STATUTORY INSTRUMENTS

1984 No. 59

HARBOURS, DOCKS, PIERS AND FERRIES

The Harwich Harbour Revision Order 1984

Made - - - -	23*rd January* 1984
Coming into Operation	24*th January* 1984

The Secretary of State for Transport, in exercise of the powers conferred by section 14 of the Harbours Act 1964 (**a**) and now vested in him (**b**), and of all other powers enabling him in that behalf, and on the application of the Harwich Harbour Conservancy Board, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Harwich Harbour Revision Order 1984, and shall come into operation on 24th January 1984.

(2) The Harwich Harbour Act and Orders 1973 to 1981 and this Order may be cited together as the Harwich Harbour Act and Orders 1973 to 1984.

Interpretation

2. In this Order, unless the context otherwise requires—

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

"the Board" means the Harwich Harbour Board;

"the boat harbour" means the boat harbour of the Board at Harwich having the limits described in article 5 (Limits of boat harbour) of this Order and includes the land, building, works, property and conveniences referred to in that article;

"tidal work" means so much of any work belonging to the Board as is on, under or over tidal waters or tidal lands below the level of high water; and "the level of high water" means the level of mean high water springs;

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

"vessel" means every description of vessel, however propelled or moved, and includes anything constructed or used to carry persons or goods by water, and a seaplane on or in the water, a hovercraft and a hydrofoil vessel; and "hovercraft" has the same meaning as in the Hovercraft Act 1968 (**d**).

Change of name

3.—(1) The name of the Harwich Harbour Conservancy Board is hereby changed to the Harwich Harbour Board.

(**a**) 1964 c.40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c.56) section 18 and Schedule 6 paragraphs 2 to 4.
(**b**) S.I. 1981/238.
(**c**) 1847 c.27.
(**d**) 1968 c.59.

(2) The change of name effected by paragraph (1) of this article shall not affect the rights or obligations of any person or render defective any legal proceedings, and references to the Harwich Harbour Conservancy Board, or to a conservator, in any enactment, and in any agreement, deed, lease, licence or other instrument in force immediately before the commencement of this Order shall be read as references to the Board or, as the case may be, to a member of the Board.

Incorporation of enactments

4. The provisions of the Act of 1847 (except sections 6 to 20, 22, 25 to 27, 29 to 51, 66 to 71, 77, 79 to 82, 84 to 90, 95, 97 and 98) so far as applicable for the purposes of, and not inconsistent with, the provisions of this Order, are hereby incorporated with this Order:

Provided that—

(a) in construing the provisions of the Act of 1847 so incorporated—

"the special Act" shall mean this Order;

"vessel" shall have the meaning given by article 2 of this Order;

"the prescribed limits" means the limits of the boat harbour described in article 5 of this Order; and

"the harbour master" means the Harbour Master for Harwich Harbour;

(b) section 52 of the Act of 1847 shall extend to empower the harbour master to give directions prohibiting the mooring of vessels within the prescribed limits;

(c) section 53 of the Act of 1847 shall not be construed to require the harbour master to serve notice in writing of his directions upon the master of a vessel and such directions may be given orally or otherwise communicated where it is not reasonably practicable to serve written notice on the master;

(d) section 63 of the Act of 1847 shall have effect as if the words "and a further sum of twenty shillings for every hour that such vessel shall remain within the limits aforesaid, after a reasonable time for removing the same has expired after such requisition" were omitted.

Limits of boat harbour

5.—(1) The limits of the boat harbour, within which the Board shall have authority under this Order, shall be the area coloured blue on the map deposited in accordance with the provisions of paragraph (2) of this article, together with the land, buildings, works, plant, property and conveniences of the Board for the time being held by them in connection with the boat harbour.

(2) A map showing the said area having been signed in triplicate by an Assistant Secretary in the Department of Transport and two copies thereof having been deposited at the office of the Department of Transport, the remaining copy thereof shall be deposited at the office of the Board.

Power to construct, maintain and improve works

6. Subject to the provisions of this Order, the Board may maintain, alter and improve the boat harbour and may from time to time construct, maintain, alter, improve, enlarge and extend landing-places, approaches, steps,

embankments, walls, piers, quays, jetties, slips, wharves, groynes, sea defences, moorings, buoys, navigation marks, cranes, lights, beacons, roads, 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 and traffic or for the protection of the boat harbour:

Provided that—

(i) the Board 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;

(ii) any electric wires, mains, cables, works or apparatus constructed, erected, laid down, maintained, worked or used under the provisions of this article shall be so constructed or erected or laid down and so maintained, worked and used as to prevent interference with any telegraph line (as defined by the Telegraph Act 1878 (**a**)) belonging to or used by British Telecommunications or with telecommunications by means of any such line or with any apparatus of statutory undertakers (as defined by the Public Health Act 1936 (**b**)), or with any purpose for which such apparatus is used.

Power to dredge

7. The powers of the Board under section 13 (Power to dredge) of the Harwich Harbour Act 1974 (**c**) shall extend for the deepening, dredging, scouring, cleansing, altering and improving of the bed and foreshore within the boat harbour and adjoining or near to the boat harbour for the purpose of affording means of access thereto.

Provision against danger to navigation

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

(2) If the Board fail to notify Trinity House as required by this article or to comply in any respect with a direction given under this article, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

Abatement of works abandoned or decayed

9.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Board 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 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 may include that part of the work, or any portion thereof, in any notice under this article.

(**a**) 1878 c.76. (**b**) 1936 c.49. (**c**) 1974 c.i.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Board, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Board.

Survey of tidal works

10. The Secretary of State 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 in any such survey and examination shall be recoverable from the Board.

Permanent lights on tidal works

11.—(1) After the completion of a tidal work, the Board 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 Trinity House shall from time to time direct.

(2) If the Board fail to comply in any respect with a direction given under this article they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

For protection of Anglian Water Authority

12. For the protection of the Anglian Water Authority (hereafter in this section referred to as "the Water Authority"), the following provisions shall, unless otherwise agreed in writing between the Board and the Water Authority, apply and have effect:—

(1) In this section—

"authorised operation" means an operation authorised by article 6 (Power to construct, maintain and improve works) of this Order;

"sea defence work" includes a river wall or sea defence work for the time being vested in, or under the control of, the Water Authority for the purposes of the Land Drainage Act 1976 (**a**):

(2) *(a)* The Board shall, before commencing any authorised operation in, on or over any sea defence work or within 15 metres of the foot of the landward side thereof or 140 metres of the foot of the seaward side thereof deliver to the Water Authority for their approval, which shall not be unreasonably withheld, a plan defining the nature, extent and manner of the operation;

(b) An operation to which sub-paragraph *(a)* of this paragraph applies shall not be carried out otherwise than in accordance with such plan and in such manner as may be approved by the Water Authority or as may be settled by arbitration:

Provided that if the Water Authority do not within two months after the delivery of such plan signify to the Board their disapproval thereof, and the grounds for their disapproval, they shall be deemed to have approved the plan;

(c) The Board shall not be required to comply with sub-paragraph *(a)* of this paragraph in a case of emergency but in such a case they shall give to the Water Authority notice as soon as reasonably

(**a**) 1976 c.70.

practicable, and a plan defining the nature and extent of the operation as soon as reasonably practicable thereafter, and shall comply with sub-paragraph *(b)* of this paragraph so far as reasonably practicable in the circumstances:

(3) In giving their approval to a plan delivered under paragraph (2) of this article the Water Authority may attach to their approval such conditions (including conditions requiring the construction of protective works by, and at the expense of, the Board during the carrying out of an authorised operation) as are reasonably necessary to safeguard a sea defence work against damage:

(4) If by reason of the carrying out of any authorised operation a sea defence work is interfered with the Water Authority may—

(a) make good the sea defence work to restore it to its former standard of efficiency; or

(b) where necessary, construct some other work in substitution therefor;

and may recover from the Board the reasonable cost of so doing, and for the purposes of this paragraph such cost shall include a proper proportion of the overhead charges of the Water Authority and any such cost of executing works needed for remedying any subsidence of the sea defence work or of the substituted work during such reasonable period as may be agreed between the Board and the Water Authority or, failing agreement, settled by arbitration:

(5) If the Water Authority have reasonable ground for believing that a sea defence work is likely to be damaged by reason of the carrying out of any authorised operation, they may carry out such protective works as may be agreed between the Water Authority and the Board or as, failing agreement, may be settled by arbitration, and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the Water Authority) from the Board:

(6) Any difference arising between the Board and the Water Authority under this section shall be determined by an arbitrator to be agreed upon between the parties, or, failing agreement, appointed on the application of either party after notice in writing to the other of them, by the President of the Institution of Civil Engineers.

Saving for Coast Protection Act 1949

13. Section 84 of the Harwich Harbour Act 1974 shall apply as if any operation carried out under the foregoing provisions of this Order were authorised by that Act.

Byelaws

14.—(1) In addition to the byelaws relating to the boat harbour which may be made by them under section 83 of the Act of 1847 the Board may from time to time make such byelaws as they think fit with reference to all or any of the following purposes—

(a) the management, control and regulation of the boat harbour and of goods and vehicles using or passing over or frequenting or resorting to the boat harbour;

(b) the control and regulation of vessels within the limits of the boat harbour;

(c) the conduct of persons using or being at or on the boat harbour;

(d) safety precautions to be observed by persons on vessels within the limits of the boat harbour or persons using, or being at or on, the boat harbour.

(2) The byelaws which may be made by the Board in exercise of their powers in relation to the boat harbour may provide for imposing a fine not exceeding £400 for the breach or non-observance of any such byelaw.

(3) The provisions of section 41 of the Harwich Harbour Act 1974 shall apply to all byelaws to be made by the Board under this Order.

Costs of Order

15. All 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 Board.

Signed by authority of the Secretary of State.

A. P. Brown,
An Under Secretary in the
Department of Transport.

23rd January 1984.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order changes the name of the Harwich Harbour Conservancy Board to the Harwich Harbour Board and confers on the Board powers to maintain works comprising a boat harbour within Harwich Harbour and further powers for improving and managing the boat harbour.

The Order also provides for limits of the boat harbour and extends the Board's powers to make byelaws for the management, control and regulation of the boat harbour and of persons and vessels resorting thereto.

The applicants for this Order are the Harwich Harbour Conservancy Board, Harbour House, Angel Gate, Harwich, Essex CO12 3EJ.

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