STATUTORY INSTRUMENTS

1978 No. 647

HARBOURS, DOCKS, PIERS AND FERRIES

The Shoreham Port Authority Revision Order 1978

Made - - - - 21*st February* 1978

Laid before Parliament 14*th March* 1978

Coming into Operation 25*th April* 1978

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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 Shoreham Port Authority hereby makes the following Order:—

PART I

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Shoreham Port Authority Revision Order 1978 and shall come into operation on the date fixed in accordance with the Statutory Orders (Special Procedure) Acts 1945 and 1965**(c)**.

(a) 1964 c. 40. **(b)** S.I. 1970/1681.
(c) 9 & 10 Geo. 6 c. 18; 1965 c. 43.

(2) The Shoreham Port Authority Acts and Orders 1926 to 1973 and this Order may be cited together as the Shoreham Port Authority Acts and Orders 1926 to 1978.

Division of Order into parts

2. This Order is divided into parts as follows:—

Part I—Preliminary.

Part II—Amendment to Constitution.

Part III—General Powers.

Part IV—Harbour Regulation.

Part V—Miscellaneous.

Interpretation

3.—(1) In this Order:—

"the Act of 1926" means the Shoreham Harbour Act 1926**(a)**;

"the Authority" means the Shoreham Port Authority;

"daily fine" means a fine for each day on which the offence is continuing after conviction thereof;

"electrical work" means any electric line (as defined in the Electric Lighting Act 1882**(b)**) and any other works or things required to generate or supply electricity belonging to, or maintained by, the Central Electricity Generating Board or the South Eastern Electricity Board and any works or things maintained by the said Boards or either of them pursuant to the Shoreham Port Authority Acts and Orders 1926 to 1978 and "the Electricity Undertakers" means such one of those Boards to which, or by which, the electrical work in question belongs or is maintained, or either of such Boards, as the case may require;

"enactment" means any enactment, whether public general or local, and includes any Order or byelaw having effect by virtue of an enactment;

"the Harbour Master" means the Harbour Master of the Authority and includes his authorised deputies and assistants and any persons authorised by the Authority to act in that capacity;

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

"owner" when used in respect to any vessel includes the owner, agent, master, charterer or any other person in charge of the vessel;

"Port" means the Shoreham Port as described in Section 38 (Limits of Harbour) of the Act of 1926.

(2) Any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of, any subsequent enactment including this Order.

(a) 1926 c. xlvii. **(b)** 1882 c. 56.
(c) 1847 c. 27.

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

PART II

AMENDMENT TO CONSTITUTION

Amendment of Schedule 1 to Shoreham Port Authority Revision Order 1968

4.—(1) Paragraph 2 of Part I of Schedule 1 to the Shoreham Port Authority Revision Order 1968**(b)** shall have effect as if:—

(*a*) the following sub-paragraph were substituted for paragraph (*g*):—

"(*g*) one person after consultation with such persons appearing to the Secretary of State to be representative of bodies engaged in the oil industry and having a substantial interest in the Port as he considers appropriate."

(*b*) in sub-paragraph (*h*) for the words "the South Eastern Gas Board" there were substituted the words "the persons referred to in sub-paragraph (*g*) of this paragraph."

(2) On the date fixed for the coming into operation of this Order a casual vacancy in the office of Member referred to in paragraph 2(*g*) of Part I of Schedule 1 to the said Order of 1968 shall be deemed to exist.

PART III

GENERAL POWERS

Restriction on works, dredging and moorings

5.—(1) No person other than the Authority shall:—

(*a*) knowingly construct, alter, renew or extend any work below the high water mark of ordinary spring tides or up to 50 metres landwards of such high water mark (not being moorings, buoys or similar apparatus to which sub-paragraph (*c*) of this paragraph applies) within the Port unless he is licensed to do so by a works licence granted under Article 6 (Licensing of works) of this Order and except in accordance with any conditions subject to which the licence is granted and in accordance with plans, sections and particulars approved under the said Article 6;

(*b*) deepen, widen or dredge, or take up or collect material from the bed or foreshore of the Port unless he is licensed to do so by a dredging licence granted under Article 7 (Licensing of dredging) of this Order and except in accordance with any conditions subject to which the licence is granted and in accordance with plans, sections and particulars approved under the said Article 7;

(*c*) knowingly place, lay down, alter, renew or extend moorings, buoys and similar apparatus within the Port unless he is licensed to do so by a mooring licence granted under Article 9 (Licensing of moorings) of this Order and except in accordance with any conditions subject to which the licence is granted;

(a) 1889 c. 63. **(b)** S.I. 1968/2042.

Provided that, except as may be otherwise so provided, this paragraph of this Article shall not apply to the construction, alteration, renewal or extension of any work, or to any deepening, widening and dredging, or taking up or removal of materials:—

(i) which is specifically authorised by any enactment; or

(ii) by the Southern Water Authority in exercise of their functions under the Land Drainage Act 1930**(a)**, the Land Drainage Act 1961**(b)** or the Water Resources Act 1963**(c)**.

(2) Any person who contravenes or fails to comply with the provisions of this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and, in the case of a continuing offence, £20 for each day during which the offence continues after conviction; provided that the total fine in any case imposed shall not exceed £100.

(3) The Authority may by notice require a person who contravenes the provisions of this section to remove or abate within a reasonable time specified in the notice any works to which the contravention relates and to restore the site thereof to its former condition and, if the person to whom the notice is given fails to comply with the notice, the Authority may carry out the work required by the notice and recover the cost of so doing from that person as a debt in any court of competent jurisdiction.

(4) Nothing in this Article shall affect the powers of the Post Office under the Telegraph Acts 1863 to 1916.

(5) Nothing in this Article shall apply to the making, erection, construction, alteration, renewal, repair, extension or maintenance of any electrical work within the Port by the Electricity Undertakers under, and in accordance with, any authority conferred on them by or under the Electricity (Supply) Acts 1882 to 1936 and the Electricity Acts 1947 and 1957**(d)** and any enactment incorporated therewith, or to the carrying out by the Electricity Undertakers in an emergency of any works referred to in sub-paragraphs (*a*) or (*b*) of paragraph (1) of this Article which are necessary for the protection, or to ensure the efficient operation, of any electrical work:

Provided that any such operations or works shall be carried out subject to any directions which may from time to time be given by the Authority to the Electricity Undertakers concerned, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of such operations or works, and, in the case of works carried out in an emergency, subject to the giving of information thereof to the Authority by the Electricity Undertakers without delay.

(*b*) Nothing in this Article shall apply to the laying, construction, alteration, renewal, repair, extension, inspection or maintenance of any main or pipe for the transmission or storage of gas within the Port by the British Gas Corporation under and in accordance with any authority conferred on them by or under the Gas Act 1972**(e)** and any enactment incorporated therewith or to the carrying out by the British Gas Corporation in an emergency of any works referred to in sub-paragraphs (*a*) or (*b*) of paragraph (1) of this Article which are necessary for the protection or to ensure the efficient operation of any such main or pipe:

(a) 1930 c. 44. **(b)** 1961 c. 48. **(c)** 1963 c. 38.
(d) 1947 c. 54; 1957 c. 48. **(e)** 1972 c. 60.

Provided that any such operations or works shall be carried out subject to any directions which may from time to time be given by the Authority to the British Gas Corporation, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of any such operations or works and in the case of works carried out in an emergency subject to the giving of information thereof to the Authority by the British Gas Corporation without delay.

Licensing of works

6.—(1) (*a*) The Authority may, upon such terms and conditions as they think fit, and upon payment of such reasonable fee as may be specified by the Authority grant to any person, subject to Article 10 (Crown property) of this Order, a licence (in this Order referred to as a "works licence") to construct, alter, renew or extend works within the Port below the high water mark of ordinary spring tides or up to 50 metres landwards of such high water mark.

(*b*) Without prejudice to the generality of the foregoing, conditions subject to which a works licence is granted under this Article may include a condition specifying a period, not less than two years from the grant of the licence, on the expiration of which the licence shall become void unless the works to which the licence relates have by then been substantially commenced.

(2) Application for a works licence shall be made in writing to the Authority and shall:—

(*a*) be accompanied by such plans, sections and particulars as the Authority may reasonably require of the works to which the application relates;

(*b*) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted;

and in granting such licence the Authority may require modifications in the plans, sections and particulars so submitted.

(3) In carrying out works in pursuance of a works licence the holder of a licence shall not:—

(*a*) damage or injuriously affect any sewer outfall or subaqueous pipe or sewer vested in the Southern Water Authority or any work for the protection of land constructed or maintained as a coast protection work by the Hove Borough Council or the Adur District Council or any highway repairable by a Highway Authority without the consent of that Water Authority or of the Council or the Highway Authority concerned;

(*b*) damage or injuriously affect any electrical work, or interfere with, or adversely affect the operation of any such work, without the consent of the Electricity Undertakers;

(*c*) damage or injuriously affect any main or pipe for the transmission or storage of gas or interfere with or adversely affect the operation of any such main or pipe without the consent of the British Gas Corporation.

(4) If within three months from the receipt of an application under paragraph (2) of this Article the Board do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.

Licensing of dredging

7.—(1) (*a*) The Authority may, upon such terms and conditions as they think fit and upon payment of such reasonable fee as may be specified by the Authority grant to any person, subject to Article 10 (Crown property) of this Order, a licence (in this Order referred to as a "dredging licence") to deepen, widen, dredge, or take up or collect material from, the bed and foreshore of the Port.

(*b*) Without prejudice to the generality of the foregoing, conditions subject to which a dredging licence is granted under this Article may include a condition specifying a period, not exceeding twelve months from the grant of the licence, on the expiration of which the licence shall become void unless the operations to which the licence relates shall by then have been substantially commenced.

(2) Application for a dredging licence shall be made in writing to the Authority and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operation to be carried out in pursuance of the licence, and in granting any such licence the Authority may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the receipt of an application under paragraph (2) of this Article the Authority do not grant a dredging licence in accordance with the application, they shall be deemed to have refused the application.

(4) Any materials taken up or collected in pursuance of a dredging licence shall be the property of the holder of the licence and he may use, sell or otherwise dispose of, or remove or, subject as herein provided, lay down or deposit, the materials as he thinks 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 may be approved by the Authority and subject to such conditions or restrictions as may be imposed by the Authority.

(5) In the carrying out of operations in pursuance of a dredging licence the holder of the licence shall not:—

(*a*) damage or injuriously affect any sewer outfall or subaqueous pipe or sewer vested in the Southern Water Authority, or any work for the protection of land constructed or maintained as a coast protection work by the Hove Borough Council or the Adur District Council or any highway repairable by a Highway Authority without the consent of that Water Authority or of the Council or the Highway Authority concerned; or

(*b*) lay down or deposit materials in any place or manner so as to cover any subaqueous cable belonging to, or used by, the Post Office or impede in any way the inspection, maintenance, removal or renewal of any such cable without the written consent of the Post Office; or

(*c*) damage or injuriously affect any electrical work, or interfere with, or adversely affect, the operation of any such work, without the consent of the Electricity Undertakers.

(6) As early as possible and in any event not less than 28 days before any exercise of the powers contained in a dredging licence within a distance of 50 metres of any subaqueous cable belonging to or used by the Post Office, the holder of the licence shall give notice in writing to the Post Office of such intended exercise.

Appeals in respect of works or dredging licences

8.—(1) An applicant for a works licence or a dredging licence who is aggrieved by:—

(*a*) the refusal of the Authority to grant the licence; or

(*b*) any terms or conditions subject to which the licence is granted; or

(*c*) any modifications required by the Authority in the plans, sections and particulars submitted by the applicant; or

(*d*) the withholding of approval by the Authority under the proviso to paragraph (4) of Article 7 (Licensing of dredging) of this Order or any conditions imposed under that proviso;

may within 28 days from the date on which the Authority notify the applicant of their decision, or the date on which the Authority are under paragraph (4) of Article 6 (Licensing of works) or paragraph (3) of Article 7 (Licensing of dredging) of this Order deemed to have refused the application, appeal:—

(i) in the case of a works licence, to the Secretary of State for Trade; or

(ii) in the case of a dredging licence, subject to paragraph (iii) below, to the Secretary of State for Transport; or

(iii) in the case of a decision under the proviso to paragraph (4) of the said Article 7, to the Secretary of State for Trade;

whose decision shall be binding upon the parties.

(2) A person who appeals under this Article shall give to the Authority notice of his appeal accompanied by a copy of his statement of appeal and the Authority shall, within 28 days from the receipt of such notice, be entitled to furnish to the Secretary of State for Trade or the Secretary of State for Transport (as the case may be) their observations on the appeal.

(3) (*a*) On an appeal under this Article the Secretary of State for Trade or the Secretary of State for Transport (as the case may be) may:—

(i) dismiss the appeal; or

(ii) require the Authority to grant the licence or (as the case may be) to give their approval upon such terms or conditions and with such modifications (if any) of plans, sections or particulars as the Secretary of State for Trade or the Secretary of State for Transport (as the case may be) shall specify.

(*b*) The Authority shall give effect to any requirement made by the Secretary of State for Trade or the Secretary of State for Transport under this paragraph.

Licensing of moorings

9.—(1) The Authority may from time to time grant a licence (in this Order referred to as "a mooring licence") to any person, subject to Article 10 (Crown property) of this Order, to place, lay down, alter, renew or extend, or maintain and use moorings, buoys and similar apparatus for vessels in the Port.

Provided that 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, alter, renew or extend, or maintain, and use moorings, buoys and similar apparatus on that land, and any question whether the grant of a licence has or has not been unreasonably refused shall be determined by the Secretary of State for Transport.

(2) Any licence granted under this Article shall be valid only for such a period not exceeding three years as may be specified in the licence.

(3) The Authority may charge a reasonable fee for granting a licence under this Article.

(4) (*a*) Without prejudice to the provisions of subparagraph (*c*) of paragraph (1) of Article 5 (Restriction on works, dredging and moorings) of this Order, in the case of any existing moorings, buoys or similar apparatus which may have been placed or laid down within the Port before the commencement of this Order without the written permission of the Authority, the Authority may, by notice to the person using such mooring, buoy or similar apparatus, require the same to be removed unless, on an application made under this Article, the Authority grant a licence in respect of the maintenance and use thereof.

(*b*) If a person fails to comply with a notice under sub-paragraph (*a*) of this paragraph 4 within the time stated in that notice or, as appropriate within the time stated in a notice informing him of the refusal of his application for a licence,

(i) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and a daily fine not exceeding £20; and

(ii) the Authority may remove any such mooring, buoy or similar apparatus and may recover the expenses of so doing from the person on whom the notice was served as a simple contract debt;

Provided that the total fine in any case imposed for any such failure shall not exceed £100.

(5) In altering, renewing, extending or maintaining any moorings, buoys or similar apparatus in pursuance of a licence granted under this Article, the holder of the licence shall not damage or injuriously affect any electrical work, or without the consent of the Electricity Undertakers, interfere with or adversely affect the operation of any electrical work.

Crown property

10. A person to whom a works licence or a dredging licence or a mooring licence is granted by the Authority shall require the consent of the Crown Estate Commissioners on behalf of Her Majesty to construct, alter, renew or extend any works on, or to dredge, take up or collect material from, any part of the bed and foreshore of the Port belonging to Her Majesty in right of Her Crown.

Prohibition on pollution, etc., of Port

11.—(1) No person shall without reasonable excuse:—

(*a*) put or cause or suffer to fall into the waters of the Port any article or any solid matter; or

(*b*) put any such thing in a place where it is likely to be carried into the waters of the Port by floods or tides; or

(*c*) put and allow to remain for 48 hours in a place adjoining the Port any such thing which will or is likely to be blown or pass into the waters of the Port;

so as to pollute the waters of the Port or endanger or impede shipping.

(2) Any person who contravenes paragraph (1) of this Article shall be guilty of an offence and liable on summary conviction, in the case of an offence under sub-paragraphs (*a*) or (*b*) of paragraph (1), to a fine not exceeding £100 and, in the case of an offence under sub-paragraph (*c*) of paragraph (1), to a fine not exceeding £100 and to a daily fine not exceeding £20.

Provided that the total fine in any case imposed for any such contraventions shall not exceed £100.

(3) When an offence against paragraph (1) of this Article is committed from a vessel, the master or owner of the vessel may be proceeded against.

(4) (*a*) Without prejudice to the provisions of paragraph (2) of this Article, any person who contravenes sub-paragraphs (*a*) or (*b*) of paragraph (1) of this Article shall be liable in civil proceedings to make good any damage sustained by the Authority, or by a vessel, arising by reason of such contravention.

(*b*) The Authority may remove anything which is in the waters of the Port or adjoining the Port in contravention, or as a result of a contravention, of paragraph (1) of this Article, and any expenses incurred by the Authority in carrying out such removal shall, for the purposes of sub-paragraph (*a*) of this paragraph, be taken to be damage sustained by the Authority arising by reason of such contravention:

Provided that in any proceedings under this paragraph for the recovery of the expense of making good any damage, it shall be a defence to show that the damage occurred by reason of an accident beyond the control of the person against whom the proceedings are brought or that he had taken all reasonable precautions and exercised all due diligence to avoid the damage occurring or the likelihood thereof.

Machinery, vehicles, etc.

12. The Authority may for the carrying out of their functions purchase, contract for, or hire, maintain, operate, sell or otherwise dispose of machinery, plant, vehicles and equipment and, when any of the Authority's machinery, plant, vehicles and equipment is not required for the purposes of the Authority's functions the Authority may let the same upon hire with or without the services of any of their employees on such terms as they think fit.

Power to deal with unserviceable vessels

13.—(1) In addition to the powers conferred on the Harbour Master by Section 57 of the Harbours Clauses Act and on the Authority by the Merchant Shipping Act 1894**(a)** and by Section 27 of the Shoreham Harbour Act 1948**(b)**, the Authority may sell, break up or otherwise dispose of any vessel which is unserviceable and has been laid by or neglected in the Port or on land immediately adjoining the Port.

(a) 1894 c. 60. **(b)** 1948 c. xi.

(2) The Authority may retain out of the proceeds of sale of any such vessel, or any part thereof, any expenses incurred by them in respect to the vessel, or in marking, buoying, lighting or otherwise controlling the vessel or warning shipping of its presence and any expenses incurred by the Harbour Master under Section 57 of the Harbours Clauses Act and shall pay the surplus, if any, to the person entitled thereto.

(3) If the proceeds of sale are insufficient to reimburse the Authority for the said expenses, or there is no sale, the Authority may recover the deficiency, or, where there is no sale, the whole of the expenses, from the owner as a simple contract debt.

(4) Except in the case of emergency, the Authority shall, before exercising their powers under this Article, give fourteen days' notice in writing of their intention to do so to the registered owner of the vessel and by advertisement in each of two successive weeks in a local newspaper circulated in the locality of the Port.

Provided that, if the registered owner or his place of business or abode is not known to the Authority or is outside the United Kingdom, the notice may be given by displaying it at the office of the Authority for two successive weeks.

Incorporation of provisions of section 7 of the Telegraph Act 1878

14.—(1) The provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act 1878**(a)** are hereby incorporated with this order in relation to any work proposed to be done in pursuance of a licence under article 6 (Licensing of Works) or article 9 (Licensing of Moorings) hereof subject to the following modifications:—

(*a*) for reference to the undertakers there shall be substituted references to the person to whom the licence in question was granted;

(*b*) at the end of each of paragraphs (6) and (7) there shall be added the words "provided that the total fine imposed under this paragraph in any particular case shall not exceed £100".

(2) Except as herein provided all expressions used in the said incorporated provisions of the said section 7 shall have the same meaning as in the Telegraph Act 1878.

PART IV

HARBOUR REGULATION

Extension of powers of Harbour Master to give directions

15. Section 52 of the Harbours Clauses Act in its application to the Authority and to the Harbour Master:—

(*a*) shall extend to empower the Harbour Master to give directions prohibiting the mooring or anchoring of vessels in any particular part or parts of the Port; and

(*b*) shall not be construed to require the Harbour Master 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

(a) 1878 c. 76.

Section for all or any of the purposes thereof the Harbour Master shall be entitled to give general directions applicable to all vessels or to particular classes of vessels.

Byelaws as to dangerous goods

16.—(1) The Authority may make Byelaws as to the loading and discharging by vessels within the Port of dangerous goods (which expression in this Article does not include dangerous goods to which Byelaws made by the Authority under the Shoreham Harbour Acts 1926 to 1962 and other Acts incorporated therewith or under the Explosives Act 1875**(a)** or the Petroleum (Consolidation) Act 1928**(b)** for the time being apply) and as to the bringing, handling, transport or storage of such goods within the Port, and generally as to precautions to be observed with respect to such goods while within the Port, and such Byelaws may in particular without prejudice to the generality of the foregoing 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) Byelaws made under paragraph (1) of this Article may contain provisions for the imposing on persons offending against any of the Byelaws penalties not exceeding, on summary conviction, a fine of £100 and, on conviction on indictment, imprisonment for a term of six months either in addition to, or in substitution for, a fine.

Notice before entry of dangerous goods

17.—(1) The owner or master of a vessel:—

(*a*) which it is intended to bring into the Port carrying dangerous goods; or

(*b*) which is within the Port and on which it is intended to place dangerous goods;

shall, not less than forty-eight hours, or in the case of a voyage of less than forty-eight hours as soon as practicable, before that vessel enters the Port or before the dangerous goods are placed on board (as the case may be), give notice to the Harbour Master of the nature and quantity of the dangerous goods in question and, if such notice is not given, the owner or master of the vessel shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £100.

(2) Before any dangerous goods are brought within the limits of the Port from any place within Great Britain, the owner of such goods shall give to the Port Authority at least twenty-four hours beforehand written notice of the correct technical name of the goods, their classification and quantity and a description of their packaging and, if such notice is not given, the owner shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(3) The Harbour Master may:—

(*a*) refuse entry into the Port of any goods which in his opinion would endanger, or be liable to endanger, persons or property; or

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

(*b*) permit the entry of any such goods subject to such terms and conditions (including specification of the part or parts of the Port where such entry is permitted) as he thinks fit.

(4) The Harbour Master shall publish a schedule of such goods:—

(*a*) entry of which is forbidden by him; and

(*b*) entry of which is permitted by him only upon terms and conditions specified in the schedule.

(5) A person who after publication of the schedule referred to in subsection (6) of this section:—

(*a*) brings, or causes or permits to be brought into the Port any goods the entry of which is forbidden; or

(*b*) fails in relation to any goods brought into the Port to comply with any terms or conditions imposed by the Harbour Master under subsection 5 of this section;

shall:—

(i) be guilty of an offence and liable to a fine not exceeding, on summary conviction, £100, and, on conviction on indictment, to a fine; and

(ii) indemnify the Authority against all claims, demands, proceedings, costs, damages and expenses which may be made against, or recovered from, or incurred by, the Authority in consequence of the commission of the offence;

and the Authority may remove the goods in question and may recover from the owner or offender the costs of such removal and of placing or storing the goods elsewhere.

(6) (*a*) In any proceedings for an offence under this Article, it shall, subject to sub-paragraph (*b*) of this paragraph, be a defence for the person charged to prove that he did not know, and could not with reasonable diligence have ascertained, the nature of the goods concerned, or that the offence was committed without his connivance or consent or that the commission of the offence was due to the act or default of another person or to some other cause or circumstance beyond his control.

(*b*) If in any case the defence provided under sub-paragraph (*a*) of this paragraph involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

General directions to vessels

18.—(1) The Authority may, after consultation in each case with the General Council of British Shipping and the Pilotage Authority for the District in the case of any exercise of the powers, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the Port, and without prejudice to the generality of the foregoing, for any of the following purposes:—

(*a*) for designating areas, routes or channels in the Port which vessels are to use, or refrain from using, for movement or mooring;

(*b*) for securing that vessels move only at certain times or during certain periods;

(*c*) requiring the master of a vessel to give to the Harbour Master information relating to the vessel reasonably required by the Harbour Master for the purpose of this paragraph of this Article.

(2) Directions given under paragraph (1) of this Article may apply:—

(*a*) to all vessels or to a class of vessels designated in the direction; and

(*b*) to the whole of the Port, or to any part designated in the direction; and

(*c*) at all times or at times designated in the direction;

and every direction given under this Article shall specify the extent of its application in relation to the matters referred to in paragraphs (*a*), (*b*) and (*c*) of this paragraph of this Article.

(3) The Authority may, after such consultation as aforesaid, revoke or amend directions given under this Article.

Special directions to vessels

19.—(1) A direction under this Article may be given by the Harbour Master to a vessel in a part of the Port designated by the Authority as an area in which the power to give directions under this section shall be exercisable by the Harbour Master.

(2) A direction under this Article may be given for requiring a vessel to comply with a requirement made in or under a general direction given under Article 18 (General directions to vessels) of this Order and, so far as required for the ease, convenience or safety of navigation, for either of the following purposes:—

(*a*) regulating or requiring the movement, mooring or unmooring of a vessel;

(*b*) regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores otherwise than at a dock or pier.

(3) A direction under this Article may be given in any manner considered by the Harbour Master to be appropriate.

Publication of designations and general directions

20.—(1) Notice of the designation of an area of the Port under paragraph (1) of Article 19 (Special directions to vessels) of this Order, or of the revocation of such a designation, and, except in an emergency, notice of a general direction given under Article 18 (General directions to vessels) of this Order, or of the amendment or revocation of any such general direction, shall, so soon as practicable after it is made or given, be published by the Authority once in Lloyd's List and Shipping Gazette newspaper or some other newspaper specialising in shipping news, and, if the notice relates to the making of a designation or the giving or amendment of a general direction, it shall state a place at which copies of the designation or direction may be inspected and bought and the price thereof.

(2) In an emergency, notice of a general direction or of the amendment or revocation of a general direction may be given in any manner considered by the Harbour Master to be appropriate.

Failure to comply with directions

21.—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(2) In any proceedings for an offence under paragraph (1) of this Article it shall be a defence for the person charged to prove that the direction in question was contravened for the purpose of securing the safety of any vessel, or to prevent damage to any vessel or cargo, or to prevent injury to any person, or that compliance with the direction was impracticable.

Enforcement of directions

22.—(1) Without prejudice to any other remedy available to the Authority, if a special direction is not complied with within a reasonable time, the Harbour Master may put persons aboard the vessel to carry out the directions or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board a vessel to attend to a special direction, the Harbour Master may proceed as if the direction had been given and not complied with.

(3) Expenses incurred by the Authority in exercise of the powers of paragraph (1) of this Article shall be recoverable by them as if they were a charge of the Authority in respect of the vessel.

Master's responsibility in relation to directions

23.—The giving of a general direction or a special direction shall not diminish, or in any other way affect, the responsibility of the master of the vessel to which the direction is given in relation to his vessels, persons on board, its cargo or any other person or property.

Obstruction of Harbour Master and others

24.—Any person who wilfully obstructs, disturbs or interferes with the Harbour Master or with any officer or servant of the Authority in the exercise of his powers or the performance of his duties under the Shoreham Harbour Acts and Orders 1926-1978 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

PART V

MISCELLANEOUS

Offences by others

25. Where the commission by any person of an offence under this Order is due to the act or default of some other person that other person shall be guilty of the offence by virtue of this Article whether or not proceedings are taken against any other person.

Defences

26.—(1) In any proceedings for an offence under Articles 5(1)(*b*), 11 or 21, or under Byelaws made under Article 16, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) If in any case the defence provided under paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the person shall not without leave of the court be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Power to contract for Police

27.—(1) The Authority may from time to time make agreements with the Chief Constable and the Sussex Police Authority for the employment by the Authority of any members of the police establishment of that Police Authority for police duty within the Port and in any premises for the time being vested in the Authority or under their control.

(2) Any such agreement may contain such terms and conditions as shall be agreed between the Authority and the Sussex Police Authority and may provide for such payment of consideration as the Sussex Police Authority may determine.

Power to provide dwelling houses and make loans

28. The Authority may, subject to such terms and conditions as they think fit:—

(*a*) From time to time erect or provide on any lands belonging to them, or purchase, take on lease or hire, dwelling houses for persons employed by them and may (without prejudice to their power to impose other terms and conditions) permit the same to be occupied by such persons with or without payment or rent;

(*b*) permit a person formerly in their employment to continue to occupy a dwelling house provided by them after his employment with the Authority has ceased;

(*c*) make loans to persons employed by them to assist such persons to acquire housing accommodation and may guarantee loans made by Building Societies and other lenders for house purchase purposes to such persons;

(*d*) continue a loan made by them to a person formerly in their employment after his employment with the Authority has ceased or the guarantee of a loan given by them in respect of such person.

Increase of Byelaw penalties

29. Sub-section (2) of Section 72 (Additional Byelaws) of the Act of 1926 shall have effect as if for the words "twenty pounds" there are substituted the words "one hundred pounds".

Additional General Byelaws

30. Section 72 (Additional Byelaws) of the Act of 1926 shall be read and have effect as if the following purposes were included therein, namely:—

(*a*) For regulating the navigation of vessels with due care and attention and so as to avoid danger or injury to persons or property.

(*b*) For preventing vessels becoming adrift in the Port.

(*c*) For regulating the speed and the safe driving of vehicles within the Port.

(*d*) For regulating the conduct of all persons (not being members of the Police force or the Fire Service or officers or servants of the Crown or a Local Authority whilst in the exercise of their duties) employed at or resorting to the piers, quays, wharves, roads, locks or property of the Port or to the waters thereof.

Authentication of documents

31. Any notice, licence or other document given or issued by the Authority under any enactment shall, unless the contrary is expressed in the enactment in question, be sufficiently authenticated if signed by the General Manager or the Secretary of the Authority.

Charges for Hufflers

32. The Authority may from time to time fix such charges as may appear to them reasonable for services rendered by Hufflers licensed by the Authority and such charges shall be paid by the owner, agent, master, consignee or other person having charge of any vessel obtaining the services of such Hufflers to the Huffler and such charges shall be due and payable whether such services shall be actually employed or not provided the services shall have been required and shall in consequence of such requisition have been tendered by the Huffler.

Repeals

33. The following enactments are hereby repealed:—

Section 28 (Directions of Harbour Master) of the Shoreham Harbour Act 1948**(a)**;

Section 36 (Powers to let appliances or for hire) of the Shoreham Harbour Act 1949**(b)**;

Section 57 (Provision as to Kingston Wharf) and 58 (For the protection of the Railway Company) of the Shoreham Harbour Act 1926**(c)**.

Costs or Order

34. The Authority shall out of any monies for the time being in their hands pay and discharge all the costs, charges and expenses of the Authority of and incidental to the preparing, applying for, and obtaining of this Order.

William Rodgers,
Secretary of State for Transport.

21st February 1978.

(a) 1948 c. xi.
(b) 1949 c. lix.
(c) 1926 c. xlvii.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the constitution of the Shoreham Port Authority by giving persons representative of bodies engaged in the oil industry and having a substantial interest in the Port a right to be consulted by the Secretary of State in the appointment of one member of the Authority in place of the South Eastern Gas Board.

The Order confers further powers on the Authority for the regulation and management of the port, principally in relation to, the licensing of works, dredging and moorings, the giving of directions to vessels and the making of byelaws in respect of the loading and discharge of dangerous goods, the navigation of vessels, the speed and safe driving of vehicles in the Port and the conduct of persons employed at or resorting to the Port.

The Order also empowers the Authority to contract for police services; to provide staff dwellings and to make loans therefor; and to fix charges for boatmen, being Hufflers, attending upon vessels.

The Order additionally prohibits persons causing pollution in the Port, increases the maximum penalty for contravention of byelaws to £100 and repeals certain local act provisions.

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