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STATUTORY INSTRUMENTS

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**2010 No. 626**

**The Harwich Parkeston Quay Harbour Revision Order 2010**

**PART 3**

**BOAT HARBOUR**

**Restriction of boat harbour to pleasure craft and certain other vessels**

**11.**—(1) Notwithstanding section 33 of the 1847 Act (harbour, dock and pier to be free to the public on payment of rates), as incorporated by any provision of the Harwich Parkeston Quay enactments, but subject to article 13, the waters of the boat harbour shall be for the exclusive use of vessels falling within paragraph (2) and accordingly the Company shall not permit any other vessel to use those waters.

(2) Each of the following vessels fall within this paragraph—

- (a) a recreational craft including a craft used for recreational fishing;
- (b) a vessel which is, for the time being, used for or in connection with sea fishing for profit;
- (c) the vessel used at the date when the works have been substantially completed by the Harwich and Dovercourt Sailing Club as its clubhouse and any replacement vessel which is so used and which, in either case, shall have a length not exceeding 26 metres and a beam not exceeding 7 metres; and which shall be permanently moored alongside Work No. 5;
- (d) a vessel for the time being employed for the purposes of any of the functions of the Company;
- (e) a vessel for the time being employed in connection with the provision of services at the boat harbour or on lands adjacent to the boat harbour;
- (f) a lifeboat or a vessel used by the coastguard service, the Essex Sea Fisheries Committee, the Environment Agency, the Harwich Haven Authority, Trinity House or the Ministry of Defence; or
- (g) any vessel operated pursuant to an agreement in writing with the Harwich Haven Authority.

(3) In paragraph (2), “recreational craft” means any vessel of not more than 30 tons gross used wholly or mainly for recreation and not for the carriage of passengers or goods for reward.

(4) For the purposes of this article, the tonnage of a vessel shall—

- (a) in the case of a vessel having a tonnage figure recorded in its certificate of registry, be taken to be that figure; and
- (b) in the case of any other vessel, be calculated in accordance with the provisions of Part 3 of the Merchant Shipping (Tonnage) Regulations 1997<sup>(1)</sup>.

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<sup>(1)</sup> S.I. 1997/1510, amended by S.I. 1998/1915.

### **Powers as to moorings, etc.**

**12.—**(1) The Company may within the boat harbour provide, place, lay down, maintain, use and have moorings for vessels—

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

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

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

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

(5) If any person fails to comply with a notice given by the Company under this paragraph, the Company 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.

(6) The Company may from time to time grant to a person a licence to place, lay down, maintain, use and have existing and future moorings, for vessels in the boat harbour.

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

(8) Any such licence shall, unless otherwise stated in the licence in question, be valid for a period of one year commencing with its date.

(9) The Company may charge for such a licence such fee as the Company may from time to time prescribe.

(10) Sections 43 to 48 of the 1847 Act shall apply in relation to fees charged under this article.

(11) Any person who—

- (a) intentionally obstructs any person acting under the authority of the Company in setting out moorings; or
- (b) intentionally and without lawful authority pulls up or removes any mooring in the boat harbour or any part of the boat harbour; or
- (c) without reasonable excuse causes or permits a vessel to be moored in the boat harbour except at a mooring provided or licensed by the Company under this article or at a quay, jetty, slipway or other work or to land owned or leased by the Company; or
- (d) places, lays down or maintains in the boat harbour any mooring not provided or licensed by the Company 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 person places, lays down or maintains in the boat harbour any mooring not provided or licensed by the Company under this article, the Company may remove the mooring in question and recover from that person the expenses incurred in doing so.

(13) Before exercising the powers of paragraph (1) the Company shall notify the Harwich Haven Authority and shall provide details of the proposed exercise including plans showing the proposed position and nature of the mooring.

(14) In this article “vessel” does not include a houseboat.

### **Preferred vessels**

**13.—**(1) During the period of one year commencing with the date when Works Nos. 3, 4 and 5 have been substantially completed the Company shall provide moorings within the boat harbour for preferred vessels.

(2) Subject to paragraph (3), in this article “preferred vessels” means the vessels designated as such during the period mentioned in paragraph (1) by the bodies specified in the first column of the following table, being vessels which shall not exceed the number specified in the second column of that table and which shall not exceed the length specified in the third column of that table—

<i>Designating body</i>	<i>Maximum number of vessels which may be designated</i>	<i>Maximum length of designated vessels</i>
Harwich and Dovercourt	(a) 36 vessels	8 metres
Sailing Club	(b) 20 vessels	10 metres
	(c) 4 vessels	12 metres
Harwich Fishermen’s Association	(a) 10 vessels	10 metres
	(b) 8 vessels	12 metres
Harwich Small Boat Owners Association	18 vessels	12 metres

(3) The vessel referred to in paragraph (2)(c) of article 11 shall, for the purposes of this article be a preferred vessel and shall continue to be such after the expiry of the period mentioned in paragraph (1) so long as it is—

- (a) used as the clubhouse of the Harwich and Dovercourt Sailing Club; and
- (b) permanently moored in the manner specified in paragraph (2)(c) of article 11.

(4) The Company may levy on a preferred vessel any of the charges leviable by or under any of the provisions of the Act.

### **Power to appropriate part of boat harbour**

**14.—**(1) Subject to articles 11 and article 13, the Company may from time to time set apart and appropriate any part of the boat harbour for the exclusive or preferential use and accommodation of any trade, person, vessel or goods or any class of trader, vessel or goods, subject to the payment of such charges and to such terms, conditions and regulations as the Company may think fit.

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

- (a) the Company’s officer or, as the case may be, such duly authorised officer, may order any person or vessel making use of the boat harbour without such consent to leave or be removed; and
- (b) the provisions of section 58 of the 1847 Act (powers of harbour master as to mooring of vessels in harbour), as incorporated by any provisions of the Harwich Parkeston Quay enactments, shall extend and apply with the necessary modifications to any such vessel.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(3) In this article, “Company’s officer” means any person exercising the functions of a harbour master on behalf of the Company.