STATUTORY INSTRUMENTS

2000 No. 1884

HARBOURS, DOCKS, PIERS AND FERRIES

The Watchet Harbour Revision Order 2000

Made - - - - *14th July 2000*

Coming into force *18th July 2000*

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SCHEDULE: Repeal

Whereas West Somerset District Council has applied for a harbour revision order under section 14 of the Harbours Act 1964**(a)**;

And whereas the Secretary of State for the Environment, Transport and the Regions having, in pursuance of paragraph A2 of Schedule 3 to the said Act**(b)**, determined that the application is made in relation to a project which falls within Annex II to Council Directive 85/337/EEC**(c)** on the assessment of the effects of certain public and private projects on the environment and whose characteristics require that it should be made subject to an environmental assessment, has directed the applicant to supply him with the information referred to in Annex III to the Directive;

And whereas the Secretary of State has in accordance with paragraph 3A of the said Schedule, furnished bodies appearing to him to have environmental responsibilities with the information supplied to him under the said paragraph A2 of that Schedule and has consulted such bodies;

And whereas there were objections made to the applicant which were not withdrawn, and an inquiry was held in accordance with paragraph 4(3) of Schedule 3 to the Harbours Act 1964;

And whereas the Secretary of State has considered the information supplied under paragraph A2 of Schedule 3, the objections made and not withdrawn and the report of the person holding the inquiry, and is satisfied as mentioned in section 14(2)(b) of the said Act;

Now, therefore, the Secretary of State (being the appropriate Minister under subsection (7) of the said section 14**(d)**) in exercise of the powers conferred by that section and now vested in him**(e)**, and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART I

Preliminary

Citation and commencement

1. This Order may be cited as the Watchet Harbour Revision Order 2000, and shall come into force on 18th July 2000.

Interpretation

2.—(1) In this Order:—

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

"authorised works" means the works authorised by this Order, or any part of such works;

"the Council" means the West Somerset District Council;

"the deposited plans" and "the deposited sections" mean respectively the plans and sections (numbered Sheets 1 to 7) prepared in duplicate, signed by the Head of Ports Division of the Department of the Environment, Transport and the Regions and marked "Plans and sections Watchet Harbour Revision Order 2000" one copy of which is deposited at the offices of the Department of the Environment, Transport and the Regions and the other at the principal office of the Council at Council Offices, Williton, Taunton, Somerset, TA4 4QA;

(a) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56) section 18 and Schedule 6, paragraphs 2, 3, 4(1) and 14, and by the Transport and Works Act 1992 (c. 42), Schedule 3, paragraph 1.
(b) Paragraph A2 was inserted by the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations 1996 (S.I. 1996/1946), regulation 2(2). Schedule 3 was amended by the Transport Act 1981, section 18 and Schedule 6, paragraphs 4(2) to (7) and 12 and by the Transport and Works Act 1992, Schedule 3, paragraph 10.
(c) O.J. No. L175, 5.7.85, p. 40, amended by Council Directive 97/11/EC (O.J. No. L73, 14.3.97, p. 5).
(d) For the definition of "the Minister" (mentioned in section 14(7)) *see* section 57(1).
(e) S.I. 1981/238 and S.I. 1997/2971.
(f) 1847 c. 27.

"the Environmental Statement" means the document entitled "West Somerset District Council: Watchet Harbour Revision Order Environmental Statement" dated April 1999 which was supplied to the Secretary of State in pursuance of paragraph A2 of Schedule 3 to the Harbours Act 1964 and made available for inspection in accordance with paragraph 3 of that Schedule;

"the existing enactments" means the Watchet Harbour Act 1860**(a)** (as applied to the Council by the Watchet Harbour Order 1902**(b)**), the said Order of 1902, the Watchet Urban District Council Act 1934**(c)** and the Watchet Harbour Revision Order 1970**(d)**;

"the harbour" means the harbour of Watchet in the county of Somerset and all places within the harbour limits laid down in the Watchet Harbour Act 1860;

"the harbour master" means the harbour master of the Council and includes his authorised deputies and assistants and any person authorised by the Council to act in that capacity;

"the harbour undertaking" means the harbour undertaking transferred to the Council by the Watchet Harbour Order 1902 as extended by that Order, the Watchet Urban District Council Act 1934 and the Watchet Harbour Revision Order 1970;

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

"the limits of deviation" means the limits of deviation shown on the deposited plan;

"marina" means a facility for yachts and other vessels used wholly or mainly for recreational purposes;

"the marina basin" means the area bounded by works Nos. 1A, 1B and 2, the East Quay, the Eastern Pier and the Esplanade to be used as a marina;

"statutory undertaker" means—

(a) any person who is a statutory undertaker for any of the purposes of the Town and Country Planning Act 1990**(e)**;

(b) any other person who has a duty or power under the Land Drainage Act 1991**(f)**;

(c) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949**(g)**; and

(d) any operator of a telecommunications code system.

"tidal work" means so much of any work authorised by this Order as is on, under or over tidal waters;

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

"vessel" means every description of vessel, however propelled or moved, and includes hovercraft, any floating manufactured article, and anything constructed or used to carry persons or goods by water.

(2) This Order is to be read as if the words "or thereabouts" were inserted after each measurement mentioned in article 3 (Power to construct, etc., works) of this Order.

(3) In this Order—

(a) any reference to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order; and

(b) map reference points specified in this Order are Ordnance Survey National Grid reference points.

(a) 23 & 24 Vict. c.cli.
(b) See 2 Edw.7.c. cxcv.
(c) 24 & 25 Geo.5.c. xxxii.
(d) S.I. 1970/814.
(e) 1990 c. 8.
(f) 1991 c. 59.
(g) 1949 c. 74: Section 1 was amended by the Local Government Act 1972 (c. 20), Schedule 30.

PART II

Works

Power to construct, etc., works

3.—(1) Subject to the provisions of this Order, the Council may (within the lines and situations shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections) construct and maintain in the harbour the whole or part of the following works:—

Work No. 1A

Reconstruction, repair and resurfacing of the existing slipway which gives access to the harbour and of the adjacent area forming a boat and trailer park commencing at point 307174 E 143423 N and terminating at point 307124 E 143445 N.

Work No. 1B

An impounding wall of solid construction commencing at point 307124 E 143445 N extending in a north-easterly direction until connecting with the Eastern Pier and terminating at point 307288 E 143514 N and having an overall length of 201 metres and an overall width of 5 metres and including a cill commencing at point 307250 E 143518 N and terminating at point 307254 E 143508 N incorporating a tidal gate structure.

Work No. 2

Concrete encasement of the south-western face of the existing sheet pile wall on the Eastern Pier commencing at point 307289 E 143512 N and terminating at point 307340 E 143463 N and having an overall length of 64 metres and of the north-western face of the East Wharf commencing at that point and terminating at point 307252 E 143362 N and having an overall length of 154 metres, together with remedial works to the surface of the East Wharf.

Work No. 3

Construction of a rock armour breakwater in the harbour from west to east between the south-eastern face of the Western Pier at point 307056 E 143500 N and the north-western face of the impounding wall (Work No. 1B) at point 307131 E 143453 N and north of the houses which front onto Market Street.

Work No. 4

Excavation of a trench and construction of a sediment disposal pipe 115 metres in length to be laid in the trench beneath the harbour bed running due north from its junction with Work No. 1B immediately south of the western limit of the Eastern Pier at point 307235 E 143501 N and terminating to the north and east of the eastern limit of the Western Pier at point 307240 E 143615 N.

Work No. 5

Construction of a concrete slipway 80 metres in length running along and abutting the south-eastern side of the Western Pier commencing at point 307041 E 143492 N and terminating at point 307101 E 143545 N with a gradient of 1:12.

Work No. 6

Deepening by way of dredging or excavation of the bed of the harbour where it forms the marina basin and at the entrance to the harbour formed by Western Pier and the Eastern Pier as shown by cross-hatching on the deposited plan.

(2) The Council may, within the limits of deviation, from time to time alter, enlarge, replace, relay, extend or reconstruct temporarily or permanently the authorised works.

(3) During construction of the works Council shall implement the mitigation measures set out in Section 4 (Impact Assessment and Mitigation Measures) of the Environmental Statement.

Power to make subsidiary works

4. Subject to the provisions of this Order, the Council may from time to time within the limits of deviation erect, construct, lay down, place, remove, replace, work or use and maintain whether temporarily or permanently all such works, conveniences, appliances and apparatus and take such measures as they from time to time think fit for the purposes of, or in connection with or incidental to, the construction, maintenance and use of the authorised works or the accommodation or convenience of vessels thereat, including, without prejudice to the generality of the foregoing, pontoons, stagings, quays, jetties, piers, waterways, bridges, approaches, slipways, landing places, berthing heads, boat lifts, mooring posts, buoys, bollards, navigation marks and lights.

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Power to deviate

5. In constructing the authorised works the Council may deviate laterally from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding three metres upwards and to such extent downwards as may be found necessary or convenient.

Power to dredge

6.—(1) Subject to the provisions of this Order the Council may, for the purposes of constructing and maintaining the authorised works, from time to time deepen, dredge, scour, cleanse and improve the bed of the sea and foreshore of the harbour as adjoin or are near to the works.

(2) The Council may use, appropriate or dispose of any material (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995**(a)**) from time to time dredged by them from the harbour.

(3) No material so dredged shall be deposited below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Fine for obstructing works

7. Any person who intentionally obstructs any person acting under the authority of the Council in setting out the lines of the authorised works, or who interferes with, moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale, and shall in addition be liable to repay to the Council as a debt any expenses incurred by them in making good such damage.

Licensing of works

8.—(1) The Council may upon such terms and conditions as they think fit grant to any person a licence (a "works licence") to construct, alter, renew or extend any works in the harbour on, under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with the public right of navigation or any other public right by such works as constructed, altered, renewed, or extended.

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

(a) be accompanied by plans, sections and particulars 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 a works licence, the Council may require modifications in the plans, sections and particulars so submitted.

(3) The Council may require an applicant for a works licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of dealing with the application.

(4) The Council may require a licensee, being an applicant to whom a licence has been granted or his successor, where works are constructed pursuant to the licence and as a condition of the grant of the licence to pay such reasonable fees in respect of the Council's administrative expenses and overheads in supervising or inspecting where necessary the construction or maintenance of the works.

(5)(a) On receipt of an application for a works licence the Council shall serve on the Environment Agency a copy of the application and all plans, sections and particulars incidental thereto.

(a) 1995 c. 21.

(b) The Council shall consider such observations as the Environment Agency may submit to the Council within six weeks after service on the Environment Agency of the application and particulars in accordance with paragraph (a) above, and the Council shall not grant a works licence before the expiry of that period.

(c) In granting a works licence the Council shall impose on the applicant such terms and conditions as give effect to such reasonable requirements as the Environment Agency may, within the said period, make in any observations to the Council to prevent pollution of any watercourse, to safeguard it against damage or to secure that its efficiency for land drainage purposes is not impaired.

(d) The provisions of sub-paragraph (c) are subject to the Council's duty under article 10(5) of this Order to give effect to any direction given by the Secretary of State under that paragraph.

(6) Where the Council refuse to grant a works licence which has been applied for, they shall give reasons in writing for their refusal.

(7) Where the Council grant a works licence upon terms or conditions or require any modification in the plans and particulars, they shall give reasons in writing for the terms and conditions imposed or the modifications required.

(8) If within three months from the receipt of the application under paragraph (2) the Council do not grant a works licence they shall be deemed to have refused the application.

(9) Articles 11 to 16 of this Order shall apply in relation to the holder of a works licence as respects the works which are authorised by the licence as they do in relation to the Council as respects works belonging to the Council.

(10) In the carrying out of operations in pursuance of a works licence, the holder of the licence shall not—

(a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or

(b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus;

without the consent of the statutory undertaker concerned.

(11) Nothing in this article affects the application in relation to any works of section 109 of the Water Resources Act 1991**(a)** (obstruction of a main river).

Licence to dredge

9.—(1) The Council may upon such terms and conditions as they think fit grant to any person a licence to dredge in any part of the harbour.

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

(3) Article 8(3) to (8), (10) and (11) of this Order shall apply in relation to a dredging licence as it applies in relation to a works licence.

Appeals in respect of works or dredging licence

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

(a) a refusal of the Council to grant a licence; or

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

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

may, within 28 days from the date on which the Council notify the applicant of their decision or the date on which the Council are, under article 8(8) of this Order, deemed to have refused the application, appeal to the Secretary of State.

(a) 1991 c. 57.

(2) An appeal under paragraph (1) shall be made by notice in writing stating the grounds of the appeal.

(3) The appellant shall send to the Council a copy of the notice of his appeal; and the Council may, within 28 days of the receipt, furnish the Secretary of State with their observations on the appeal.

(4) The Secretary of State may confirm, vary or revoke the decision appealed against and may make such consequential amendment as he may specify.

(5) The Secretary of State may direct the Council to give effect to his decision, and the Council shall forthwith comply with any direction given.

Tidal works not to be executed without approval of Secretary of State

11.—(1) A tidal work shall not be constructed, altered, enlarged, replaced, relaid, extended or reconstructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, altered, enlarged, replaced, relaid, extended or reconstructed in contravention of this article or of any condition or restriction imposed under this article—

(a) the Secretary of State may by notice in writing require the Council at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if on the expiration of 30 days from the date when the notice is served upon the Council they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the council.

Provision against danger to navigation

12.—(1) In case of injury to, or destruction or decay of, a tidal work or any part thereof, the Council 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, without reasonable excuse, the Council 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 liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

13.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Council 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.

(3) If, on the expiration of 30 days from the date when a notice under this article is served upon the Council 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 the Secretary of State in so doing shall be recoverable from the Council.

Survey of tidal works

14. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work and any

expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Council.

Permanent lights on tidal work

15.—(1) After the completion of a tidal work the Council 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) Subject to paragraph (3), if the Council 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 the statutory maximum and on conviction on indictment to a fine.

(3) If shall be a defence for the Council to prove that all due diligence was used to secure compliance with any such direction.

Lights on tidal works during construction

16.—(1) The Council shall at or near a tidal work during the whole time of the construction, alteration, enlargement, replacement, relaying or extension 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 Secretary of State shall from time to time direct.

(2) Subject to paragraph (3), if the Council 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 the statutory maximum and on conviction on indictment to a fine.

(3) It shall be a defence for the Council to prove that all due diligence was used to secure compliance with any such direction.

PART III

General Powers

General powers of Council in respect of harbour

17.—(1) The Council may, subject to the provisions of this Order, take such steps from time to time as they may consider necessary for the improvement, maintenance and management of the harbour undertaking and the facilities, including recreation facilities, afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of the foregoing, the Council may—

(a) improve, maintain, regulate, manage, mark and light the harbour;

(b) alter, demolish and reconstruct structures and works in the harbour;

(c) construct, lay down, maintain and operate in the harbour such works for the provision of boating or marina facilities as they may consider requisite; and

(d) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour undertaking.

Powers as to moorings, etc.

18.—(1) The Council may provide, place, lay down, maintain, use and have moorings for vessels on land owned or leased by the Council or in which they hold an appropriate interest or on any other land in the harbour with the consent in writing of the owner and lessee thereof.

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

(3) The Council may compound with any person with respect to the payment of the charge prescribed under paragraph (2) above.

(4) Subject to paragraph (5), the Council may give notice in writing to the person having the control of any vessel using any mooring in the harbour at the date this Order comes into force

requiring him within 28 days to remove the mooring so as to enable the Council to provide, place or lay down moorings in accordance with paragraph (1);

(5) The Council shall offer to make available to the person having the control of the vessel referred to in the notice a mooring provided by them under paragraph (1) as soon as such mooring has been laid down.

(6) If any person fails to comply with a notice given by the Council under paragraph (4) the Council may at any time after the expiration of 28 days from the date of the giving of the notice remove the mooring referred to in that notice.

(7) Subject to paragraphs (8) and (9) the Council may from time to time grant licences to any person to place, lay down, maintain, use and have existing and future moorings, for vessels in the harbour;

(8) Nothing in any licence granted under paragraph (7) shall entitle a person to place, lay down, maintain, use and have any mooring on land not owned or leased by him or by the Council or in which he has no appropriate interest;

(9) Any licence granted under paragraph (7) above shall be valid only for a period of one year commencing with its date;

(10) The Council may charge for a licence granted under paragraph (7) above such reasonable fee as the Council may from time to time prescribe.

(11) Any person who—

(a) intentionally obstructs any person acting under the authority of the Council in setting out moorings; or

(b) intentionally and without lawful authority pulls up or removes any mooring or any part thereof; or

(c) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Council under this article or at a quay, jetty, slipway or other work or to land owned or leased by the Council; or

(d) places, lays down or maintains in the harbour any mooring not provided or licensed by the Council under this article;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(12) If any person contravenes paragraph (11)(d) above the Council may remove the mooring in question and recover from that person the expenses incurred in doing so.

(13) In this article "mooring" includes any pontoon, buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels and "vessel" shall not include houseboat.

Power to remove goods

19.—(1) If any goods are left in any part of the harbour the Council may require the owner of the goods to remove them, and if the goods are not so removed within six hours after such requirement or, in any case where it is not reasonably practicable to contact the owner of the goods, within six hours after leaving a notice on the goods requiring their removal the Council may cause them to be removed to their own or any other public warehouse or store and such removal shall be carried out at the expense and risk of the owner.

(2) In this article "goods" does not include fish or fishing tackle.

Removal of vehicles, etc.

20.—(1) If a vehicle or boat is left without the permission of the Council—

(a) in any place where it is likely to obstruct or interfere with the use of the harbour; or

(b) in any part of the harbour where the parking of vehicles or boats is prohibited by notice erected by the Council,

the Council may, at the risk of the owner, remove the vehicle or boat or cause it to be removed.

(2) In exercising its powers under paragraph (1) the Council shall be under a duty to act reasonably and to take reasonable care in removing the vehicle or boat concerned.

(3) Any notice erected under paragraph (1)(b) shall be conspicuously posted in or close to the place to which it relates.

(4) Where the Council in exercise of the powers of this article remove a vehicle or boat or cause it to be removed they shall as soon as practicable inform the police.

(5) The expense of and incidental to the removal of a vehicle or boat under this article shall be recoverable from any person responsible.

(6) For the purposes of paragraph (5) "person responsible" means—

(a) the owner of a vehicle or boat at the time when it was removed under paragraph (1), unless he shows that he was not concerned in, and did not know of its being put there; or

(b) any person by whom the vehicle or boat was put in that place.

(7) If the Council in exercise of the powers of this article remove a vehicle to a place not readily visible from the place from which it is so removed they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of Regulations made under section 105 of the Road Traffic Act 1988**(a)** or any other regulations having the like effect for the time being in force, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this article and of the place to which the vehicle has been removed.

(8) A notice stating the general effect of paragraph (1) shall be displayed in a prominent position at each place where a road accessible to vehicles enters any part of the harbour.

General directions to vessels

21.—(1) The Council may, after consultation with the Royal Yachting Association except in cases of emergency, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the harbour and the approaches thereto and, without prejudice to the generality of the foregoing, for any of the following purposes:—

(a) for designating areas, routes or channels in the harbour and the approaches thereto 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) for 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 purposes of this paragraph.

(2) Directions given under paragraph (1) may apply—

(a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction; and

(b) to the whole of the harbour and the approaches thereto, or to a part designated, or the designation of which is provided for, in the direction; and

(c) at all times or at times designated, or the designation of which is provided for, in the direction;

and every direction given under this article shall specify the extent of this application in relation to the matters referred to in sub-paragraphs (a), (b) and (c).

(3) The Council may revoke or amend directions given under this article.

Publication of general directions

22.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Council as soon as practicable once in Lloyd's List or some other newspaper specialising in shipping news; and, if the notice relates to the giving or amendment of a direction, the notice shall state a place at which copies thereof may be inspected and bought, and the price thereof.

(2) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Council consider appropriate.

(a) 1988 c. 52.

Special directions to vessels

23.—(1) In addition to the directions which he may give under section 52 of the Act of 1847 the harbour master may give a direction under this article requiring any vessel anywhere within the harbour or the approaches thereto to comply with a requirement made in or under a general direction.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

(3) The harbour master may revoke or amend a special direction.

Master's responsibility to be unaffected

24. 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 vessel, persons on board, its cargo or any other person or property.

Failure to comply with directions

25. The master of a vessel who fails without reasonable excuse 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 level 4 on the standard scale.

Enforcement of directions

26.—(1) Without prejudice to any other remedy available to the Council, if a special direction is not complied with within a reasonable time the harbour master may, where practicable, put persons on board the vessel to carry out the direction 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 comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with; but he shall not do so unless, after reasonable inquiry has been made, the master cannot be found.

(3) Expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Council from the owner of the vessel.

PART IV

Byelaws

Byelaws as to harbour

27.—(1) In addition to the byelaws which may be made by the Council under the existing enactments and subject to the provisions of this Order the Council may make, in relation to the harbour, byelaws for all or any of the following purposes:—

(a) for regulating the use of any works and facilities provided by the Council;

(b) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour;

(c) for regulating the conduct of all persons in the harbour, not being members of a police force or officers or servants of the Crown whilst in the exercise of their duties;

(d) for regulating the placing and maintenance of moorings;

(e) for preventing and removing obstructions or impediments within the harbour;

(f) for regulating the launching of vessels within the harbour;

(g) for regulating the berthing, mooring, anchoring, careening and beaching of vessels in any part of the harbour or harbour premises;

(h) for regulating or preventing the use in the harbour or on board any vessel therein of fires, lights or any other equipment, tools or appliances which the Council consider involves a risk of fire;

(i) for prohibiting the use of or regulating the use, movement, speed and parking of vehicles within the harbour;

(j) for requiring the use of effectual silencers and the control of noise generally on vessels in the harbour;

(k) for regulating vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality of the foregoing, to prescribe rules for regulating the speed and manner of navigation and the lights and signals to be exhibited or made by, or for the benefit of, vessels using, navigating or mooring within the harbour;

(l) for prescribing the lights and signals to be exhibited or made—

(i) by vessels aground within the harbour;

(ii) by devices used for marking obstructions within the harbour;

(iii) at the entrance to any pier or other work for assisting the navigation or mooring within the harbour;

(m) for regulating or prohibiting fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf, breakwater or other installation or structure of any kind within the harbour or from any vessels within the harbour;

(n) for regulating or prohibiting bathing, and for securing the protection of bathers, within the harbour;

(o) for regulating or prohibiting the use by vehicles of the foreshore; and

(p) for regulating or prohibiting the disposal of any waste matter except at places or in a manner prescribed by the Council.

(2) In this article "signals" include sound signals and different byelaws may be made under this article in relation to different classes of vessels and vehicles.

(3) Byelaws made under this article may provide for the imposition on any person offending against any byelaws of a fine on summary conviction not exceeding level 4 on the standard scale and in the case of a continuing offence a fine not exceeding one-tenth of that level for each day on which the offence is continued after conviction for it.

Confirmation of byelaws

28.—(1) The provisions contained in subsections (3) to (8) and (11) of section 236 and section 238 of the Local Government Act 1972**(a)** (which relate to the procedure for making, and evidence of, byelaws) shall apply to all byelaws made after the coming into force of this Order by the Council under the existing enactments or this Order.

(2) In its application to byelaws made under the existing enactments or this Order subsection (7) of the said section 236 shall have effect, subject to paragraph (3) below, as if after the word "confirm" in the second place where that word occurs there were inserted the words "with or without modification".

(3) Where the confirming authority proposes to make a modification which appears to him to be substantial, then—

(a) he shall inform the Council and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification; and

(b) he shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for the Council and other persons who have been informed of the proposed modification to consider and comment on it.

(4) The confirming authority for the purposes of this article and of the said section 236 in its application to byelaws made under the existing enactments or this Order shall be the Secretary of State.

(a) 1972 c. 70.

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PART V

Charges

Charges for services or facilities

29. In addition to their power to demand ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Council may demand, take and recover such reasonable charges for services and facilities provided by them at the harbour as they may from time to time determine.

Payment of charges

30.—(1) The charges which the Council are for the time being authorised to demand, take and recover in respect of vessels and goods or otherwise under any enactment shall be payable before the removal from the harbour of any vessel or goods in respect of which they are payable, and may be demanded, taken and recovered by such persons, at such places, at such times and under such conditions as the Council may from time to time specify in their published list of charges.

(2) Charges payable to the Council shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(3) Where charges payable to the Council may be recovered by them from more than one person, the persons from whom they may be recovered shall be jointly and severally liable.

Recovery of charges

31. In addition to any other remedy given by this Order and by the existing enactments (and, in a case where the master of a vessel in respect of which a charge is payable to the Council refuses or neglects to pay the same or any part thereof, whether or not the Council's collector has gone on board the vessel and demanded the charge pursuant to section 44 of the Act of 1847), the Council may recover any charges payable to them as a debt in any court of competent jurisdiction.

Harbour master may prevent sailing of vessels

32. The harbour master may prevent the removal or sailing from the harbour of any vessel until evidence has been produced to him of the payment of any charges payable in respect of the vessel or of passengers thereon or of the goods imported or exported therein.

Exemptions, rebates, etc., in respect of charges

33.—(1) The Council may confer total or partial exemptions from, allow rebates to or make compositions with any person with respect to charges, and may vary or extinguish any such exemption or composition.

(2) Nothing in section 30 of the Harbours Act 1964 shall require the Council to include in the list of ship, passenger and goods dues kept at the harbour office, as required by subsection (1) of that section, charges reduced by a rebate allowed on, or subject to a compounding arrangement in respect of, a due included in the said list.

Refusal to pay charges for landing place

34. An officer of the Council may prevent a vessel from using a landing place provided by the Council, if the master of the vessel refuses to pay the charges for such use.

Deposit for charges

35. The Council may, if they think fit, require any person who is liable, or may become liable, to pay charges to the Council to deposit with their collector, or to guarantee, such sum as in the opinion of the Council is reasonable having regard to the probable amount of the charges.

PART VI

Miscellaneous and General

Advisory Committee

36.—(1) The Council shall establish a committee to be known as the Watchet Harbour Advisory Committee, which they shall consult (except in a case of special urgency) on all matters substantially affecting the conservation, protection, regulation, management, maintenance and improvement of the harbour and its navigation.

(2) Subject to the provisions of this article, the Advisory Committee shall consist of not less than seven members appointed by the Council, of whom—

(a) one shall be appointed on the nomination of the Council;

(b) one shall be appointed on the nomination of the Watchet Town Council;

(c) one shall be appointed on the nomination of the operator for the time being of the marina;

(d) one shall be appointed on the nomination of the Royal Yachting Association;

(e) one shall be appointed on the nomination of the Watchet Charter Boatmens' Association or other such body representing local fishing interests in the harbour;

(f) one shall be appointed on the nomination of the Watchet Boat Owners' Association or other such body representing local boating interests in the harbour;

(g) one shall be appointed on the nomination of the Watchet Association of Commerce, Environment and Tourism or other such body representing commercial interests in the harbour other than boating and fishing;

(h) up to two may be appointed to represent such persons interested in the harbour, other than those mentioned in the preceding sub-paragraphs of this paragraph, as the Council from time to time think fit.

(3) If it appears to the Council in the case of any of the appointments referred to in paragraph (2) that the body by whom the nomination is to be made has refused or failed to nominate a member after being requested by the Council to do so, or if the body by whom any of the said nominations is to be made has ceased to have an identifiable existence, the appointment in question may be made by the Council after consultation with such persons (if any) appearing to the Council to be representative of the interests represented, or formerly represented, by the nominating body specified in the relevant sub-paragraph of paragraph (2) above as the Council consider appropriate.

(4) Subject to paragraph (5), a member of the Advisory Committee shall remain a member of the Committee for so long as the appointing body concerned shall think fit.

(5) Any member of the Advisory Committee may resign his office at any time on giving notice in writing to the appointing body concerned.

(6) The Advisory Committee shall appoint its own chairman and determine its own quorum and procedure.

(7) Without prejudice to the generality of paragraph (1) the Council shall consult the Advisory Committee on proposals to—

(a) impose or vary any charges in relation to recreational use of the harbour and its use by small vessels;

(b) make byelaws and general directions;

(c) construct or license any significant works in the harbour;

(d) carry out or license dredging.

(8) The Council shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by the Advisory Committee, whether or not is has been consulted by the Council on the matter, recommendation or representation so referred or made.

(9) The Council shall provide reasonable accommodation for the meetings of the Advisory Committee and shall defray such reasonable expenses as may be incurred by the Committee in connection with the provision of secretarial services for the Committee.

Delegation of powers

37.—(1) The Council may delegate the powers exercisable by them under articles 3 to 6, 17 to 20, 29, 34 and 35 of this Order in relation to the harbour undertaking or any part thereof in accordance with the provisions of paragraphs (2) to (5) below.

(2) The powers contained within article 17 of this Order which may be delegated pursuant to paragraph (1) shall not include the power to light the harbour.

(3) The powers contained in articles 29, 34 and 35 which may be delegated pursuant to paragraph (1)—

(a) shall not apply in relation to ship, passenger and goods duties demanded under section 26 of the Harbours Act 1964;

(b) shall only be exercisable in relation to charges levied for services and facilities the provision of which has been delegated pursuant to paragraph (1).

(4) Before delegating any powers under this article the Council shall consult with and take into account the views of those bodies which they consider to be representative of users of the marina basin or proposed users of the marina basin.

(5) Any delegation of powers by the Council pursuant to paragraph (1) may be on such terms and subject to such conditions (including terms and conditions as to payment) as the Council may consider appropriate.

Disapplication of Reservoirs Act 1975 to the marina basin

38.—(1) The marina basin shall not be taken to be a reservoir for the purpose of the Reservoirs Act 1975**(a)**.

Application of the Watchet Harbour Revision Order 1970

39. For the avoidance of doubt it is hereby declared that—

(a) the purposes for which the Council may exercise the powers conferred by article 5 (Power to appropriate lands and works for particular trades etc.) of the Watchet Harbour Revision Order 1970 include the exclusive, partial or preferential use and accommodation of a marina.

(b) the purposes for which the Council may exercise the powers conferred by article 6 (Power to lease etc.) of that Order include the construction and operation by the Council or the tenant of a marina.

(c) the powers conferred by the said article 6 shall not diminish the Council's duties and liabilities respecting the maintenance of that part of the harbour which constitutes the marina basin including the walls thereof.

Application of section 79 of the Watchet Harbour Act 1860

40.—(1) The rights of the Lord of the Manor under section 79 of the Watchet Harbour Act 1860 to pass and repass upon and over the bed of the harbour and the land vested in the Council below the level of high water and any other seignorial or manorial rights of the Lord of Manor over the harbour, subject as mentioned below, shall only be exercisable so far as the works which may be executed by the Council under the powers of this Order may permit and so as not to interfere with the operation of the harbour.

(2) The rights referred to in paragraph (1) above shall be exercisable over the slipway provided for by Work No. 5 and over no other slipway.

(3) In this article "Lord of the Manor" means the Lord of the Manor of Watchet, the devisees in trust of and all other persons claiming under the will of George late Earl of Egremont and their employees, servants or agents as mentioned in section 79 of the Watchet Harbour Act 1860.

Crown rights

41.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Order shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

(a) 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; or

(b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(a) 1975 c. 73.

(2) A consent under paragraph (1) above may be given unconditionally, or subject to such conditions and upon such terms as may be considered necessary or appropriate.

Trinity House

42. Nothing in the provisions of this Order shall prejudice or derogate from any of the rights, duties or privileges of Trinity House.

Repeal

43. The local Act specified in columns (1) and (2) of the Schedule to this Order is hereby repealed to the extent mentioned in column (3) of that Schedule.

Signed by authority of the Secretary of State for
the Environment, Transport and the Regions

Keith Hill
Parliamentary Under Secretary of State,
Department of the Environment,
Transport and the Regions

14th July 2000

SCHEDULE

Article 43

Repeal

Chapter *(1)*	*Title or Short title* *(2)*	*Extent of repeal* *(3)*
1860 c.cli	Watchet Harbour Act 1860	Section 80

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises West Somerset District Council in their capacity as the harbour authority for the harbour of Watchet to construct works at the harbour including an impounding wall for the construction and operation of a marina, the encasement of part of the harbour walls within the proposed marina, the construction of a sediment disposal pipe, the construction of a slipway alongside the Western Pier and dredging of various parts of the harbour.

The deposited plans and sections and the Environmental Statement made available for inspection in accordance with paragraph 3 of Schedule 3 to the Harbours Act 1964 can be inspected during normal working hours at the offices of the Department of the Environment, Transport and the Regions, Great Minster House, 76 Marsham Street, London, SW1P 3EB and at the offices of the Council, Council Offices, Williton, Taunton, Somerset, TA4 4QA.

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STATUTORY INSTRUMENTS

2000 No. 1884

HARBOURS, DOCKS, PIERS AND FERRIES

The Watchet Harbour Revision Order 2000

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