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STATUTORY INSTRUMENTS

1982 No. 1888

HARBOURS, DOCKS, PIERS AND FERRIES

The Conwy Harbour Revision Order 1982

<i>Made</i>	- - -	12th October 1982
<i>Laid before Parliament</i>		9th November 1982
<i>Coming into Operation</i>		20th December 1982

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LIMITS OF HARBOUR

The Secretary of State for Wales, having received objections to a draft order submitted to him by the Aberconwy Borough Council and published in accordance with Schedule 3 to the Harbours Act 1964(a), and having appointed a person to hold an inquiry with respect to such objections, after considering the said objections and the report of the said inquiry and the comments of persons duly informed of his proposed modifications to the draft order and being satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance and management of Conwy harbour in an efficient and economical manner, in exercise of the powers conferred by section 14 of the said Act, and now vested in him (b), and of all other powers enabling him in that behalf, and on the application of the Aberconwy Borough Council hereby makes the following Order:—

(a) 1964 c.40; section 14 was amended by the Transport Act 1981 (c.56), Schedule 6, paragraphs 2, 3, 4(1) and 14.

(b) By virtue of the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272).

PART I—PRELIMINARY

Citation and commencement

1. This Order may be cited as the Conwy Harbour Revision Order 1982 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(a).

Interpretation

2. In this Order, except where the context otherwise requires—

“the Council” means the Aberconwy Borough Council;

“dangerous goods” has the same meaning as in the Merchant Shipping (Dangerous Goods) Regulations 1981 (b);

“enactment” means any Act, any order (including this Order), scheme, byelaw or other instrument made thereunder, and any provision in an Act or in such order, scheme, byelaw or instrument;

“general direction” means a direction authorised by article 17 (General directions to vessels) of this Order;

“the harbour” means—

(a) the area the limits of which are referred to in article 5 (Harbour limits) of this Order; and

(b) the harbour estate;

“the harbour estate” means the quays, jetties, wharves, berths, slipways, sheds and other works and conveniences, and the lands, 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 harbour;

“the harbour master” means the harbour master appointed by the Council, and includes his authorised deputies and assistants and any person authorised by the Council, to act in that capacity;

“the Harbours Clauses Act” means the Harbours, Docks and Piers Clauses Act 1847(c);

“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 accomodating 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 Merchant Shipping Act 1894(d) or any vessel bona fide used for navigation;

“hovercraft” has the same meaning as in the Hovercraft Act 1968(e);

“hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;

“the level of high water” means the level of mean high-water springs;

(a) 1945 c.18 (9 and 10 Geo.6); 1965 c.43.
(c) 1847 c.27.
(e) 1968 c.59.

(b) S.I. 1981/1747.
(d) 1894 c.60.

“special direction” means a direction authorised by article 18 (Special directions to vessels) of this Order;

“vehicle” means a vehicle of any description and includes a trailer, caravan or machine of any kind drawn or propelled along or over land whether by animal or mechanical power and includes a hovercraft or any other amphibious vehicle;

“vessel” means every description of vessel, however propelled or moved, and without prejudice to the generality of the foregoing includes—

- (a) anything constructed or used to carry persons or goods by water;
- (b) a hovercraft or hydrofoil vessel on, in or over the water; and
- (c) a seaplane whether on or in the water.

Incorporation of enactments

3. The Harbours Clauses Act (except sections 6 to 13, 16 to 22, 24 to 27, 31, 32, 42, 43, 48, 50, 83 to 90, 95, 97, 98 and 101), so far as applicable to the purposes and not inconsistent with the provisions of this Order, is hereby incorporated with this Order:

Provided that in construing the said Act as so incorporated—

- (i) the expression “the harbour, dock or pier” shall mean the harbour, the expression “the special Act” shall mean this Order, and the expression “the undertakers” shall mean the Council;
- (ii) section 63 shall be read and have effect as if for the words “five pounds, and a further sum of twenty shillings for every hour that such vessel shall remain within the limits aforesaid, after a reasonable time for removing the same has expired after such requisition” there were substituted the expression “£200”.

Revocation of Conway Harbour Order 1878

4. The Conway Harbour Order 1878(a) is hereby revoked.

PART II—HARBOUR MANAGEMENT

Harbour limits

5.—(1) The limits within which the Council shall have and may exercise the powers of a harbour authority, and within which the powers of the harbour master may be exercised, shall comprise the area the boundaries of which are set out in the Schedule to this Order, and shall include the harbour estate.

(2) A map showing the said limits and marked “Map referred to in the Conwy Harbour Revision Order 1982” having been signed in triplicate by an Assistant Secretary of the Welsh Office and one copy thereof having been deposited respectively and being available for inspection at the office of the Secretary of State for Wales and at the office of the Secretary of State for Trade the remaining copy thereof shall be deposited and be available for inspection at the principal office of the Council.

(3) In the event of any discrepancy between the harbour limits as defined in paragraph (1) of this article and the Schedule to this Order and the limits shown on the said map, the map shall be deemed to be correct and shall prevail.

(a) 1878 c. cxiv.

Conwy Harbour Advisory Committee

6.—(1) The Council shall constitute a body to be known as the Conwy Harbour Advisory Committee (hereinafter referred to as “the Committee”) whose function shall be to advise the Council in the exercise of their powers in improving, maintaining and managing the harbour and the facilities afforded therein or connected therewith.

(2) The Committee shall consist of 12 members comprising—

- (a) five members appointed by the Council;
- (b) one member appointed by the Conwy Town Council;
- (c) four members appointed by the Conwy Harbour Users’ Association;
- (d) one member appointed by the Conwy Civic Trust;
- (e) the harbour master;

and such members shall serve during the pleasure of their respective appointors.

(3) If either of the bodies referred to in sub-paragraphs (c) or (d) of paragraph (2) above shall cease to have an identifiable existence the appointment in question shall be made by the Council after consultation with such persons (if any) appearing to the Council to be formerly represented by the nominating body specified in the relevant sub-paragraph as the Council consider appropriate.

(4) The first meeting of the Committee shall be held as soon as reasonably practicable after the coming into operation of this Order and on such day and at such time and place as may be appointed by the Council who shall make arrangements for notice of the meeting to be sent by post to each member of the Committee not less than 14 days before the day so appointed.

(5) The Committee shall annually elect a Chairman from among their members.

(6) The Committee shall meet at least 4 times a year and after the first meeting all meetings shall be convened by the Chairman.

(7) The Committee may determine their own quorum and procedure.

(8) Minutes shall be kept of the proceedings of every meeting of the Committee and copies of the minutes shall be sent to the Council who shall consider and have regard to the advice contained therein.

(9) The Council shall upon request make available to the Committee such documents and information pertaining to their duties as Conwy Harbour Authority as the Committee may from time to time reasonably require for the proper discharge of their function.

(10) The Council shall provide the Committee with such services and accommodation as appear to the Council to be appropriate.

General powers of Council in respect of harbour

7.—(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 and the 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; and
- (c) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the harbour.

Power to dredge

8. Subject to the provisions of this Order the Council may from time to time deepen, dredge, scour, cleanse, alter and improve the bed and foreshore of the harbour:

Provided that no materials taken up or collected in the 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.

Council may provide dredgers, tugs, etc.

9.—(1) The Council may from time to time purchase, contract for or hire and may maintain and use dredgers, tugs, hoppers, barges or other powered craft—

- (a) as may be necessary or expedient for or in relation to any of the purposes mentioned in article 8 (Power to dredge) of this Order; and
- (b) for the use and accommodation of vessels within the harbour, and for this purpose they may let such craft.

(2) In addition to the said purposes the Council may purchase, hire, provide and may maintain and use all such dredging and other machines, engines, craft, machinery and appliances as may be necessary or expedient.

Power to provide boating facilities

10. Notwithstanding interference with public rights of navigation but subject to sections 34 to 36 of the Coast Protection Act 1949(a) and to the provisions of this Order the Council may construct, lay down, maintain and operate in the harbour such works for the provision of boating or marina facilities as they may consider requisite.

Powers as to moorings etc.

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

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

(3) The Council may compound with any person with respect to the payment of the charges prescribed by the Council under paragraph (2) of this article.

(a) 1949 c.74.

(4) (a) The Council may give notice in writing to the person having the control of any vessel or houseboat using any mooring in the harbour at the commencement of this Order requiring him within one calendar month to remove the mooring so as to enable the Council to provide, place or lay down moorings in accordance with paragraph (1) of this article:

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

(b) If any person fails to comply with a notice given by the Council under this paragraph the Council may at any time after the expiration of one calendar month from the date of the giving of the notice remove the mooring referred to in that notice.

(5) (a) 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 and houseboats in the harbour or on banks belonging to the Council adjoining the harbour:

Provided that:—

(i) nothing in any such licence 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;

(ii) the Council shall not unreasonably refuse to grant a licence—

(A) to an owner or lessee of any land not leased by the Council with respect to a mooring on that land; or

(B) with respect to a mooring on the banks of the river which is positioned above the level of high water and existing on 1 July 1979;

(b) Any licence granted under sub-paragraph (a) of this paragraph shall be valid only for a period of one year commencing with its date.

(c) The Council may charge for a licence granted under sub-paragraph (a) of this paragraph such reasonable fee as may from time to time be prescribed by the Council.

(6) (a) The provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act 1878(a) are hereby incorporated with this Order in relation to any work proposed to be done in pursuance of a licence under paragraph (5) of this article subject to the modification that for references to the undertakers there shall be substituted references to the person to whom the licence in question was granted.

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

(7) Any person who—

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

(a) 1878 c.76.

- (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 at a mooring 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 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 £200.

(8) If any person contravenes sub-paragraph (d) of paragraph (7) of this article the Council may remove the mooring in question and recover from that person the expenses incurred in doing so.

(9) In this article "mooring" includes any buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels.

Power to remove goods

12.—(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 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:

Provided that:—

- (a) notwithstanding such removal on behalf of the Council, the goods shall be liable to a general lien for the cost of removal, and for any charges payable to the Council by the owner; and
 - (b) the power of the Council for preventing the recovery of the goods until the cost of removal and the charges have been paid shall extend and apply to any goods removed or placed in store under the powers of this article.
- (2) In this article "goods" does not include fish or fishing tackle.

Power to give directions as to loading or unloading of certain goods

13.—(1) The Council may by resolution designate any dock, wharf or other works, or any portion thereof, for the loading and unloading of any goods to which this article applies.

(2) Where pursuant to paragraph (1) of this article the Council have designated a place for the loading or unloading of goods of any description the harbour master may direct that goods of that description, intended to be loaded onboard or unloaded from a vessel, shall not be deposited or received elsewhere than at the place so designated, and in the event of any person disobeying any such direction the Council may remove the goods to the place so designated, and any expense incurred by them in so doing may be recovered by them from that person as a simple contract debt in any court of competent jurisdiction.

(3) The goods to which this article applies are goods in bulk and goods the nature or character of which is such as, in the opinion of the Council, to give rise to special risk of contamination, taint, stain, injury or danger to other goods or to

persons, property or water or to necessitate the provision of special facilities for the handling thereof or for the safety, protection, welfare or accommodation of persons employed in, or in connection with, such handling but not including fish or fishing tackle.

Notice before entry of dangerous goods

14.—(1) Except in case of emergency, the owner or master of a vessel which it is intended to bring into the harbour carrying any dangerous goods shall not less than 48 hours before the intended entry of the vessel into the harbour or, in the case of a voyage of less than 48 hours not later than the commencement of that voyage, give notice to the harbour master of the nature and quantity of such goods and if such notice is not given the owner or master shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) Where the owner or master of a vessel is charged with an offence under paragraph (1) of this article it shall be a defence that he did not know and could not with reasonable diligence have ascertained the nature of the goods in respect of which the proceedings are taken.

Parking places

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

Removal of vehicles, etc.

16.—(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 remove the vehicle or boat or cause it to be removed.

(2) Any notice erected under sub-paragraph (b) of the foregoing paragraph shall be conspicuously posted in or close to the place to which it relates.

(3) (a) 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.

(b) The expense of and incidental to the removal of a vehicle or boat under this article shall be recoverable by the Council from any person responsible as a debt in any court of competent jurisdiction.

(4) For the purposes of paragraph (3) of this article "person responsible" shall have the same meaning as in section 52(3) of the Road Traffic Regulation Act 1967(a).

(5) If the Council in exercise of the powers of this article remove a vehicle to a place not readily visible from the place whence 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

(a) 1967 c. 76; section 52(3) was modified by S.I. 1978/889.

being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1971^(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.

(6) A notice stating the general effect of paragraph (1) of this article 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

17.—(1) The Council may, after consultation with the General Council of British Shipping and the Pilotage Authority, give directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of persons and property in the harbour 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 which vessels are to use or refrain from using for movement or mooring;
- (b) for securing that vessels move only at certain times or during certain periods;
- (c) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for effecting any of the purposes of this paragraph.

(2) A general direction may apply—

- (a) to all vessels or to a class of vessels designated in the direction; and
- (b) to the whole of the harbour or to a part designated in the direction; and
- (c) at all times or at times designated in the direction;

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

(3) The Council may, after such consultation as aforesaid, revoke or amend any general direction.

Special directions to vessels

18. A direction under this article may be given by the harbour master to a vessel anywhere in the harbour, requiring it to comply with a requirement made in or under a general direction, and may be given in any manner considered by the harbour master to be appropriate.

Publication of general directions

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

(a) S.I. 1971/450.

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

Failure to comply with directions

20.—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) In any proceedings for an offence under paragraph (1) of this article it shall be a defence for the person charged that he had reasonable grounds for believing that non-compliance with the direction in question was necessary to secure the safety of any vessel or to prevent injury to any person or damage to any vessel or cargo, or that in the circumstances compliance was impracticable.

Enforcement of directions

21.—(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 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:

Provided that the powers of this paragraph shall not be exercised—

- (a) in relation to a vessel other than a barge or lighter unless, after reasonable enquiry has been made, the master cannot be found; or
- (b) in relation to a barge or lighter unless it is obstructing or interfering with navigation.

(3) Expenses incurred by the Council in the exercise of the powers conferred by this article shall be recoverable by them as if they were a charge of the Council in respect of the vessel.

Master's responsibility in relation to direction

22. 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, to persons on board, to its cargo or to any other person or property.

Byelaws as to harbour

23.—(1) 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 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 Council consider involves 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 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, 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;
- (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) access to and use and enjoyment, and the siting, limits and protection from injury or contamination, of any mussel-beds within the harbour;
 - (ii) 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;
 - (iii) or preventing bathing, and for securing the protection of bathers, within the harbour;
 - (iv) or preventing the use by vehicles of the foreshore.

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

(3) Except where otherwise provided by this Order or by the enactment authorising the making of the byelaws concerned, a person who without reasonable excuse offends against any byelaws in relation to the harbour made by the Council shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Byelaws relating to certain dangerous goods

24.—(1) The Council may make byelaws as to the loading or discharging by vessels within the harbour of dangerous goods (which expression in this article does not include dangerous goods to which byelaws made by the Council under the Explosives Act 1875(a) or the Petroleum (Consolidation) Act 1928(b) for the time being apply), and as to the bringing, handling, transport or storage of such goods within the harbour and generally as to the precautions to be observed with respect to such goods while within the harbour, and such byelaws may in particular provide—

(a) 1875 c.17.

(b) 1928 c.32.

- (a) for regulating the places at which vessels are to load or discharge dangerous goods and the time and mode of and the precautions to be taken on, such loading and discharging; and
- (b) for regulating the places at which vessels carrying dangerous goods are to be moored.

(2) Where a person is charged with an offence against a byelaw in force under this article it shall be a defence that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and, if that person is charged as the owner or master of a vessel, that in addition all reasonable means were taken by the master to prevent the commission of the offence.

(3) Byelaws made under paragraph (1) of this article may contain provisions for imposing on persons offending against any of the byelaws penalties not exceeding, on summary conviction, a fine of £1,000, and, on conviction on indictment, a fine.

PART III—CHARGES

Charges for services or facilities

25. 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

26.—(1) The several 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) An officer, as defined in the Customs and Excise Management Act 1979(a), may refuse clearance of any vessel if he is satisfied that any charges payable to the Council in respect of that vessel or any goods therein have not been paid.

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

(4) 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.

(a) 1979 c.2.

Deposit for charges

27. 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.

Recovery of charges

28. In addition to any other remedy given by this Order and by the Harbours Clauses Act as incorporated with this Order, and whether the demand required by section 44 of that Act has been made or not, the Council may recover any dues, rates, rents or other charges payable to them as a debt in any court of competent jurisdiction.

PART IV—MISCELLANEOUS

Defence of due diligence

29.—(1) In any proceedings for an offence under any provision of this Order mentioned in paragraph (2) of this article, or under any byelaws made under this Order, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) The articles referred to in paragraph (1) of this article are the following:—

- Article 11 (Powers as to moorings etc.);
- Article 14 (Notice before entry of dangerous goods);
- Article 20 (Failure to comply with directions).

Crown rights

30. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular, nothing herein contained shall authorise the Council to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of such Commissioners on behalf of Her Majesty first had and obtained for that purpose.

Saving for fishery

31. The powers of this Order or any byelaw made thereunder shall not be exercised so as to affect prejudicially the fishery comprised in the Conway Mussel Fishery (Amendment) Order 1948(a) or any order made under the Sea Fisheries (Shellfish) Act 1967(b) in relation to that fishery.

Saving for Local Fisheries Committee and Welsh Water Authority

32.—(1) Before exercising their powers under the articles mentioned in paragraph (3) of this article or making byelaws under sub-paragraph (1)(i) or (ii) of paragraph (1) of article 23 (Byelaws as to harbour) of this Order the Council shall consult the Lancashire and Western Sea Fisheries Joint Committee.

(a) S.I. 1948/1888.

(b) 1967 c.83.

(2) Before exercising their powers under the articles mentioned in paragraph (3) of this article, or making byelaws under sub-paragraph (1)(i) or (ii) of paragraph (1) of the said article 23 in relation to any part of the harbour which is shown as being designated a main river on the map prepared by the Minister of Agriculture, Fisheries and Food under section 11 of the Water Resources Act 1963(a), the Council shall consult the Welsh Water Authority.

(3) The articles referred to in paragraphs (1) and (2) of this article are—

Article 7 (General powers of Council in respect of harbour);

Article 8 (Power to dredge); and

Article 10 (Power to provide boating facilities).

For protection of British Railways Board

33.—(1) In this article—

“the railways board” means the British Railways Board;

“railway property” means any railway of the railways board and any works connected therewith for the maintenance and operation of which the railways board is responsible and includes any lands held or used by the railways board for the purposes of such railway or works.

(2) (a) In exercising their powers under the articles mentioned in sub-paragraph (b) of this paragraph the Council shall not execute any works or do, permit, omit or suffer to be done any act or thing which may affect any railway property except with the consent of the railways board, which consent shall not be unreasonably withheld.

(b) The articles referred to in sub-paragraph (a) of this paragraph are—

Article 7 (General powers of Council in respect of harbour);

Article 8 (Power to dredge); and

Article 10 (Power to provide boating facilities).

(3) Any difference arising between the Council and the railways board under this article (other than a difference as to the meaning or construction of this section) shall be referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Saving for existing byelaws

34. All byelaws made under or by virtue of the Conway Harbour Order 1878(b) and in force immediately before the commencement of this Order shall until amended or revoked by the Council continue in full force and effect as if they had been made and confirmed under this Order.

(a) 1963 c.38.

(b) 1878 c.cxiv.

Costs of Order

35. The costs, charges and expenses of and incidental to the preparing, applying for and obtaining of this Order and otherwise in relation thereto (other than those which any person may be ordered by the Secretary of State or a joint committee of both Houses of Parliament to pay, or any costs, charges and expenses incurred in opposing this Order) shall be paid by the Council.

Signed by authority of the
Secretary of State for Wales.

12th October 1982.

Wyn Roberts,
Parliamentary Under Secretary of
State, Welsh Office.

Article 5

SCHEDULE

LIMITS OF HARBOUR

1. In this Schedule—

“the Conwy” means the river Conwy;

“the landward limit” means an imaginary straight line drawn across the Conwy commencing on the line of the level of high water at a point having a National Grid reference of SH 7940 7590 and terminating on the line of the level of high water at a point having a National Grid reference of SH 8018 7605;

“the seaward limit” means an imaginary straight line drawn across the estuary of the Conwy commencing on the line of the level of high water at a point having a National Grid reference of SH 7489 7854 and terminating on the line of the level of high water at a point having a National Grid reference of SH 7748 8010.

2. The limits shall commence at the landward limit and shall comprise so much of the Conwy and the sea (including all islands, streams, creeks, water, watercourses and channels therein) as for the time being lie within the landward limit and the seaward limit, the seashore and the banks of the Conwy and waters as is at or below the level of high water.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order empowers the Aberconwy Borough Council—

- (a) to improve, maintain and manage Conwy harbour, the limits of which are defined in the Order, and shown on a map, copies of which may be inspected at all reasonable hours at the offices of the Secretary of State for Wales, the Secretary of State for Trade and the principal office of the Council;
- (b) to establish an advisory committee for the harbour;
- (c) to carry out works for the provision of boating facilities;
- (d) to provide facilities for the parking of vehicles;
- (e) to make charges for services and facilities, including the use of moorings; and
- (f) to make byelaws;

and provides for the revocation of the Conway Harbour Order 1878, and for matters connected with or consequential on or incidental to the foregoing.

The Order being subject to special parliamentary procedure, the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965 determine the date upon which it comes into operation.

The applicants for the Order are the Aberconwy Borough Council.

