

**202[ ] No. 0000**

**HARBOURS, DOCKS, PIERS AND FERRIES**

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

<i>Made</i> - - - -	202[ ]
<i>Laid before Parliament</i>	202[ ]
<i>Coming into force</i>	202[ ]

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The Port of Tyne Authority 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(b) made under section 42A of the Act(c) delegated the functions of the appropriate Minister under section 14(d) to the Marine Management Organisation(e).

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- (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).
  - (b) S.I. 2010/674.
  - (c) 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).
  - (d) For the definition of “the Minister”, see section 57(1) of the Harbours Act 1964 (c. 40).
  - (e) 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.

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 Port of Tyne Harbour Revision Order 202[X] and shall come into force on [DATE].

(2) The Port of Tyne Acts and Orders 1886 to 2008 and this Order may be cited together as the Port of Tyne Acts and Orders 1886 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(a);

“the Act of 1862” means the Tyne General Ferry Act 1862(b);

“the Act of 1886” means the Tyne Improvement Act 1886(c);

“the Act of 1897” means the Tyne Improvement Act 1897(d);

“the Act of 1925” means the Tyne Improvement Act 1925(e);

“the Act of 1957” means the Tyne Improvement Act 1957(f);

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

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

“the Order of 1968” means the Port of Tyne Reorganisation Scheme 1967 Confirmation Order 1968(i);

“the Act of 1989” means the Port of Tyne Act 1989(j);

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

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

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

“the Authority” means the Port of Tyne Authority;

“charges” means the charges, rates, tolls and dues which the Authority 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;

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(a) 1847 c. 27.

(b) 25 & 26 Vict. Cap. lxxvi.

(c) 49 & 50 Vict. c. xxxiv.

(d) 60 & 61 Vict. c. ccix.

(e) 15 & 16 Geo. 5. Ch. xxxiii.

(f) 5 & 6 Eliz. 2. Ch. xxi.

(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) S.I. 1968/942.

(j) 1989 c. 1.

(k) 1995 c. 21.

“electronic communications network” has the meanings given by section 32 of the Communications Act 2003<sup>(a)</sup> (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;

“functions” means the powers and duties at and in connection with the port authorised by this Order and the Port of Tyne Acts and Orders 1886 to 2008 (to the extent that those Acts and Orders relate to the port);

“general direction” means a direction given under article 29 (power to make general directions as to the use of port, etc.);

“the harbour master” means any person appointed as such by the Authority, and includes the duly authorised deputies and assistants of the harbour master and any other person for the time being authorised by the 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 Tyne the limits of which include the port premises and are defined in Schedule 3 (limits of port) ;

“the Port Advisory Group” means the body or bodies established in accordance with article 38(advisory bodies);

“port facilities” includes, but is not limited to, shipping, fisheries, marine, energy generation, energy storage, recreational, leisure, tourism 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 Port of Tyne Harbour Revision Order 2022”, one copy of which is deposited at the offices of the Marine Management Organisation<sup>(b)</sup> and the other at the port office<sup>(c)</sup> ;

“the Port of Tyne Acts and Orders 1886 to 2008” means the Acts and Orders listed in Schedule 5 (Acts and Orders) (to the extent that those Acts and Orders relate to the port);

“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;
- (g) the loading or unloading of goods, or embarking or disembarking of passengers;

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(a) 2003 c. 21.

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

(c) Maritime House, Tyne Dock, South Shields, Tyne & Wear, NE34 9PT.

- (h) energy generation or storage;
- (i) operation of the swing bridge;
- (j) 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 Authority as part of the port undertaking and occupied wholly or mainly for the purpose of activities there carried on, which may include docks, quays, piers, wharves, berths, locks, breakwaters, landing places, yards, roads, sheds, car parks, other buildings and all other works and conveniences, land and premises which at the date of this Order includes the area shaded blue 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 Port of Tyne Harbour Revision Order 2022”, one copy of which is deposited at the offices of the Marine Management Organisation and the other at the port office;

“port revenue” means and includes all moneys receivable by the Authority for and in relation to the port undertaking other than borrowed moneys and moneys which ought to be carried to capital account;

“the port undertaking” means the undertaking carried on by the Authority at and in connection with the port authorised by this Order and the Port of Tyne Acts and Orders 1886 to 2008;

“special direction” means a direction given under article 32 (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);
- (c) any operator of an electronic communications network;

“subsidiary” has the meaning given by section 1159(1) of the Companies Act 2006(c);

“swing bridge” means the swing bridge across the river Tyne providing a link for Bridge Street between the north and south banks of the river Tyne;

“tidal work” means so much of any work within the port as is on, under or over tidal waters or land below the level of high water;

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

“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(e), 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,

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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.

(c) 2006 c. 46.

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

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

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

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

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

3.—(1) The Act of 1847 (except sections 6 to 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) of the Act of 1847 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 Authority;
- (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.

(6) Insofar as the Act of 1847 is incorporated into the Port of Tyne Acts and Orders 1886 to 2008, any such incorporation shall cease to have effect and instead shall be replaced by the provisions of paragraphs (1) to (5).

### **Incorporation of section 60 of the Commissioners Clauses Act 1847**

4. Section 60 of the Commissioners Clauses Act 1847<sup>(a)</sup> (Commissioners not to be personally liable for acts done in the capacity of a Commissioner. Commissioners to be indemnified for acts done in the execution of their office) (so far as applicable to the purposes and not inconsistent with the provisions of this Order), is incorporated with this Order.

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(a) 1847 c. 16.

## PART 2

### CONSTITUTION OF THE AUTHORITY

#### **Constitution of the Authority**

**5.**—(1) Subject to article 6 (transitional arrangements), after the new constitution date, the Authority shall consist of—

- (a) a chair and three other members appointed by the Secretary of State;
- (b) six other members appointed by the Authority;
- (c) the chief executive of the Authority for the time being; and
- (d) two other full-time officers of the Authority appointed by the chair after consultation with the Chief Executive.

(2) Each member appointed under paragraph (1)(a) and (b) must be a person who appears to the Authority or the Secretary of State to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Authority of its functions including in particular (but without limitation to) special knowledge, experience or ability in one or more of the following matters—

- (a) commerce;
- (b) maritime activities;
- (c) health and safety;
- (d) management;
- (e) public relations and community issues;
- (f) knowledge and understanding of the Port of Tyne area;
- (g) industrial relations;
- (h) shipping, fishing or cargo handling;
- (i) accountancy or financial management;
- (j) boating and other water related leisure activities;
- (k) environmental matters affecting harbours;
- (l) any other skills and abilities considered from time to time by the Authority to be relevant to the discharge by the Authority of its functions,

and the Authority and the Secretary of State must secure, so far as reasonably practicable, that the persons appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by them of the Authority's functions.

(3) In making an appointment under paragraphs (1)(a) and (b) or article 9 (casual vacancies), the Authority and the Secretary of State must act in accordance with any guidance issued by the Secretary of State from time to time with respect to the exercise of such functions.

(4) In making an appointment under paragraph (2)(a) or article 9 (casual vacancies), the Secretary of State must consult with the Authority prior to making any such appointment of a member to the Authority.

#### **Transitional arrangements**

**6.** Subject to article 10 (disqualification or removal of members) and paragraphs 5, 6 and 9 of Schedule 2 (incidental provisions relating to the Authority), the persons who are, at the date of coming into force of this Order—

- (a) members of the Board, shall continue to be members of the Board until the end of their current term;

- (b) the chair and vice-chair of the Authority, shall continue to be the chair and vice-chair respectively of the Authority until the end of their current term.

### **Terms of office of subsequent members**

7. A person appointed under article 5(1)(a) and (b) must, unless appointed to fill a casual vacancy and subject to articles 8 (declaration to be made by members) and 10 (disqualification of members), and paragraph 9 of Schedule 2 (incidental provisions relating to the Authority), hold office for a period of three years following their appointment.

### **Declaration to be made by members**

8. No person shall act as a member until they have made the declaration set out in Schedule 1 (form of declaration) (or a declaration to that effect); and a person shall cease to be a member if they fail to make that declaration within three months of the date of their appointment.

### **Casual vacancies**

9.—(1) A casual vacancy arising in the office of a member appointed by the Secretary of State must, unless it is not reasonably practicable to do so, be filled by the appointment of a member by the Secretary of State in accordance with the requirements of article 5(2) and (3).

(2) A casual vacancy arising in the office of a member appointed by the Authority must, unless it is not reasonably practicable to do so, be filled by the appointment of a member by the Authority in accordance with the requirements of article 5(2) and (3).

(3) A person appointed to fill a casual vacancy under this article must, subject to articles 8 (declaration to be made by members) and 10 (disqualification or removal of members), and paragraph 9 of Schedule 2 (incidental provisions relating to the Authority), hold office for the remainder of the term for which the member in whose place that person has been appointed.

(4) The Secretary of State may fill a casual vacancy in the office of a chair by appointing as the chair a person who is already a member appointed under article 5(1)(a) or (b) and, if the Secretary of State does so, the appointment shall be deemed to create a casual vacancy in the office of the member who is appointed as the chair.

### **Disqualification or removal of members**

10.—(1) If the Authority is satisfied that a member—

- (a) has without the permission of the Authority been absent from the meetings of the members—
  - (i) for a period during which three such meetings have been held, or
  - (ii) for a period of four consecutive months,whichever of these periods is the longer,
- (b) has become bankrupt or made an arrangement with that person's creditors;
- (c) is incapacitated by physical or mental illness from discharging the functions of a member;  
or
- (d) is otherwise unable, unwilling or unfit to discharge the functions of a member,

the Authority may declare the office of that person as a member to be vacant and thereupon that person's office shall become vacant.

(2) A person whose office as a member has been declared vacant in accordance with article 10(1) is not eligible for reappointment as a member in the future, unless that person receives prior written authority from the Authority authorising that person to apply to be reappointed as a member.

### **Indemnity insurance for members**

11. The Authority may enter into, and pay premiums for, a contract of insurance to indemnify the members jointly or severally against personal liability arising from any act or omission of the members or of any of them not being an act or omission which the member or members in question knew to be a breach of their duty or, concerning which, the member or members in question were reckless as to whether it was such a breach.

### **Incidental provisions relating to members**

12. On and after the new constitution date the provisions of Schedule 2 (incidental provisions relating to the Authority) shall have effect with respect to the Authority and each member.

## **PART 3**

### **PORT JURISDICTION AND GENERAL FUNCTIONS**

#### **Port jurisdiction**

13.—(1) The Authority 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 are described in Schedule 3 (limits of port).

(2) In the event of any discrepancy between the descriptions of the boundaries of the port referred to in Schedule 3 (limits of port) 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 Authority must keep, and make available for inspection at the port office(b) and on the port website(c) from the day on which this Order comes into force, an illustrative plan(d).

(5) In this article “illustrative plan” means a plan showing, for illustrative purposes only, the port limits as described in Schedule 3 (limits of port).

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

(7) The Authority 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**

14.—(1) The Authority 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 Authority 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—

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

(b) Maritime House, Tyne Dock, South Shields, Tyne & Wear, NE34 9PT.

(c) [www.portoftyne.co.uk](http://www.portoftyne.co.uk).

(d) The illustrative plan may be inspected during office hours at the port office at Maritime House, Tyne Dock, South Shields, Tyne & Wear, NE34 9PT and via the port website at [www.portoftyne.co.uk](http://www.portoftyne.co.uk).

- (i) execute and place in and over the port such structures, works and equipment as are required, and
  - (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 Authority 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 Authority 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 Authority under or by virtue of any other enactment.

## PART 4

### FINANCES

#### **Application of finances**

- 15.** The Authority must apply the port revenue in the manner following and not otherwise—
- (a) first in payment of the working and establishment expenses and cost of maintenance of the port;
  - (b) secondly in payment of the interest on any moneys borrowed by the Authority for the port under any statutory borrowing power;
  - (c) thirdly in payment of all other expenses properly chargeable to port revenue;
  - (d) fourthly to the reserve fund established in accordance with article 16 (reserve fund).

#### **Reserve fund**

- 16.—**(1) The Authority may establish and maintain a reserve fund.
- (2) The Authority may carry to a reserve fund such part of the port revenue as may be available for the purpose in accordance with article 15(d).
- (3) Any reserve fund established or maintained under this article may from time to time be applied by the Authority in its discretion—
- (a) in or towards meeting any deficiency on port revenue account in any year;
  - (b) to meet any extraordinary claim or demand in respect of the port undertaking;

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(a) The Port Business Plan may be inspected during office hours at the port office at Maritime House, Tyne Dock, South Shields, Tyne & Wear, NE34 9PT and via the port website at [www.portoftyne.co.uk](http://www.portoftyne.co.uk).

- (c) in or towards payment of the cost of renewing, improving, extending or replacing any part of the works forming part of the port undertaking or any vessels, plant or equipment of the Authority connected to the port undertaking;
- (d) in the repayment of any monies borrowed;
- (e) for improving the operational area and the navigation of the port and the approaches to the port; or
- (f) for any other lawful purpose sanctioned by the Authority and connected with the port undertaking.

### **Borrowing**

17.—(1) The Authority, including a subsidiary of the Authority, may from time to time borrow, by any methods it sees fit, such sums of money as it thinks necessary for the purposes of the port undertaking.

(2) A sum of money borrowed under paragraph (1) by the Authority, or any subsidiary of the Authority, may be borrowed upon the security of some or all of—

- (a) its assets for the time being;
- (b) its revenues; or
- (c) a combination of its assets and revenues,

in whatever way it thinks fit.

(3) The Authority, or a subsidiary of the Authority, may effect such arrangements as it thinks fit to mitigate against any financial risk incurred for the purposes mentioned in paragraph (1).

### **Temporary borrowing**

18. The Authority may borrow temporarily, by way of overdraft or otherwise, such sums of money as the Authority may require for the purposes of the port undertaking.

## **PART 5 CHARGES**

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

19. The Authority may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig, or floating platform, a chain ferry 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 goods and 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 or facilities**

20. In addition to article 19 (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 Authority may demand, take and recover such reasonable charges for services and facilities provided by the Authority at the port or in connection with the port undertaking as it may from time to time determine.

### **Payment of charges**

21.—(1) The charges which the Authority 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,
  - (ii) at such places,
  - (iii) at such times,
  - (iv) under such terms and conditions,as the Authority may from time to time specify in its published list of charges.

(2) Charges payable to the Authority 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 Authority 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 Authority 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 Authority by the owner or master of a vessel or a person using a service or facility of the Authority as the Authority may require in connection with the assessment or collection of a charge.

(5) Where charges payable to the Authority have not been paid by the time they fall due for payment, the Authority 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**

22.—(1) The Authority 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 Authority 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; or
- (b) subject to a compounding arrangement or rebate.

### **Deposit for charges**

23.—(1) The Authority 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 Authority, 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 Authority 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**

24.—(1) A person who by agreement with the Authority 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 Authority 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**

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

### **Exemptions from harbour dues**

26.—(1) Except insofar as may be agreed between the Authority and the government department or person concerned the Authority 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 Authority 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**

27.—(1) In addition to any other remedy given by this Order and by the Act of 1847 as incorporated with this Order, the Authority 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 Authority refuses or neglects to pay the same or any part thereof, paragraph (1) applies whether or not the Authority'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**

**28.** 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 6**

### **GENERAL DIRECTIONS AND SPECIAL DIRECTIONS**

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

**29.—**(1) The Authority may, in accordance with the requirements of article 30 (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 Authority may amend or revoke a direction given under paragraph (1).

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

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

**30.—**(1) Subject to paragraph (7), if the Authority 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,

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(a) The public register of all in force directions may be inspected during office hours at the port office located at Maritime House, Tyne Dock, South Shields, Tyne & Wear, NE34 9PT and via the port website at [www.portoftyne.co.uk](http://www.portoftyne.co.uk).

- (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 six weeks;
  - (c) consult with the designated consultees upon the proposal and allow a period of not less than six 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 Authority regarding the proposal;
  - (d) have regard to all representations made during consultation;
  - (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 Authority 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 Authority 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 Authority may specify.
- (2) Where the Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority ‘proceeding’ with a proposal is to be read as a reference to the Authority determining that the direction or amendment should remain in force.

### **Publication of general directions**

**31.**—(1) Subject to paragraph (4), the Authority 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 Authority must display notices of general directions that apply to the port premises at prominent locations within the port.

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

### **Special directions**

**32.**—(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.

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

**33.**—(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**

**34.**—(1) Without limitation to any other remedy available to the Authority, 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 Authority in the exercise of the powers conferred by paragraph (1) shall be recoverable by the Authority as if they were a charge of the Authority in respect of the vessel.

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

**35.** 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 in relation to which the direction is given, to persons on board the vessel, to the cargo or any other person or property.

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

**36.** A duly authorised officer of the Authority 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 or

general direction of the Authority relating to the port, including the enforcement of any such enactment, byelaw or general direction.

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

37. Any general direction, special direction, byelaw, regulation, licence, lease, consent or other agreement made, issued, entered into or granted by the Authority 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 66 to 72 and the repeals and revocations set out in article 73 (revocation / repeal) and Schedule 4 (revocation / repeal), continue to have effect.

## PART 7

### MISCELLANEOUS AND GENERAL

**Advisory bodies**

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

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

(3) The Authority 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 Authority 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 Authority as the Authority from time to time considers appropriate.

(5) Appointments to any such advisory body must be made by the Authority 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 Authority, 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 Authority.

**Development of land etc.**

39.—(1) The Authority 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 the Authority considers 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 Authority would not itself have the power to do that thing.

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

**40.**—(1) The Authority 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 Authority 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 Authority 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 Authority,

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

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

**41.**—(1) Notwithstanding anything in any statutory provision of local application the Authority 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 Authority 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 Authority 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 Authority 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**

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

- (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, dispose of, 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 the Authority considers 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 Authority would not itself have the power to do that thing.

(3) The powers of the Authority under this article are additional to the powers of the Authority 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**

**43.** 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 Authority may delegate the performance of any of its functions to be carried out by any such company as is referred to in article 42(1)(b).

#### **Power to lay moorings**

**44.—(1)** The Authority may provide, place, lay down, maintain, retain, renew, use or remove such moorings in the port as it considers necessary or desirable for the convenience of vessels—

- (a) on land owned or leased by it; and
- (b) with the consent in writing of the owner and any lessee thereof, on any other land in the port..

(2) The Authority may make reasonable charges in respect of any vessel using any moorings provided under this article.

(3) In this article and articles 45 (licensing of moorings) and 46 (offences as to moorings etc.), “mooring” includes any buoy, pile, post, chain, pillar, pontoon or like apparatus or convenience used or capable of being used for the mooring of vessels.

#### **Licensing of moorings**

**45.—(1)** The Authority may from time to time grant a licence to any person to place, lay down, maintain, retain, renew and use moorings for vessels in the port.

(2) A licence—

- (a) may be granted for such a period and on such terms and conditions as the Authority thinks fit;
- (b) may relate to one mooring, or to several moorings.

(3) The Authority may make reasonable charges for the grant of a licence under this article.

(4) In respect of moorings already lawfully laid down in the port at the date this Order comes into force, a licence under paragraph (1) must be obtained by the owner or user of the mooring within 12 weeks of that date and thereafter renewed.

#### **Offences as to moorings etc.**

**46.—(1)** Any person who—

- (a) intentionally obstructs any person acting under the authority of the Authority in setting out moorings in the port;
- (b) intentionally and without lawful authority pulls up or removes any mooring or any part of any mooring in the port;
- (c) places, lays down, maintains, renews or has in the port any mooring not provided under article 44 (power to lay moorings) or licensed under article 45 (licensing of moorings);
- (d) without reasonable excuse causes or permits a vessel to be moored in the port except at a mooring provided or licensed by the Authority or at a quay, jetty or other work provided for the mooring of vessels;

- (e) without reasonable excuse causes or permits a vessel to be moored at a mooring provided under article 44 (power to lay moorings) or licensed under article 45 (licensing of moorings) which the person concerned is not entitled to use,

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

(2) If any person commits an offence under paragraph (1)(c) the Authority may remove the mooring in question and recover from that person the expenses incurred in doing so as a debt.

(3) Subject to paragraph (6), if any person commits an offence under paragraph (1)(d) or (1)(e) the Authority may—

- (a) remove the vessel, including any tackle with the vessel;
- (b) sell or otherwise dispose of the vessel and tackle; and
- (c) recover out of the proceeds of sale—
  - (i) any unpaid charge payable under article 44 (power to lay moorings),
  - (ii) any unpaid licence fee payable under article 45 (licensing of moorings), and
  - (iii) the expenses of removal and disposal under this paragraph.

(4) If the proceeds of sale under paragraph (3)(b) are sufficient to allow the Authority to recover all amounts permitted by paragraph (3)(c), the Authority shall hold any surplus proceeds of sale on trust for the owner.

(5) If the proceeds of sale under paragraph (3)(b) are insufficient to allow the Authority to recover all amounts permitted by paragraph (3)(c), or there is no sale of the vessel, the Authority may recover the amounts referred to in paragraph (3)(c) net of any proceeds of sale from the owner as a debt.

(6) The Authority must not exercise its power to remove a vessel under paragraph (3) unless—

- (a) it has given to the owner seven clear days' notice in writing of its intention to do so; or
- (b) it is an emergency.

(7) Where paragraph (6)(b) applies, the Authority must notify the owner that it has removed the vessel as soon as reasonably practicable afterwards.

## **Bunkering**

**47.—**(1) The Authority 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 Authority or in which that person has no interest.

(3) Any licence granted under paragraph (1) shall be valid only for a period of one year commencing with the date on which it is granted.

(4) The Authority may charge for a licence granted under paragraph (1) such reasonable fee as the Authority 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 Authority 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**

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

(2) The Authority must not exercise the powers of paragraph (1) without the approval of Trinity House.

### **Power to dredge**

**49.**—(1) The Authority may, as appears to it to be necessary or desirable for the purposes of the port undertaking, deepen, widen, dredge, scour, cleanse, alter and improve the port below the level of high water.

(2) Subject to paragraph (3), all materials dredged up or removed by the Authority in exercise of the powers of this article shall be the property of the Authority and may be used, sold, deposited or otherwise disposed of as the Authority may think fit.

(3) No such materials shall be laid down or deposited in contravention of the provisions of any enactment as respects to the disposal of waste.

### **Repair of landing places, etc.**

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

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

- (a) dangerous to persons or vessels using the port;
- (b) a hindrance to the navigation of the port,

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

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

(5) A person aggrieved by a notice served by the Authority 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) must be made by notice in writing stating the grounds of the appeal.

(7) A person who appeals under paragraph (5) must give to the Authority notice of the appeal accompanied by a copy of the statement of appeal; and the Authority 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), the Secretary of State shall either quash the notice, modify its requirements or dismiss the appeal.

(9) In this article “owner”, “lessee” and “occupier”, in relation to a relevant feature, means the person who was the “owner”, “lessee” or “occupier” of the relevant feature at the date the notice is served, or if the “owner”, “lessee” or “occupier” of the relevant feature is not readily identifiable, the “owner”, “lessee” or “occupier” of the land on which the relevant feature is situated at the date the notice is served.

## **Restriction of works and dredging**

**51.**—(1) Subject to paragraph (3), no person other than the Authority shall—

- (a) construct, alter, renew or extend any works, unless that person is licensed to do so by a works licence and except on the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved under article 53 (licensing of works);
- (b) dredge, unless that person is licenced to do so by a dredging licence and except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved under article 54 (licence to dredge).

(2) The Authority may by notice require a person who contravenes this article to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates and to restore the site thereof to its former condition; and if that person fails to comply with the notice, the Authority may carry out the works so required and may recover from that person the cost of so doing.

(3) Nothing in this article shall apply to—

- (a) any operations or works specifically authorised by any enactment;
- (b) any operations or works of a statutory undertaker; or
- (c) any operations or works authorised by a moorings licence granted under article 45 (licensing of moorings).

(4) Any person who without reasonable excuse contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **Control of certain operations and works of statutory undertakers**

**52.**—(1) This article applies to any operations or works in the port of a statutory undertaker on, under, in or over tidal waters or land below the level of high water, not being operations or works which are specifically authorised by an enactment.

(2) Subject to paragraph (3), a statutory undertaker must not carry out any operations or works to which this article applies unless it has given notice of its intention to do so to the Authority and has supplied the Authority with such particulars as it may reasonably require.

(3) Where, in an emergency, it is impracticable to give notice as required by paragraph (2), the statutory undertaker must inform the Authority of the operations or works as soon as reasonably practicable.

(4) Any operations or works to which this article applies must be carried out subject to any general direction or special direction which may from time to time be given by the Authority to the statutory undertaker, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of such operations or works.

(5) Any person who, without reasonable excuse, contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **Licensing of works**

**53.**—(1) The Authority may upon such terms and conditions as it thinks fit grant to any person a licence to construct, alter, renew or extend any works in the port on, under, in or over tidal waters or land below the level of high water, notwithstanding that the works as constructed, altered, renewed, or extended interfere with the public right of navigation or any other public right.

(2) An application for a works licence must be made in writing to the Authority and must—

- (a) be accompanied by plans, sections and particulars of the works to which the application relates; and
- (b) specify whether the applicant holds such rights in, under or over land as are necessary to enable the applicant to enjoy the benefits of the licence and, if not, the action taken to enable the applicant to obtain such rights if the licence is granted,

and, in granting a licence, the Authority may require modifications in the plans, sections and particulars so submitted.

(3) The Authority may require an applicant for a works licence, on making the application, to pay a reasonable fee in respect of the administrative expenses of dealing with the application.

(4) As a condition of the granting of a licence, the Authority may require a licensee, being an applicant to whom a licence has been granted or the applicant's successor, where works are to be constructed in accordance with the licence, to pay such reasonable fees in respect of the Authority's administrative expenses and overheads in supervising or inspecting where necessary the construction or maintenance of the works.

(5) Where the Authority refuses to grant a works licence which has been applied for it must give reasons in writing for its refusal.

(6) Where the Authority grants a works licence upon terms or conditions or require any modification in the plans and particulars, it must give reasons in writing for the terms and conditions imposed or the modifications required.

(7) If within 16 weeks from the receipt of the application under paragraph (2) the Authority does not grant a works licence, it shall be deemed to have refused the application.

(8) When carrying out of operations pursuant to a works licence, the holder of the licence 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.

### **Licence to dredge**

**54.**—(1) The Authority may upon such terms and conditions as it thinks fit grant to any person a licence to dredge in any part of the port.

(2) An application for a dredging licence must be made in writing to the Authority and must be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence, and in granting any such licence the Authority may require modifications in the plans, sections and particulars so submitted.

(3) Paragraphs (3) to (8) of article 53 (licensing of works) shall apply in relation to a dredging licence as they apply in relation to a works licence.

(4) Any materials, other than wreck within the meaning of Part IX of the Act of 1995 (salvage and wreck), taken up or collected by means of dredging pursuant to a dredging licence—

- (a) shall be the property of the holder of the licence; and
- (b) the holder of the licence may use, sell or otherwise dispose of or remove or deposit the materials as they think fit provided that no such material shall be laid down or deposited in any place within the port below the level of high water except—
  - (i) in such positions as may be approved by the Authority, and
  - (ii) subject to such conditions as may be imposed by the Authority.

(5) If it appears to the holder of the dredging licence that the Authority has unreasonably withheld or refused its approval under paragraph (4) or that any condition imposed by the Authority under that paragraph is unreasonable, that person may within 28 days from the date on which the Commission notified the applicant of its decision appeal to the Secretary of State whose decision shall be binding upon the parties.

(6) Paragraphs (2) to (5) of article 55 (appeals in respect of works or dredging licences) shall apply in relation to any appeal made under paragraph (5).

### **Appeals in respect of works or dredging licences**

**55.**—(1) An applicant for a works licence or a dredging licence who is aggrieved by—

- (a) a refusal of the Authority to grant a licence;
- (b) any terms or conditions subject to which the licence is granted;
- (c) any modifications required by the Authority in the plans, sections and particulars submitted by the applicant,

may, within 28 days from the date on which the Authority notifies the applicant of its decision or the date on which the Authority is, under article 53(7), deemed to have refused the application, appeal to the Secretary of State.

(2) An appeal under paragraph (1) must be made by notice in writing stating the grounds of the appeal.

(3) The appellant must send to the Authority a copy of the notice of the appeal; and the Authority may, within 28 days of the receipt of the notice, furnish to the Secretary of State its observations on the appeal.

(4) The Secretary of State may confirm, vary or revoke the decision appealed against and may make such consequential amendments as the Secretary of State may specify.

(5) The Secretary of State may direct the Authority to give effect to the decision, and the Authority must forthwith comply with any direction given.

### **Obstruction of works**

**56.** Any person who intentionally obstructs any person acting under the authority of the Authority in setting out the lines of, or in construction of any works authorised by any enactment, or who interferes with, moves or removes any pole, stake, station point or bench mark established for the purposes of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Parking places and related facilities**

**57.** The Authority may provide facilities within the port for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences and may make reasonable charges for the use of such facilities.

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

**58.**—(1) In its application to the Authority, 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority.

(2) Notice under paragraph (3) to the owner of any vessel may be served by the Authority 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 Authority, or is not in the United Kingdom, by displaying the notice at the port office and electronically on the port website for the period of its duration.

(3) 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.

(4) The powers conferred on the Authority 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 unserviceable vessels**

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

(2) The Authority may retain out of the proceeds of sale of such vessel, any expenses incurred by it in respect of the vessel, or in marking, buoying, 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 (unserviceable 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 Authority for the said expenses, or there is no sale, the Authority 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 Authority 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 Authority or is outside of the United Kingdom, the notice may be given by displaying it at the port office and on the port website for two successive weeks.

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

**60.**—(1) The Authority 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 Authority 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 Authority under paragraph (1) is so marked as to be readily identifiable as the property of any person, the Authority must, within 28 days of its coming into the Authority’s custody, give written notice to that person stating that—

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

(b) upon payment of any reasonable expenses incurred by the Authority 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 Authority.

(5) Notwithstanding the provisions of paragraph (3) the Authority 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 Authority under this article is sold, the Authority must place a notice at the port office 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 Authority proves to the reasonable satisfaction of the Authority 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 Authority.

(7) If the proceeds of sale of anything removed under this article are insufficient to reimburse the Authority for the expenses set out in paragraph (6), or there is no sale because the property is unsaleable, the Authority 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 Authority or who was the owner at the time of its abandonment or loss.

### **Provision against danger to navigation**

**61.** In the case of injury to, or destruction or decay of, a tidal work or any part of it which presents a danger to navigation, the Authority must as soon as reasonably practicable notify Trinity House.

### **Notices**

**62.—(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 Authority 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 serve 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.

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(a) 1978 c. 30.

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

- (a) in the case of a notice or document to be served on 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 for the period of its duration.

### **Saving for Trinity House**

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

### **Crown Rights**

64.—(1) Nothing in this Order shall—

- (a) prejudicially affect any estate, right, power, privilege, authority or exemption of the Crown;
- (b) authorise the Authority 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.

### **Amendment of the Act of 1862**

65.—(1) The Act of 1862 is amended as follows.

(2) In section 4 (limits of Act) omit from the words “, under the Tyne Improvement Acts” until the word “respectively,”.

(3) In section 32 (company to remove or alter gears and platforms, upon request of Commissioners) omit “,under the Authority of this Act,”.

### **Amendment of the Act of 1886**

66.—(1) The Act of 1886 is amended as follows.

(2) In section 9 (amendment of provisions of Tyne improvement Acts 1865 and 1877 respecting swing bridge)—

- (a) in paragraph (ii)—
  - (i) omit “The minimum sum which”,
  - (ii) omit “as”,
  - (iii) omit “either way”, and
  - (iv) omit “shall be five shillings”,
- (b) in paragraph (iii) —
  - (i) omit “special”, and
  - (ii) for “hours” substitute “weeks”,
  - (iii) for “the Commissioners”, in all places which it occurs, substitute “the Authority”, and
  - (iv) for “bridge-master” substitute “harbour master”.

#### **Amendment of the Act of 1897**

**67.**—(1) The Act of 1897 is amended as follows.

(2) In section 46 (admission of public to piers) omit the proviso from the words “Provided that this section” to the end of that section.

#### **Amendment of the Act of 1925**

**68.**—(1) The Act of 1925 is amended as follows.

(2) In section 17 (power to licence foy boatmen)—

- (a) in subsection (2) omit “not exceeding \*forty shillings”;
- (b) in subsection (3), for “penalty not exceeding forty shillings” substitute “fine not exceeding level 4 on the standard scale”; and
- (c) after subsection (6), omit “(\* increased from 20/- to 40/- by Section 26 of and the Third Schedule to the Tyne Improvement Act 1950 - see Article 88(3) of the Port of Tyne Reorganisation Scheme 1967)”.

#### **Amendment of the Act of 1957**

**69.**—(1) The Act of 1957 is amended as follows.

(2) In section 7 (certain works to form part of undertaking) omit “authorised by the Tyne Improvement Acts 1850 to 1957”.

(3) In section 12 (power to deviate)—

- (a) for “.” substitute “.”;
- (b) omit the proviso from the words “Provided that no deviation” to the end of the section.

#### **Amendment of the Order of 1968**

**70.**—(1) The Order of 1968 is amended as follows.

(2) In article 2(1) (interpretation)—

- (a) for the definition of “the Port” substitute—
  - ““the Port” has the same meaning as defined in the Port of Tyne Harbour Revision Order 202[ ];”.
- (b) for the definition of “vessel” substitute the definition of “vessel” in article 2(1) of this Order.
- (c) in the appropriate place insert—

““port premises” has the same meaning as defined in the Port of Tyne Harbour Revision Order 202[ ];”;

(d) omit the definition of “dock estate”.

(3) In article 43(1) for “level 1 on the standard scale.” substitute “on summary conviction to a fine not exceeding level 3 on the standard scale.”.

(4) In article 75 (general byelaws) for “premises of the Authority” substitute “port premises” in each place it occurs;

(5) For article 78 (confirmation of byelaws and fines thereunder), substitute—

“(1) The provisions contained in subsections (3) to (8) of section 236 (procedure etc. for byelaws) and section 238 (evidence of byelaws) of the Local Government Act 1972(a) shall apply to all byelaws made after the coming into force of this Order, by the Authority under this Order or section 83 of the Act of 1847 (byelaws may be made for all or any of the purposes herein named).

(2) In its application to byelaws made under this Order or section 83 of the Act of 1847 (byelaws may be made for all or any of the purposes herein named), section 236 (procedure etc. for byelaws) shall have effect, subject to paragraph (3), as if after the word “confirm” in subsection 236(7) in the first place where that word occurs there were inserted the words “with or without modification”.

(3) Where the confirming Authority proposes to make a modification which appears to the confirming Authority to be substantial, then—

(a) the confirming Authority must inform the Authority and require it to take any steps the confirming Authority thinks necessary for informing persons likely to be concerned with that modification;

(b) the confirming Authority must not confirm the byelaws until there has elapsed such period as the confirming Authority thinks reasonable for the Authority and other persons who have been informed of the proposed modifications to consider and comment on it.

(4) The confirming Authority for the purposes of this article and of section 236 (procedure etc. for byelaws) in its application to byelaws made under this Order or section 83 of the Act of 1847 (byelaws may be made for all or any of the purposes herein named) shall be the Secretary of State.

(5) Byelaws made under articles 75 (general byelaws) or 76 (byelaws as to lights and signals etc.) of this Scheme may 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.”.

(6) In each place it occurs, for “dock estate” substitute “port premises”.

#### **Amendment of the Act of 1989**

71.—(1) The Act of 1989 is amended as follows.

(2) In section 2(1) in the appropriate place insert the definition of “vessel” in article 2(1) of this Order.

#### **Amendment of the Port of Tyne (Pilotage) Harbour Revision Order 1989**

72.—(1) The Port of Tyne (Pilotage) Harbour Revision Order 1989(b) is amended as follows.

(2) In article 2 (interpretation) in the definition of “the Port” omit “the Port of Tyne Reorganisation Scheme 1967” and substitute “the Port of Tyne Harbour Revision Order 202[ ]”.

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(a) 1972 c. 70.

(b) S.I. 1989/1407.

**Revocation / Repeal**

73. On the date of this Order the enactments mentioned in the first and second columns of the Schedule 4 (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

*Michelle Willis*  
Chief Executive Officer

Date

An authorised employee of the Marine Management Organisation

SCHEDULES

SCHEDULE 1

Article 8

FORM OF DECLARATION

PORT OF TYNE AUTHORITY

PORT OF TYNE ACTS AND ORDERS 1886 TO 202[ ]

I, [FULL NAME] do solemnly declare:

(1) that I will faithfully and impartially, according to the best of my skill and judgement, execute all the powers and authorities vested in me as a member by virtue of the Port of Tyne Acts and Orders 1886 to 202[ ];

(2) that I will comply with the requirements as to disclosure of such interests, laid down by paragraph 15 of Schedule 3 to the Port of Tyne Harbour Revision Order 202[ ], and in particular that:

(a) I have disclosed to the Chief Executive details of every financial and other interest as is mentioned in those notes;

(b) I will in future notify the Chief Executive as soon as reasonably practicable of any alteration in those interests, or any new interest such as mentioned in those notes, which I may acquire.

Made and signed at the Port of Tyne on the

.....day of )

signature:.....

..... )

Witnessed by the Chief Executive

..... )

signature:.....

as a member.

Note: Where the declaration is to be made by the Chief Executive the references to the Chief Executive above shall be read as references to the Chair.

SCHEDULE 2

Article 12

INCEIDENTAL PROVISIONS RELATING TO THE AUTHORITY

### **Appointment of chair and vice-chair of the Authority**

1. Subject to article 6(2), there shall be a chair of the Authority who shall be appointed by the Secretary of State in accordance with article 5(1)(a).

2. Subject to paragraph 5, every chair subsequently appointed under paragraph 1 above shall, unless they resign their office as chair or cease to be a member, hold office for a period of three years.

3. Subject to article 6 (transitional arrangements) there shall be a vice-chair of the Authority who must be appointed by those of the Authority who are appointed under article 5(1)(a), (b), (c), (d) or 9 (casual vacancies) from among their number.

4. Subject to paragraph 6, every vice-chair subsequently appointed under paragraph 3 shall, unless they resign their office as vice-chair or cease to be a member, hold office for a period of three years.

5. If the Secretary of State is satisfied that the chair should cease to hold their office as such, the Secretary of State may terminate that person's office as such and appoint another member to be the chair during the remainder of the term for which the former chair was appointed.

6. If those of the Authority who are appointed under articles 5(1)(a), (b), (c), (d) or 9 (casual vacancies) are satisfied that the vice-chair should cease to hold their office as such, they may terminate that person's office as such and appoint another member to be the vice-chair during the remainder of the term for which the former vice-chair was appointed.

7.—(1) On a casual vacancy occurring in the office of chair of the Authority, the vacancy must be filled by the Secretary of State in accordance with article 9 (casual vacancies) as soon as reasonably practicable after the vacancy occurs.

(2) On a casual vacancy occurring in the office of vice-chair of the Authority, the vacancy must be filled by those of the members who are appointed under article 5(1)(a), (b), (c), (d) or 9 (casual vacancies) at a meeting held as soon as reasonably practicable after the vacancy occurs.

(3) A member appointed under this paragraph to fill a casual vacancy in the office of chair or vice-chair shall, unless that person resigns that office or ceases to be a member, hold that office during the remainder of the term for which the chair or vice-chair whom they replace was appointed.

### **Meetings of the Authority**

8.—(1) The first meeting of the Authority after the new constitution date must be convened as soon as reasonably practicable by the Chief Executive for such date as the Chief Executive may fix; and the Chief Executive shall make arrangements for notice of that meeting to be sent by post or email to each of the other members.

(2) The Authority shall meet at least six times a year.

### **Vacation of office by members**

9. A member (other than the Chief Executive) may resign their office at any time by notice in writing given to the chair of the Authority or, if that member is the chair, the vice-chair.

### **Reappointment of members**

10.—(1) Subject to the provisions of this Schedule, a vacating member shall be eligible for reappointment as a member unless that person has been disqualified from office under article 10 (disqualification or removal of members).

(2) A vacating member appointed under article 5(1)(a) or (b) shall not be eligible for reappointment as a member where, immediately before the date in question, that person has held office for two consecutive terms unless they are the chair of the Authority, or in respect of the

third consecutive term, following public advertisement of the role and a competitive appointment process.

(3) A chair of the Authority who is an appointed member shall not be eligible for reappointment as a member where, immediately before the date in question, that person has held office as a member for three consecutive terms, or in respect of the fourth consecutive term, following public advertisement of the role and a competitive appointment process.

(4) For the purposes of this paragraph—

- (a) “term” does not include the remainder of a term during which the member was appointed to fill a casual vacancy under article 9 (casual vacancies);
- (b) “appointed member” means a member appointed under article 5(1)(a), (b), (c) or (d).

### **Reappointment of chair**

**11.—**(1) A chair of the Authority shall not be eligible for reappointment as the chair where, immediately before the date in question, that person has served as chair for three consecutive terms.

(2) For the purposes of this paragraph, “term” does not include the remainder of a term during which the member was appointed to fill a casual vacancy in the office of chair under paragraph 7.

### **Committees**

**12.** The Authority may, consistently with their duties and subject to such conditions as they think fit, delegate any of its functions, other than the functions set out in subparagraphs (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), to a committee of the Authority.

### **Proceedings of the members and committees**

**13.** The acts and proceedings of the members, or of any committee of the members, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as a member, or as chair or vice-chair, of the Authority or committee.

**14.** The quorum required for a meeting of the Authority shall be five.

**15.—**(1) If a member has any interest, direct or indirect—

- (a) in any contract or proposed contract to which the Authority is or would be a party or where a member is a director of a company or body with which the contract or proposed contract is made or proposed to be made;
- (b) in any other matter with which the members are concerned,

that person must declare that interest.

(2) If a member is present at a meeting of the Authority or of any committee of the Authority at which a contract or other matter in which that person has an interest is to be considered that person must—

- (a) as soon as is practicable after the commencement of that meeting disclose their interest;
- (b) not vote on any question with respect to that contract or matter; and
- (c) withdraw from the meeting—
  - (i) at any time if the members present by resolution require that person to do so, and
  - (ii) while a decision on that contract or matter is being made.

(3) This paragraph shall not apply to any interest—

- (a) which a member has in respect of the payment to the Authority of harbour dues;

- (b) which arises in respect of the provision of port services or facilities affecting the trading community in general;
- (c) which a member has as an employee of a public utility undertaking or as a shareholder, not being a director of a company, unless that person possesses more than five per cent of the issued share capital of that company; or
- (d) which the members present at the meeting by resolution declare to be too remote.

16. The person for the time being holding office as vice-chair shall have and may exercise in the absence or incapacity of the chair all the functions of the chair.

17. If at any meeting of the Authority neither the chair nor the vice-chair are present the members present at the meeting shall choose one of their number to be the chair of the meeting.

18.—(1) Every question at a meeting of the Authority or of a committee of the Authority shall be decided by a majority vote of the members present and voting.

(2) If at any meeting of the Authority or of a committee of the Authority there is an equality of votes on any question the chair of the meeting shall have a second or casting vote which the chair may exercise for or against the status quo.

#### **Authentication of seal and other documents**

19.—(1) The application of the seal of the Authority shall be authenticated by the signature of the chair of the Authority or some other member authorised by the Authority to authenticate the application of the seal, and of the Chief Executive or some person authorised by the Authority to act in the Chief Executive's place in that behalf.

(2) The Authority may authorise a person to act instead of the Chief Executive under this paragraph whether or not the Chief Executive is absent or incapable of acting.

(3) Any notice, licence or other document given or issued by the Authority shall, unless the contrary intention is expressed, be sufficiently authorised if signed by the Chief Executive or a duly authorised officer of the Authority.

#### **Remuneration of members**

20. The members must pay to the chair and other members such salary, allowances and expenses as the Authority from time to time determines.

#### **General**

21. Subject to the provisions of this Schedule, the procedure and business of the Authority and of any committee of the Authority shall be regulated in such manner as the Authority may from time to time determine.

22. The Authority may appoint a Chief Executive and such other persons as from time to time it thinks necessary or desirable for and incidental to the performance of its functions and pay to them such remuneration as the Authority thinks fit.

## SCHEDULE 3 LIMITS OF PORT

Article 13

#### **The Port of Tyne**

The limits of the port shall comprise—

- (a) the area up to the level of high water—
  - (i) bounded on the seaward side of the port by imaginary lines commencing at—

- (aa) the round head of the North Pier Lighthouse at a point A (55°00'51.97"N, 001°24'10.04"W), then proceeding in a straight line in a north-north westerly direction to a radius of 1 mile at a point B (55°00'51.09"N, 001°24'27.24"W), then following the line of the arc of the 1 mile radius centred at a point A (55°00'51.97"N, 001°24'10.04"W) in an overall south easterly direction to the radius intersection at a point C (55°01'04.76"N, 001°22'28.17"W); and
- (bb) the round head of the South Pier Lighthouse at a point E (54°59'40.61"N, 001°24'04.62"W), then proceeding in a straight line in a southerly direction to a radius of 1 mile at a point D (55°00'40.81"N, 001°24'03.73"W), then following the line of the arc of the 1 mile radius centred at a point E (54°59'40.61"N, 001°24'04.62"W) in an overall north easterly direction to the radius intersection at a point C (55°01'04.76"N, 001°22'28.17"W);

together **the seaward limits**; and

- (ii) bounded on the landward side of the port by an imaginary line drawn between a point N (54°58'57.09"N, 001°46'48.71"W) on the southern bank of the river Tyne on the level of high water and a point O (54°59'00.13"N, 001°46'45.10"W) on the northern bank of the river Tyne on the level of high water (**the landward limit**); and
- (b) all creeks, pills, rivers, inlets and tributaries to the river Tyne up to the level of high water between the seaward limits and the landward limit except any area upstream of the following imaginary straight lines drawn between—
  - (i) a point F (54°58'45.40"N, 001°27'33.73"W) on the northern bank of the river Don on the level of high water and a point G (54°58'45.20"N, 001°27'33.74"W) on the southern bank of the river Don on the level of high water;
  - (ii) a point H (54°58'36.70"N, 001°28'41.18"W) on eastern bank of the river Don on the level of high water and a point I (54°58'36.76"N, 001°28'41.85"W) on the western bank of the river Don on the level of high water;
  - (iii) a point J (54°57'03.95"N, 001°38'00.07"W) on the eastern bank of the river Team on the level of high water and a point K (54°57'03.92"N, 001°38'00.58"W) on the western bank of the river Team on the level of high water;
  - (iv) a point L (54°57'21.44"N, 001°41'24.26"W) on the southern bank of the river Derwent on the level of high water and a point M (54°57'22.60"N, 001°41'24.58"W) on the northern bank of the river Derwent on the level of high water;
  - (v) a point P (54°58'27.14"N, 001°42'41.64"W) on the southern bank of the Lemington Gut on the level of high water and a point Q (54°58'27.72"N, 001°42'42.03"W) on the northern bank of the Lemington Gut on the level of high water;
  - (vi) a point R (54°58'32.85"N, 001°35'27.97"W) on the western bank of the A193 Byker Bridge on the level of high water and a point S (54°58'32.95"N, 001°35'27.58"W) on the on the eastern bank of the A193 Byker Bridge on the level of high water;
  - (vii) a point T (54°59'36.83"N, 001°30'27.02"W) on the western bank of the Willington Gut on the level of high water and a point U (54°59'36.92"N, 001°30'26.52"W) on the eastern bank of the Willington Gut on the level of high water;

shown for illustrative purposes shaded pink on the port limits plan; and

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

## SCHEDULE 4

Article 73

### REVOCATION / REPEAL

**Table 1**

<i>Number</i>	<i>Short Title</i>	<i>Extent of Revocation/Repeal</i>
10 Geo. 4. c. xcvi.	An Act for establishing a Ferry across the River Tyne between North Shields in the County of Northumberland and South Shields in the County of Durham and for opening and making proper Roads Avenues Ways and Passages to communicate therewith.	Whole Act.
11 & 12 Vict. c. xlv.	Tyne Direct Ferry Company Act 1848	Whole Act.
13 & 14 Vict. c. lxxiii.	The River Tyne Improvement Act 1850	Whole Act.
14 & 15 Vict. Cap. lxxiii.	North Shields Quay Act 1851	Whole Act.
15 & 16 Vict. c. cx.	The Tyne Improvement Act 1852	Whole Act.
28 & 29 Vict. c. ccl.	Newcastle Upon Tyne Improvement Act 1855	Whole Act.
18 & 19 Vict. c. cxliii.	Gateshead Quay Act 1855	Whole Act.
22 & 23 Vict. c. xii.	Gateshead Quay (Second) Act 1859	Whole Act.
24 & 25 Vict. c. xci.	The Tyne Improvement Act 1861	Whole Act.
25 & 26 Vict. Cap. lxxvi.	Tyne General Ferry Act, 1862	Sections 19, 20, 21, 22, 23, 24, 25, 26, 31, 33 and 35.
28 & 29 Vict. c. cclxxiv.	The Tyne Improvement Act 1865	Whole Act.
30 & 31 Vict. c. cxxxv.	The Tyne Improvement Act 1867	Whole Act.
35 & 36 Vict. c. cxxxii.	The Tyne Improvement Act 1872	Whole Act.
40 & 41 Vict. c. xciii.	The Tyne Improvement Act 1877	Whole Act.
49 & 50 Vict. c. xxxiv.	The Tyne Improvement Act 1886	Whole Act apart from section 9(ii) and (iii).
53 & 54 Vict. c. xxviii.	The Tyne Improvement Act	Whole Act.

	1890	
60 & 61 Vict. c. ccix.	The Tyne Improvement Act 1897	Whole Act apart from section 46.
2 Edw. 7. c. xxxiii.	The Tyne Improvement Act 1902	Whole Act.
4 Edw. 7. Ch. ccxx.	Newcastle-upon-Tyne Corporation Act 1904	Sections 31, 32, 34 to 36, 37, 39 to 41, 43, 45 to 50, 52 to 55, 64, 65 and the Third Schedule.
7 Edw. 7. c. xxvi.	The Tyne Improvement Act 1907	Whole Act apart from section 20.
8 Edw. 7. c. lxxxv.	The Tyne Improvement Act 1908	Whole Act.
TBC	Tynemouth Corporation Act 1910	Sections 2 to 8, 10 to 14, 15 19 to 28, 30, 36 and 37.
1 & 2 Geo. 5. Ch. cxix.	Newcastle-upon-Tyne Corporation Act 1911	Whole Act.
10 & 11 Geo. 5. Ch. xiv.	Port of Tyne Improvement Act 1920	Whole Act.
10 Eliz. 7. & 1 Geo. 5. c. xxv.	Tynemouth Corporation Act 1924	Whole Act.
15 & 16 Geo. 5. Ch. xxxiii.	The Tyne Improvement Act 1925	Whole Act apart from sections 16, 17, 20 and 35.
19 & 20 Geo. 5. Ch. xlix.	The Tyne Improvement Act 1929	Whole Act apart from section 7.
20 & 21 Geo. 5. Ch. cxci.	Newcastle-upon-Tyne Corporation (Quay Extension &c.) Act 1930	Whole Act.
24 & 25 Geo. 5. Ch. lxxviii.	The Tyne Improvement Act 1934	Whole Act apart from section 74.
25 & 26 Geo. 5. c. xxviii.	Newcastle-upon-Tyne Corporation (Quay Extension &c.) Act 1935	Whole Act.
14 Geo. 6. Ch. xvii.	The Tyne Improvement Act 1950	Whole Act.
15 & 16 Geo. 6. & 1 Eliz. 2. Ch. vii.	The Tyne Improvement Act 1952	Whole Act.
15 & 16 Geo. 6. & 1 Eliz. 2.	Newcastle-upon-Tyne	Whole Act.

Ch. xl.	Corporation Act 1952	
1 & 2 Eliz. 2. Ch. xxxi.	Tynemouth Corporation Act 1953	Sections 15, 19, 22 and 24.
2 & 3 Eliz. 2. c. xx.	The Tyne Improvement Act 1954	Whole Act.
5 & 6 Eliz. 2. Ch. xxi.	The Tyne Improvement Act 1957	Whole Act apart from sections 1(1), 3, 4, 5, 7, 9, 10, 11, 12.
1968 No. 942.	The Port of Tyne Reorganisation Scheme 1967 Confirmation Order 1968	Whole Scheme apart from articles 1, 2, 3, 4, 8 to 13, 21 to 23, 36, 37, 42 to 44, 49, 54, 64, 65, 69 to 76, 78 to 85, 86, 87, 88, 89 to 93 and Schedule 1.
1974 c. xxxvi.	Port of Tyne (North Shields) Fish Harbour Act 1974	Whole Act apart from section 15.
1974 No. 923.	Port of Tyne Authority (Constitution) Revision Order 1974	Whole Order.
1989 c. i.	Port of Tyne Act 1989	Whole Act apart from sections 3, 5, 6, 7, 9, 13 and 14.
1990 c. xxxi.	Port of Tyne Act 1990	Whole Act.
1998 No. 3277.	Port of Tyne Harbour Revision Order 1998	Whole Order.
2008 No. 1817.	Port of Tyne Harbour Revision Order 2008	Whole Order apart from article 2.
2016 No. 877.	Port of Tyne Harbour Revision Order 2016	Whole Order.

## SCHEDULE 5

Article 2

### ACTS AND ORDERS

<i>Number</i>	<i>Short Title</i>	<i>Extent of Application</i>
49 & 50 Vict. c. xxxiv.	The Tyne Improvement Act 1886	Sections 9(ii) and (iii) only.
60 & 61 Vict. c. ccix.	The Tyne Improvement Act 1897	Section 46 only.
7 Edw. 7. c. xxvi.	The Tyne Improvement Act 1907	Section 20 only.

15 & 16 Geo. 5. Ch. xxxiii.	The Tyne Improvement Act 1925	Sections 16, 17, 20 and 35 only.
19 & 20 Geo. 5. Ch. xlix.	The Tyne Improvement Act 1929	Section 7 only.
24 & 25 Geo. 5. Ch. lxxviii.	The Tyne Improvement Act 1934	Section 74 only.
5 & 6 Eliz. 2. Ch. xxi.	The Tyne Improvement Act 1957.	Sections 1(1), 3 to 7 and 9 to 12 only.
S.I. 1968 No. 942.	The Port of Tyne Reorganisation Scheme 1967 Confirmation Order 1968	Articles 1, 2, 3, 4, 8 to 13, 21 to 23, 36, 37, 42 to 44, 49, 54, 64, 65, 69 to 76, 78 to 85, 86, 87, 88, 89 to 93 and Schedule 1 only.
1970 c. lxvi.	Port of Tyne Act 1970	Whole Act.
1974 c. xxxvi.	Port of Tyne (North Shields) Fish Harbour Act 1974	Section 15 only.
1989 c. i.	Port of Tyne Act 1989	Sections 3, 5, 6, 7, 9, 13 and 14 only.
S.I. 2001 No. 416.	Port of Tyne Harbour Revision Order 2001	Sections 5, 6 and 7.
S.I. 2008 No. 1817.	Port of Tyne Harbour Revision Order 2008	Article 2 only.

## EXPLANATORY NOTE

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

This Order, made on the application of the Port of Tyne Authority modernises and consolidates the statutory harbour powers applying in relation to the Port of Tyne and provides for:

(1) The updated constitution of the Authority under the provisions of Part 2 (constitution of the Authority) in articles 5 to 12.

(2) The jurisdiction (article 13) and general functions (article 14) of the Authority as the statutory harbour authority for the Port of Tyne and clarity on the limits of the port (Schedule 1).

(3) Powers to vest in the Authority relating to finances including application (article 15), reserve fund (article 16) and borrowing powers (articles 17 and 18).

(4) A modern suite of charging powers (articles 19 to 28) including exemptions from harbour dues (article 26), recovery of charges (article 27) and prevention of sailing of vessels (article 28).

(5) Powers of general and special direction on the Authority and the harbour master (defined in article 2(1)) for the regulation and management of the port (articles 29 to 32).

(6) 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 33). A defence of due diligence is available to a person charged under article 33(1).

(7) Provisions for the enforcement of directions (article 34) and clarifying the Master's responsibility in relation to directions (article 35)

(8) The power for a duly authorised officer of the Authority 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 36).

(9) Savings for existing directions and byelaws (article 37).

(10) The establishment of an advisory body or bodies consisting of port stakeholders with which the Authority are required to consult on material matters (article 38).

(11) Powers relating to development of land (article 39), power to grant tenancies and dispose of land (article 40), power to appropriate lands and works for particular uses, etc. (article 41), other commercial activities (article 42), power to delegate functions (article 43).

(12) Powers relating to moorings (article 44) bunkering (article 47), aids to navigation (article 48) power to dredge (article 49), repairing of landing places (article 50).

(13) Restrictions of works and dredging (article 51) and control of certain operations of works of statutory undertakers (article 52).

(14) Powers relating to the licensing of works (article 53), dredging (article 54), appeals of such licences (article 55), and obstruction of works (article 56).

(15) Powers relating to parking places and related facilities (article 57).

(16) Powers relating to disposal of wrecks (article 58), unserviceable vessels (article 59) and removal of obstructions other than vessels (article 60), and provisions against danger to navigation (article 61) and notices (article 62).

(17) Savings for Trinity House (article 63) and Crown Rights (article 64).

(18) To facilitate that above, the Order repeals and revokes the Acts and Orders set out in Schedule 4 (revocation / repeal) and amends the Acts and Orders set out in articles 65 to 72.

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)