the control of the vessel referred to in the notice a mooring provided by them under paragraph (1) above as soon as such mooring has been laid down.

(c) If any person fails to comply with a notice given by the Council under this paragraph, the Council may at any time after the expiration of 28 days from the date of the giving of the notice remove the mooring referred to in that notice.

(5) (a) The Council may from time to time grant to a person with or without conditions a licence to place, lay down, maintain, renew, use and have existing and future moorings, for vessels in the harbour.

(b) Nothing in any such licence shall entitle a person to place, lay down, maintain, renew or use and have any mooring on land not owned or leased by him or by the Council or in which he has no appropriate interest.

(c) Any such licence shall be valid only for a period of a maximum of one year commencing with the date on which it is granted.

(d) The Council may charge for such a licence such reasonable fee as the Council may from time to time prescribe.

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(a) 1966 c.28; section 37(3) was repealed by the Transport and Works Act 1992 (c.42), Schedule 4 (Part II).

(b) 1964 c.40

(6) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Council in setting out moorings;
- (b) intentionally and without lawful authority pulls up or removes any mooring in the harbour or any part thereof;
- (c) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Council under this article; or
- (d) places, lays down, maintains, renews or has in the harbour any mooring not provided or licensed by the Council under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) If any person commits an offence under paragraph (6)(d) above, the Council may remove the mooring in question and recover from that person the expenses incurred in doing so.

(8) In this article “mooring” includes any buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels.

### **Bunkering**

**35.**—(1) The Council may from time to time grant to a person with or without conditions a licence to carry out commercial refuelling activities related to vessels in the harbour.

- (a) Nothing in any such licence shall entitle a person to carry out commercial refuelling activities from on land not owned or leased by him or by the Council or in which he has no appropriate interest.
- (b) Any such licence shall be valid only for a period of one year commencing with the date on which it is granted.
- (c) The Council may charge for such a licence such reasonable fee as the Council may from time to time prescribe.

(2) Any person who without reasonable excuse carries out or permits a commercial refuelling activity related to a vessel in the harbour except in accordance with a licence issued by the Council under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Aids to navigation**

**36.**—(1) In addition to their powers under section 201 of the Merchant Shipping Act 1995 (powers of harbour authorities as local lighthouse authorities) but subject to obtaining any necessary interest in or over land, the Council may erect or place, alter, discontinue or remove aids to navigation in any place adjacent to the harbour.

(2) The Council shall not exercise the powers of paragraph (1) above without the approval of the Trinity House.

### **Power to dredge**

**37.**— The Council, as may appear to it to be necessary or desirable for the purposes of the harbour undertaking, may deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the harbour and the approaches thereto, and may blast any rock in that area, and they may use, appropriate or dispose of the materials (other than wreck within

the meaning of Part IX of the Merchant Shipping Act 1995) from time to time dredged by them.

**Repair of landing places, etc.**

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

(2) The Council may by notice require the owner or occupier of a relevant feature which in the opinion of the Council is, or is likely to become, by reason of its insecure condition or want of repair—

- (a) dangerous to persons or vessels using the harbour; or
- (b) a hindrance to the navigation of the harbour, to remedy its condition to the Council's reasonable satisfaction within a reasonable time (not being less than 21 days) specified in the notice.

(3) If a person to whom notice is given under this article fails without reasonable excuse to comply with the notice within the time stated in the notice or such other time as the Secretary of State on an appeal may substitute therefor—

- (a) he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and
- (b) the Council may carry out the work required by the notice and may recover the expenses of so doing from the person on whom the notice was served.

(4) A notice under this article shall have annexed to it a copy of this article.

(5) A person aggrieved by a notice served by the Council under this article may, during the period of 21 days beginning with the date on which the notice was served, appeal to the Secretary of State against the notice.

(6) An appeal under paragraph (5) above shall be made by notice in writing stating the grounds of the appeal.

(7) A person who appeals under paragraph (5) above shall give to the Council notice of his appeal accompanied by a copy of his statement of appeal; and the Council shall, within 21 days of receipt of the notice, be entitled to furnish to the Secretary of State its observations on the appeal.

(8) On an appeal under paragraph (5) above, the Secretary of State shall either quash the notice, modify its requirements or dismiss the appeal.

**Power with respect to disposal of wrecks**

**39.** —(1) In its application to the Council, section 252 of the Merchant Shipping Act 1995 (which confers on bodies which are 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 in such manner as to be an obstruction or danger to navigation) shall have effect in relation to the harbour and the approaches thereto 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.

(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 has given to the owner of the vessel not less than 48 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 registered post or 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, or is not in the United Kingdom, by displaying the notice at the office of the Council for the period of its duration.

(5) In this article "owner", in relation to any vessel, means the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof.

(6) The powers conferred on the Council by this article shall be in addition to and not in derogation of any other powers exercisable by it for or with respect to the removal of wrecks within the harbour and the approaches thereto.

#### **Power to deal with unseviceable vessels**

**40.**—(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847 and on the Council by the Merchant Shipping Act 1995 the Council may sell, break up or otherwise dispose of any vessel which is unseviceable and has been laid by or neglected in the harbour or on land immediately adjoining the harbour.

(2) The Council may retain out of the proceeds of sale and such vessel, or any part of such proceeds, 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 harbour master under section 57 on the act of 1847 and shall pay the surplus, if any, to the person or body entitled to that surplus.

(3) If the proceeds of the 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 simple contract debt.

(4) Except in the case of emergency, the Council shall, before exercising their powers under this Article, give 14 days' notice in writing of its intention to do so to the registered owner of the vessel and by advertisement in each of two successive weeks in a local newspaper circulating the area of the Council, provided that, if the registered owner or his place of business or address is not known to the Council or is outside of the United Kingdom, the notice may be given by displaying it at the principal office of the Council for two successive weeks.

#### **Removal of obstructions other than vessels**

**41.**—(1) The Council may remove anything, other than a vessel, causing or likely to become an obstruction to, or cause interference with, navigation in any part of the harbour or any approach thereto and may take such steps as appear to them to be appropriate to prevent or minimise such obstruction or interference.

(2) If anything removed by the Council under paragraph (1) above is so marked as to be readily identifiable as the property of any person, the Council shall, within 28 days of its coming into their custody, give written notice to that person stating that, upon proof of ownership to the reasonable satisfaction of the Council and payment of any reasonable expenses incurred by the Council under paragraph 2 of this article, possession may be retaken at a place named in the notice within the period specified in the notice (being not less than 14 days after the notice is served) and, if possession of the thing removed is not so retaken, it shall at the end of that period vest in the Council.

(3)(a) Notwithstanding the provisions of paragraph (2) above the Council may, at such time and in such manner as they think fit, dispose of anything removed under paragraph (1) above which is not so marked as to be readily identifiable as the property of any person or which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

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

- (i) shall be paid to any person who within three months from the time when the thing came into the custody of the Council proves to the reasonable satisfaction of the Council that he was the owner thereof at that time; or
- (ii) if within the said period no person proves his ownership at the said time, shall vest in the Council.

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

### **Boarding of vessels**

**42.**— A duly authorised officer of the Council may, on producing if so required his authority, enter and inspect a vessel in the harbour for the purposes of any enactment relating to the harbour (including any enactment so relating contained in subordinate legislation) or of any byelaw or general direction of the Council relating to the harbour, including the enforcement of any such enactment or byelaw or general direction.

### **Saving for Trinity House**

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

### **Crown Rights**

**44.**—(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 authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or interests in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) 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 Council; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the 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 existing Byelaws etc.**

**45.** — On or after the date of this Order any byelaw, regulation, licence, lease, consent or other agreement made, issued, entered into or granted by the Council in relation to the harbour undertaking and in force immediately before that date, shall, notwithstanding the repeals and amendments set out in articles 46, 47 and Schedule 1 of this Order, continue to have effect.

### **Amendment of the Act of 1854, Act of 1879, Act of 1887 and Order of 1988**

**46.** —From the date of this Order

- (a) the Act of 1854 shall be amended as follows:
  - (i) Section XLIII: the deletion of the words '*and Pier*'
  - (ii) Section LII: the deletion of the words '*Pier and*' in the fourth line and '*Pier Rates and*' starting in the fifth line.
  - (iii) Section LX: the deletion of the words '*or Pier*'
  - (iii) Section LXI: the deletion of the words '*and Pier*' and '*from each other and*' in the fourth line.
  
- (b) the Act of 1879 shall be amended as follows:
  - (i) Section 2: the deletion of the words '*the clauses of the Harbour, Docks and Piers Clauses Act 1847, with respect to the construction of the harbour, dock, or pier,*'

(ii) Section 3: the deletion of the words *'The expression "the harbour, dock or pier" in the Harbours, Docks, and Piers Clauses Act, 1847, means the bridge and the works by this Act authorised;'*

(iii) Section 26: the deletion of the words *'Board of Trade'* and replacement with the words *'Department for Transport'*

(c) the Act of 1887 shall be amended as follows:

(i) Section 4: the deletion of the words *'The Harbours Docks and Piers Clauses Act 1847 (except sections 16,17,18 and 19 unless the Board of Trade otherwise require)'*

(ii) Section 20: the deletion of the words *'not exceeding 21 years'*

(iii) Section 22:

(a) the insertion of the word *'reasonable'* between the words *'any rates'* in the second line.

(b) the deletion of the words *'not exceeding those set forth in Schedule E and Schedule F respectively to the Act of 1854'*

(c) the insertion of the word *'reasonable'* between the words *'a rate'* in subsection 1

(d) the deletion of the words *'of not exceeding twopence'* in subsection 1

(e) the insertion of the word *'reasonable'* between the words *'such special'* in the fourth line of subsection 2

(f) the deletion of the words *'not exceeding sixpence'* starting in the fourth line of subsection 2

(g) The deletion of the word *'sixpence'* and replacement with the words *'the reasonable special rates'* in the penultimate line of subsection 2

(iv) Section 23: the deletion of the all of the wording in the section and replacement with the words *'Subject to the provisions of this Act sections 31 and 32 of the Act of 1854 shall extend and apply to the piers'*.

(v) Section 33: the deletion of the words *'five pounds'* and replacement with the words *'level 3 on the standard scale'*

(vi) Section 41: the deletion of the words *'Board of Trade'* and replacement with the words *'Department for Transport'*

(vii) Section 92: the deletion of the words *'Provided that if there be any surplus on the pier revenue after payment of all expenses and outgoings and the said ten per centum on the moneys from time to time expended by the Corporation for or in relation to the piers such surplus shall be expended in reducing the rates as herein-before by this Act provided and for no other purpose'*.

Section 93: the deletion of the words *'harbour revenue and'* in the fifteenth line and the deletion of the words *'pier revenue and'* in the eighteenth line.

(d) the Act of 1914 shall be amended as follows:

(i) Section 3: the deletion of all of the words in Section 3 from and including *'"The Harbours Docks and Piers Clauses Act 1847."'* to the end of the section.

(ii) Section 114: the deletion of the words *'Board of Trade'* and replacement with the words *'Department for Transport'*

(e) the Order of 1988 shall be amended as follows:

- (i) Article 2: the deletion of the whole of the definition of "the Harbour" and replacement with the following words "*the Harbour*" means the area described in article 6(1) of the Weymouth Harbour Revision Order 201[ ]"
- (ii) The plan deposited in connection with the Order of 1988 (therein called the "signed plan") shall be treated as being amended accordingly.

**Revocation / Repeal**

**47.** —On the date of this Order the enactments mentioned in the first and second columns of the Schedule 1 to this Order shall be revoked or repealed (as appropriate) to the extent specified in the third column of that Schedule.

Signed by authority of Marine Management Organisation

*[Name]*

Chief Executive Officer

An authorised employee of the  
Marine Management Organisation.

[Date] 201[X].

**SCHEDULE 1**  
**REVOCATION / REPEAL**

**Article 47**

<b>Number</b>	<b>Short Title</b>	<b>Extent of Revocation / Repeal</b>
1 Geo IV, c. xl	An Act for repairing, or taking down and rebuilding the Bridge with the Borough and Town of Weymouth and Melcombe Regis, in the County of Dorset.	Whole Act
6 Geo IV, c. cxvi	An Act to amend and enlarge the Powers and Provisions of several Acts relating to the Harbour and Bridge of the Borough and Town of Weymouth and Melcombe Regis, in the County of Dorset.	Whole Act
17 & 18 Victoria I c. xxxv	The Weymouth and Melcombe Regis Markets and Pier Act 1854	Sections XXVI to XXVIII (inclusive), XXX, XXXIII to XLII (inclusive), XLVIII, LI, LVI, LVII, LXIV, Schedule E
22 & 23 Victoria I c. v	Weymouth and Melcombe Regis Markets and Pier Amendment Act 1859	Sections XIII, XVI
42 & 43 Victoria I c.xii	Weymouth and Melcombe Regis Bridge Act 1879	Sections 14 (inclusive), 16 to 25 (inclusive)
50 & 51 Victoria I c.. cliii.	Weymouth and Melcombe Regis Corporation Act 1887	Sections 8, 9, 10, 11, 13, 14, 21, 24, 25, 27 to 32, 40 and the Second Schedule.
56 & 57 Victoria I c. ciii.	Pier and Harbour Orders Confirmation (No.1) Act 1893	Whole of The Weymouth Harbour Order 1893
61 & 62 Victoria I c. xcvi.	Pier and Harbour Orders Confirmation (No.1) Act 1898	Whole of the Weymouth Harbour Order 1898
4 & 5 Geo. 5 c. clxxiv	The Weymouth and Melcombe Regis Corporation Act 1914	Sections 111, 112 and 113
15 & 16 Geo. 5. c. lxxiv.	Pier and Harbour Orders Confirmation (No.2) Act 1925	The whole of the Weymouth and Melcombe Regis Harbour Order 1925 apart from sections 6 to 10 (inclusive).
SI 1993/1027	The Weymouth and Portland Harbour Revision Order 1993	Whole Order

**SCHEDULE 2**  
**ACTS AND ORDERS**

The Weymouth Harbour and Melcombe Regis Markets and Piers Act 1854

The Weymouth and Melcombe Regis Markets and Pier (Amendment) Act 1859

Weymouth and Melcombe Regis Bridge Act 1879

Weymouth and Melcombe Regis Corporation Act 1887

Weymouth and Melcombe Regis Corporation Act 1914

Weymouth and Melcombe Regis Harbour Order 1925

Weymouth and Melcombe Regis Harbour Order 1930

Weymouth and Portland (Pilotage) Harbour Revision Order 1988

Weymouth and Portland Harbour Revision Order 1996

## **EXPLANATORY NOTE**

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

This Order, made on the application of Weymouth and Portland Borough Council modernises and consolidates the statutory harbour powers applying in relation to Weymouth Harbour.

The Order provides for:

1. Clarity on the limits of the harbour.
2. The establishment of an advisory body consisting of Harbour stakeholders with which the Council are required to consult on material matters.
3. Modernised powers of management and control of the Harbour to vest in the Council including provisions relating general and special powers of direction, the making of byelaws, navigational safety, conservation, dredging, moorings, bunkering, levying of charges and use of harbour revenue.
4. Powers to vest in the Council which include the power to borrow, to establish a reserve fund, to develop or dispose of land, to grant tenancies and to incorporate companies limited by shares or guarantee.

To facilitate that above, the Order repeals / revokes the Acts and Orders set out in Schedule 1 to the Order and amends the Acts and Orders set out in article 46.