

**202[ ] No. 0000**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Port of Felixstowe Harbour Revision Order 202[ ]**

*Made* - - - - 202[ ]

*Laid before Parliament* 202[ ]

*Coming into force* 202[ ]

**CONTENTS**

**PART 1**

**PRELIMINARY**

1. Citation, commencement and extent
2. Interpretation
3. Incorporation of provisions of Harbours, Docks and Piers Clauses Act 1847

**PART 2**

**PORT JURISDICTION, GENERAL FUNCTIONS AND CHARGES**

4. Port jurisdiction
5. General functions
6. Charges other than ship, passenger and goods dues
7. Charges for services of facilities
8. Payment of charges
9. Compounding arrangements and rebates
10. Deposit for charges
11. Liens for charges
12. Refusal to pay charges for a landing place
13. Exemptions from harbour dues
14. Recovery of charges
15. Harbour master may prevent sailing of vessels

**PART 3**

**GENERAL DIRECTIONS AND SPECIAL DIRECTIONS**

16. Power to make general directions as to the use of port, etc.
17. Procedure for giving, amending or revoking general directions
18. Publication of general directions
19. Special directions

20. Priority of directions
21. Failure to comply with directions
22. Enforcement of directions
23. Master's responsibility in relation to directions
24. Boarding of vessels and vehicles
25. Saving for existing directions, byelaws etc.

PART 4  
MISCELLANEOUS AND GENERAL

26. Advisory bodies
27. Development of land etc.
28. Powers to grant tenancies and to dispose of land
29. Power to appropriate lands and works for particular users, etc.
30. Other commercial activities
31. Power to delegate functions
32. Bunkering
33. Power with respect to disposal of wrecks
34. Power to deal with unserviceable vessels
35. Removal of obstructions other than vessels
36. Notices
37. Saving for Trinity House
38. Crown Rights
39. Saving for the Harwich Haven Authority
40. Amendment of Harwich Harbour Act 1974
41. Amendment of the Act of 1956
42. Amendment of the Act of 1963
43. Revocation / Repeal

---

SCHEDULES

SCHEDULE 1 — FELIXSTOWE DOCK AND RAILWAY ACTS AND ORDERS

SCHEDULE 2 — REVOCATION / REPEAL

Felixstowe Dock and Railway Company has applied for a harbour revision order in accordance with section 14(2)(a) of the Harbours Act 1964(a) (“the Act”).

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

---

(a) 1964 c. 40. Section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4(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 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).

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) of the Act, makes the following Order.

## PART 1

### PRELIMINARY

#### **Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Felixstowe Harbour Revision Order 202[X] and shall come into force on [DATE].

(2) The Felixstowe Dock and Railway Acts and Orders 1879 to 2009 and this Order may be cited together as the Felixstowe Dock and Railway Acts and Orders 1879 to 202[ ].

(3) This Order extends to England and Wales.

#### **Interpretation**

**2.**—(1) In this Order—

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(**e**);

“the Act of 1956” means the Felixstowe Dock and Railway Act 1956(**f**);

“the Act of 1964” means the Harbours Act 1964(**g**);

“the Act of 1966” means the Docks and Harbours Act 1966(**h**);

“the Act of 1963” means the Felixstowe Dock and Railway Act 1963(**i**);

“the Act of 1995” means the Merchant Shipping Act 1995(**j**);

“ashore” means all those parts of the harbour which are not constituted of land covered by water at the level of low water;

“the Company” means the Felixstowe Dock and Railway Company;

“charges” means the charges, rates, tolls and dues which the Company is for the time being authorised to demand, take and recover in relation to the port 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(**k**) (meaning of electronics communications networks and services);

“enactment” means any enactment whether public, general or local and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

- 
- (a) S.I. 2010/674.
  - (b) Section 42A was inserted, in relation to England and Wales, by section 315 of, and paragraphs 1 and 3(1) of Schedule 21 to, the Marine and Coastal Access Act 2009 (c. 23).
  - (c) For the definition of “the Minister”, see section 57(1) of the Harbours Act 1964 (c. 40).
  - (d) The Marine Management Organisation was established by section 1 of the Marine and Coastal Access Act 2009 (c. 23). The head office address of the Marine Management Organisation is located at Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH.
  - (e) 1847 c. 27.
  - (f) 1956 c. lxxxviii.
  - (g) 1964 c. 40.
  - (h) 1966 c. 28; section 37(3) was repealed by the Transport and Works Act 1992 (c. 42), Schedule 4 (Part II).
  - (i) 1963 c. xxxvi.
  - (j) 1995 c. 21.
  - (k) 2003 c. 21.

“the Felixstowe Dock and Railway Acts and Orders 1879 to 2007” means the enactments specified in Schedule 1 (Felixstowe Dock and Railway Acts and Orders) (to the extent that those Acts and Orders relate to the port undertaking);

“functions” means the powers and duties at and in connection with the port authorised by this Order and the Felixstowe Dock and Railway Acts and Orders 1879 to 2007 (to the extent that those Acts and Orders relate to the port undertaking);

“general direction” means a direction given under article 16 (power to make general directions as to the use of port, etc.);

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

“the Harwich Haven Authority” has the meaning assigned by the Harwich Harbour Acts and Orders 1973 to 2008;

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

“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;

“land” includes land covered by water;

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

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

“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 of Schedule 3A to the Communications Act 2003 (the electronic communications code);

“port” means the Port of Felixstowe the limits of which include the port premises and are defined in article 4(1);

“the Port Advisory Group” means the body or bodies established in accordance with article 26 (advisory bodies);

“port facilities” includes, but is not limited to, shipping, fisheries, marine, energy, recreational, leisure, tourism, energy and retail facilities (including buildings);

“the port limits plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed port limits plan referred to in the Felixstowe Harbour Revision Order 202[ ]”, one copy of which is deposited at the offices of the Marine Management Organisation(**a**) and the other at the port office(**b**) of the Company;

“port operations” includes—

- (a) the marking, lighting or dredging of the port or any part thereof;
- (b) the berthing, mooring, dry docking or storage of a vessel;
- (c) the laying and maintenance of moorings or other similar apparatus in the port;
- (d) the warehousing, sorting, weighing or handling of goods;
- (e) the movement of goods and vehicles (including parking, designated and prohibited areas, speed limits, removal from the port);
- (f) the towing, or moving of a vessel;

---

(a) The Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH.

(b) Port of Felixstowe, Tomline House The Dock, Felixstowe IP11 3SY.

- (g) the loading or unloading of goods, or embarking or disembarking of passengers;
- (h) energy generation or storage;
- (i) the control of use of the port by members of the public and other third parties (including movement, conduct, authorised activities, designated and prohibited areas) but not so as to cause an interference with any public right of way;

“port premises” means land adjacent to the wet port area for the time being vested in, or occupied or administered by the Company as part of the port undertaking and occupied wholly or mainly for the purpose of activities there carried on, which may include the dock constructed by the Company in pursuance of the powers conferred on them by the Felixstowe Dock and Railway Acts and Orders 1879 to 2007, quays, piers, wharves, berths, locks, breakwaters, landing places, yards, roads, sheds, car parks, other buildings and all other works and conveniences, land and premises, which at the date of this Order includes the areas shown shaded green on the port premises plan;

“the port premises plan” means the plan prepared in duplicate, signed on behalf of the Marine Management Organisation and marked “Signed port premises plan referred to in the Felixstowe Harbour Revision Order 202[ ]”, one copy of which is deposited at the offices of the Marine Management Organisation and the other at the port office of the Company;

“the port undertaking” means the undertaking carried on by the Company at and in connection with the port authorised by this Order and the Felixstowe Dock and Railway Acts and Orders 1879 to 2007 (to the extent that those Acts and Orders relate to the port undertaking);

“special direction” means a direction given under article 19 (special directions);

“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) (coast protection authorities); or
- (c) any operator of an electronic communications network;

“Trinity House” means the Corporation of Trinity House of Deptford Strond(c);

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

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

“watercraft” means any type of craft which—

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

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

“wet port area” means those parts of the port which are covered by water at the level of low water.

(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

---

(a) 1990 c. 8.

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

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

(d) As defined in section 57 (Interpretation) of the Harbours Act 1964 (c. 40).

inserted after each such situation, point, direction, distance, length, dimension, area or other measurement.

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

(4) In the Felixstowe Dock and Railway Acts and Orders 1879 to 2007, references to “dock” and “limits of the dock” shall be construed as references to “port” (as defined in article 2(1) of this Order) and “limits of the port” (as defined in article 4(1)(a) and (b) of this Order) respectively in every place where they occur.

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

3.—(1) The Act of 1847 (except sections 6 to 20, 22 to 26, 28 to 32, 41, 42, 49, 50, 66, 67, 70, 71, 77, 78, 84 to 90 and 97 to 102), (so far as applicable to the purposes and not inconsistent with the provisions of this Order), is incorporated with this Order subject to the modifications stated in paragraphs (2) to (5) below.

(2) Section 63 of the Act of 1847 (penalty on vessels lying near the entrance of harbour or dock without permission) shall have effect subject to the modification that for the words from “liable to” to the end of the section there are substituted the words “guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale”.

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

(4) Section 74 of the Act of 1847 (owner of vessel answerable for damage to works) shall have effect subject to the modification that the words “provided always” to the end of the section are omitted.

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

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

## **PART 2**

### **PORT JURISDICTION, GENERAL FUNCTIONS AND CHARGES**

#### **Port jurisdiction**

4.—(1) The Company shall exercise jurisdiction as a harbour authority within the meaning of section 57 of the Act of 1964 (interpretation), and the powers of the harbour master shall be exercisable within the port, the limits of which shall comprise—

- (a) an area bounded by an imaginary line commencing at a point (1) at (51°56'17"N , 001°19'08"E), and then in a straight line in a northerly direction to a point (2) at (51°56'23"N , 001°19'11"E), then in a line following the level of high water in an overall north-westerly direction to a point (41) at (51°58'05"N , 001°17'06"E), then in a line following the level of high water in a north-westerly direction along the floodwall to a

point (42) at (51°58'07"N , 001°17'03"E), then in a straight line in a south-westerly direction to a point (43) at (51°57'57"N , 001°16'52"E), then in a straight line in a south-easterly direction to a point (44) at (51°57'12"N , 001°18'36"E), then in a straight line in a south south-easterly direction to a point (45) at (51°56'24"N , 001°19'02"E), then in a straight line in a southerly direction to a point (46) at (51°56'20"N , 001°19'02"E), then in a straight line in a south-easterly direction to a point (47) at (51°56'18"N , 001°19'06"E), then in a straight line in an east-south-easterly direction to and terminating at the point of commencement at point (1) at (51°56'17"N , 001°19'08"E) shown for illustrative purposes shaded blue on the port limits plan; and

(b) the extent of those parts of the port premises not within sub-paragraph (a).

(2) In the event of any discrepancy between the descriptions of the boundaries of the port referred to in paragraph (1) and the boundaries shown on the port limits plan and the port premises plan, the descriptions in question shall prevail over the said plans.

(3) The port premises shall be deemed to be operational land within the meaning and for the purposes of the Town and Country Planning Act 1990(a).

(4) The Company must keep, and make available for inspection at the port office of the Company and on the port website(b) from the day on which this Order comes into force, an illustrative plan(c).

(5) The Company must update the illustrative plan to reflect any alterations to the extent of the port premises within the period of 30 days beginning with the day on which the alterations are made.

(6) In this article “illustrative plan” means a plan showing, for illustrative purposes only, the limits of the port as described in paragraph (1) .

(7) Notwithstanding anything contained in the Felixstowe Dock and Railway Acts and Orders 1879 to 2007, references in any of those Acts or Orders or in any byelaws, orders, regulations or directions made under those Acts or Orders to the “dock” or “limits of the dock” shall be construed and have effect as references to the “port” and “limits of the port” as set out in this Order.

(8) For and incidental to the performance of its functions under this Order, the Company may employ and appoint harbour masters.

(9) The Company shall, within the port, be a local lighthouse authority within the meaning of sections 193 (general and local lighthouse authorities) and 201 (powers of harbour authorities) of the Act of 1995.

## **General functions**

5.—(1) The Company 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 port and the port facilities provided within or in connection with the port, and for the conservation of the port’s flora, fauna and geological and physiographical features of special interest.

(2) For those purposes and without limiting the scope of paragraph (1), the Company may—

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

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

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

---

(a) 1990 c. 8; “operational land” is defined in section 263, which section is subject to section 264.

(b) <https://www.portoffelixstowe.co.uk/>.

(c) The illustrative plan may be inspected during office hours at the port office located at Port of Felixstowe, Tomline House The Dock, Felixstowe IP11 3SY and available via the port website at <https://www.portoffelixstowe.co.uk/>.

- (ii) operate, maintain, renew, alter, extend, demolish and reconstruct structures, port facilities, works and equipment in the port (including those executed or placed in accordance with sub-paragraph (i)),
- (c) acquire land;
- (d) invest any sums not immediately required for the purposes of the port undertaking and turn its resources to account so far as not required for those purposes;
- (e) do all other things which in its opinion are expedient to facilitate the operation, improvement or development of the port undertaking.

(3) The Company must, from time to time, formulate, publish and review a business plan or business plans (“Port Business Plan”)(a) in relation to its maintenance, conservation, operation, management and improvement of the port undertaking, which it must have regard to when performing its functions.

(4) In the exercise of the powers of sub-paragraph (2)(b), the Company must not—

- (a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker;
- (b) do anything which obstructs or impedes 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 limitation of the powers of the Company under or by virtue of any other enactment.

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

6. The Company may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig, floating platform, or any other vessel, not being a ship as defined by section 57(1) of the Act of 1964, entering, using, within or leaving the port such reasonable charges, including in relation to any goods or passengers carried, as it may determine, and sections 30 (duty of harbour and local lighthouse authorities to make available for inspection, and to keep for sale, copies of lists of certain charges) and 31 (right of objection to ship, passenger and goods dues) of the Act of 1964 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 Act of 1964 (repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them).

#### **Charges for services of facilities**

7. In addition to article 6 (charges other than ship, passenger and goods dues) and its power to demand ship, passenger and goods dues under section 26 of the Act of 1964 (repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them), the Company may demand, take and recover such reasonable charges for services and facilities provided by the Company at the port or in connection with the port undertaking as it may from time to time determine.

#### **Payment of charges**

8.—(1) The charges which the Company is for the time being authorised to demand, take and recover in respect of vessels and goods or otherwise under any enactment—

- (a) are payable before the removal from the port of any vessel or goods in respect of which they are payable;
- (b) may be demanded, taken and recovered—
  - (i) by such persons,

---

(a) The Port Business Plan may be inspected during office hours at the port office of the Company (Port of Felixstowe, Tomline House The Dock, Felixstowe IP11 3SY) and via the port website at [www.portoffelixstowe.co.uk](http://www.portoffelixstowe.co.uk).



- (ii) at such places,
- (iii) at such times,
- (iv) under such terms and conditions,

as the Company may from time to time specify in its published list of charges.

(2) Charges payable to the Company in respect of—

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

(3) Where charges payable to the Company 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 limitation to the scope of paragraph (1), the terms and conditions as to the payment of charges which the Company 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 Company by the owner or master of a vessel or a person using a service or facility of the Company as the Company may require in connection with the assessment or collection of a charge.

(5) Where charges payable to the Company have not been paid by the time they fall due for payment, the Company may detain within or refuse entry to, or require removal from the port of—

- (a) the vessel or goods to which the charges relate; and
- (b) any other vessels or goods that the owner or master of the vessel or goods to which the charges relate is also the owner or master of,

until such charges have been paid in full.

### **Compounding arrangements and rebates**

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

(2) Nothing in section 30 of the Act of 1964 (duty of harbour and local lighthouse authorities to make available for inspection, and to keep for sale, copies of lists of certain charges) shall require the Company to include in the list of ship, passenger and goods dues, as required by subsection (1) of that section, ship, passenger and goods dues—

- (a) reduced by a total or partial exemption;
- (b) subject to a compounding arrangement or rebate.

### **Deposit for charges**

**10.**—(1) The Company may, if it thinks fit, require a person who incurs or is about to incur a charge to deposit with it, or to guarantee, such sum of money as is, in the opinion of the Company, 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 Company may detain in the port the vessel or goods in respect to which the charge relates, or refuse entry to, or require removal from the port in respect of the vessel or goods, until the requirement has been complied with or the charge paid.

### **Liens for charges**

**11.**—(1) A person who by agreement with the Company collects charges on its behalf and who pays or gives security for the payment of charges on goods in that person's 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 themselves liable for the payment of charges may pay or by agreement with the Company give security for charges on goods in their custody, and in that event they shall have a like lien on the goods for the amount of those charges as they would have in respect of their charges for safe custody or carriage of the goods, as the case may be.

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

12. The harbour master may prevent a vessel from entering the port or using a landing place, mooring or other facility provided by the Company, if the master of the vessel refuses to pay the charges for such use.

### **Exemptions from harbour dues**

13.—(1) Except insofar as may be agreed between the Company and the government department or person concerned the Company 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 or the Secretary of State for Defence 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 their core duties;
- (e) Officers of the Department for Transport in the execution of their core duties.

(2) In this article “harbour dues” means ship, passenger and goods dues which the Company may demand under section 26 of the Act of 1964 (repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them).

### **Recovery of charges**

14.—(1) In addition to any other remedy given by this Order and by the Act of 1847 as incorporated with this Order, the Company may recover any charges payable to it as a debt in any court of competent jurisdiction.

(2) Where the master of a vessel in respect of which a charge is payable to the Company refuses or neglects to pay the same or any part thereof, paragraph (1) applies whether or not the Company’s collector has gone on board the vessel and demanded the charge under section 44 of the Act of 1847 (recovery of tonnage rates by distraint of ship and tackle).

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

15. The harbour master may prevent the removal or sailing from the port of any vessel until evidence has been produced to the harbour master of the payment of any charges payable in respect of—

- (a) the vessel;
- (b) passengers of the vessel;
- (c) goods imported or exported on the vessel.

## PART 3

### GENERAL DIRECTIONS AND SPECIAL DIRECTIONS

#### **Power to make general directions as to the use of port, etc.**

**16.**—(1) The Company may, in accordance with the requirements of article 17 (procedure for giving, amending or revoking general directions), give a direction for—

- (a) the ease, convenience or safety of navigation;
- (b) the safety of persons;
- (c) the protection of property, flora or fauna;
- (d) the ease, convenience or safety of port operations ashore,

within the port.

(2) A direction under this article may apply—

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

and every direction must specify the extent of its application including its geographical extent in relation to the matters referred to in sub-paragraphs (a), (b), (c), (d) and (e).

(3) The Company may amend or revoke a direction given under paragraph (1).

(4) The Company must keep and make available for inspection at the port office of the Company and on the port website a public register of all in force general directions<sup>(a)</sup>.

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

**17.**—(1) Subject to paragraph (7), if the Company proposes to give, amend or revoke a general direction, it must—

- (a) give notice in writing of the proposal and a plan of the area over which the proposal applies to the “designated consultees” them being—
  - (i) the Chamber of Shipping,
  - (ii) the Royal Yachting Association,
  - (iii) the Port Advisory Group, and
  - (iv) such other persons or organisations as it considers appropriate for the purposes of the application of this provision,
- (b) place a notice of the proposal on the port website and in prominent locations at the port on the same date as the notice given in accordance with sub-paragraph (a) and keep that notice on display for a minimum of 6 weeks;
- (c) consult with the designated consultees upon the proposal and allow a period of not less than 6 weeks beginning with the date of the notice given in accordance with sub-paragraphs (a) and (b) for written representations to be made by the designated consultees and any other persons to the Company regarding the proposal;
- (d) have regard to all representations made during consultation;

---

<sup>(a)</sup> The public register of all in force directions may be inspected during office hours at the port office of the Company located at Port of Felixstowe, Tomline House The Dock, Felixstowe IP11 3SY and available via the port website at [www.portoffelixstowe.co.uk](http://www.portoffelixstowe.co.uk).

- (e) give notice in writing to the designated consultees, and to those other persons that have provided a consultation response, following consultation as to whether the Company 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; and
  - (f) if the Company 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 beginning with the date of the notice given in accordance with sub-paragraph (e), or such longer period as the Company may specify.
- (2) Where the Company has complied with paragraph (1), it may proceed to give, amend or revoke a general direction if—
- (a) none of the designated consultees have made representations against the proposal;
  - (b) none of the designated consultees which made representations against the proposal have confirmed in writing that they are maintaining their objection to the proposal in accordance with paragraph (1)(f); or
  - (c) where a designated consultee has maintained an objection in accordance with paragraph (1)(f), the requirements of paragraph (3) have been complied with.
- (3) Where a designated consultee has confirmed in writing to the Company 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 Company and each designated consultee maintaining an objection in accordance with paragraph (1)(f) (“the parties”), or
    - (ii) failing agreement, by the President of the London Maritime Arbitrators Association on the application of any of the parties,
  - (b) so far as is reasonably practicable within 12 weeks beginning with the date 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, and
  - (c) the Company must decide whether to exercise the power to give, amend or revoke the general direction having regard to the adjudicator’s report (but it is not bound to give effect to any recommendations) and, once it has decided, must give notice in writing to the designated consultees and to any other person that provided a consultation response of its 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 or more of the parties as the adjudicator may direct.
- (6) If the Company 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)(e), and where paragraph (3) applies, the form recommended by the adjudicator under paragraph (3)(b), it must proceed, 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, or safety of persons the Company proposes to give or amend a general direction—
- (a) in an emergency; or
  - (b) relating to an intended activity or operation within the port if—
    - (i) the intended activity or operation is expected to commence within 16 weeks of the Company having been notified or otherwise becoming aware of the intended activity or operation,

- (ii) the intended activity or operation is to last less than 28 days, and
- (iii) the Company considers that the giving or amending of a general direction in relation to the intended activity or operation is required, taking into account other activities or operations in the port which may be affected.

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

- (a) as soon as is reasonably 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 12 weeks, apply the procedure under paragraphs (1)(c) to (f) 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,
  - (ii) in paragraph (1)(c), for “sub-paragraphs (a) and (b)” substitute “paragraph (8)(a)”, and
  - (iii) a reference to the Company ‘proceeding’ with a proposal is to be read as a reference to the Company determining that the direction or amendment should remain in force.

### **Publication of general directions**

**18.**—(1) Subject to paragraph (4), the Company must publish a notice of the giving, amendment or revocation of a general direction as soon as reasonably practicable on one occasion in a newspaper circulating in the area of the port and electronically on the port website for the period of 28 days from the date of publication of the notice in the newspaper.

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

(3) The Company must display notices of general directions that apply to port premises at prominent locations within the port.

(4) In an emergency, the Company may give notice of the giving, amendment or revocation of a general direction in any manner which it considers to be appropriate.

### **Special directions**

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

- (a) requiring a person 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 port premises;
- (d) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (e) prohibiting, extinguishing, or restricting the use of fires or lights;
- (f) regulating the discharge or use of ballast;
- (g) requiring the removal of the vessel from any part of the port if the vessel—
  - (i) is on fire,
  - (ii) is in such condition as to be liable to become immobilised or waterlogged, to sink or to constitute a danger to life (including wildlife) or property,
  - (iii) is making an unlawful use of the port or interfering with the reasonable use or enjoyment of the port by other vessels or persons or the dispatch of business in the port,

- (iv) needs to be removed to enable maintenance or repair work to be carried out to the port,
  - (h) requiring the vessel to be removed to a place outside the port 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 relating to a vessel must specify a particular person or persons to whom the direction is addressed, either by name or by a description sufficient to enable the person or persons in question to be identified.
- (3) A special direction may be given in any manner considered by the harbour master to be appropriate.
- (4) The harbour master may amend or revoke a special direction.

### **Priority of directions**

**20.** In case of conflict between any directions given by the harbour master of the Company and any directions given by the person for the time being appointed to be the Harwich Haven Authority or the Harwich Haven Harbour Master, the directions given by the Harwich Haven Authority or the Harwich Haven Harbour Master shall prevail.

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

- 21.**—(1) A person 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) 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 the offence.

### **Enforcement of directions**

- 22.**—(1) Without limitation to any other remedy available to the Company, 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.
- (3) Expenses incurred by the Company in the exercise of the powers conferred by this article shall be recoverable by the Company as if it were a charge of the Company in respect of the vessel.

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

**23.** The giving of a general direction or 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 the vessel, to persons on board the vessel, to the cargo or any other person or property.

### **Boarding of vessels and vehicles**

**24.** A duly authorised officer of the Company may, on producing their authority if so required, enter and inspect a vessel or vehicle in the port for the purposes of any enactment relating to the port (including any enactment so relating contained in subordinate legislation) or of any byelaw, special direction or general direction of the Company relating to the port, including the enforcement of any such enactment, byelaw or general direction.

### **Saving for existing directions, byelaws etc.**

25. Any special direction, byelaw, regulation, licence, lease, consent or other agreement made, issued, entered into or granted by the Company in relation to the port undertaking and in force on or immediately before or on the date on which this Order comes into force, shall, notwithstanding the amendments set out in articles 40 to 42 and the repeals and revocations set out in article 43 (revocation / repeal) and Schedule 2 (revocation / repeal), continue to have effect.

## **PART 4**

### **MISCELLANEOUS AND GENERAL**

#### **Advisory bodies**

26.—(1) The Company must establish one or more advisory bodies which the Company must (except in an emergency) consult on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the port and its navigation.

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

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

(4) Any advisory body established under this article must consist of such number or numbers of persons appointed by the Company as the Company from time to time considers appropriate.

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

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

(7) An individual member of any such advisory body may hold office for the period of three years from the date of their appointment and at the end of that period shall be eligible for reappointment.

(8) A member of any such advisory body may resign their office at any time by notice in writing given to the Company.

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

27.—(1) The Company 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 port;
- (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 port,

provided that it is conducive to the improvement, maintenance or management of the port in an efficient and economical manner.

(2) Except as is otherwise provided by any enactment, the powers of the company 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 Company would not itself have the power to do that thing.

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

**28.**—(1) The Company may, for the purposes of or in connection with the carrying on of the port 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 port for such period, at such rents and other considerations and on such terms and conditions as it thinks fit.

(2) A lease or grant made or given under paragraph (1) may include provisions delegating to the lessee or grantee any of the functions of the Company other than those specified in sub-paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the Act of 1964 (functions which cannot be delegated under a power conferred by a harbour revision order).

(3) The Company 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 it if it considers that—

- (a) the property is surplus to that which is required for the purpose of the port; or
- (b) it would conduce to the improvement, maintenance, operation or management of the port in an efficient and economical manner for the property to be held by a person other than the Company,

for such consideration and on such terms and conditions as it thinks fit.

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

**29.**—(1) Notwithstanding anything in any statutory provision of local application the Company may from time to time for the purpose of or in connection with the carrying on of the port undertaking set apart and appropriate any part of the port for the time being vested in, or occupied or administered by the Company as part of the port undertaking 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 Company may think fit.

(2) No person or vessel shall make any use of any part of the port so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Company and—

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

### **Other commercial activities**

**30.**—(1) The Company may, in addition to any other powers conferred on the Company —

- (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;
- (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 port undertaking or carrying on at any place a trade or business of any kind,

provided that it is conducive to the improvement maintenance, operation or management of the port in an efficient and economical manner.

(2) Except as is otherwise provided by any enactment, the powers of a company 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 Company would not itself have the power to do that thing.

(3) The powers of the Company under this article are additional to the powers of the Company under section 37 of the Act of 1966 (powers of harbour authorities to acquire a harbour business or shares in a harbour business).



### **Power to delegate functions**

**31.** Subject to paragraph 9B of Schedule 2 to the Act of 1964 (functions which cannot be delegated under a power conferred by a harbour revision order), the Company may delegate the performance of any of its functions to be carried out by any such company as is referred to in article 30(1)(b).

### **Bunkering**

**32.—(1)** The Company 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 port.

(2) Nothing in any licence granted under paragraph (1) shall entitle a person to carry out commercial refuelling activities from or on land not owned or leased by that person or by the Company or in which that person has no interest.

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

(4) The Company may charge for a licence granted under paragraph (1) such reasonable fee as the Company may from time to time prescribe.

(5) Any person who without reasonable excuse carries out or permits a commercial refuelling activity related to a vessel in the port except in accordance with a licence issued by the Company 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.

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

**33.—(1)** In its application to the Company, section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks) has effect in relation to the port and its approaches 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), and to any enactment for the time being in force limiting a person's liability, the Company may recover from the owner of any vessel sunk, stranded or abandoned on or after the date of coming into force of this Order in relation to which it has exercised its powers under section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks) any expenses reasonably incurred by it 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) Except in a case which is in the opinion of the Company an emergency, paragraph (2) shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on it by section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks), other than the power of lighting and buoying, the Company has given to the owner of the vessel not less than 48 hours' notice of its intention to do so.

(4) If before the notice expires the Company receive from the owner counter-notice in writing that the owner desires to dispose of the vessel themselves, the owner shall be at liberty to do so; and the Company must not exercise the powers in section 252 of the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks) 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 the owner by the Company.

(5) Notice under paragraph (3) to the owner of any vessel may be served by the Company either by delivering it to the owner or by sending it to the owner by registered post or the recorded delivery service addressed to the owner at their 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 Company, or is not in the United Kingdom, by displaying the notice at the port office of the Company and electronically on the port website for the period of its duration.

(6) 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.

(7) The powers conferred on the Company 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 port and its approaches.

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

**34.**—(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847 (unseviceable vessels to be altogether removed from harbour) and on the Company by section 252 the Act of 1995 (powers of harbour and conservancy authorities in relation to wrecks) the Company may sell, break up or otherwise dispose of any vessel which is unseviceable and has been laid by or neglected in the port or immediately adjoining the port.

(2) The Company may retain out of the proceeds of sale of such vessel, any expenses incurred by it in respect of the vessel, or in marking, buoing, lighting or otherwise controlling the vessel or warning other persons or vessels of its presence and any expenses incurred by the harbour master under section 57 of the Act of 1847 (unseviceable vessels to be altogether removed from harbour) and must 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 Company for the said expenses, or there is no sale, the Company 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 Company must, before exercising its 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 port, provided that, if the registered owner or their place of business or address is not known to the Company or is outside of the United Kingdom, the notice may be given by displaying it at the port office of the Company and on the port website for two successive weeks.

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

**35.**—(1) The Company 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 port or any approach to the port.

(2) The Company may take such steps as appear to it to be appropriate to prevent or minimise such obstruction or interference for the purposes of paragraph (1).

(3) If anything removed by the Company under paragraph (1) is so marked as to be readily identifiable as the property of any person, the Company must, within 28 days of its coming into the Company’s custody, give written notice to that person stating that—

(a) upon proof of ownership to the reasonable satisfaction of the Company; and

(b) upon payment of any reasonable expenses incurred by the Company under this article,

possession may be re-taken 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).

(4) If for the purposes of this article possession of anything removed is not so re-taken it shall at the end of that period vest in the Company.

(5) Notwithstanding the provisions of paragraph (3) the Company may, at such time and in such manner as it thinks fit, dispose of anything removed under paragraph (1)—

(a) which is not so marked as to be readily identifiable as the property of any person; or

(b) which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

(6) If anything disposed of by the Company under this article is sold, the Company must place a notice at the port office of the Company and on the port website for a period of 28 days giving details of the property sold and may retain out of the proceeds of sale any reasonable expenses incurred by it under this article, and any surplus from the proceeds—

- (a) must be paid to any person who within 24 months from the time when the property came into the custody of the Company proves to the reasonable satisfaction of the Company that they were the owner at that time; or
- (b) if within the said period no person proves their ownership at the said time, shall vest in the Company.

(7) If the proceeds of sale of anything removed under this article are insufficient to reimburse the Company for the expenses set out in paragraph (6), or there is no sale because the property is unsaleable, the Company may—

- (a) recover the deficiency; or
- (b) 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 Company or who was the owner at the time of its abandonment or loss.

## Notices

**36.**—(1) Except where this Order expressly provides otherwise, a notice or other document required or authorised to be served for the purposes of this Order, or any direction given under this Order, must be in writing and must 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 Company may provide notices by that means 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) (references to service by post) as it applies for the purposes of this article, the proper address of a person in relation to the service on them of a notice or document under paragraph (1) is, if they have 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;
- (b) in any other case, their last known address at the time of service.

(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 a person as having an interest in or as the occupier of, any land, it may be served by—
  - (i) addressing it to them 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 (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) or by handing it to a member of the crew; and
- (c) in the case of any other notice or document or a notice or document that is not capable of being served in accordance with sub-paragraph (b) it may be served by displaying it at the port office of the Company for the period of its duration.

---

(a) 1978 c. 30.

### **Saving for Trinity House**

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

### **Crown Rights**

38.—(1) Nothing in this Order shall—

- (a) prejudicially affect any estate, right, power, privilege, authority or exemption of the Crown;
- (b) authorise the Company 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 of any river, channel, creek, bay or estuary) belonging to—
  - (i) His Majesty in right of His Crown and under the management of the Crown Estate Commissioners, without the consent in writing of the Crown Estate Commissioners,
  - (ii) a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

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

### **Saving for the Harwich Haven Authority**

39. Nothing in this Order shall take away, alter, prejudice or affect the jurisdiction or any rights, powers, authorities or privileges of the Harwich Haven Authority.

### **Amendment of Harwich Harbour Act 1974**

40.—(1) The Harwich Harbour Act 1974(a) is amended as follows.

(2) In section 28 (for the protection of the Felixstowe Dock and Railway Company) in paragraph (1) for “article 3 (Limits of dock) of, and Schedule 1 to, the Felixstowe Dock and Railway Harbour Revision Order 2002” substitute “article 4(1) of the Felixstowe Dock and Railway Harbour Revision Order 202[ ]”.

### **Amendment of the Act of 1956**

41.—(1) The Act of 1956 is amended as follows.

(2) In section 4 (interpretation)—

- (a) for the definition of “vessel” substitute—

““vessel” includes a ship, boat, houseboat, raft or craft of any description, however propelled or moved, and includes non-displacement craft, watercraft, a hydrofoil vessel, or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily);”;
- (b) in the appropriate place insert the definition of “watercraft” in article 2(1) of this Order.

### **Amendment of the Act of 1963**

42.—(1) The Act of 1963 is amended as follows.

(2) In section 4(1) (interpretation)

- (a) for the definition of “vessel” substitute—

---

(a) 1974 c.i.

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

(b) in the appropriate place insert the definition of “watercraft” in article 2(1) of this Order.

(3) In section 25(1) (rates for services and accommodation not otherwise provided for) omit “(so far as the rates specified in Parts 2 and 3 of the First Schedule to Act of 1923 and the Third Schedule to this Act do not extend)”.

### **Revocation / Repeal**

**43.** On the date of this Order the enactments mentioned in the first and second columns of Schedule 2 (revocation / repeal) shall be revoked or repealed (as appropriate) to the extent specified in the third column of that Schedule.

Signed by authority of the Marine Management Organisation

*Tom McCormack*  
Chief Executive Officer

Date

An authorised employee of the Marine Management Organisation

## SCHEDULES

### SCHEDULE 1

Article 2

#### FELIXSTOWE DOCK AND RAILWAY ACTS AND ORDERS

1. Felixstowe Railway and Pier Act 1875.
2. Felixstowe Railway and Pier Act 1879.
3. Great Eastern and Felixstowe Railways Arrangement Act 1887.
4. Felixstowe Dock and Railway Act 1923.
5. Felixstowe Dock and Railway Act 1956.
6. Felixstowe Dock and Railway Act 1963.
7. Felixstowe Dock and Railway Act 1968.
8. Felixstowe Dock and Railway Act 1979.
9. Felixstowe Dock and Railway Act 1981.
10. Felixstowe Dock and Railway Act 1988.
11. Felixstowe Dock and Railway Harbour Revision Order 2002.
12. Felixstowe Dock and Railway Harbour Revision Order 2007.

### SCHEDULE 2

Article 43

#### REVOCATION / REPEAL

**Table 1**

<i>Number</i>	<i>Short Title</i>	<i>Extent of Revocation/Repeal</i>
1875 c. cxlv.	Felixstowe Railway and Pier Act 1875.	Section 41 to 45 and the Schedule.
1879 c. clxxvii.	Felixstowe Railway and Pier Act 1879.	Sections 32, 34, 38 and Schedules A and B.
1923 c. lxxx.	Felixstowe Dock and Railway Act 1923.	Section 4 and the First Schedule.
1956 c. lxxxviii.	Felixstowe Dock and Railway Act 1956.	Section 47.
1963 c. xxxvi.	Felixstowe Dock and Railway Act 1963.	Section 24 and the Third Schedule.
S.I. 2009/2259.	Felixstowe Dock and Railway Harbour Revision Order 2009.	The whole Order.

## EXPLANATORY NOTE

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

This Order, made on the application of the Felixstowe Dock and Railway Company modernises and consolidates the statutory harbour powers applying in relation to the Port of Felixstowe and provides for:

(1) The jurisdiction (article 4) and general functions (article 5) of the Company as the statutory harbour authority for the port of Felixstowe.

(2) A modern suite of charging powers (articles 6 to 15) including exemptions from harbour dues (article 13), recovery of charges (article 14) and prevention of sailing of vessels (article 15).

(3) Powers of general and special direction on the Company and the harbour master (defined in article 2(1)) for the regulation and management of the port (articles 16 to 19) and the priority of directions in respect of the Harwich Haven Authority (article 20).

(4) This Order creates an offence of failing to comply with special or general directions, the penalty for which is a fine on summary conviction not exceeding level 4 on the standard scale (article 21). A defence of due diligence is available to a person charged under article 21(1).

(5) Provisions for the enforcement of directions (article 22) and clarifying the Master's responsibility in relation to directions (article 23).

(6) The power for a duly authorised officer of the Company to enter and inspect a vessel or vehicle for the purposes of any enactment relating to the port or any byelaw or general direction, including enforcement of such (article 24).

(7) Savings for existing byelaws, directions, licences etc. are included under article 25.

(8) The establishment of one or more advisory bodies consisting of port stakeholders with which the Company are required to consult on material matters (article 26).

(9) Powers relating to development of land (article 27), power to grant tenancies and dispose of land (article 28), power to appropriate lands and works for particular uses, etc. (article 29), other commercial activities (article 30), and power to delegate functions (article 31).

(10) Powers relating to bunkering (article 32), the disposal of wrecks (article 33), to deal with unserviceable vessels (article 34), and removal of obstructions other than vessels (article 35).

(11) Notices (article 36), savings for Trinity House (article 37), Crown Rights (article 38) and savings for Harwich Haven Authority (article 39).

(12) To facilitate that above, the Order repeals and revokes the Acts and Orders set out in Schedule 2 (revocation / repeal) and amends the Acts of 1956, 1963 and the Harwich Haven Harbour Act 1974 as out in articles 40 to 42.

An impact assessment has not been prepared for this Order as there is no, or no significant, impact predicted on businesses, charities, voluntary bodies or the public sector.

An Explanatory Memorandum together with a copy of the port limits plan and port premises plan is available alongside the instrument on the UK legislation website at [www.legislation.gov.uk](http://www.legislation.gov.uk)