

Statutory Instrument 1988 No. 2304

The Newport (Isle of Wight) Harbour Revision Order 1988

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STATUTORY INSTRUMENTS

1988 No. 2304

HARBOURS, DOCKS, PIERS AND FERRIES

The Newport (Isle of Wight) Harbour Revision Order 1988

<i>Made</i>	<i>27th June 1988</i>
<i>Laid before Parliament</i>	<i>14th October 1988</i>
<i>Coming into force</i>	<i>12th December 1988</i>

Whereas objections to this Order have been made and not withdrawn and the Secretary of State for Transport is required, in accordance with the procedure prescribed in paragraph 4A of Schedule 3 to the Harbours Act 1964^[1], to give notice of the making of this Order and its effect to each person opposing the Order;

And whereas this Order shall come into force 28 days after the giving of such notice unless any such person gives notice to the Secretary of State that he maintains his opposition to the Order, and his opposition is not withdrawn before that date, in which case it shall come into force at such time as prescribed in the Statutory Orders (Special Procedure) Act 1945^[2];

Now therefore, the Secretary of State in exercise of the powers conferred by section 14 of the Harbours Act 1964 and now vested in him^[3] and of all other powers enabling him in that behalf, and on the application of the Medina Borough Council, hereby makes the following order:

Citation

1.—(1) This Order may be cited as the Newport (Isle of Wight) Harbour Revision Order 1988.

(2) The River Medina Navigation Act 1852^[4], the River Medina Navigation Order 1898^[5], the Newport (Isle of Wight) Harbour Revision Order 1968^[6] and this Order may be cited together as the Newport (Isle of Wight) Harbour Act and Orders 1852 to 1988.

Interpretation

2. In this Order, except where the context otherwise requires:—
- "the Act of 1847" means the Harbours, Docks and Piers Clauses Act 1847^[7];
 - "the Act of 1894" means the Merchant Shipping Act 1894^[8];
 - "the borough" means the borough of Medina;
 - "the Council" means the Medina Borough Council;
 - "the harbour" means the inland tidal waters and creeks forming part of the River Medina in the borough shown coloured grey on the signed map being the harbour as it existed immediately before the making of this Order but excluding the Western Creek beyond the confluence of the River Medina with the Lukely Brook at the weir south of the bridge carrying Medina Way over the river Medina, and including the harbour estate;
 - "the harbour estate" means the piers, wharves, quays, berths, roads, bridges, sheds and other works and conveniences and the land,

buildings and property of every description and of whatever nature, which are for the time being vested in, occupied or administered by the Council for the purposes of the Newport (Isle of Wight) Harbour Act and Orders 1852 to 1988;

"houseboat" means any vessel or structure lying in the water or on the foreshore of, or the banks abutting on, the harbour all or part of which is used or capable of being used as a place of habitation (whether temporarily, intermittently or permanently), as a store or as a place for accommodating or receiving persons for the purposes of shelter, recreation, entertainment or refreshment, as club premises or as offices and includes the remains or wreckage of a vessel or structure formerly so used or capable of being so used, but does not include any ship registered under the Act of 1894 or any vessel bona fide used for navigation;

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

"the signed map" means the map marked "Newport (Isle of Wight) Harbour Revision Order 1988" showing the harbour, 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 Council and the other at the office of the Marine Directorate of the Department of Transport;

"tidal work" means so much of any work belonging to the Council as is on, under or over tidal waters or tidal land below the level of high water;

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

"vessel" includes any vessel, ship, lighter, keel, barge, boat, raft, pontoon, hovercraft (as defined in the Hovercraft Act 1968^[9] and craft of any kind howsoever navigated, propelled or moved and any seaplane on the surface of the water and in article 11 (Powers with respect to disposal of wrecks) and article 12 (Protection of Crown interests in wrecks) of this Order any aircraft.

Power to construct, maintain and improve works

3.—(1) Subject to the provisions of this Order the Council may take such steps from time to time as they may consider necessary for the improvement, regulation, maintenance, management, marking or lighting of the harbour and the facilities afforded therein or in connection therewith.

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

(a) construct, demolish, reconstruct, maintain, alter, improve, enlarge or extend embankments, walls, footways, approaches, steps, landing places, pontoons, piers, quays, jetties, slips, wharves, groynes, cills, locks, sea defences, buoys, navigation marks, cranes, lights, beacons, roads, parking places for vehicles, sewers, drains, watercourses, gas and water pipes, apparatus for electric light and power, warehouses, offices, sheds, marina facilities and other works and facilities which may be found necessary to secure the purposes of this Order including the accommodation of vessels, vehicles or other traffic or for the protection of the harbour;

(b) improve, regulate, maintain, manage, mark and light the harbour and, subject to the provisions of this Order, provide facilities therein;

(c) dredge any portion of the harbour to any extent necessary for the accommodation of vessels and traffic;

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

(3) No materials taken up or collected in exercise of the powers of this article shall be deposited below the level of high water except in such position as the Secretary of State may approve, and subject to such conditions or restrictions as he may impose.

(4)

(a) Before executing any works under this article affecting any apparatus the Council shall submit to the authority sufficient plans of the proposed works for their reasonable approval and shall not commence the works until such plans have been approved in writing by the Authority or, if not so approved, until they have been settled by arbitration: Provided that if within 28 days after such plans have been submitted to the Authority, they shall not have intimated their disapproval thereof and the grounds of the disapproval they shall be deemed to have approved them.

(b) The Council shall execute such works in accordance with such plans as may be submitted to and approved by the Authority or, if such approval be refused, as may be settled by arbitration and all such works shall be executed to the reasonable satisfaction of the Authority and the Council shall at all times afford to a representative of the Authority access for the purpose of inspecting such works.

(c) The Council shall give reasonable notice to the Authority of the time at which such works are intended to be executed and shall comply with such reasonable conditions as the Authority may require.

(d) Any difference which may arise between the Council and the Authority under this paragraph shall be determined by an arbitrator to be agreed upon between the parties or failing agreement, appointed on the application of either party, after notice in writing to the other of them, by the President of the Institution of Civil Engineers.

(e) In this paragraph—"apparatus" means works, mains, pipes and other apparatus belonging to or maintained by the Authority for the purposes of any of their functions including apparatus maintained by the Council on behalf of the Authority under Section 15 of the Water Act 1973^[10]; "the Authority" means the Southern Water Authority; and "plans" includes sections and particulars.

Permanent lights on tidal works

4.—(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 preventing danger to navigation as Trinity House shall from time to time direct.

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

Provision against danger to navigation

5.—(1) In the 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 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 guilty of an offence and 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

6.—(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 vested in the Council and 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 a 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 him in so doing shall be recoverable from the Council.

Survey of tidal works

7. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Council.

As to houseboats

8.—(1) As from the first day of the third month after the expiry of the month in which this Order comes into force it shall not be lawful:—
(a) without the written consent of the Council; or
(b) where that consent has been given in contravention of any terms or conditions attached to it;
to moor, place, keep or maintain in the harbour any houseboat whether or

not the same shall have been so moored or placed before the commencement of this Order.

(2) The Council shall not refuse consent under paragraph (1) of this article except on the ground—

- (a) that their consent has already been given in respect of a sufficient number of houseboats;
- (b) that it is likely that if consent is given an obstruction or other danger or interference will be caused to users of houseboats or other vessels in or approaching the harbour;
- (c) that there will not be a supply of water sufficient for the domestic purposes of the occupiers of the houseboat;
- (d) that facilities for the disposal of waste and sewage effluent from the houseboat cannot be made available at reasonable cost;
- (e) that adequate means of access and egress to and from the houseboat cannot be made available;

and the Council shall on the refusal of any consent under this article specify in writing the grounds of such refusal.

(3)

(a) If any houseboat shall be moored, placed, kept or maintained contrary to the provisions of paragraph (1) of this article the Council may by notice in writing to be given in the manner hereinafter provided require the person having the control of the houseboat to remove it out of the harbour within such period as they may specify but which shall not be less than 60 days.

(b) Any such notice shall be served by leaving it with, or sending it in prepaid letter addressed to, the person having the control of such houseboat at his usual or last known residence or (if it is not practicable after reasonable inquiry to ascertain the name and address of such person) by posting the same in a conspicuous position on such houseboat, or on the land or foreshore near to such houseboat.

(4)

(a) If any person fails without reasonable excuse to comply with any notice given by the Council under the provisions of paragraph (3) of this article or the terms or conditions of any consent he shall be liable on summary conviction to a fine not exceeding £400 and in the case of a failure to comply with any such notice the Council may following the conviction of the person named in the notice either remove the houseboat referred to in the notice out of the harbour or demolish it and remove out of the harbour any rubbish or other material resulting from the demolition.

(b) Subject as is provided in paragraph (6) of this article the costs and expenses reasonably incurred by the Council in or in connection with any such removal or demolition may be recovered by the Council as a simple contract debt in any court or competent jurisdiction from the person having the control of such houseboat.

(5) For the purposes of paragraphs (3) and (4) of this article the owner of any houseboat shall until the contrary be proved be deemed to be the person having the control thereof.

- (6)
- (a) Where any houseboat shall have been removed or demolished by the Council as aforesaid the Council may, and shall, if so requested by the owner, sell or dispose of the same or the materials thereof and subject as hereinafter provided retain the proceeds of such sale or disposal.
- (b) For the purpose of ascertaining the amount recoverable by the Council under sub-paragraph (b) of paragraph (4) of this article in respect of the costs and expenses incurred by them or in connection with the removal or demolition of any such houseboat credit shall be given for the net amount (if any) of the proceeds of the sale received by the Council (after deduction of any costs and expenses incurred by the Council in effecting the same) or such houseboat or the materials thereof. If such net amount shall exceed the amount of the costs and expenses incurred by the Council in or in connection with such removal or demolition as aforesaid they shall pay the amount of such excess to the owner of such houseboat which shall have been removed or demolished.

(7) Nothing in this article shall be deemed to confer on the Council any right, title or interest in or to any land (not for the time being belonging to the Council) forming part of the foreshore of the harbour.

Appeals under last preceding article

9.—(1) Any person aggrieved by the terms and conditions attached to any consent, any refusal of consent or any requirement of the Council under article 8 (As to houseboats) of this Order may appeal to the Secretary of State.

(2) The time within which any such appeal may be brought shall be 42 days from the date on which notice of the refusal or requirement was given to the person desiring to appeal.

(3) When application is made to the Council for consent to moor, place, keep or maintain any houseboat in the harbour then unless within two months from the date on which the Council receive such application, or within such extended period as may at any time be agreed upon in writing between the applicant and the Council, the Council give written notice to the applicant of their decision on the application the provisions of this article shall apply in relation to the application as if the consent to which it relates had been refused by the Council and as if notification of their decision had been received by the applicant at the end of the said period of two months or at the end of the said extended period, as the case may be.

(4) On the hearing of an appeal the Secretary of State may dismiss or allow the appeal or may vary the terms, conditions or requirements appealed against by substituting therefore any terms, conditions or requirements which the Council could have prescribed or imposed under the said article 8.

(5) In any case in which such an appeal lies, the document notifying the refusal or requirement in the matter shall state the right of appeal to the Secretary of State and the time within which such an appeal may be

brought.

(6) Where any refusal or requirement against which a right of appeal is conferred by this article becomes the subject of an appeal no proceedings shall be brought or taken by the Council under paragraph (4) of the said article 8 until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where the Secretary of State allows an appeal under this article effect shall be given to the order of the Secretary of State and in particular any necessary consent shall be granted.

(8) The Secretary of State may cause to be held such inquiries as he may consider necessary in regard to the performance of his functions under this article and section 47 of the Harbours Act 1964 shall apply to any such inquiry as if it were an inquiry held under a provision of that Act in England.

Public notice of articles 8 and 9

10.—(1) The Council shall forthwith after the coming into force of this Order cause public notice to be given of the effect of articles 8 (As to houseboats) and 9 (Appeals under last preceding article) of this Order by advertisement in one or more local newspapers published or circulating in the borough and otherwise in such manner as the Council think fit.

(2) In any proceedings it shall be presumed until the contrary is proved that the provisions of the foregoing paragraph have been complied with.

Powers with respect to disposal of wrecks

11.—(1) In relation to any vessel sunk, stranded or abandoned (whether before or after the commencement of this Order) in such manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto:—

(a) subject to sub-paragraph (b) of this paragraph, and to any enactment for the time being in force limiting his liability the Council may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under section 530 of the Act of 1894 any expenses incurred by them under that section which are not reimbursed out of the proceeds of any sale effected under that section;

(b) except in a case which is in the opinion of the Council a case of emergency, sub-paragraph (a) of this paragraph shall not apply in relation to any vessel, unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying the Council have given to the owner of the vessel not less than 48 hours' notice of their intention to do so; and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself and no direction is served in respect of the vessel under sub-paragraph (b) of paragraph (2) of article 12 (Protection of Crown interests in wrecks) of this Order, he shall be at liberty to do so, and the Council shall not exercise the powers aforesaid in relation to that vessel until the expiration of 7 days

from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Council.

(2) In this article the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof.

Protection of Crown interests in wrecks

12. Without prejudice to section 741 of the Act of 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty, as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906^[11]) the powers conferred on the Council by sections 530 and 532 of the Act of 1894 shall not be exercisable—

(a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;

(b) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in sub-paragraph (b) of paragraph (2) of this article in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—

(i) had been required to be placed at the disposal of Her Majesty or of a government department; and

(ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The Council shall give notice in writing to the Secretary of State for Defence and to the Secretary of State for Transport of any decision of the Council to exercise in relation to any vessel referred to in sub-paragraph (b) of paragraph (1) of this article any of the powers under sections 530 and 532 of the Act of 1894 other than the power of lighting and buoying and, except in a case which is in the opinion of the Council a case of emergency, shall not proceed with the exercise thereof—

(a) except with the consent of the Secretary of State for Defence and the Secretary of State for Transport before the expiration of a period of 14 days from the giving of the notice; or

(b) if, before the expiration of the said period, there is served on the Council a direction by the Secretary of State for Defence or the Secretary of State for Transport that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where, in any such case as aforesaid, the Council proceed to exercise those powers without the consent and before the expiration of the period mentioned in sub-paragraph (a) of this paragraph or after a direction has been served on them as aforesaid, they shall not in the exercise of those

powers use any explosives and, if before the expiration of the period aforesaid such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by sub-paragraph (a) of paragraph (1) of article 11 (Powers with respect to disposal of wrecks) of this Order:

Provided that—i

(i) the Council shall not be required to give notice under this paragraph in respect of any vessel in respect of which they have received a consent under sub-paragraph (b) of paragraph (1) of this article, but any direction such as is referred to in sub-paragraph (b) of this paragraph accompanying that consent shall be deemed for the purposes of this paragraph and of sub-paragraph (b) of paragraph (1) of the said article 11 to have been duly served under sub-paragraph (b) of this paragraph;

(ii) the prohibition on the use of explosives imposed by this paragraph shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Secretary of State for Transport for the purposes of this proviso.

(3) Without prejudice to the powers of sale conferred on the Council by the said section 530, the Council shall hold and dispose of any wreck within the meaning of Part IX of the Act of 1894 raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section, in accordance with such directions (if any) as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property the Council shall discharge any sums payable in respect of that property by way of duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Council under that section.

(4) Any limitation on the powers of the Council in relation to any vessel arising by virtue of paragraph (1) or paragraph (2) of this article shall not operate to authorise the exercise in relation to that vessel of the powers conferred on Trinity House by section 531 of the Act of 1894.

Power to deal with unseaworthy vessels

13.—(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847 and on the Council by the Act of 1894 the Council may sell, break up or otherwise dispose of any vessel which is unseaworthy and has been laid by or neglected in the harbour or on land immediately adjoining the harbour.

(2) The Council may retain out of the proceeds of sale of any such vessel, or any part thereof, any expenses incurred by them in respect of 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 Act of 1847 and shall pay the surplus, if any, to the person entitled thereto.

(3) If the proceeds of sale are insufficient to reimburse the Council for the said expenses, or there is no sale, the Council 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 Council shall, before exercising their powers under this article, give 14 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 circulating in the borough;

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

Charges for services not otherwise provided for

14. Subject to the provisions of this Order the Council may demand and recover such reasonable charges or other consideration as they may determine in respect of any services rendered by them in connection with the harbour.

Additional byelaw making powers

15.—(1) In addition to the byelaws which may be made by the Council under section 83 of the Act of 1847 the Council may from time to time make such byelaws as to them seem meet for all or any of the following purposes:—

- (a) for the regulation of the mooring, careening, beaching or anchoring and keeping of vessels and houseboats in the harbour;
- (b) for the regulation of the placing, laying down, maintaining, using and having existing and future moorings in the harbour and for the prescription of patterns of moorings in the harbour or on the banks belonging to the Council adjoining the harbour;
- (c) for regulating the conduct of persons using the harbour or its banks or shores whether on business, recreation, training or any other purpose;
- (d) for the prevention or regulation of the disposal of:—
 - (i) rubbish (including ballast stones, earth, clay, or other refuse and any other abandoned article or material whether liquid or solid but not including any substance the discharge or escape of which into the harbour is subject to the provisions of the Prevention of Oil Pollution Act 1971^[12], in the harbour whether or not from any vessel or houseboat;
 - (ii) sewage from any vessel or houseboat in the harbour;
- (e) for the regulation and control in the harbour of the navigation and speed of vessels and the prevention of obstruction or danger to vessels using the harbour;
- (f) the restriction or prohibition of water skiing, aqua planing or similar activities in the harbour;
- (g) the imposition of limits on the size of vessels entering the harbour;
- (h) for regulating the launching of vessels within the harbour and the use of pontoons, slipways and landing places;
- (i) for the prevention and removal of obstructions in the harbour;
- (j) for the prevention of interference with the operation or use of vessels, plant and apparatus belonging to or used by the Council as the harbour authority;

- (k) for preventing the taking of vessels by unauthorised persons;
- (l) for regulating the movement, speed and parking of vehicles within the harbour;
- (m) for securing the safety of vessels and persons using, and of property within, the harbour.

(2)

(a) In the application of section 236 of the Local Government Act 1972^[13] to byelaws relating to the harbour made by the Council under this Order or any other enactment:—

(i) the Secretary of State for Transport shall be the confirming authority.

(ii) the said section 236 shall have effect as if in subsection (7) thereof after the word "confirm" where it firstly occurs in the sub-section the words "with or without modification" were inserted.

(b) If the Secretary of State, on considering byelaws relating to the harbour made by the Council and submitted under the said section 236 as having effect in accordance with paragraph (a) above proposes to make a modification which appears to him to be substantial, he shall inform the Council 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 Council and by other persons who have been informed of it.

(3) Byelaws made by the Council to which the foregoing provisions of this article apply may contain provisions imposing upon a person offending against a byelaw a fine not exceeding £100 and a daily fine not exceeding £10.

(4) If and so far as a byelaw made under sub-paragraph (d)(ii) of paragraph (1) of this article is inconsistent with a byelaw made by the Southern Water Authority under section 33 of the Control of Pollution Act 1974^[14] the latter shall prevail.

As to harbour master's powers

16.—(1) The harbour master may remove or have removed any vessel which is sunk, stranded or abandoned within the harbour and the expense of removing any such vessel shall be repaid by the owner of the same, and the harbour master may detain such vessel for securing the expenses, and on non-payment of such expenses, on demand, may sell such vessel, and out of the proceeds of such sale pay such expenses, rendering the surplus, if any, to the owner on demand.

(2) The harbour master may give directions with respect to all matters dealt with by the foregoing paragraph:

Provided that nothing in this article shall authorise the harbour master to do or cause to be done any act in any way repugnant to or inconsistent with any law relating to the Customs or any regulations of the Commissioners of Customs and Excise.

Penalty for not complying with the directions of the harbour master

17. Any person who without reasonable excuse fails to comply with any direction lawfully given by the harbour master under this Order shall be liable on summary conviction to a fine not exceeding £400.

Saving for Trinity House

18. Nothing in this Order shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of Trinity House.

Crown Rights

19.—(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 authorises the Council 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 any river, channel, creek, bay or estuary) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent of those Commissioners.

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

Amendment and repeal

20.—(1) The Newport (Isle of Wight) Harbour Revision Order 1968 shall have effect as if:—

(a) in article 3 (Interpretation) in the definition of "harbour" for "section 3 of the Newport (Isle of Wight) Harbour Order 1954"^[15] there were substituted "article 2 of the Newport (Isle of Wight) Harbour Revision Order 1988" ;

(b) in article 5 (Incorporation of Act of 1847):—

(i) for paragraph (2)(a)(iii) there were substituted the following:—

"(iii) the expression "harbour" shall mean the harbour as defined in article 2 of the Newport (Isle of Wight) Harbour Revision Order 1988."

(ii) for paragraph (2)(d) there were substituted the following:—

"(d) section 69 as so incorporated shall be read and have effect as if the words "shall forfeit" to the end of the section were deleted and there were substituted therefore the words "shall be liable on summary conviction to a fine not exceeding £400" ."

(2) The enactments specified in the Schedule to this Order shall be repealed to the extent specified in that Schedule.

Signed by authority of the Secretary of State

David B. Mitchell

Minister of State, Department of Transport

27th June 1988

Notes:

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

[2] 1945 c. 18, as amended by the Statutory Orders (Special Procedure) Act 1965 (c. 43). [back](#)

[3] S.I. 1981/238. [back](#)

[4] 1852 c.xxi. [back](#)

[5] 1898 c.cci. [back](#)

[6] S.I. 1968/1084. [back](#)

[7] 1847 c. 27. [back](#)

[8] 1894 c. 60. [back](#)

[9] 1968 c. 59. [back](#)

[10] 1973 c. 37. [back](#)

[11] 1906 c. 48. [back](#)

[12] 1971 c. 60. [back](#)

[13] 1972 c. 70. [back](#)

[14] 1974 c. 40. [back](#)

[15] 1954 c.xxxvi. [back](#)

Explanatory Note

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Statutory Instrument 1988 No. 2304
The Newport (Isle of Wight) Harbour Revision Order 1988 - continued

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EXPLANATORY NOTE

(This note is not part of the Order)

This order empowers the Medina Borough Council—

- (a) to improve, regulate, maintain, manage, mark or light the harbour of Newport (Isle of Wight) as defined in the Order;
- (b) to control the mooring and keeping of houseboats as defined in the Order;
- (c) to dispose of wrecks and to deal with unserviceable vessels;
- (d) to make certain charges; and
- (e) to make byelaws.

The Order also extends the powers of the harbour master and provides a penalty for not complying with his directions. It also provides for the repeal of the Pier and Harbour Order (Newport (Isle of Wight)) Confirmation Act 1954 and certain provisions of the Newport (Isle of Wight) Harbour Revision Order 1968 and for matters connected with or consequential on or incidental to the foregoing.

The applicants for the Order are the Medina Borough Council.

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