STATUTORY INSTRUMENTS

1976 No. 855

HARBOURS, DOCKS, PIERS AND FERRIES

The Harbour of Rye Revision Order 1976

Made - - - -	12*th March* 1976
Coming into Operation	25*th May* 1976

The Minister of Agriculture, Fisheries and Food, all objections duly made to a draft order submitted to him by the Southern Water Authority and published in accordance with Schedule 3 to the Harbours Act 1964(**a**) having been withdrawn, and being satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance and management of the Harbour of Rye in an efficient and economical manner, in exercise of the powers conferred on him by section 14 of the said Act and of all other powers enabling him in that behalf, and on the application of the Southern Water Authority hereby makes the following Order:—

Citation and commencement

1.—This Order may be cited as the Harbour of Rye Revision Order 1976 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(**b**).

Interpretation

2.—(1) In this Order, unless the context otherwise requires, words and expressions to which by the enactments incorporated herewith meanings are assigned have the same meanings and—

"the Act of 1847" means the Harbours, Docks, and Piers Clauses Act 1847(**c**);

" the Authority " means the Southern Water Authority;

" enactment" includes any public, general, local or private Act and any order or other instrument having the force of an Act;

"existing harbour works" means the works authorised by and constructed under the local enactments by the Authority or their predecessors as existing immediately before the commencement of this Order;

"the harbour" means the port and harbour of Rye in the county of East Sussex having the limits described in Article 4 (Limits of harbour) of this Order and includes the land, buildings, work, plant, property and conveniences referred to in that article;

"houseboat" means any vessel or structure lying in the water or on the foreshore of the harbour the whole or any part of which is used or capable of being used as a place of habitation, and if so used whether such use be temporary, intermittent or permanent, or as a store or as a place for accommodating or receiving persons for purposes of

(**a**) 1964 c. 40. (**b**) 9 & 10 Geo. 6 c. 18; 1965 c. 43. (**c**) 1847 c. 27.

shelter, recreation, entertainment or refreshment or as a club premises or as offices and shall include the remains or wreckage of a vessel or structure formerly so used but shall not include any ship registered under the Merchant Shipping Act 1894(**a**) or any vessel bona fide used for navigation;

"hovercraft" means a hovercraft as defined in the Hovercraft Act 1968(**b**);

"land" includes land covered by water;

"the level of high water" means the level of mean high water springs;

"the local enactments" means the enactments relating to the harbour specified in the Schedule to this Order;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"seaplane" includes a flying boat and any other aircraft designed to manoeuvre on the water;

"tidal work" means so much of the existing harbour works as is on, under or over tidal waters or tidal lands below the level of high water;

"the Trinity House" means the Corporation of Trinity House of Deptford Strond;

"the undertaking" means the harbour and the entire undertaking of the Authority in connection with the harbour;

"vessel" includes any vessel, ship, lighter, keel, barge, boat, raft, pontoon, hovercraft and craft of any kind howsoever navigated, propelled or moved and any seaplane on the surface of the water and in articles 17 and 18 of this Order any aircraft.

(2) The Interpretation Act 1889(**c**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) Except where the context otherwise requires, any reference in this Order to an enactment shall be construed as a reference to that enactment as amended by or by virtue of any subsequent enactment including this Order.

Incorporation of enactments

3.—(1) The Act of 1847 (except sections 6 to 13, 16 to 19, 22, 23, 25, 26, 31, 49, 50, so much of the proviso to section 83 thereof as follows the words "the Special Act", sections 84 to 90, and sections 92 and 95) is (subject to the provisions of paragraph (2) of this article and so far as the same is applicable for the purposes of and is not inconsistent with the provisions of this Order) hereby incorporated with this Order.

(2) For the purposes of the incorporation of any provisions of the Act of 1847 and in the application of any provision of the Act of 1847 to the Authority—

(*a*) the expression "special Act" shall mean this Order;

(*b*) the expression "prescribed limits" shall mean the limits of the harbour;

(*c*) the word "vessel" shall have the meaning given to that word by article 2(1) of this Order.

(3) (*a*) Section 15 of the Act of 1847 as so incorporated shall have effect as if the words from "shall forfeit" to the end of the section were deleted and there were substituted therefor the words "shall be liable on summary conviction to a fine not exceeding one hundred pounds";

(**a**) 1894 c. 60. (**b**) 1968 c. 59. (**c**) 1889 c. 63.

(*b*) Section 63 of the Act of 1847 as so incorporated shall have effect as if the following proviso were added thereto:—

"Provided that such further sum shall not exceed ninety-five pounds in total".

(*c*) Section 69 of the Act of 1847 as so incorporated shall have effect as if the words "provided that such sum shall not exceed one hundred pounds in total" were added thereto; and

(*d*) Section 98 of the Act of 1847 as so incorporated shall have effect as if the words "provided that such sum shall not exceed one hundred pounds in total" were added thereto.

Limits of harbour

4.—(1) The limits within which the Authority shall have authority shall comprise the area shown coloured pink on the map and deposited in accordance with the provisions of paragraph (2) of this article, together with the land, buildings, works, plant, property and conveniences of the Authority for the time being held by them in connection with the harbour.

(2) A map showing the said limits and marked "Map referred to in the Harbour of Rye Revision Order 1976" having been signed in triplicate by an Assistant Secretary of the Ministry and one copy thereof having been deposited respectively and being available for inspection at the office of the Minister and at the office of the Secretary of State for Trade the remaining copy thereof shall be deposited and be available for inspection at the head office of the Authority.

Power to construct, maintain and improve works

5. Subject to the provisions of this Order the Authority may maintain, alter and improve the harbour and may from time to time construct, maintain, alter, improve, enlarge and extend embankments, walls, footways, approaches, steps, landing places, piers, quays, jetties, slips, wharves, locks, groynes, sea defences, buoys, navigation marks, cranes, lights, beacons, roads, parking places for vehicles, sewers, drains, watercourses, gas and water pipes, apparatus for electric light and power, warehouses, offices, sheds and other buildings, works, apparatus and conveniences which may be found necessary for the accommodation of vessels, traffic and for persons frequenting the harbour and for the protection of the harbour:

Provided that—

(*a*) the Authority shall not exercise the powers of this article on any land not for the time being belonging to them except with the licence or consent of the owner and occupier of the land;

(*b*) any electrical works or equipment constructed, maintained, altered, improved, enlarged or extended pursuant to the powers conferred by this article shall be so constructed, maintained, altered, improved, enlarged and extended that any electricity conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction or otherwise) with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line.

Provision against danger to navigation

6.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Authority shall forthwith notify the Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

(2) If the Authority fail to notify the Trinity House as required by this article or to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

7.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State for Trade may by notice in writing require the Authority at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State for Trade thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State for Trade may include that part of the work, or any portion thereof, in any notice under this article.

(3) If, on the expiration of thirty days from the date when a notice under this article is served upon the Authority they have failed to comply with the requirements of the notice, the Secretary of State for Trade may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Authority as a simple contract debt.

Survey of tidal works

8. The Secretary of State for Trade may at any time if he deems it expedient order a survey and examination of a tidal work and any expenditure incurred by the Secretary of State for Trade in any such survey and examination shall be recoverable from the Authority as a simple contract debt.

Permanent lights on tidal works

9.—(1) After the completion of a tidal work the Authority shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights if any, and take such other steps for the prevention of danger to navigation as the Trinity House shall from time to time direct.

(2) If the Authority fail to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Penalty for obstructing works, etc.

10.—(1) Any person who—

(*a*) wilfully obstructs any person acting under the authority of the Authority in setting out moorings or buoys; or

(*b*) pulls up or removes any moorings or buoys or any poles or stakes driven into the ground for the purpose of such moorings or buoys; or

(*c*) causes a vessel to be achored or moored except at a mooring or buoy or like apparatus or convenience provided or licensed by the Authority under Article 13 of this Order; or

(*d*) places, lays down, maintains or uses any mooring, buoy or like apparatus not provided or licensed by the Authority under Article 13 of this Order;

shall for every such offence be liable on summary conviction to a fine not exceeding fifty pounds.

(2) Nothing in sub-paragraphs (*c*) and (*d*) of paragraph (1) of this article shall prevent a person mooring or anchoring for a reasonable time or for the purpose of awaiting the direction of the harbour master.

Power to dredge and sell materials

11. Subject to the provisions of Article 34 (Crown rights) of this Order the Authority may—

(*a*) deepen, dredge, scour and excavate any portion of the harbour to the extent necessary to secure a sufficient waterway for vessels using the same; and

(*b*) sell or otherwise dispose of or remove or deposit all sand, mud and other materials dredged up or removed as they think fit:

Provided that no such materials shall be laid down or deposited in any place below the level of high water except in such position as the Secretary of State for Trade may approve and subject to such conditions or restrictions as he may impose.

Power to purchase dredgers, etc.

12. The Authority may provide, purchase, take on lease, hire and use such steam or other dredgers, eroders, engines, lighters or other vessels, machinery and apparatus as they may think necessary for effecting the purposes of this Order and may let the same on hire for such reasonable sums and upon and subject to such terms and conditions as they may think fit or may sell and dispose of the same.

Powers as to moorings, etc.

13.—(1) The Authority may provide, place, lay down, maintain, use and have moorings, buoys and like apparatus and conveniences for vessels on land owned or leased by the Authority and on any other land with the consent in writing of the owner and lessee thereof in the harbour.

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

(3) The Authority may compound with any person with respect to the payment of the charges prescribed by the Authority under this article.

(4) (*a*) The Authority may from time to time grant licences to any person to place, lay down, maintain, use and have existing and future moorings, buoys and like apparatus and conveniences for vessels in the harbour:

Provided that:—

(i) the Authority shall not grant a licence to any person to place, lay down, maintain, use and have moorings, buoys and like apparatus and conveniences on land not owned or leased by the Authority without the consent in writing of the owner and lessee thereof;

(ii) the Authority shall not unreasonably refuse to grant a licence to an owner or lessee of any land not leased by the Authority to place, lay down, maintain, use and have existing and future moorings, buoys and like apparatus and conveniences on that land and any question whether the grant of a licence has or has not been unreasonably refused shall be determined by the Minister;

(iii) the Authority shall not refuse to grant a licence unless they are satisfied that the placing, laying down, maintenance or use of the moorings, buoys or like apparatus or conveniences to which the application relates would constitute a danger to or interfere with the navigation of vessels in the harbour.

(*b*) Any licence granted under sub-paragraph (*a*) of this paragraph shall be valid only for a period of 3 years commencing with its date.

(*c*) The Authority may charge a reasonable fee for granting a licence under sub-paragraph (a) of this paragraph.

As to houseboats

14.—(1) As from the first day of the third month after the expiry of the month that this Order comes into operation it shall not be lawful:—

(*a*) without the written consent of the Authority; or

(*b*) where that consent has been given in contravention of any terms or conditions attached to it;

to moor, place, keep or maintain in the harbour any houseboat whether or not the same shall have been so moored or placed before the commencement of this Order:

Provided that:—

(i) such consent shall not be withheld unless the Authority are satisfied that the mooring, placing, keeping or maintaining of the houseboat would constitute a danger to or interfere with the navigation of vessels in the harbour or obstruct access to any harbour installation or tidal work and the Authority shall on the refusal of any consent under this article specify in writing the ground or grounds for such refusal;

(ii) nothing in this paragraph shall prejudice or affect any obligation existing under any Act to obtain the consent of the port health authority for the harbour or of any local authority within whose area the houseboat is or is proposed to be moored, placed, kept or maintained to such mooring, placing, keeping or maintaining.

(2) If any houseboat shall be moored, placed, kept or maintained contrary to the provisions of paragraph (1) of this article the Authority may by notice in writing to be given in the manner hereinafter provided require the person having the control of the houseboat to remove it out of the harbour within such period as they may specify but which shall not be less than twenty-one days.

(3) (*a*) If any person fails without reasonable cause to comply with any notice given by the Authority under the provisions of paragraph (2) of this article or the terms or conditions of any consent he shall be liable on summary conviction to a fine not exceeding fifty pounds and in the case of a failure to comply with any such notice the Authority may at any time after the expiration

of the period specified in such notice either remove the houseboat referred to in the notice out of the harbour or demolish it and remove out of the harbour any rubbish or other material resulting from the demolition.

(*b*) Subject as is provided in paragraph (5) of this article the costs and expenses reasonably incurred by the Authority in or in connection with any such removal or demolition may be recovered by the Authority as a simple contract debt in any court of competent jurisdiction from the person having the control of such houseboat.

(4) For the purposes of paragraphs (2) and (3) of this article the owner of any houseboat shall until the contrary be proved be deemed to be the person having the control thereof.

(5) (*a*) Where any houseboat shall have been removed or demolished by the Authority as aforesaid the Authority may retain the houseboat or the materials thereof and may and shall, if so required by the owner, sell or dispose of the same or of such materials and subject as hereinafter provided retain the proceeds of such sale or disposal.

(*b*) For the purpose of ascertaining the amount recoverable by the Authority under sub-paragraph (*b*) of paragraph (3) of this article in respect of the costs and expenses incurred by them in or in connection with the removal or demolition of any such houseboat credit shall be given for the net amount (if any) of the proceeds of the sale received by the Authority (after deduction of any costs and expenses incurred by the Authority in effecting the same) of such houseboat or the materials thereof. If such net amount shall exceed the amount of the costs and expenses incurred by the Authority in or in connection with such removal or demolition as aforesaid they shall pay the amount of such excess to the owner of such houseboat which shall have been removed or demolished.

(6) Nothing in this article shall be deemed to confer on the Authority any right, title or interest in or to any land (not for the time being belonging to the Authority) forming part of the bed or foreshore of the harbour.

Appeals under last preceding article

15.—(1) Any person aggrieved by the terms and conditions attached to any consent, any refusal of consent or any requirement of the Authority under Article 14 of this Order may appeal to the Minister.

(2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the refusal or requirement was given to the person desiring to appeal.

(3) When application is made to the Authority for consent to moor, place, keep or maintain any houseboat in the harbour then unless within two months from the date on which the Authority receive such application, or within such extended period as may at any time be agreed upon in writing between the applicant and the Authority, the Authority give written notice to the applicant of their decision on the application the provisions of this article shall apply in relation to the application as if the consent to which it relates had been refused by the Authority and as if notification of their decision had been received by the applicant at the end of the said period of two months or at the end of the said extended period, as the case may be.

(4) On the hearing of an appeal the Minister may dismiss or allow the appeal or may vary the terms, conditions or requirement appealed against by substituting therefor any terms, conditions or requirement which the Authority could have prescribed or imposed under the said Article 14.

(5) In any case in which such an appeal lies, the document notifying the refusal or requirement in the matter shall state the right of appeal to the Minister and the time within which such an appeal may be brought.

(6) Where any refusal or requirement against which a right of appeal is conferred by this article becomes the subject of an appeal no proceedings shall be brought or taken by the Authority under paragraph (3) of the said Article 14 until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where the Minister allows an appeal under this article effect shall be given to the order of the Minister and in particular any necessary consent shall be granted.

Public notice of articles 14 *and* 15

16.—(1) The Authority shall forthwith after the coming into operation of this Order cause public notice to be given of the effect of articles 14 and 15 by advertisement in one or more local newspapers published or circulating in the counties of Kent and East Sussex and otherwise in such manner as the Authority think fit.

(2) In any proceedings it shall be presumed until the contrary is proved that the provisions of the foregoing paragraph have been complied with.

Powers with respect to disposal of wrecks

17.—(1) In relation to any vessel sunk stranded or abandoned (whether before or after the commencement of this Order) in such a manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto:—

(*a*) subject to subparagraph (*b*) of this article, and to any enactment for the time being in force limiting liability the Authority may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under section 530 of the Merchant Shipping Act 1894(**a**) any expenses incurred by them under that section which are not reimbursed out of the proceeds of any sale effected under that section;

(*b*) except in a case which is in the opinion of the Authority a case of emergency, paragraph (*a*) of this article 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 530 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, and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under sub-paragraph (*b*) of paragraph (2) of the next following article, he shall be at liberty to do so, and the Authority shall not exercise the powers aforesaid 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 the disposal thereof 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.

(a) 1894 c. 60.

(2) In this article the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof.

Protection of Crown interests in wrecks

18.—(1) Without prejudice to section 741 of the Merchant Shipping Act 1894(**a**) (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty, as modified by any Order in Council made under section 80 of the Merchant Shipping Act, 1906(**b**)), the powers conferred on the Authority by sections 530 and 532 of the said Act of 1894 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*) except 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 sub-paragraph (*b*) of paragraph (2) of this article 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, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The Authority shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Trade of any decision of the Authority to exercise in relation to any vessel referred to in subparagraph (*b*) of paragraph (1) of this article any of the powers under sections 530 and 532 of the Merchant Shipping Act 1894 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 thereof—

(*a*) except with the consent of the Secretary of State for Defence and the Secretary of State for Trade 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 Trade that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where, in any such case as aforesaid, the Authority proceed to exercise those powers without the consent and before the expiration of the period mentioned in subparagraph (*a*) of this paragraph or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if, before the expiration of the period aforesaid such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subparagraph (*a*) of paragraph (1) of Article 17 (Powers with respect to disposal of wrecks) of this Order:

Provided that—

(i) the Authority shall not be required to give notice under this paragraph in respect of any vessel in respect of which they have received a consent

(**a**) 1894 c. 60. (**b**) 1906 c. 48.

under subparagraph (*b*) of paragraph (1) of this article, but any direction such as is referred to in subparagraph (*b*) of this paragraph accompanying that consent shall be deemed for the purposes of this paragraph and of subparagraph (*b*) of paragraph (1) of the said Article 17 to have been duly served under subparagraph (*b*) of this paragraph;

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

(3) Without prejudice to the powers of sale conferred on the Authority by the said section 530, the Authority shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 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.

(4) Any limitations on the powers of the Authority in relation to any vessel arising by virtue of paragraph (1) or paragraph (2) of this article shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Trinity House by section 531 of the said Act of 1894.

Additional byelaw making powers

19.—(1) In addition to the byelaws which may be made by the Authority under section 83 of the Act of 1847 the Authority may from time to time make such byelaws as to them seem meet for all or any of the following purposes:—

(*a*) for the regulation of the mooring, careening, beaching or anchoring and keeping of vessels and houseboats in the harbour;

(*b*) for the regulation of the placing, laying down, maintaining, using and having existing and future moorings in the harbour and for the prescription of patterns of moorings in the harbour or on the banks belonging to the Authority adjoining the harbour;

(*c*) for securing the good and orderly conduct of persons in charge of or using vessels or houseboats in the harbour;

(*d*) for preserving order and preventing and suppressing nuisances and offences against decency in the harbour;

(*e*) for the prevention or regulation of the disposal of:—

(i) rubbish (including ballast stones, earth, clay or other refuse and any other abandoned article or material whether liquid or solid but not including any substance the discharge or escape of which into the harbour is subject to the provisions of the Prevention of Oil Pollution Act 1971(**a**)) in the harbour whether or not from any vessel or houseboat;

(ii) sewage from any vessel or houseboat in the harbour;

(*f*) for the regulation and control in the harbour of the navigation and speed of vessels and the prevention of obstruction or danger to vessels using the harbour;

(a) 1971 c. 60.

(*g*) the restriction or prohibition of water ski-ing, aqua planing or similar activities in the harbour;

(*h*) the imposition of limits on the size of vessels entering the harbour;

(*i*) for regulating the launching of vessels within the harbour and the use of pontoons, slipways and landing places;

(*j*) for the prevention and removal of obstructions in the harbour;

(*k*) for the prevention of interference with the operation or use of vessels, plant and apparatus belonging to or used by the Authority as the harbour authority;

(*l*) for preventing the taking of vessels by unauthorised persons;

(*m*) for regulating the movement, speed and parking of vehicles within the harbour;

(*n*) for securing the safety of vessels and persons using, and of property within, the harbour.

(2) The byelaws which may from time to time be made by the Authority in exercise of the powers in that behalf conferred on them by section 83 of the Act of 1847 and by paragraph (1) of this article may provide for the imposition on summary conviction of a fine not exceeding fifty pounds for the breach or non-observance of any of the byelaws.

(3) The provisions of Part II of Schedule 7 to the Water Act 1973(**a**) shall apply to all byelaws made by the Authority in respect of the undertaking and for that purpose the expression "the appropriate Minister or Ministers" as defined in section 1 of the said Act of 1973 shall mean "the Minister" (as defined in this Order).

Byelaws relating to certain dangerous goods

20.—(1) The Authority may make byelaws as to the loading and discharging by vessels within the harbour of dangerous goods (which expression in this article does not include dangerous goods to which byelaws made by the Authority under the Explosives Act 1875(**b**), or the Petroleum (Consolidation) Act 1928(**c**), for the time being apply), and as to the bringing, handling, transport or storage of such goods within the harbour, and generally as to the precautions to be observed with respect to such goods while within the harbour, and such byelaws may in particular provide—

(*a*) for regulating the places at which vessels are to load or discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;

(*b*) for regulating the places at which vessels carrying dangerous goods are to be moored; and

(*c*) for the due enforcement of the byelaws.

(2) Where a person is charged with an offence against a byelaw in force under this article it shall be a defence for that person to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and, if that person is charged as the owner or master of a vessel, that in addition all reasonable means were taken by the master to prevent the commission of the offence.

(3) The confirming authority in relation to byelaws made under this article shall be the Minister.

(**a**) 1973 c. 37. (**b**) 1875 c. 17. (**c**) 1928 c. 32.

(4) Byelaws made under paragraph (1) of this article may contain provisions for the infliction on persons offending against any of the byelaws of penalties which, on summary conviction, shall be a fine not exceeding one hundred pounds, and, on conviction on indictment, shall be imprisonment for a term not exceeding six months (either in addition to or in substitution for a fine).

(5) Nothing in any byelaw made under paragraph (1) of this article shall prejudice or affect the operation of the Merchant Shipping (Dangerous Goods) Rules, 1965(**a**), as amended by the Merchant Shipping (Dangerous Goods) (Amendment) Rules 1968(**b**) and the Merchant Shipping (Dangerous Goods) (Amendment) Rules 1972(**c**).

Charges for services not otherwise provided for

21. Subject to the provisions of this Order the Authority may demand and recover such reasonable charges or other consideration as they may determine in respect of any services rendered by them in connection with the harbour.

Harbour master may give directions as to mooring

22. Section 52 of the Act of 1847 in its application to the Authority and the harbour master shall extend to empower the harbour master to give directions prohibiting the mooring of vessels in any particular part or parts of the harbour.

Harbour master may give general directions in emergency

23. Section 52 of the Act of 1847 in its application to the Authority and the harbour master shall not be construed to require the harbour master in emergency to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section but in pursuance of that section, for all or any of the purposes thereof, the harbour master shall be entitled in emergency to give general directions applicable to all vessels or to any particular class or classes of vessels.

Directions of harbour master need not be in writing

24. Section 53 of the Act of 1847 in its application to the Authority and the harbour master shall not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

Powers of interrogation and search

25.—(1) Any duly authorised officer of the Authority may require any person in, on or seeking access to the harbour or any vessel using the harbour to state truly his name and address and the nature and place of his business thereon or his purpose thereon, or in seeking access thereto, and may require any such person to produce for inspection by such officer any pass or other authority which may have been issued to him by or on behalf of the Authority, and any person who fails to comply with any such requirement shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds.

(2) Section 298 of the Customs and Excise Act, 1952(**d**), shall have effect for the purposes of this Order as if the harbour were the dock area of a port within the meaning of subsection (2)(*c*) of that section.

(**a**) S.I. 1965/1067 (1965 II, p. 2681).
(**b**) S.I. 1968/332 (1968 I, p. 969).
(**c**) S.I. 1972/666 (1972 I, p. 2146).
(**d**) 1952 c. 44.

Vessels adrift

26.—(1) The owner or master of a vessel adrift in the harbour shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding fifty pounds.

(2) It shall be a defence for the owner or master of a vessel charged with an offence under paragraph (1) of this article to prove that the vessel did not become adrift as the result of any neglect or default on his part.

Marking harbour and approaches

27.—(1) The Authority may provide, place and erect in the harbour or the approaches thereto in such places as they deem proper, lightships, lighthouses, buoys, beacons, guiding posts or signs for the guidance of vessels proceeding to or from the harbour.

(2) The Authority may maintain and repair any lightships, lighthouses, buoys, beacons, guiding posts or signs provided and erected by them under paragraph (1) of this article.

(3) The Authority shall have the powers and be subject to the duties of a local lighthouse authority as set out in Part XI of the Merchant Shipping Act 1894(**a**).

Publication of notices

28. The Authority may publish in any newspaper circulating in the counties of Kent and East Sussex or in either of those counties notice giving information as to matters affecting the harbour.

Harbour of Rye Advisory Committee

29.—(1) There shall be established in accordance with this article a Harbour of Rye Advisory Committee (in this article referred to as "the Committee") for the purposes hereinafter appearing.

(2) Subject to the provisions of this article the Committee shall consist of not less than thirteen or more than eighteen members appointed by the Authority of whom:—

(*a*) three shall be appointed on the nomination of the Royal Yachting Association of whom two shall be so nominated after consultation with sailing and boating clubs based on the harbour;

(*b*) not less than four or more than six, to represent commercial interests connected with shipping in the harbour, shall be appointed after consultation with such persons (if any) appearing to the Authority to be representative of the said interests as the Authority consider appropriate;

(*c*) one shall be appointed on the nomination of the Nature Conservancy Council;

(*d*) one shall be appointed on the nomination of the Rye Fishermen's Society;

(*e*) one shall be appointed on the nomination of the local fisheries committee of the Sussex Sea Fisheries District;

(*f*) one shall be appointed on the nomination of the county council of the administrative county of East Sussex;

(*g*) two shall be appointed on the nomination of the Rother District Council;

(a) 1894 c. 60.

(*h*) not more than three may from time to time be appointed by the Authority to represent such persons interested in the harbour as the Authority may from time to time think fit, either not being persons mentioned in the preceding provisions of this paragraph or being additional to those persons and thought requisite to afford to the interests they represent a sufficient representation.

(3) If it appears to the Authority in the case of any of the appointments referred to in subparagraphs (*a*) and (*c*) to (*e*) of the last preceding paragraph that the body on whose nomination the appointment is to be made has refused or failed to nominate a member after being requested by the Authority so to do or if the body on whose nomination any of the said appointments is to be made has ceased to have an identifiable existence, the appointment in question shall be made by the Authority after consultation with such persons (if any) appearing to the Authority to be representative of the interests represented, or formerly represented, by the nominating body specified in the relevant subparagraph of the last preceding paragraph as the Authority consider appropriate.

(4) The term of office of a member of the Committee shall be three years from the date of his appointment and, on ceasing to hold office, he shall be eligible for reappointment:

Provided that a member of the Committee may at any time by notice in writing addressed to the Clerk of the Authority resign his office.

(5) The Committee may determine their own quorum and procedure.

(6) On a casual vacancy occurring on the Committee by reason of death, resignation or otherwise the vacancy shall, or in the case of a member appointed under subparagraph (*h*) of paragraph (2) of this article may, be filled by the appointment of a new member in the same manner as the member in whose place he is appointed and he shall hold office during the remainder of the term of office of the member in whose place he is appointed.

(7) The Authority shall (except in a case of special urgency where it is not reasonably practicable so to do) consult the Committee on matters of policy relating to the development and administration of the harbour and, without prejudice to the generality of the foregoing words, on all proposals for changes to navigational marks and channels in the harbour and the Committee shall also be entitled to make to the Authority such representations as they may from time to time think fit.

(8) The Authority may defray such reasonable expenses as may be incurred by the Committee or any member of the Committee in connection with the provision of secretarial services for the Committee.

Service of notices by Authority

30.—(1) Any document to which this article applies, being a document required or authorised by this Order to be served on any person, shall be deemed to be duly served—

(*a*) where the person to be served is a company, if the document is addressed to the secretary of the company at their registered office or at their principal office or place of business, and is either—

(i) served by the recorded delivery service; or

(ii) delivered at that registered office, or at the principal office or place of business, of the company;

(*b*) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either—

(i) served by the recorded delivery service; or

(ii) delivered at the said place of business;

(*c*) where the person to be served is a public body, or a corporation, society or other body, if the document is addressed to the clerk, secretary, treasurer or other head officer of that body, corporation or society at its principal office, and is either—

(i) served by the recorded delivery service; or

(ii) delivered at that office;

(*d*) in any other case, if the document is addressed to the person to be served, and is either served on him by the recorded delivery service or delivered at his residence or place of business.

(2) Any document to which this article applies, being a document required or authorised by this Order to be served on the owner or occupier of any premises, may be addressed "the owner" or "the occupier", as the case may be, of those premises (naming them) without further name or description, and shall be deemed to be duly served—

(*a*) if the document so addressed is served or delivered in accordance with subparagraph (*d*) of paragraph (1) of this Article; or

(*b*) if the document so addressed, or a copy thereof so addressed, is delivered to some person on the premises or, where there is no person on the premises to whom it can be delivered, is affixed to some conspicuous part of the premises.

(3) Where a document to which this article applies is served on a partnership in accordance with this article, the document shall be deemed to be served on each partner.

(4) (*a*) For the purpose of enabling the Authority to serve any document or make any order which by any of the provisions of this Order they are authorised or required to serve or make, the Authority may by notice require the occupier of any premises and any person who either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein, and the name and address of any other person known to him as having an interest therein, whether as a freeholder, mortgagee, lessee or otherwise.

(*b*) Any person who, having been required in pursuance of this paragraph to give any information, wilfully refuses or neglects to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding fifty pounds.

(5) This article applies to any notice, order or other document which is required or authorised by this Order to be served by or on behalf of the Authority or by an officer of the Authority not being a document to the service of which the provisions of some enactment other than this article are applicable.

(6) For the purposes of this article, a notice, order or other document shall be deemed to be a notice, order or other document which is required or authorised to be served on a person if it is required or authorised to be notified, given or transmitted, or (in the case of a demand) if it is required or authorised to be made to that person, and in this article the expressions "served" and "service" shall be construed accordingly.

Exemptions of lifeboat crew

31. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and all persons brought ashore from any vessel in distress shall at all times have free ingress, passage and egress to, along and from the harbour.

Department of Trade Officers exempt from dues

32. Officers of the Department of Trade being in the execution of their duty, shall at all times have free ingress, passage and egress on, into, from, over, along through and out of the harbour and any works of the Authority by land, and with their vessels, and otherwise, without payment.

Inquiries by Minister and Department of Trade

33. The Minister or the Secretary of State for Trade (as the case may be) may cause to be held such inquiries as he or they consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him or them by this Order and subsections (2) to (5) of section 250 of the Local Government Act 1972(**a**) shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section.

Crown rights

34. Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing herein contained authorises the Authority to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description 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 on behalf of Her Majesty first had and obtained for that purpose.

Saving for Dumping at Sea Act 1974

35. Nothing in this Order shall affect the operation of the Dumping at Sea Act 1974(**b**).

Saving for wrecks

36. Nothing in this Order shall authorise the Authority to sell or otherwise to dispose of or to remove or deposit any material or article constituting wreck within the meaning of Part IX of the Merchant Shipping Act 1894(**c**).

Repeals

37. The provisions of the enactments mentioned in column (1) of the schedule to this Order are hereby repealed to the extent specified in column (2) of that schedule.

Costs of Order

38. The costs, charges and expenses of or in connection with, the preparation, submission and making of this Order (other than costs, charges and expenses which any person is lawfully ordered to pay by the Secretary of State or a joint committee of both Houses of Parliament or any costs, charges and expenses incurred in opposing the Order) shall be paid by the Authority.

(**a**) 1972 c. 70. (**b**) 1974 c. 20. (**c**) 1894 c. 60.

IN WITNESS whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 12th March 1976.

(L.S.)

Frederick Peart,
Minister of Agriculture,
Fisheries and Food.

SCHEDULE

ENACTMENTS REPEALED

Enactment (1)	Extent of Repeal (2)
An Act passed in the thirty-seventh year of the Reign of His Majesty King George the Third, Chapter CXXX, intituled "An Act for discontinuing the new Harbour of Rye, in the County of Sussex, and for repealing several Acts relating thereto, and for providing for the Discharge of a debt accrued on account thereof; and for making Reparation for certain Losses; and for the Improvement of the Old Harbour of Rye".	The whole Act except section XVI.
An Act passed in the forty-first year of the Reign of His Majesty King George the Third, Chapter 53, intituled "An Act for more effectually improving and maintaining the Old Harbour of Rye in the County of Sussex".	The whole Act.
An Act passed in the first year of the Reign of His Majesty King William the Fourth, Chapter CXXXV, intituled "An Act to amend an Act passed in the Forty-first year of His late Majesty King George the Third, intituled "An Act for more effectively improving and maintaining the old Harbour of Rye in the County of Sussex"; and to appoint new Commissioners; and to enable the Commissioners to raise additional Funds on the Tolls, by way of Mortgage or otherwise".	The whole Act.
An Act passed in the third year of the Reign of His Majesty King William the Fourth, Chapter LXVII, intituled "An Act to alter and amend the Powers of several Acts passed relating to the Harbour of Rye in the County of Sussex, and for granting further Powers for improving and completing the said Harbour and the Navigation thereof".	The whole Act except— Sections XXV to LXIII, sections LXV, LXVI and LXVII, in section CII from the beginning of the section to the words "Harbour or Channel", and section CIV.

Enactment (1)	Extent of Repeal (2)
The Kent and Sussex Rother Levels Act 1880.	Section 10 (As to Works below High Water Mark); Section 11 (Abatement of Work abandoned or decayed); Section 12 (Survey of Works by Board of Trade); Section 13 (Commissioners to exhibit Lights); Section 15 (Commissioners may deposit Materials dredged); Section 16 (Extending Powers of Rye Harbour Commissioners to diverted river); Section 23 (Lights on Works); Section 25 (Byelaws).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order confers on the Southern Water Authority powers to construct works within the Harbour of Rye and further powers for improving, maintaining and managing the harbour including powers to control the mooring and keeping of houseboats (as defined in the order), to dispose of wrecks and to charge for the use of moorings.

The order extends the powers of the Authority—

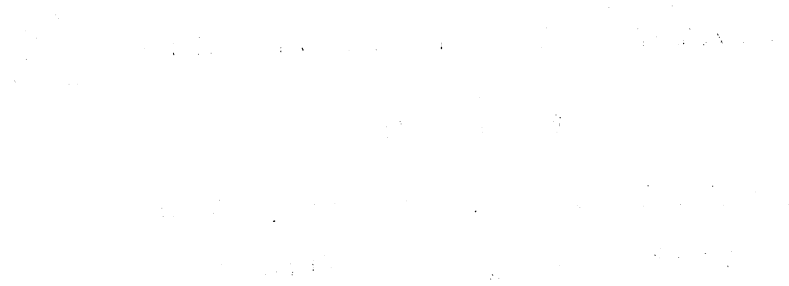
(*a*) to levy charges under the Harbours Act 1964 and as regards the method of collecting charges; and

(*b*) to make byelaws, including powers to make byelaws regulating or prohibiting the mooring or anchoring of vessels within the harbour, regulating the laying down of moorings, regulating and controlling the navigation and speed of mechanically propelled vessels and restricting or prohibiting water-skiing, aqua-planing and similar activities in the harbour.

The order also extends the powers of the harbour master and provides for the establishment of a committee to be known as the Harbour of Rye Advisory Committee.

The order being subject to special parliamentary procedure, the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965 determine the date upon which it comes into operation.

The applicants for the order are the Southern Water Authority.



STATUTORY INSTRUMENTS

1976 No. 855

HARBOURS, DOCKS, PIERS AND FERRIES

The Harbour of Rye Revision Order 1976

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