
STATUTORY INSTRUMENTS

1985 No. 1678

HARBOURS, DOCKS, PIERS AND FERRIES

Falmouth Harbour Revision Order 1985

Made - - - - - 25th October 1985

Coming into Operation 11th November 1985

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 Falmouth Harbour Commissioners, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Falmouth Harbour Revision Order 1985 and shall come into operation on 11th November 1985.

(2) The local enactments and this Order may be cited together as the Falmouth Harbour Act and Orders 1870 to 1985.

Interpretation

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

“the added limits” means the Custom House Quay and the areas of sea adjacent thereto shown hatched blue on the signed plan so far as those areas are not within the limits within which the Commissioners have authority on the date of the making of this Order;

“the Commissioners” means the Falmouth Harbour Commissioners;

“Custom House Quay” means the area comprising all those several quays (including, but not so as to limit, North Quay and King Charles Quay), piers, slips or landing places generally known as Custom House Quay in the parish of Falmouth in the district of Carrick in the county of Cornwall with the several roads and approaches thereto together with the harbour office of the Commissioners which area is for the purpose of identification delineated on the signed plan and thereon edged red;

“the local enactments” means the Falmouth Harbour Act and Orders 1870 to 1976;

“the signed plan” means the plan marked “Plan referred to in the Falmouth Harbour Revision Order 1985” showing the Custom House Quay signed in duplicate by an Assistant Secretary of the Department of Transport one copy of which has been deposited and is available for inspection at the principal office of the Commissioners and the other at the office of the Marine and Ports Directorate of the Department of Transport.

(a) 1964 c.40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraph 4(1) to (8).

(b) See S.I. 1981/238.

Extension of limits

3. The limits, within which the Commissioners have authority, are hereby extended to include the added limits, and the local enactments and the byelaws of the Commissioners shall extend and apply accordingly.

Amendment of definition of the harbour

4. Section 4 (Interpretation) of the Falmouth Harbour Act 1958 (a) shall have effect as if in the definition of "the harbour" there were added the words "and includes the added limits as defined in the Falmouth Harbour Revision Order 1985".

Charges for services and facilities

5. The Commissioners may demand, take and recover such reasonable charges for services and facilities provided by them as they may from time to time determine.

Parking places

6. The Commissioners may provide facilities within the harbour for the parking of vehicles and for that purpose may erect barricades or fencing with related offices, waiting rooms and other conveniences, and may make reasonable charges for the use of such facilities.

Byelaws

7.—(1) In addition to the byelaws which may be made by the Commissioners under section 83 of the Harbours, Docks and Piers Clauses Act 1847 the Commissioners may from time to time make such byelaws as they think fit for all or any of the following purposes—

- (a) for regulating the exercise of the powers vested in the harbour master;
- (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 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 Commissioners consider involve a risk of fire;
- (h) for prohibiting the use of or regulating the movement, speed and parking of vehicles within the harbour;
- (i) for requiring the use of effectual silencers and for the control of noise generally on vessels in the harbour;
- (j) for regulating vessels in the harbour and their entry into and departure from the harbour and, without prejudice to the generality of the foregoing, for prescribing 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;

(a) 1958 c.xlvi.

(k) 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 dock or at any wharf, pier or other work for assisting the navigation of vessels within the harbour;

(l) for regulating—

- (i) fishing for marine creatures of any type and by whatever means from any pier, jetty, wharf, or other installation or structure of any kind within the harbour;
- (ii) or preventing bathing, and for securing the protection of bathers, within the harbour;
- (iii) or preventing the use by vehicles of the foreshore;

(m) for regulating the use and preventing the misuse of services and facilities provided by the Commissioners in the harbour;

(n) for regulating the conduct of boatmen and ferrymen and others plying in the harbour;

(o) subject to paragraph (4) of this article for prohibiting vessels or any class of vessels not being vessels authorised so to do by or under any enactment from plying for hire in or from the harbour except under a licence granted by the Commissioners and in accordance with any terms and conditions upon which the licence is granted.

(2) In this article “signals” include sound signals.

(3) Different byelaws may be made under this article in relation to different classes of vessels.

(4) Subject to paragraph (5) of this article the Commissioners may in respect of licences such as are mentioned in paragraph (1)(o) of this article demand and take such reasonable fees as they may from time to time determine.

(5) Any person aggrieved by the refusal, suspension or revocation of a licence such as is mentioned in paragraph (1)(o) of this article or who alleges that any term or condition attached to such a licence or any fee demanded therefor under paragraph (4) of this article is unreasonable may make a complaint in respect thereof to a magistrates’ court who may make such order on the complaint as they think just and any person aggrieved by the order may appeal against it to the Crown Court.

(6) A person who offends against any byelaws in relation to the harbour made by the Commissioners shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

Application of Local Government Act 1972 to byelaws

8.—(1) All byelaws made by the Commissioners, whether under this Order or under any other enactment, shall be subject to the provisions contained in section 236 (3) to (8) and (11) and section 238 of the Local Government Act 1972 (a) and those sections shall for the purposes of this article be construed as if the Commissioners were a local authority within the meaning of those sections and the clerk were the proper officer of that local authority.

(a) 1972 c.70.

(2) The said section 236 in its application to byelaws made by the Commissioners, whether under this Order or under any other enactment shall have effect as if in subsection (7) of that section after the word "confirm", where it firstly occurs in that subsection, the words "with or without modification" were inserted:

Provided that where the Secretary of State proposes to make a modification which appears to him to be substantial he shall inform the Commissioners and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification, and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Commissioners and by other persons who have been informed of it.

Power to borrow

9. Section 7 (Power to borrow) of the Falmouth Harbour Act 1958 shall have effect as if—

(1) for subsection (1) there were substituted the following subsection:—

"(1) For the general purposes of the undertaking the Commissioners may from time to time borrow and reborrow at interest upon the security of all or any of the revenues and property of the Commissioners and by any method they see fit such sums of money as they think necessary:

Provided that the total amount borrowed and outstanding at any time shall not exceed five million pounds.";

(2) in subsection (2), the words "not exceeding forty years from the date of borrowing" were omitted; and

(3) after subsection (2) there were added the following subsection:—

"(3) In calculating for the purposes of subsection (1) of this section the aggregate amount of money borrowed by the Commissioners and outstanding at any one time there shall be excluded any money borrowed for use within twelve months of the date of borrowing for the repayment of any sum for the time being outstanding by way of principal on any amount previously borrowed."

Reserve fund

10. Section 13 (Reserve fund) of the Falmouth Harbour Act 1958 shall have effect as if, for the sum of £10,000 specified therein, there were substituted the sum of £1,000,000.

Crown rights

11.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority, or exemption of the Crown including (without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall) the Duchy of Cornwall and, in particular and without prejudice to the generality of the foregoing, nothing in this Order authorises a harbour authority 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 the Duchy of Cornwall or enjoyed by the possessor for the time being of the Duchy of Cornwall, without the consent in writing of two or more of such of the regular officers of the said Duchy or of such other persons as may be authorised under section 39 of the Duchy of Cornwall Management Act 1863 or, as the case may be, the consent of such Duke testified in writing under the seal of the said Duchy; or
- (c) 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.

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

Repeal

12. Section 21 (Byelaws as to vessels plying for hire etc.) and section 22 (Application of Local Government Act 1933 to byelaws) of the Falmouth Harbour Act 1958 are hereby repealed.

J. W. S. Dempster,
An Under Secretary in the
Department of Transport.

Signed by authority of the
Secretary of State.
25th October 1985.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order extends the limits of Falmouth Harbour within which the Falmouth Harbour Commissioners have authority to include the Custom House Quay and other premises at Falmouth and areas of sea adjacent thereto. It also empowers the Commissioners—

- (a) to make reasonable charges for services and facilities provided by them;
- (b) to provide facilities for the parking of vehicles; and
- (c) to make byelaws.

The Order amends the borrowing powers of the Commissioners contained in section 7 of the Falmouth Harbour Act 1958 and in particular it empowers the Commissioners to borrow sums not exceeding £5,000,000; it increases from £10,000 to £1,000,000 the authorised maximum amount of the reserve fund which may be maintained by the Commissioners and provides for the repeal of sections 21 and 22 of the Falmouth Harbour Act 1958 which are superseded by corresponding provisions in the Order.

The applicants for this Order are the Falmouth Harbour Commissioners whose offices are situate at the Harbour Office, Falmouth.