STATUTORY INSTRUMENTS

1980 No. 1987

HARBOURS, DOCKS, PIERS AND FERRIES

The Milford Haven Conservancy Revision Order 1980

Made - - - -	*8th September* 1980
Laid before Parliament	*28th October* 1980
Coming into Operation	*16th December* 1980

The Minister of Transport in exercise of 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 Milford Haven Conservancy Board, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Milford Haven Conservancy Revision Order 1980 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(c).

2. The Milford Haven Conservancy Acts and Orders 1958 to 1975 and this Order may be cited together as the Milford Haven Conservancy Acts and Orders 1958 to 1980.

Interpretation

2. In this Order—

"the Act of 1958" means the Milford Haven Conservancy Act 1958(d);

"the Act of 1975" means the Milford Haven Conservancy Act 1975(e);

and the words and expressions defined in the Act of 1958 or the Act of 1975 shall, unless the context otherwise requires, have the same meaning in this Order.

Amendment of Section 1 of the Act of 1958

3. Section 1 of the Act of 1958, as amended by section 3 of the Act of 1975, is hereby amended by the deletion of subsection (3) and the substitution therefor of the following subsections:—

"(3) The Board shall not in the haven exercise or continue in the exercise of any of their powers in such manner as to contravene any direction with

(a) 1964 c. 40.
(b) S.I. 1970/1681 and 1979/571.
(c) 9 & 10 Geo. 6, c. 18; 1965 c. 43.
(d) 1958 c. 23.
(e) 1975 c. xxviii.

respect to the exercise of those powers which the Secretary of State for Defence may from time to time deem it necessary or expedient to give to the Board in the interests of national defence; and generally in performance of their functions shall have regard to any representations made to them by the Secretary of State for Defence with respect to the requirements of national defence.

(3A) The Board shall not, except with the express consent of the Secretary of State for Defence and in compliance with any conditions or restrictions attached to any such consent, exercise their powers under subsection (1) of section 4 and subsection (1) of section 5 of this Act, in any part of the haven falling within the limits for the time being established by Order in Council under the Dockyard Ports Regulation Act, 1865 (a), of any dockyard port, and byelaws made by the Board in the exercise of their powers under section 9(1) of this Act shall not apply within the limits of any such dockyard port except with the express consent of the Secretary of State for Defence and in compliance with any conditions or restrictions attached to any such consent.

(3B) Nothing done by the Board in the exercise of any of their powers in any part of the haven falling within the limits, for the time being established by Order in Council under the Dockyard Ports Regulation Act 1865, of any dockyard port shall have any application to the Crown or to any vessel belonging to Her Majesty or employed in the service of the Crown; but this subsection shall not affect the operation of section 7 of this Act, nor shall it affect the operation of subsection (3A) of this section in its application to byelaws made by the Board.".

Unlawful works

4. Section 4 of the Act of 1958, as substituted by section 6 of the Act of 1975, is hereby amended:—

(1) by the deletion of subsection (4) and the substitution therefor of the following subsections:—

"(4) Any work in respect of which any condition or restriction imposed under this section is not complied with may be abated and removed and the site thereof restored to its former condition by the Board and any expenditure incurred by the Board in any such abatement, removal or restoration shall be recoverable as a simple contract debt from the occupier of the works.

(4A) If any work is constructed, altered or extended in contravention of, or of any prohibition imposed under, this section, that work may be abated and removed and the site thereof restored to its former condition by the Board and any expenditure incurred by the Board in such abatement, removal or restoration shall be recoverable as a simple contract debt from the occupier of the works provided that in the place of such abatement, removal or restoration the Board may, with the prior agreement of the occupier, by instrument in writing impose conditions or restrictions with respect to such construction, alteration, or extension, including any conditions and restrictions upon subsequent maintenance, operation and use of such construction, alteration or extension, as the case may be, and where such conditions or restrictions are imposed, from the date of the imposition of such conditions or restrictions the work shall not be treated as having been constructed, altered or extended in contravention of subsection (2) of this section.";

(a) 1865 c. 125.

(2) by the deletion of subsection (5) and the substitution therefor of the following subsection:—

"(5) Any person who knowingly contravenes, and any occupier who permits a contravention of,

(*a*) subsection (2) of this section;

(*b*) a requirement, prohibition, condition or restriction imposed by the Board under subsection (2) of this section; or

(*c*) a condition or restriction imposed under subsection (4A) of this section,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.".

Crown rights

5. (1) Subsection (1) of section 7 of the Act of 1958 is hereby amended by the addition, after the words "the said Act of 1894" of the words "sections 13 and 14 of the Milford Haven Conservancy Act 1975 and the powers conferred on the harbourmaster under article 3 of the Milford Haven Conservancy (Wreck Removal) Revision Order 1975"(a).

(2) Section 20 of the Act of 1975 is hereby amended by the addition, after subsection (4), of the following subsection:—

"(5) In the case of any conflict between any directions given by the harbourmaster of the Board and any directions given by the Queen's Harbour Master in any part of the haven falling within the limits, for the time being established by Order in Council under the Dockyard Ports Regulation Act 1865, of any dockyard port the directions given by the Queen's Harbour Master shall prevail.".

(3) Subsection (3) of section 23 of the Act of 1958 is hereby amended by the deletion of the words "to this Act" and the substitution therefor of the words "to the Milford Haven Acts and Orders 1958 to 1980".

Amendment of power to make byelaws

6.—Subsection (1) of section 9 of the Act of 1958, as amended by section 25 of the Act of 1975, is hereby amended by—

(1) the addition at the end of paragraph (*c*) of the words "save where such dock or pier is owned or operated by the Board":

(2) the addition, after paragraph (*k*), of the following paragraphs—

"(*l*) requiring—

(i) the master or owner of a vessel or a ship's agent; and

(ii) a person using a service or facility for which the Board may charge and the agent of any such person;

to give to the Board such information as is required by the Board for, or in connection with, the assessment and collection of a charge;

(*m*) requiring a trader to give to the Board in relation to goods for which he is responsible such information as is required by the Board for, or in connection with, the assessment and collection of charges;

(a) S.I. 1975/1273.

(*n*) prescribing the manner in which a return of information required by the byelaws is to be made and, if the return is required to be in writing, the number of copies to be provided;

(*o*) prescribing the time within which the said information is to be provided.".

Amendment of power to levy dues, charges and fees

7.—Section 11 of the Act of 1958, as amended by the Harbours Act 1964 and by section 8 of the Act of 1975, is hereby amended by the deletion, in subsection (3), of the words "provided by them in the haven" and the substitution therefor of the words "provided by them in or in the vicinity of the haven".

Borrowing powers

8. Section 13 of the Act of 1958, as substituted by article 3 of the Milford Haven Conservancy Revision Order 1969(a), is hereby amended by—

(1) the deletion from subsection (1) of the words from the beginning to "may require" and the substitution therefor of the words:—

"The Board may from time to time borrow by any one or more of the following methods:

(*a*) on an unsecured basis; or

(*b*) upon the security of a guarantee given by a third party; or

(*c*) upon the security of all or any of the revenues and property of the Board; or

(*d*) by the creation and issue of stock,

(i) such sums of money as they may think necessary not exceeding in the aggregate nine million pounds, and

(ii) with the consent of the Minister such further sums of money as they may require";

(2) the repeal of paragraph (*b*) of subsection (3);

(3) the addition, in subsection (3) at the end, of the following:—

"and

(*f*) the payment or repayment of any monies for any purpose previously sanctioned by the Secretary of State or the Minister".

Repeal of obsolete saving for planning

9. Section 23 of the Act of 1958 is hereby amended by the repeal of subsection (5).

Constitution of the Board

10. The First Schedule to the Act of 1958 is hereby amended by the deletion of paragraph 8D and the substitution therefor of the following paragraph:—

"8D. A person who is not or has not been a member of the Board shall not be appointed to the Board if at that time aged 65 years or over.".

(a) S.I. 1969/478.

Committees

11. The First Schedule to the Act of 1958 is hereby amended by the deletion of paragraph 13A, inserted by article 4 of the Milford Haven Conservancy Revision Order 1975(a), and the substitution therefor of the following paragraph:—

"13A—(1) For the purpose of discharging any of their functions in pursuance of arrangements made under section 28 of the Act of 1975 (which applies provisions of section 101 of the Local Government Act 1972 to the Board) the Board may appoint a committee consisting wholly of members of the Board.

(2) For the purpose of discharging, in pursuance of arrangements made under the said section 28, any of their functions within and in the vicinity of the areas of the haven upstream of the Cleddau bridge and upstream of a straight line across the Pembroke River running east and west through National Grid reference SM 940025 the Board may, with one or more local authorities, appoint a joint committee with those authorities and for this purpose 'local authority' shall have the same meaning as it has in Part VI of the Local Government Act 1972(b):

Provided that no function shall be exercised by such a joint committee so as to subject to any regulation or control any vessel exceeding 20 metres in length which regularly trades to sea".

Temporary loans

12. Article 4 (Temporary loans) of the Milford Haven Conservancy Revision Order 1966(c) is hereby amended by the deletion of the words "five hundred thousand pounds" and the substitution therefor of the words "two million pounds".

As to harbourmaster's powers

13. Subsection (3) of article 3 of the Milford Haven Conservancy (Wreck Removal) Revision Order 1975 is hereby repealed.

Charges for moorings

14. Subsection (1) of section 9 of the Act of 1975 is hereby amended by the deletion of paragraph (*a*) and the substitution therefor of the following paragraph:—

"(*a*) imposed by the Board as a condition or restriction under the provisions of subsections (2) or (4A) of section 4 of the Act of 1958;".

Penalties

15.—(1) The enactments specified in column 1 of the Schedule to this Order (being enactments creating the offences broadly described in column 2 of that Schedule) shall each have effect as if the maximum fine which may be imposed on summary conviction of any offence specified in that enactment were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine of, or not exceeding, the amount specified in column 3 of that Schedule.

(a) S.I. 1975/1828.
(b) 1972 c. 70.
(c) S.I. 1967/167.

(2) Sections 26 and 27 of the Act of 1975 are hereby amended by the deletion, in section 26(2) and in section 27(3), of the words "not exceeding £100 and to a daily fine not exceeding £10" and the substitution therefor of the words "not exceeding the prescribed sum as defined in section 28(7) of the Criminal Law Act 1977(a) or, on indictment, to a fine".

Saving for certain enactments

16. Nothing in this Order shall affect the operation of section 30 of the Gulf Oil Refining Act 1965(b) or section 29 of the Amoco (U.K.) Act 1971(c).

Norman Fowler,
Minister of Transport.

8th September 1980.

SCHEDULE

INCREASE OF FINES

Enactment 1	Description of offence 2	Old Maximum fine 3	New Maximum fine 4
Milford Haven Conservancy Act 1958 section 12 (2)	Failing to notify the harbourmaster after entry or before departing	£10	£50
Milford Haven Conservancy (Wreck Removal) Revision Order 1975 article 4	Failing to comply with the harbourmaster's lawful directions with respect to the removal of sunk stranded or abandoned vessel	£50	£100

EXPLANATORY NOTE

(This Note does not form part of the Order.)

This Order amends and extends the existing powers of the Milford Haven Conservancy Board under their Acts and Orders of 1958 to 1975.

It adjusts the relationship between the Board and the Ministry of Defence in the exercise by the Board of their statutory powers within the Haven, and in particular within the dockyard port of Pembroke. It provides for the Board to permit the continued existence of an unauthorised work in the Haven by the imposition of conditions and restrictions in respect of such work. It enables the Board to make charges for facilities provided by the Board in the vicinity of the Haven and to require by byelaws certain information in respect of the use of facilities provided by the Board in the Haven and in the vicinity of the Haven.

(a) 1977 c. 45. (b) 1965 c. xxiv. (c) 1971 c. iv.

It alters the Board's power to borrow. It provides for the Board to appoint committees to discharge certain functions of the Board. It increases certain penalties under the Board's existing enactments.

It contains other minor or consequential provisions.