
STATUTORY INSTRUMENTS

2021 No. 130

The Fowey Harbour Revision Order 2021

PART 3

MISCELLANEOUS AND GENERAL

Licensing of Boatmen and vessels

12.—(1) The Commissioners may grant upon such terms and conditions as they may think fit licences for vessels to be let for hire or to be used for carrying no more than 12 passengers for hire, and to the persons in charge of or navigating such vessels, and may charge for each type of licence such annual fee as appears to them to be appropriate.

(2) Any such licence may be granted for such period as the Commissioners may think fit, and may be suspended or revoked by the Commissioners whenever they shall deem such suspension or revocation to be necessary or desirable in the interests of the public provided that the existence of the power to suspend or revoke the licence shall be made clear in the licence itself.

(3) No person shall let for hire any such vessel not so licensed or at any time during the suspension of the licence for the vessel, nor shall any person carry or permit to be carried passengers for hire in any such vessel unless—

- (a) the vessel is so licensed and the licence is not suspended; and
- (b) the person in charge of the boat or vessel and any other person navigating it is so licensed and the licence is not suspended and the conditions of the licence are complied with.

(4) A licence under this section shall not be required for any vessel duly licensed by or under any regulations of the Maritime and Coastguard Agency or for a person in charge of or navigating such a vessel.

(5) No person shall carry or permit to be carried in any such vessel a greater number of passengers for hire than shall be specified in the licence applying to such vessel, and every owner of any such vessel shall, before permitting the same to be used for carrying passengers for hire, display, on a conspicuous part of the said boat or vessel, the owner's name and also the number of persons which it is licensed to carry, in the form "Licensed to carry X persons."

(6) Every person who acts in contravention of the provisions of this article shall for each offence be liable to a penalty not exceeding level 3 on the standard scale but a person shall not be guilty of an offence under this sub-paragraph by reason of their failure to comply with such conditions as are mentioned in sub-paragraph 3(b) of this article if it is shown that there is a reasonable excuse for the failure.

(7) Any person deeming themselves to be aggrieved by the withholding, suspension, or revocation of any licence under the provisions of this article may appeal to the Maritime and Coastguard Agency⁽¹⁾ within six weeks after such withholding, suspension, or revocation, provided that the person so aggrieved shall give twenty-four hours written notice of such appeal, and the

(1) The Maritime and Coastguard Agency's head office is located at Spring Place, 105 Commercial Road, Southampton, SO15 1EG.

relevant grounds, to the Commissioners, and the Maritime and Coastguard Agency shall have the power to make such order as it sees fit and to award costs, such costs to be recoverable summarily as a civil debt.

(8) In sub-paragraphs (1) and (3) of this article “let for hire” means let for hire to the public.

Amendment of the Order of 1937 to clarify the harbour limits

13.—(1) The Order of 1937 is amended as follows—

(a) in article 3;

- (i) in the definition of “the harbour” omit “land buildings works plant property and conveniences” and substitute “the harbour premises and plant”;
- (ii) insert between the definitions of “The Minister” and “Vessel”, ““the Order of 2021” means the Fowey Harbour Revision Order 2021(2);
- (iii) insert between the definitions of “The harbour” and “The harbour undertaking”, “The harbour premises” means land adjacent to the wet harbour area for the time being vested in, or occupied or administered by the Commissioners as part of the harbour undertaking and occupied wholly or mainly for the purposes of activities there carried on, which may include docks, quays, piers, wharves, berths, locks, breakwaters, landing places, yards, roads, car parks, sheds, other buildings and all other works and conveniences, land and premises;
- (iv) insert after the definition of “Statutory Security”, ““wet harbour area” means those parts of the area described in articles 3 and 22 of this Order which are covered by water at the level of low water”.

(b) In article 22 insert ‘the harbour premises and’ between the words ‘comprise’ and ‘the harbour of Fowey’.

(2) The Commissioners must keep, and make available for inspection at their main office and on their website within the period of 30 days beginning with the day on which this Order comes into force, an illustrative plan(3).

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

(4) In this article—

“illustrative plan” means a plan showing, for illustrative purposes only, the harbour limits and harbour premises as described in article 22 of the Order of 1937.

Amendment of Order of 2001 to update the constitution of the Commissioners

14. The Order of 2001 is amended as follows—

- (a) in article 4(1)(a) for “six” substitute “nine”,
- (b) omit article 4(1)(b),
- (c) in article 4(2) omit “and (b)” and “or the Restormel Borough Council”,
- (d) in article 4(3) omit “or (b)”,
- (e) in articles 4(2) and 4(3) for “each appointing body” in each place in which they occur substitute “the Commissioners”,

(2) [S.I. 2021/130](#).

(3) The illustrative plan may be inspected during office hours at the Commissioners’ main office at Albert Quay, Fowey PL23 1AJ and available on www.foweyharbour.co.uk.

- (f) in article 6 omit “or (b)”,
- (g) for article 8(1) substitute—
 - “(1) A casual vacancy arising in the office of a Commissioner shall, unless it is not reasonably practicable to do so, be filled by the appointment of a Commissioner in accordance with article 4(2) and (3) above.”, and
- (h) in Schedule 2 paragraphs 1, 4, 7, 8(1) and 11(5) omit “or b” in each place where they occur.

Saving for Trinity House

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

Crown Rights

16.—(1) Nothing in this Order shall—

- (a) prejudicially affect any estate right, power, privilege, authority or exemption of the Crown,
- (b) authorise the Commissioners 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 part of the shore or bed of the sea or of any river, channel, creek, bay or estuary) belonging to—
 - (i) Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners without the prior consent in writing of those Commissioners, or
 - (ii) 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) 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.

Notices

17.—(1) Except where this Order expressly provides otherwise a notice or other document required or authorised to be given for the purposes of this Order, or any direction given under this Order, must be in writing and must be sent by first class post.

(2) Where the person on whom a notice or other document to be sent for the purposes of this Order is a body corporate, the notice or document is duly given if it is given to the secretary or clerk of that body.

(3) Where a person on whom a notice or other document is to be given has agreed in writing that notices may be given by email, or other electronic means, the Commissioners may provide notices by that means until such time as the person informs them 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(4) as it applies for the purposes of this article, the proper address of a person in relation to the giving 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, and
- (b) in any other case, their last known address at the time of service.

- (5) Where for the purposes of this Order a notice or other document is required or authorised to be given 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 given 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 given 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 given pursuant to sub-paragraph (b) it may be given by displaying it at the office of the harbour master for the period of its duration.

Further amendments to the Order of 1937 and the Order of 1980

- 18.**—(1) The Order of 1937 is amended as follows—
- (a) in article 3 omit the definition of “Vessel” and substitute ““Vessel” has the same meaning as the definition of “Vessel” in article 2(1) of the Order of 2021”(5),
 - (b) omit article 4(1)(c).
- (2) The Order of 1980 is amended as follows—
- (a) in article 4 for “£50” substitute “not exceeding level 3 on the standard scale”.

Revocation/Repeal

19. On the date this Order comes into force, the enactments mentioned in the first and second columns of the Schedule to this Order shall be revoked or repealed (as appropriate) to the extent specified in the third column of that Schedule.