
STATUTORY INSTRUMENTS

2007 No. 3463

The Maryport Harbour Revision Order 2007

PART 4

Further Powers as to Management and Regulation of Harbour

Aids to navigation

17.—(1) In addition to their powers under section 201 of the Merchant Shipping Act 1995⁽¹⁾ (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 harbour.

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

Removal of obstructions other than vessels

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

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

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

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

- (a) shall be paid to any person who within three months from the time of disposal proves to the reasonable satisfaction of the Authority that he was its owner at that time; or
- (b) if within the said period no person proves his ownership at the said time, shall vest in the Authority.

(5) If the proceeds of sale of anything removed under this article are insufficient to reimburse the Authority for the said expenses, or there is no sale because the thing is unsaleable, the Authority may recover the deficiency, or, where there is no sale, the whole of the expenses, from the person

(1) 1995 c. 21.

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.

As to use of harbour

19.—(1) The Authority may from time to time set apart and appropriate any part of the harbour for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Authority may think fit.

(2) Except in an emergency, no person or vessel shall make use of any part of the harbour so set apart or appropriated without the consent of the harbourmaster or other duly authorised officer of the Authority; and—

- (a) the harbourmaster or, as the case may be, such officer, may order any person or vessel making use of the part of the harbour in question without such consent to leave or be removed; and
- (b) the provisions of section 58 (powers of harbourmaster as to mooring of vessels in harbour) of the 1847 Act shall extend and apply in relation to any such vessel subject to the following modifications—
 - (i) the words “moor, unmoor, place” are left out, and
 - (ii) for the word “directions” there is substituted the word “order”.

Moorings

20.—(1) The Authority may provide, place, lay down, maintain, renew, use, have and remove moorings within the harbour—

- (a) on land owned or leased by them or in which they hold an appropriate interest; or
- (b) with the consent in writing of the owner and lessee thereof, on any other land in the harbour,

as they consider necessary or desirable for the convenience of vessels.

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

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

(4) The Authority may give notice in writing to the person having control of any vessel using any mooring in the harbour at the date this Order comes into force requiring him within 28 days to remove the vessel so as to enable the Authority to provide, place, lay down, maintain, renew, and remove moorings in accordance with paragraph (1).

(5) The Authority shall offer to make available to the person having the control of the vessel referred to in the notice a mooring provided by them under paragraph (1) as soon as such mooring has been provided, placed, laid down, maintained or renewed as appropriate.

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

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

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

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

(10) The Authority may charge for such a licence.

(11) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Authority in setting out moorings;
- (b) intentionally and without lawful authority pulls up or removes any mooring in the harbour or any part of the harbour;
- (c) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Authority under this article; or
- (d) places, lays down, maintains, renews or has in the harbour any mooring not provided or licensed by the Authority under this article,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(12) If any such person commits an offence under paragraph 11(d), the Authority may remove the mooring in question and recover from that person the expenses incurred in doing so.

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

Repair of landing places, etc.

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

(2) The Authority may by written notice require the owner 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 harbour; or
- (b) a hindrance to the navigation of the harbour,

to remedy its condition to the Authority’s 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 magistrates’ court on an appeal may allow—

- (a) he 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 expenses of so doing from the person on whom the notice was served.

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

(5) A person aggrieved by a notice served by the Authority under this article may, during the period of 21 days beginning with the date on which the notice was served, appeal against the notice to a magistrates’ court acting for the area in which the feature is situated.

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

(7) A person who appeals under paragraph (5) shall send to the Authority notice of his appeal.

(8) On an appeal under paragraph (5), the court may make such order as it thinks fit, such order to be limited to the subject matter of the appeal.

Power to grant permits in respect of certain pleasure craft

22.—(1) The Authority may grant upon such terms and conditions as they think fit permits to the persons in charge of or navigating pleasure craft used for carrying paying passengers within the harbour, and may charge for such permit a reasonable fee in respect of the administrative expenses of processing the application for the permit.

(2) Any such permit may be granted for such period as the Authority may think fit, and may be suspended or revoked by the Authority; but the existence of the power to suspend or revoke the permit shall be specifically mentioned in the permit itself.

(3) In deciding whether to grant, suspend or revoke any permit pursuant to paragraphs (1) and (2), the Authority shall only have regard to the interests of safe navigation within the harbour.

(4) Except with the written permission of the Authority no person shall carry, or permit to be carried, paying passengers in a pleasure craft unless—

- (a) the person in charge of it and any other person navigating it have been granted a permit under this article;
- (b) the conditions of the permit are complied with; and
- (c) the permit is not suspended.

(5) Any person who contravenes or otherwise fails to comply with paragraph (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Any person aggrieved by the withholding, suspension, or revocation of any permit under this article may within 21 days from the date on which the Authority notify the applicant of their decision appeal to a magistrates' court acting for the area in which the harbour is situated.

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

(8) The appellant shall send to the Authority a copy of the notice of his appeal.

(9) On an appeal under paragraph (6), the court may make such order as it thinks fit, such order to be limited to the subject matter of the appeal.

(10) In this article, “pleasure craft” means any vessel which has a passenger certificate issued by the Secretary of State pursuant to regulations under section 85 and 86 of the Merchant Shipping Act 1995⁽²⁾ or which is licensed by the Borough Council under section 94 of the Public Health Acts Amendment Act 1907⁽³⁾.

Power to dredge

23.—(1) The Authority, as may appear to them to be necessary or desirable for the purposes of the undertaking, may deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the harbour and the approaches to it, may blast any rock in that area, and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part XI of the Merchant Shipping Act 1995) dredged by them.

(2) 1995 c. 21.

(3) 1907 c. 53.

- (2) No materials so dredged shall be laid down or deposited—
 - (a) in contravention of any enactment as respects the disposal of waste; or
 - (b) in any place below the level of high water otherwise than in such position and under such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Authority may provide dredgers, tugs, etc.

24.—(1) The Authority may from time to time purchase, charter, lease, contract for or hire and may maintain and use dredgers, tugs, hoppers, barges or other powered craft—

- (a) as may be necessary or expedient for or in relation to any of the purposes mentioned in article 23; and
- (b) for the use and accommodation of vessels within the harbour, and for this purpose they may let such craft.

(2) In addition to the said purposes the Authority may purchase, charter, lease, contract for or hire, provide and may maintain and use all such dredging and other machines, engines, craft, machinery and appliances as may be necessary or expedient.

Powers with respect to disposal of wrecks

25.—(1) In its application to the Authority section 252 of the Merchant Shipping Act 1995 (powers of harbour and conservancy authorities in relation to wrecks) shall have effect in relation to the harbour 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 his liability, the Authority may recover from the owner of any vessel in relation to which they have exercised their powers under the said section 252 any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the Authority a case of 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 them by the said section 252, other than the power of lighting and buoying, the Authority have given to the owner of the vessel not less than 48 hours' notice of their intention to do so.

(4) If before the notice expires the Authority receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, he shall be at liberty to do so, and the Authority shall not exercise the power in the said section 252 in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with its disposal with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Authority.

(5) Notice under paragraph (3) to the owner of any vessel may be served by the Authority either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom, or, if the owner or any such place of business or abode is not known to the Authority by displaying the notice at the harbour offices, Maryport for the period of its duration.

(6) In this article “owner” in relation to any vessel means the person who was the owner of the vessel at the time of its sinking, stranding or abandoning.

(7) The powers conferred on the Authority by this article shall be in addition to and not in derogation of any other powers exercisable by them for or with respect to the removal of wrecks within the harbour.

Protection of Crown interests in wrecks

26.—(1) Without prejudice to section 308 of the Merchant Shipping Act 1995 (which relates to the exemption from that Act to vessels belonging to Her Majesty) as modified by any Order in Council made under section 308 of that Act, the powers conferred on the Authority by section 252 of that Act shall not be exercisable—

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—
 - (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
 - (ii) was appropriated to the service of Her Majesty's ships of war under the direction and control of the Secretary of State for Defence.

(2) Paragraph (1)(b) shall not apply if the powers in question are exercised with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in paragraph (3)(b).

(3) Subject to paragraphs (4) and (5), the Authority shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Transport of any decision of the Authority to exercise in relation to any vessel any of the powers conferred by the said section 252 other than the power of lighting and buoying and, except in a case which is in the opinion of the Authority a case of emergency, shall not proceed with the exercise of those powers—

- (a) except with the consent of the Secretary of State for Defence and the Secretary of State for Transport before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Authority a direction by the Secretary of State for Defence or the Secretary of State for Transport that those powers shall not be exercised in relation to that vessel.

(4) Where the Authority exercise their powers under section 252 in relation to any vessel referred to in paragraph (1) without the consent and before the expiry of the period mentioned in paragraph (3)(a), they shall not in the exercise of those powers use any explosives.

(5) If, before the expiry of the period referred to in paragraph (3), a direction is served on the Authority, they shall comply with that direction, and they shall not exercise the power of sale conferred by section 252 or the power conferred by paragraph (2) of article 25.

(6) The Authority shall not be required to give notice under paragraph (3) in respect of any vessel in respect of which they have received a consent under paragraph (2), but any direction such as is referred to in paragraph (3)(b) accompanying that consent shall be deemed for the purposes of paragraph (3) and of paragraph (3) of article 25 to have been duly served under paragraph (3)(b).

(7) The prohibition on the use of explosives imposed by paragraph (3) shall not apply to the use for cutting away the superstructure of a vessel or the use of such small explosive charges as may for the time being be approved by the Secretary of State for Transport for the purposes of this paragraph.

(8) Without prejudice to the powers of sale conferred on the Authority by the said section 252, the Authority shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1995

raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section, in accordance with such directions, if any, as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property the Authority shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Authority under that section.

(9) Any limitation on the powers of the Authority in relation to any vessel arising by virtue of paragraph (1) or paragraph (3) shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Trinity House by section 253 of the said Act of 1995.

Power to deal with unseaworthy vessels

27.—(1) In addition to the powers conferred on the harbourmaster by section 57 of the 1847 Act and on the Authority by the Merchant Shipping Act 1995 and by this Order the Authority may remove, sell, destroy or otherwise dispose of any vessel laid by or neglected as unseaworthy in, or on land adjoining the waters of the harbour.

(2) The Authority may retain out of the proceeds of sale of any such vessel, or any part of them, any expenses incurred by them in respect of the vessel or in marking, buoying, lighting or otherwise controlling the vessel or warning shipping of its presence and any expenses incurred by the harbourmaster under section 57 of the 1847 Act, and shall pay the surplus, if any, to the person entitled thereto. If the proceeds of 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.

(3) Except in the case of emergency, the Authority shall, before exercising their powers under this article, give 28 clear days' notice in writing of their intention to do so to the owner of the vessel and by advertisement in each of three successive weeks in a local newspaper.

(4) If the owner or his place of business or abode is not known to the Authority or cannot after diligent inquiry be found or is outside the United Kingdom, the notice referred to in paragraph (4) may be given by displaying it at the harbour offices, Maryport for the period of its duration.

General directions to vessels

28.—(1) The Authority may, after consultation with the Chamber of Shipping and the Royal Yachting Association (except in cases of emergency), give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the harbour, including without prejudice to the generality of the foregoing, for any of the following purposes—

- (a) for designating areas, routes, fairways or channels in the harbour and the approaches thereto which vessels are to use, or refrain from using, for movement, mooring or anchorage;
 - (b) for securing that vessels move only at certain times or during certain periods;
 - (c) for securing that vessels make use of types of aids to navigation specified in the direction;
 - (d) for prohibiting entry into the harbour by a vessel which for any reason would be or be likely to become a danger to other vessels in the harbour, or to persons, property, flora or fauna in the harbour or within the harbour land;
 - (e) for requiring the master of a vessel to give to the harbourmaster information relating to the vessel reasonably required by the harbourmaster for the purposes of this paragraph.
- (2) Directions given under this article may apply—
- (a) to all vessels or to a class of vessels designated in the direction; or
 - (b) to the whole of the harbour, or to a part designated in the direction; or

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

(3) The Authority may, after consultation with the Chamber of Shipping and the Royal Yachting Association (which shall not be required in cases of emergency), revoke or amend directions given under this article.

Publication of general directions

29.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall be published by the Authority as soon as practicable—

- (a) Once in a newspaper circulating in the locality of the harbour; and
- (b) Once in Lloyd's list or some other newspaper specialising in shipping news.

(2) If the notice relates to the giving or amendment of a direction, the notice shall state a place at which copies of the direction may be inspected and bought and its price.

(3) Paragraph (1) shall not apply in the case of an emergency except in a case in which the direction has effect for more than seven days beginning with the day on which the direction is given.

(4) In any emergency in respect of which paragraph (1) does not apply by virtue of paragraph (3), notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Authority consider appropriate.

Special directions to vessels

30.—(1) The harbourmaster may give a special direction in respect of any vessel anywhere within the harbour for any of the following purposes—

- (a) requiring persons to comply with a requirement made in or under a general direction;
- (b) regulating or requiring the movement, anchorage, berthing, mooring or unmooring of the vessel;
- (c) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores and the dispatch of its business at the harbour premises;
- (d) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (e) prohibiting or restricting the use of fires or lights.

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

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

Failure to comply with directions

31. The master of a vessel who fails without reasonable excuse 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.

Enforcement of directions

32.—(1) Without prejudice to any other remedy available to the Authority, if a special direction is not complied with within a reasonable time the harbourmaster may, where practicable, 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 the vessel to comply with a special direction, the harbourmaster may proceed as if the direction had been given and not complied with; but he shall not do so unless, after reasonable inquiry has been made, the master cannot be found.

(3) Expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Authority from the owner of the vessel.

Master's responsibility in relation to directions

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