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STATUTORY INSTRUMENTS

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**2007 No. 3463**

**The Maryport Harbour Revision Order 2007**

**PART 9**

*Miscellaneous*

**Indemnity insurance for Members**

**65.** The Authority may subscribe, and pay premiums, for a policy 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 his or their duty or concerning which he or they were reckless as to whether it was such a breach.

**General manager of Authority**

**66.** The clerk of the Commissioners shall on and after the new constitution date be known as the general manager of the Authority and references to the clerk in any enactment or document applicable to the Authority shall be construed accordingly.

**Power to grant tenancies and to dispose of land**

**67.—(1)** The Authority may grant licences, tenancies and leases for any term of land within the harbour so far as they consider desirable in the interests of efficient and economical management of the harbour.

(2) The Authority may also dispose of any interest in land within the harbour which they consider to be surplus to that required by them for the purposes of the undertaking.

**Development, etc., of land**

**68.—(1)** The Authority may form and promote, or join with any other person in forming and promoting, a company for using or developing for any purpose, or carrying on any trade or business on, any of the harbour land.

(2) The Authority may (alone or with others) develop land not required for the purposes of the undertaking with a view to disposing of the land or interests in it, and may acquire land by agreement for the purpose of developing it with such land.

**Local inquiries**

**69.** The Secretary of State may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval under this Order, and subsections (2) to (5) of section 250 of the Local

Government Act 1972(1) shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Authority were a local authority.

### **Defence of due diligence**

**70.**—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2), it shall be a defence for the defendant to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) The provisions referred to in paragraph (1) are—

- (a) article 22(5);
- (b) article 40;
- (c) article 41; and
- (d) article 44.

(3) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the defendant shall not, without leave of the court, be entitled to rely on that defence unless, within a period of seven clear days before the hearing, the defendant has served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in the defendant's possession.

### **Power to give directions as to loading or unloading of certain goods**

**71.**—(1) Without prejudice to article 19, the Authority may designate any part of the harbour for the loading and unloading of any goods to which this article applies.

(2) Without prejudice to any defence which the Authority may have against any claimant in any proceedings, where pursuant to paragraph (1) the Authority have designated a place for the loading or unloading of goods of any description—

- (a) the harbourmaster may direct that goods of that description, intended to be loaded onto or unloaded from a vessel, shall not be deposited or received elsewhere than at the place so designated; and
- (b) if any person disobeys any such direction, the Authority may remove the goods to the place so designated, and any expense incurred by them in so doing shall be recoverable from that person.

(3) This article applies to—

- (a) goods in bulk, and
- (b) goods the nature or character of which is such as, in the opinion of the Authority—
  - (i) to give rise to special risk of contamination, taint, stain, injury or danger to other goods, or to persons, property or water, or
  - (ii) to necessitate the provision of special facilities for their handling or for the safety, protection, welfare or accommodation of persons employed in, or in connection with, such handling.

(4) This article does not apply to fish or fishing tackle.

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(1) 1972 c. 70; subsection (2) has been amended by the Statute Law (Repeals) Act 1989 (c. 43), section 1(1) and Schedule 1, Part IV; subsection (3) by the Criminal Justice Act 1982 (c. 48), Sections 38 and 46; and subsection (4) by the Housing and Planning Act 1986 (c. 63), section 49(2) and Schedule 12, Part III.

### **Liability for safety of goods**

72. The Authority shall not be responsible for the safekeeping of goods deposited on any part of the harbour land not specifically set apart by the Authority for the purpose of warehousing.

### **Boarding of vessels**

73. A duly authorised officer of the Authority may, on producing his authority if so required, enter and inspect a vessel in the harbour for the purposes of any enactment relating to the harbour or of any byelaw of the Authority relating to the harbour, including the enforcement of any such enactment or byelaw.

### **Power to remove goods**

74.—(1) If any goods are left on or in any part of the harbour land the Authority may require the owner of the goods to remove them.

(2) If such goods are not removed within six hours after such requirement or, in any case where it is not reasonably practicable to contact the owner of the goods, within six hours after leaving a notice on the goods requiring their removal, the Authority may cause them to be removed to their own or any other public warehouse or store.

(3) Such removal shall be carried out at the expense and risk of the owner.

(4) Notwithstanding such removal on behalf of the Authority the goods shall be liable to a lien for the cost of the removal, and for any charges payable to the Authority by the owner in respect of the goods.

### **Power to provide parking places**

75. The Authority may—

- (a) provide facilities (including shelters) within the harbour for the parking of vehicles,
- (b) for that purpose erect barricades or fencing with relative offices, waiting rooms and other conveniences, and
- (c) make reasonable charges for the use of such facilities.

### **Removal of vehicles, etc.**

76.—(1) If a vehicle or vessel is left without the permission of the Authority—

- (a) in any place where it is likely to obstruct or interfere with the use of the harbour; or
- (b) in any part of the harbour where the parking of vehicles or vessels is prohibited by notice erected by the Authority,

the Authority may remove the vehicle or vessel or cause it to be removed.

(2) Any notice erected under paragraph (1)(b) shall be conspicuously posted in or close to the place to which it relates.

(3) Where, under paragraph (1), the Authority remove a vehicle or vessel or cause it to be removed they shall as soon as practicable inform the police.

(4) The expense of and incidental to the removal of a vehicle or vessel under this article shall be recoverable by the Authority from any person responsible as a debt in any court of competent jurisdiction.

(5) For the purposes of paragraph (3), “person responsible” has the same meaning as in section 102(8) of the Road Traffic Regulation Act 1984(2).

(6) If, under paragraph (1), the Authority remove a vehicle to a place not readily visible from the place whence it is so removed, they shall, if and as soon as it is reasonably practicable to do so, send to the person by whom the vehicle is kept notice that they have exercised the powers of this article and of the place to which the vehicle has been removed.

(7) A notice stating the general effect of paragraph (1) shall be displayed in a prominent position at each place where a road accessible to vehicles enters any part of the harbour.

(8) In determining, for the purposes of this article, who was the person by whom the vehicle was kept at any time, it shall be presumed that person was the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994(3).

### **Obstruction of officers**

77.—(1) Any person who—

- (a) intentionally obstructs the harbourmaster, his authorised deputies or his assistants acting in pursuance of this Order; or
- (b) without reasonable excuse fails to comply with a requirement properly made by such a person,

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

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

### **Crown rights**

78.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the Authority to take use, enter upon, or in any manner interfere with, any land, hereditaments, or rights of whatsoever description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
- (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

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

### **For the protection of the Environment Agency**

79. Schedule 4 shall have effect.

### **Saving for Trinity House**

80. Nothing in this Order shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of Trinity House.

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(2) 1984 c. 27.

(3) 1994 c. 22.

### **Saving for Lord of the Manor**

**81.** Nothing in this Order shall prejudice or derogate from any of the rights, privileges or powers of the Lord or Lady of the Manor of Ellenborough.

### **Repeals**

**82.**—(1) The enactments specified in columns (1) and (2) of Schedule 5 to this Order are repealed to the extent mentioned in column (3) of that Schedule.

(2) Notwithstanding the repeal of enactments by this Order the Authority may continue and maintain the existing works.