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STATUTORY INSTRUMENTS

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**2023 No. 690**

**The Dee Estuary Conservancy  
Harbour Revision (No. 2) Order 2023**

**PART 5**

**MISCELLANEOUS AND GENERAL**

**Local inquiries**

**36.**—(1) The Secretary of State may cause to be held such inquiries as may be considered necessary in regard to the exercise of any powers or duties conferred or imposed upon the Secretary of State and the giving of any consent or approval under this Order.

(2) Section 250(2) to (5) of the Local Government Act 1972<sup>(1)</sup>, applies to an inquiry held under paragraph (1) as if it were an inquiry held under section 250(1) of that Act and the conservancy authority were a local authority.

**Defence of due diligence**

**37.**—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2), it is a defence for the conservancy authority to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

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

- (a) article 31 (lights on tidal works during construction),
- (b) article 32 (provision against danger to navigation), and
- (c) article 35 (permanent lights on tidal works).

(3) Where the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to the act or default of another person, the conservancy authority is not, without permission of the court, entitled to rely on that defence unless, within a period of seven clear days before the hearing, it has served on the prosecutor a notice in writing giving such information as is in its possession identifying, or assisting in the identification of, that other person.

**Boarding of vessels**

**38.**—(1) Subject to paragraph (2), a duly authorised officer of the conservancy authority may, on producing that officer's authority if so required, enter and inspect a vessel in the estuary—

- (a) for the purposes of—

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<sup>(1)</sup> 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. Article 2 of and Schedule 1 to, The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) transferred the functions of the Secretary of State under section 250 of the Local Government Act 1972, in so far as exercisable in relation to Wales, to the National Assembly for Wales. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

- (i) any enactment relating to the estuary (including any enactment contained in subordinate legislation), or
  - (ii) any byelaw of the conservancy authority relating to the estuary, including the enforcement of it; and
- (b) to prevent or extinguish fire.
- (2) Except in an emergency, no entry is to be made under this article unless notice in writing has first been given to—
- (a) the owner, or
  - (b) the person appearing to have charge,
- of the vessel at least 48 hours in advance.
- (3) A copy of this article must be annexed to any notice given under paragraph (2).

### **Obstruction of officers**

- 39.**—(1) Any person who—
- (a) intentionally obstructs an officer of the conservancy authority acting for the purposes of this Order;
  - (b) without reasonable excuse fails to comply with a requirement properly made by a duly authorised officer of the conservancy authority; or
  - (c) without reasonable excuse fails to give an officer of the conservancy authority any information which the officer may reasonably require for the purpose of the performance of that officer’s functions,
- is 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 the information mentioned in paragraph (1)(c), makes a statement which that person knows to be false is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Crown Rights**

- 40.**—(1) Nothing in this Order prejudices or derogates from any estate, right, power, privilege, authority or exemption of the Crown.
- (2) In particular, nothing in this Order authorises any person to take, use, enter upon or in any manner interfere with, any land or interest in land (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) belonging to—
- (a) 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) a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that department.
- (3) A consent under paragraph (2) may be given unconditionally, or subject to terms and conditions.

### **Saving for Trinity House**

- 41.** Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

**For the protection of the company**

42. Schedule 3 to this Order has effect for the protection of the company.

**For the protection of the Mersey Docks and Harbour Company**

43. Nothing in this Order prejudices or derogates from the exercise by the Mersey Docks and Harbour Company of any of its rights, powers, duties or privileges.

**Repeals and revocation**

44.—(1) The provisions of the 1889 Act mentioned in paragraph (2) are repealed.

(2) The provisions of the 1889 Act referred to in paragraph (1) are the entire Act except sections 35 and 36 and so much of section 7 as applies to those sections for the purposes of their interpretation.

(3) The Dee Estuary Conservancy Harbour Revision Order 2023(2) is revoked.