

20[X] No. []
HARBOURS, DOCKS, PIERS AND FERRIES
The Littlehampton Harbour Revision Order 20[X]

Made - - - []
Laid before Parliament []
Coming into force - - []

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Littlehampton Harbour Board has applied in accordance with section 14(2)(a) of the Harbours Act 1964(a) (“the Act”) for a harbour revision order under section 14.

The Secretary of State, as the appropriate Minister for the purposes of section 14, has by an order(b) under section 42A of the Act(c) delegated the functions of the appropriate Minister under section 14(d) to the Marine Management Organisation(e).

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b) and in exercise of the powers conferred by section 14(1) and (3), makes the following Order.

(a) 1964 c.40; section 14 was amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 14(1) and 14 and section 40 and Schedule 12 (Part II), by the Transport and Works Act 1992 (c.42), section 63(1) and Schedule 3, paragraph 1, by S.I. 2006/1177, regulation 2 and the Schedule (Part I), by the Planning Act

2008 (c.29), section 36 and Schedule 2, paragraphs 8 and 9, by S.I. 2009/1941, article 2(1) and Schedule 1, paragraph 12 and by the Criminal Justice Act 1982 (c.48), sections 37 and 46. Section 54 (orders and regulations) was amended by the Transport Act 1981 (c.56), sections 18 and 40 and Schedules 6 and 12 (Part II) and by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(2).

(b) S.I. 2010/674.

(c) Section 42A was inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(1).

(d) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(e) The Marine Management Organisation was established by the Marine and Coastal Access Act 2009 (c.23), section 1.

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PART 1

PRELIMINARY

Citation and commencement

1.—(1) This order may be cited as the Littlehampton Harbour Revision Order 20[X] and shall come into force on [].

(2) Littlehampton Harbour Acts and Orders 1927 to 2015 and this Order may be cited together as the Littlehampton Harbour Acts and Orders 1927 to 20[X].

Interpretation

2. — (1) In this Order—

“the Act of 1964” means the Harbours Act

“the Act of 1847” means the Harbour Docks and Piers Clauses Act 1847(a);

“the Act of 1927” means the Littlehampton Harbour and Arun Drainage Outfall Act 1927(b);

“the Act of 1972” means the West Sussex County Council Act 1972(c);

“ABM” means the Annual Board Meeting to be held by the Commissioners in accordance with the provisions of section 20 of the Act of 1927

“aids to navigation” includes lights, buoys, beacons and signals including sound and electronic signals and any structure required to house the same;

“charges” means the charges, rates, tolls and dues which the Board until the new constitution date and the Commissioners on and after the new constitution date have demanded, taken and recovered or are for the time being authorised to demand, take and recover in relation to the harbour undertaking;

“commercial refuelling activities” includes recharging or emptying (in whole or part) a vessel with fuel in exchange for financial payment or other valuable consideration.

“Commissioners” means the Littlehampton Harbour Commissioners as constituted by articles 5 and 6 of this Order;

“electronic communications network” has the meanings given by section 32 to the Communications Act 2003(g);

“functions” includes powers and duties;

“harbour” means Littlehampton Harbour the limits of which are defined in article 3 of the Order of 2015;

“the Board” means the Littlehampton Harbour Board incorporated under section 11 of the Act of 1927;

“harbour facilities” includes, but is not limited to, shipping, fisheries, marine, recreational, leisure, tourism and retail facilities (including buildings).

“the harbour master” means any person appointed as such by the Commissioners, and includes his duly authorised deputies and assistants and any other person for the time being authorised by the Commissioners to act, either generally or for a specific purpose, in the capacity of harbour master;

“the harbour premises” means the premises defined in article 3(1)(b) of the Order of 2015.

“the harbour undertaking” means the undertaking carried on by the Board until the new constitution date and the Commissioners on and after the new constitution date at and in connection with the harbour authorised by the Littlehampton Harbour Acts and Orders 1927 to 20[X] (to the extent that those Acts and Orders relate to the harbour);

(a) 1847 c. 27

(b) 17 & 18 Geo. V c. lxxvii

(c) 1972 c. 1

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“land” includes land covered by water;

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

"the Littlehampton Harbour Acts and Orders 1927 to 2015" means the Act of 1927, the Act of 1972, the Order of 1986, the Order of 1988 and the Order of 2015.

“the new constitution date” means the date 12 weeks after the date on which this Order comes into force.

“master”, in relation to a vessel, means any person having or taking command, charge, management or conduct of the vessel for the time being;

"operator" has the meaning given by paragraph 2 Schedule 3A to the Communications Act 2003;

"the Order of 1986" means the Littlehampton Harbour Order 1986(a);

“the Order of 1988” means the Littlehampton (Pilotage) Harbour Revision Order 1988(b);

"the Order of 2015" means the Littlehampton Harbour Revision Order 2015(f);

"pilotage limits" means the limits as defined in article 3 (extension of limits of jurisdiction for purposes of pilotage) of the Order of 1988;

“statutory undertaker” means —

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

(b) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949(d);

(c) any operator of an electronic communications;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“vehicle” includes any vehicle propelled on rails, any machinery on wheels or caterpillar tracks, trailers, caravans, bicycles and mobile homes and includes a hovercraft or any other amphibious vehicle;

“vessel” means a ship, boat, houseboat, raft or water craft of any description, however propelled or moved, and includes non-displacement craft, a jet bike, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily);

(2) All situations, points, directions, distances, lengths, dimensions, areas and other measurements stated in this Order shall be construed as if the words “or thereabouts” were inserted after each such situation, point, direction, distance, length, dimension, area or other measurement

(3) Reference points specified in this Order shall be construed as references to Latitude and Longitude reference points.

(a) SI 1986/124

(b) SI 1988/2157

(f) SI 2015/1387

(g) 2003 c.21

(c) 1990 c.8

(d) 1949 c. 74, section 1 was amended by the Local Government Act 1972 (c. 70), Schedule 30.

(e) 1847 c16

Incorporation of provisions of Commissioners Clauses Act 1847

3. — (1) Sections 39, 53, 56, 58 to 65, 69 to 74, and 96 to 102, 109 to 111 (all inclusive) of the Commissioners Clauses Act 1847(c) (so far as applicable to the purposes and not inconsistent with the provisions of this Order and the Act of 1927 respectively), is hereby incorporated with this Order and the Act of 1927 respectively.

(2) In construing the provisions of the Commissioners Clauses Act 1847 as incorporated with this Order and the Act of 1927 respectively —

(a) the expression “the special Act” means this Order and the Act of 1927 respectively and the expression “the Commissioners” means until the new constitution date the Board and on and after the new constitution date the Commissioners.

Incorporation of provisions of Harbour, Docks and Piers Clauses Act 1847

4. —(1) The Act of 1847 (except sections 6 to 26, 28, 31, 42, 48 to 50, 67, 70, 92 and 101), (so far as applicable to the purposes and not inconsistent with the provisions of this Order and the Act of 1927 respectively), is hereby incorporated with this Order and the Act of 1927 respectively subject to the modifications stated in paragraphs (2) to (5) below.

(2) Section 33 shall only apply in respect of fishing vessels up to 15 m in length and passenger vessels (ferries or charter boats) that can carry 12 passengers or less. In respect of all other commercial vessels section 33 does not apply.

(3) Section 63 shall have effect subject to the modification that for the words from “liable to” to the end of the section there are substituted the words “be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

(4) Section 69 shall have effect subject to the modification that for the words from “shall forfeit” to the end of the section there are substituted the words “shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale”.

(5) In construing the provisions of the Act of 1847 as incorporated with this Order and the Act of 1927 respectively —

(a) the expression “the special Act” means this Order and the Act of 1927 respectively, the expression “the undertakers” means the Commissioners and the expression “the harbour, dock, or pier” shall mean the harbour, the breakwaters, the and includes those docks, piers, berths, quays, landing places and wharves forming part of the harbour premises;

(b) for the definition of the word “vessel” in section 3 of the Act of 1847 there shall be substituted the definition of that word in article 2(1) of this Order;

(c) the reference in section 53 of the Act of 1847 to notice of a direction by the harbour master served upon a vessel shall not be construed as requiring the notice to be in writing if in the circumstances it is not reasonably practicable for the harbour master to serve a written notice on the master, and in such circumstances the said reference may be construed as including the communication of the notice orally or otherwise.

PART 2
CONSTITUTION OF COMMISSIONERS

Change of name of the Board to the Commissioners

5.—(1) On and after the new constitution date the name of the Littlehampton Harbour Board will be changed to the Littlehampton Harbour Commissioners.

[(2) Section 81 with respect to the change of name, of the Companies Act 2006 [as incorporated in this Order] shall have effect for the purposes of paragraph 1 above as if in those provisions the expression "the Company" means the Commissioners and the expression or reference to "the change of name of the company" meant the change of name of the Board.

(3) On and after the new constitution date references in the Littlehampton Acts and Orders 1927 to 2015 to:

- (a) the "Littlehampton Harbour Board" shall be read as the "Littlehampton Harbour Commissioners"; and
- (b) "the Board" or "the harbour board" shall be read as "the Commissioners".

(4) Between the date of this Order and the new constitution date, references to the Commissioners in articles 13 to 24 (inclusive), 26 and 29 to 45 (inclusive) of this Order shall be read as "the Board".

Constitution of the Commissioners

6.—(1) On and after the new constitution date, the Commissioners shall consist of—

- (a) [eight] persons appointed by the Commissioners;
- (b) [one] person appointed by West Sussex County Council; and
- (c) [one] person appointed by Arun District Council; and
- (d) the Chief Executive for the time being of the Commissioners or, if there is no Chief Executive appointed, the harbour master.

(2) Each person appointed under paragraph (1)(a), (b) and (c) above shall be a person who appears to the Commissioners or the Councils to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Commissioners of their functions including in particular (but without prejudice to the generality of the foregoing) special knowledge, experience or ability in one or more of the following matters—

- (a)commerce;
- (b)maritime activities;
- (c)health and safety;
- (d)management;
- (e)public relations and community issues;
- (f)industrial relations;
- (g)shipping, fishing or cargo handling;
- (h)accountancy or financial management;
- (i)boating and other water related leisure activities;
- (j)environmental matters affecting harbours; and
- (k)any other skills and abilities considered from time to time by the Commissioners to be relevant to the discharge by them of their functions;

and each appointing body shall secure, so far as reasonably practicable, that the persons appointed by them will, between them, have special knowledge, experience and ability in a

broad and complementary range of matters relevant to the efficient, effective and economic discharge by them of the Commissioners' functions.

(3) In making an appointment under paragraph (1)(a), (b) and (c) above or article 10 below, each appointing body shall act in accordance with any guidance issued by the Secretary of State from time to time with respect to the exercise of such functions.

(4) Prior to appointing a person under paragraph (1)(b) or (c) above ('a **prospective appointee**'), the appointing Council shall request the approval of the Commissioners of the prospective appointee (such approval not to be unreasonably withheld or delayed). If the prospective appointee is not approved by the Commissioners, the Commissioners shall provide the Council with reasons for its decision and the appointing Council shall select another prospective appointee.

Appointment and terms of office of first Commissioners Members

7.—(1) The first appointments under article 6(1)(a), (b) and (c) above shall be made on, or as soon as reasonably practicable after the date of this Order and in any event before the new constitution date.

(2) The Board shall appoint the persons who are, at the date when they make the first appointments under paragraph (1) above, the chairman and vice-chairman of the Board to be two of the first of such appointed Commissioners and they shall hold office as Commissioners from the new constitution date until the date of the third ABM held after the new constitution date; and on and after the new constitution date shall be the chairperson and vice-chairperson respectively of the Commissioners in accordance with the provisions of Schedule 2.

(3) Of the remaining first such Commissioners appointed by the Board—

(a) three shall hold office from the new constitution date until the date of the first ABM held after the new constitution date;

(b) three shall hold office from the new constitution date until the date of the second ABM held after the new constitution date;

as the Board shall specify when they make each of those appointments.

(4) Of the Commissioners appointed by the Councils—

(a) one shall hold office from the new constitution date until the date of the second ABM held after the new constitution date;

(b) one shall hold office from the new constitution date until the date of the third ABM held after the new constitution date;

as the Board shall specify when the Councils make each of those appointments.

Terms of office of subsequent Commissioners

8. A Commissioner appointed under article 6(1)(a), (b) or (c) above (other than a Commissioner appointed under article 7 above) shall, unless appointed to fill a casual vacancy and subject to articles 9 and 11 of, and paragraph 10 of Schedule 2 to, this Order, hold office for the period of three years from the ABM at which the Commissioner was appointed.

Declaration to be made by Commissioners

9. No person shall act as a Commissioner until they have made the declaration set out in Schedule 1 to this Order (or a declaration to that effect); and a person shall cease to be a Commissioner if they fail to make that declaration within three months of the date of their appointment.

Casual vacancies

10.—(1) A casual vacancy arising in the office of a Commissioner appointed by the Commissioners or the Councils shall, unless it is not reasonably practicable to do so, be filled by the appointment of a Commissioner by the Commissioners or the Councils (as the case may be) in accordance with article 6(2), (3) and (4).

(2) A Commissioner appointed to fill a casual vacancy under this article shall, subject to articles 9 and 11 of, and paragraph 10 of Schedule 2 to, this Order, hold office during the remainder of the term for which the Commissioner whom they replace was appointed.

Disqualification of Commissioners

11.—(1) If the Commissioners are satisfied that a Commissioner —
(a) has without the permission of the Commissioners been absent from the meetings of the Commissioners—
(i) for a period during which three such meetings have been held; or
(ii) for a period of four consecutive months,
whichever of these periods is the longer; or
(b) has become bankrupt or made an arrangement with his creditors; or
(c) is incapacitated by physical or mental illness from discharging the functions of a Commissioner; or
(d) is otherwise unable, unwilling or unfit to discharge the functions of a Commissioner;

the Commissioners may declare the office of that person as a Commissioner to be vacant and thereupon that person's office shall become vacant.

(2) A person whose office as a Commissioner has been declared vacant in accordance with article 11(1), is not eligible for reappointment as a Commissioner in the future, unless that person receives prior written authority from the Commissioners authorising that person to apply to be reappointed as a Commissioner.

Indemnity insurance for Commissioners

12. The Commissioners may enter into, and pay premiums for, a contract of insurance to indemnify the Commissioners jointly or severally against personal liability arising from any act or omission of the Commissioners or of any of them; not being an act or omission which the Commissioner or Commissioners in question knew to be a breach of his or their duty or, concerning which, he or they were reckless as to whether it was such a breach.

Incidental provisions relating to Commissioners

13. — On and after the new constitution date the provisions of Schedule 2 to this Order shall have effect with respect to the Commissioners and each Commissioner.

GENERAL FUNCTIONS AND BORROWING POWERS

General functions

14.—(1) The Commissioners may, subject to the provisions of this Order, take all such steps from time to time as they consider necessary or desirable for the maintenance, operation, management and improvement of the harbour, the harbour approaches within the pilotage limits and the harbour facilities afforded therein or in connection therewith, and for the conservation of the harbour's flora, fauna and geological and physiographical features of special interest.

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

- (a) improve, maintain, regulate, manage, mark and light the harbour and provide harbour facilities therein;
- (b) subject to obtaining the necessary rights in or over land—
 - (i) execute and place in and over the harbour such structures, works and equipment as are required; and
 - (ii) operate, maintain, renew, alter, extend, demolish and reconstruct structures, harbour facilities, works and equipment in the harbour (including those executed or placed pursuant to sub-paragraph (i) above); and
- (c) do all other things which in its opinion are expedient to facilitate the operation, maintenance, improvement or development of the harbour undertaking.

(3) The Commissioners shall, from time to time, formulate, publish and review a business plan ('Harbour Business Plan') in relation to their maintenance, conservation, operation, management and improvement of the harbour undertaking, which they shall have regard to when performing their functions.

(4) In the exercise of the powers of sub-paragraph (2)(b) above, the Commissioners 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.

(5) This article is without prejudice to the powers of the Commissioners under or by virtue of any other enactment.

Borrowing powers

15.—(1) Notwithstanding anything contained in any enactment, the Commissioners may from time to time, for the general purposes of the harbour undertaking, borrow upon the security of all or any of the harbour revenue and property and by any method or methods which they see fit such sums of money as they consider necessary.

(2) Moneys borrowed under paragraph (1) may be applied only to purposes to which capital money is properly applicable.

(3) For the purposes, but without prejudice to the generality, of paragraph (2) purposes to which capital money is properly applicable shall be deemed to include –

- (a) any major works of repair or maintenance of any part of the works forming part of the harbour undertaking;
- (b) the payment of any interest falling due within the five years immediately following the date of the borrowing of any sum of money borrowed by the Commissioners under this article;
- (c) the repayment within 12 months from the date of borrowing of any sum for the time being outstanding by way of principle on any amount previously borrowed; and
- (d) a payment relating to pensions paid or to be paid to past or present employees of the Commissioners whose employment related to the harbour undertaking or to the family or dependants of such persons.

Infrastructure Fund

16. (1) The Commissioners may establish an infrastructure fund in respect of the harbour undertaking by setting aside such amount as they may from time to time think reasonable (and if they choose to, investing the same) until the fund so provided amounts to the maximum infrastructure fund for the time being prescribed by the Commissioners.

(2) Whether or not the prescribed maximum has been reached, the infrastructure fund may be applied towards the payment of the cost of the construction, renewal, improvement or extension of any works, building, machinery, plant or conveniences forming part of the harbour undertaking or otherwise for the benefit thereof;

and so that if the infrastructure fund be at any, time reduced it may thereafter be again restored to the prescribed maximum from time to time as often as such reduction occurs.

PART 4

CHARGES

Charges other than ship, passenger and goods dues.

17. The Commissioners may demand, take and recover in respect of any dracone or floating dock, crane, rig, drilling rig, or floating platform or any other vessel not being a ship as defined by section 57 of the Harbours Act 1964 entering, using or leaving the harbour such reasonable charges as they may determine and sections 30 and 31 of the Harbours Act 1964 shall with all necessary modification apply to the charges authorised by this article as they may apply to ship, passenger and goods dues demanded under section 26 of the Harbours Act 1964.

Charges for services or facilities

18. —In addition to articles 17 and 18 of this Order and its power to demand ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Commissioners may demand, take and recover such reasonable charges for services and facilities provided by the Commissioners at the harbour as they may from time to time determine.

Charges for debt recovery, administration and commercial activities

19. — In addition to articles 17 and 18 of this Order and their power to demand ship, passenger and goods dues under section 26 of the Harbours Act 1964, and without prejudice to the

generality of the foregoing, the Commissioners may demand, take and recover such reasonable charges for debt recovery (including interest on late payments or payments by instalment), administration, commercial and other incidental activities undertaken by the Commissioners as they may from time to time determine.

Payment of charges

20. — (1) The charges which the Commissioners 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 or the harbour premises 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 terms and conditions as the Commissioners may from time to time specify in their published list of charges.

(2) Charges payable to the Commissioners on or in respect of—

- (a) a vessel, shall be payable by the owner or master thereof;
- (b) goods, shall be payable by the owner, consignee or shipper thereof.

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

(4) Without prejudice to the generality of paragraph (1) above, the terms and conditions as to the payment of charges which the Commissioners may from time to time specify may include the time when a charge falls due for payment and may require such information to be given to the Commissioners by the owner or master of a vessel or a person using a service or facility of the Commissioners as the Commissioners may require in connection with the assessment or collection of a charge.

Compounding arrangements and rebates

21.— (1) The Commissioners 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 Commissioners 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.

Deposit for charges

22.— (1) The Commissioners may, if they think fit, require a person who incurs or is about to incur a charge to deposit with them, or to guarantee, such sum of money as is, in the opinion of the Commissioners, reasonable having regard to the amount or probable amount of the charge.

(2) Where such a person fails to deposit or guarantee the sum of money required the Commissioners may detain in the harbour the vessel or goods in respect of which the charge has been or will be incurred, or refuse entry to the vessel or goods until the requirement has been complied with or the charge paid.

Liens for charges

23.— (1) A person who by agreement with the Commissioners collects charges on their behalf and who pays or gives security for the payment of charges on goods in his possession shall have a lien on those goods for the amount paid or security given in respect thereof.

(2) A wharfinger or carrier who is not himself liable for the payment of charges may pay or by agreement with the Commissioners give security for charges on goods in his custody, and in that event he shall have a like lien on the goods for the amount of those charges as he would have in respect of his charges for safe custody or carriage of the goods, as the case may be.

Refusal to pay charges for landing place

24.— The harbour master may prevent a vessel from using a landing place provided by the Commissioners, if the master of the vessel refuses to pay the charges for such use.

Exemptions from harbour dues

25.— (1) Except insofar as may be agreed between the Commissioners and the government department or person concerned the Commissioners shall not be entitled to demand harbour dues from, or in respect of—

(a) a vessel—

(i) in the service of HM Revenue and Customs in the execution of their core duties and not carrying persons or goods for reward;

(ii) belonging to or used by a lifeboat service whilst employed in or in connection with the core functions of that service;

(iii) in the service of a police force or other emergency service in the execution of their core duties and not carrying persons or goods for reward;

(b) HM Revenue and Customs or any officer or other person employed in their service in execution of their core duties in respect of a vessel or goods under customs seizure, or in respect of goods or other articles belonging to, or in the care or service of, HM Revenue and Customs;

(c) an officer of HM Revenue and Customs or any other person employed in their service while in the execution of their core duties;

(d) a person employed by the Secretary of State for Defence while in the execution of core duties.

(2) Officers of the Department for Transport in the execution of their core duties shall at all times be exempt from dues.

(3) In this article “dues” means ship, passenger and goods dues which the Commissioners may demand under section 26 of the Harbours Act 1964.

Recovery of charges

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

Harbour master may prevent sailing of vessels

27. — 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 passengers thereon or of the goods imported or exported therein.

Claims for repayment of charges, dues etc.

28. — Any person claiming the return of the whole or any part of any charges paid to the Commissioners (whether paid before or after the date of this Order) shall make such a claim and produce all documents and give all information required by the Commissioners in proof thereof, within twenty-four months of the time of payment; and in default thereof the claim shall cease to be enforceable by any means whatsoever.

PART 5 BYELAWS

General byelaws

29. —(1) The Commissioners may make such byelaws as they think fit for the efficient management and regulation of the harbour.

(2) Without prejudice to the generality of paragraph (1), the Commissioners may, from time to time, make such byelaws as they think fit with reference to all or any of the following—

- (a) regulating the use of any works and facilities provided by the Commissioners;
- (b) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour and to any aids to navigation which are used in connection with the harbour;
- (c) regulating the conduct of all persons within the harbour, not being—
 - (i) members of a police force;
 - (ii) officers or servants of the Crown; or
 - (iii) members of a fire and rescue services,whilst in the exercise of their duties as such;
- (d) regulating the placing, maintenance and use of moorings within the harbour;
- (e) preventing and removing obstructions or impediments within the harbour or the harbour premises;
- (f) regulating the launching of vessels into the harbour and /or from the harbour premises;
- (g) regulating or prohibiting the use in the harbour or on board any vessel therein of fires, lights, tobacco or any other substance, equipment, tools or appliances which the Commissioners considers involves a risk of fire, explosion or chemical reaction;
- (h) prohibiting the use of or regulating the use, movement, speed, placing, loading, unloading, driving and parking of vehicles within the harbour premises;
- (i) requiring the use of silencers or other similar apparatus, and the control of noise generally on vessels in the harbour;
- (j) regulating the navigation of vessels in the harbour and their entry into and departure therefrom 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;
- (k) regulating the embarkation of persons on, or their disembarkation from, vessels within the harbour;

- (l) prescribing the lights and signals to be exhibited or made—
 - (i) by vessels aground within the harbour;
 - (ii) by vessels or other devices used for marking obstructions within the harbour; and
 - (iii) at the entrance to any dock or at any wharf, pier or other work for assisting the navigation of vessels within the harbour;
- (m) prohibiting or regulating the discharge into the harbour of any material or substance;
- (n) 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, from any vessel within the harbour or from the foreshore where such fishing interferes with the operation of the port or the safety of navigation in the harbour;
- (o) regulating or prohibiting bathing and swimming within the harbour;
- (p) regulating or prohibiting the use by vehicles of the foreshore within the harbour premises;
- (q) regulating the berthing, mooring and anchoring of vessels in any part of the harbour and regulating the careening and beaching of vessels within the harbour;
- (r) regulating the use within the harbour of yachts, sailing boats, rowing boats, pleasure craft, windsurfers, kitesurfers, jet bikes, jet kayaks, flyboards, other personal watercraft and other small craft;
- (s) regulating or prohibiting the activities within the harbour of divers, surfers, underwater swimmers, water-skiers and other persons engaged in similar recreational pursuits (including those engaged on a commercial basis);
- (t) regulating the conveyance to and the laying down at or on the harbour premises of all goods intended for shipment;
- (u) regulating the control of animals within the harbour;
- (v) preventing the disposal of any waste matter except at places or in a manner prescribed by the Commissioners;
- (w) regulating the conveyance, landing, laying down, discharge and removal of goods, gear, equipment, timber, logs, floats, or rafts of timber and other items within the harbour or the harbour premises;
- (x) regulating the exercise of the powers vested in the harbour master; and
- (y) for the purposes specified in section 83 of the Act of 1847.

But such byelaws shall not come into operation until the same have received the allowance and the confirmation of the Secretary of State which shall be sufficient for all purposes.

(3) In this article “signals” includes sound signals.

(4) Byelaws made under this article may—

- (a) provide for imposing upon a person offending against them, or against any condition, requirement or direction imposed, made or given thereunder, a fine not exceeding level 4 on the standard scale on summary conviction;
- (b) relate to the whole of the harbour or to any part thereof;
- (c) make different provisions for different parts of the harbour or in relation to different classes of vessels or vehicles; and
- (d) otherwise make different provision for different circumstances.

(5) Where a person is charged with an offence against a byelaw in force under this article, it

shall be a defence for the person to prove—

- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;
- (b) that he had a reasonable excuse for his act or failure to act; or
- (c) 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 that all reasonable steps were taken to prevent the commission of the offence.

(6) The provisions of sections [] shall apply to any byelaws made by the Commissioners under this article; and those provisions, in their application to any such byelaws, shall have effect.

PART 6

REGULATION OF WORKS AND DREDGING

Moorings

30.—(1) The Commissioners may provide, place, lay down, maintain, renew, use, have and remove such moorings within the harbour—

- (a) on land owned or leased by it or in which they hold an appropriate interest; or
- (b) with the consent in writing of the owner and lessee thereof, on any other land in the harbour,

as they consider necessary or desirable for the convenience of vessels.

(2) The Commissioners 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 Commissioners such reasonable charges as the Commissioners may from time to time prescribe.

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

(4) (a) The Commissioners 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 Commissioners to provide moorings in accordance with paragraph (1) above.

(b) The Commissioners 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 sub paragraph (1) above as soon as such mooring has been laid down.

(c) If any person fails to comply with a notice given by the Commissioners under this paragraph, the Commissioners 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.

(5) (a) The Commissioners may from time to time grant to a person with or without conditions a licence to place, lay down, maintain, retain, renew, use and have existing and future moorings, for vessels in the harbour.

(b) Nothing in any such licence shall entitle a person to place, lay down, maintain, retain, renew or use and have any mooring on land not owned or leased by him or by the Commissioners or in which he has no appropriate interest.

- (c) Any such licence shall be valid only for a period of a maximum of one year commencing with the date on which it is granted.
- (d) The Commissioners may charge for such a licence such reasonable fee (including a charge related to the use of the mooring) as the Commissioners may from time to time prescribe.
- (6) (a) In respect of moorings already lawfully laid down in the harbour at the date this Order comes into force ('**an original mooring**'), a moorings licence under sub paragraph (5) above shall be obtained by the owner or user of the mooring within three months of that date and thereafter renewed annually.
- (b) In considering an application for a moorings licence under sub paragraph (5) above made in respect of an original mooring the Commissioners shall not refuse to grant a licence unless they are satisfied that the placing, laying down, maintenance, retention, renewal or use of the original mooring to which the application relates would constitute a danger to or interfere with the navigation of vessels in the harbour.
- (7) Any person who—
- (a) intentionally obstructs any person acting under the authority of the Commissioners in setting out moorings;
- (b) intentionally and without lawful authority pulls up or removes any mooring in the harbour or any part thereof;
- (c) without reasonable excuse causes or permits a vessel to be moored in the harbour except at a mooring provided or licensed by the Commissioners under this article; or
- (d) places, lays down, maintains, retains, renews or has in the harbour any mooring not provided or licensed by the Commissioners 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.
- (8) If any person commits an offence under sub paragraph (7)(d) above, the Commissioners 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, pontoon or like apparatus or convenience used or capable of being used for the mooring of vessels.

Aids to navigation

31.—(1) In addition to their powers under section 201 of the Merchant Shipping Act 1995 (powers of harbour authorities as local lighthouse authorities) but subject to obtaining any necessary interest in or over land, the Commissioners may erect or place, alter, discontinue or remove aids to navigation in any place adjacent to the harbour.

(2) The Commissioners shall not exercise the powers of paragraph (1) above without the approval of the Trinity House.

Power to dredge

32. — The Commissioners, as may appear to it to be necessary or desirable for the purposes of the harbour undertaking, may deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the harbour and the approaches thereto, and may blast any rock in that area, and they may use, appropriate, sell, deposit or dispose of the materials (other than

wreck within the meaning of Part IX of the Merchant Shipping Act 1995) from time to time dredged by them.

Repair of landing places, etc.

33.—(1) In this article, “relevant feature” means any landing place, jetty, wall, pontoon, pile, embankment, bridge, structure or other work in the harbour or on land immediately adjoining the waters of the harbour other than one under the control or management of the Commissioners.

(2) The Commissioners may by notice require the owner, lessee or occupier of a relevant feature which in the opinion of the Commissioners is, or is likely to become, by reason of its insecure condition or want of repair—

- (a) dangerous to persons or vessels using the harbour; or
- (b) a hindrance to the navigation of the harbour;

to remedy its condition to the Commissioners' reasonable satisfaction within a reasonable time (not being less than 21 days) specified in the notice.

(3) If a person to whom notice is given under this article fails without reasonable excuse to comply with the notice within the time stated in the notice or such other time as the Secretary of State on an appeal may substitute therefor—

- (a) he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale; and
- (b) the Commissioners may carry out the work required by the notice and may recover the expenses of so doing from the person on whom the notice was served.

(4) A notice under this article shall have annexed to it a copy of this article.

(5) A person aggrieved by a notice served by the Commissioners under this article may, during the period of 21 days beginning with the date on which the notice was served, appeal to the Secretary of State against the notice.

(6) An appeal under paragraph (5) above shall be made by notice in writing stating the grounds of the appeal.

(7) A person who appeals under paragraph (5) above shall give to the Commissioners notice of his appeal accompanied by a copy of his statement of appeal; and the Commissioners shall, within 21 days of receipt of the notice, be entitled to furnish to the Secretary of State its observations on the appeal.

(8) On an appeal under paragraph (5) above, the Secretary of State shall either quash the notice, modify its requirements or dismiss the appeal.

(9) In this article “owner” “lessee” and “occupier”, in relation to a relevant feature, means the person who was the “owner”, “lessee” or “occupier” of the relevant feature at the date the notice is served, or if the “owner” “lessee” or “occupier” of the relevant feature is not readily identifiable, the “owner” “lessee” or “occupier” of the land on which the relevant feature is situated at the date the notice is served.

Restriction of works and dredging

34.—(1) Subject to paragraph (3) below, no person other than the Commissioners shall—

- (a) construct, alter, renew or extend any works; or
- (b) dredge,

on, under or over tidal waters or land below the level of high water in the harbour unless he is licensed so to do, in the case of works by a works licence and in the case of dredging by a dredging licence, and no such person shall do so except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of article 40 of this Order or, as the case may require, article 41 of this Order.

(2) The Commissioners may by notice require a person who contravenes this article to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates and to restore the site thereof to its former condition; and if he fails to comply with the notice, the Commissioners may carry out the works so required and may recover from him the cost of so doing.

(3) Nothing in this article shall apply to—

- (a) any operations or works specifically authorised by any enactment; or
- (b) any operations or works of a statutory undertaker; or
- (c) any operations or works authorised by a moorings licence granted under article 33(5) of this Order.

(4) Any person who without reasonable excuse contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Control of certain operations and works of statutory undertakers

35.—(1) This article applies to any operations or works in the harbour of a statutory undertaker on, under or over tidal waters or land below the level of high water, not being operations or works which are specifically authorised by an enactment.

(2) Subject to paragraph (3) below, a statutory undertaker shall not carry out any operations or works to which this article applies unless it has given notice of its intention to do so to the Commissioners and has supplied the Commissioners with such particulars as they may reasonably require.

(3) Where, in an emergency, it is impracticable to give notice as required by paragraph (2) above, the statutory undertaker shall inform the Commissioners of the operations or works as soon as reasonably practicable.

(4) Any operations or works to which this article applies shall be carried out subject to any directions which may from time to time be given by the Commissioners to the statutory undertaker, being directions for the avoidance of danger and the prevention, so far as possible, of interference with navigation in the carrying out of such operations or works.

(5) Any person who, without reasonable excuse, contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Licensing of works

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

(2) Application for a works licence shall be made in writing to the Commissioners 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 licence, the Commissioners may require modifications in the plans, sections and particulars so submitted.

(3) The Commissioners 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) As a condition of the granting of a licence, the Commissioners 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, to pay such reasonable fees in respect of the Commissioner's administrative expenses and overheads in supervising or inspecting where necessary the construction or maintenance of the works.

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

(6) Where the Commissioners 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.

(7) If within four months from the receipt of the application under paragraph (2) above the Commissioners do not grant a works licence, they shall be deemed to have refused the application.

(8) 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.

Licence to dredge

37.—(1) The Commissioners 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 Commissioners 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 Commissioners may require modifications in the plans, sections and particulars so submitted.

(3) Paragraphs (3) to (8) of article 36 of this Order shall apply in relation to a dredging licence as they apply in relation to a works licence.

(4) Any materials (other than wreck within the meaning of Part IX of the Merchant Shipping Act 1995) taken up or collected by means of dredging in pursuance of a dredging licence shall be the property of the holder of the licence and he may use, sell or otherwise dispose of or remove or deposit the materials as he thinks fit:

Provided that—

- (i) no such material shall be laid down or deposited in any place within the harbour below the level of high water except in such positions as may be approved by the Commissioners and subject to such conditions as may be imposed by the Commissioners;
- (ii) if it appears to the holder of the dredging licence that the Commissioners have unreasonably withheld their approval under paragraph (i) of this proviso or that any condition imposed by the Commissioners under that paragraph is unreasonable, he may appeal to the Secretary of State whose decision shall be binding upon the parties.

Appeals in respect of works or dredging licence

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

- (a) a refusal of the Commissioners to grant a licence;
- (b) any terms or conditions subject to which the licence is granted; or
- (c) any modifications required by the Commissioners in the plans, sections and particulars submitted by the applicant,

may, within 28 days from the date on which the Commissioners notify the applicant of their decision or the date on which the Commissioners are, under article 36(7) of this Order, deemed to have refused the application, appeal to the Secretary of State.

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

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

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

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

PART 7

MISCELLANEOUS AND GENERAL

Advisory bodies

39.—(1) The Commissioners shall establish one or more advisory body or bodies which the Commissioners must consult on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.

(2) The Commissioners shall make arrangements for every such advisory body to meet not less than twice a year.

(3) The Commissioners shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by such an advisory body whether or not that advisory body has been consulted by the Commissioners on the matter, recommendation or representation so referred or made.

(4) The advisory body or bodies established pursuant to this article shall consist of such number or numbers of persons appointed by the Commissioners as the Commissioners from time to time considers appropriate.

(5) Appointments to any such advisory body shall be made by the Commissioners in accordance with a scheme prepared by them for that purpose and the scheme must provide for the appointment of persons who, in the opinion of the Commissioners, are representative of persons having an interest in the functioning of the harbour.

(6) The Commissioners shall provide terms of reference for any such advisory body setting out its quorum and procedure.

(7) Any such advisory body shall appoint a chairperson and conduct itself in accordance with the terms of reference.

(7) An individual member of any such advisory body may, on giving notice in writing to the chairperson of that body and the Commissioners, send a substitute to any meeting of the body, provided that a substitute may not attend more than one such meeting (whether on behalf of the same member or a different member), unless that substitute is approved by the Commissioners in respect of each additional meeting.

(8) A member of such an advisory body may hold office for the period of three years from the date of this appointment or such shorter period as the Commissioners may determine and at the end of that period will be eligible for reappointment.

(9) A member of such an advisory body may resign his office at any time by notice in writing given to the Commissioners.

Development of land etc.

40.—(1) If it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner, the Commissioners may, subject to obtaining the necessary rights in or over land —

- (a) use or develop for any purpose, and deal with, any land within or in the vicinity of the harbour; or
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a Company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the harbour.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of the Company referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Commissioners would not itself have the power to do that thing.

Power to appropriate lands and works for particular uses, etc.

41.— (1) Notwithstanding anything in any statutory provision of local application the Commissioners may from time to time for the purpose of or in connection with the management of the harbour set apart and appropriate any part of the harbour for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Commissioners may think fit.

(2) No person or vessel shall make any use of any part of the harbour so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Commissioners and —

- (a) the harbour master, or as the case may be, such officer, may order any person or vessel making use of the harbour without such consent to leave or be removed; and
- (b) the provisions of section 58 (Powers of harbour master as to mooring of vessels in harbour) of the Act of 1847 shall extend and apply with the necessary modifications to and in relation to such vessels.

Other commercial activities

42.—(1) If it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner, the Commissioners may, in addition to any other powers conferred on the Commissioners —

- (a) carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person; or
- (b) form, invest in and promote, or join with another person in forming, investing in and promoting, a Company, for carrying on any part of the undertaking or carrying on at any place a trade or business of any kind.

(2) Except as is otherwise provided by any enactment or rule of law, the powers of a Company referred to in paragraph (1)(b) may include powers to do anything necessary or expedient for the purposes of the objects mentioned in that paragraph or for purposes incidental to those purposes, notwithstanding that the Commissioners would not itself have the power to do that thing.

(3) The powers of the Commissioners under this article are additional to the powers of the Commissioners under section 37 of the Docks and Harbours Act 1966(a).

Power to delegate functions

43.— Subject to paragraph 9B of Schedule 2 to the Harbours Act 1964(b) (functions which cannot be delegated under a power conferred by a harbour revision order), the Commissioners may delegate the performance of any of its functions to be carried out by any such Company as is referred to in article 42(1)(b).

Bunkering

44. —(1) The Commissioners may from time to time grant to a person with or without conditions a licence to carry out commercial refuelling activities related to vessels in the harbour.

(a) Nothing in any such licence shall entitle a person to carry out commercial refuelling activities from on land not owned or leased by him or by the Commissioners or in which he has no appropriate interest.

(b) Any such licence shall be valid only for a period of one year commencing with the date on which it is granted.

(c) The Commissioners may charge for such a licence such reasonable fee as the Commissioners may from time to time prescribe.

(2) Any person who without reasonable excuse carries out or permits a commercial refuelling activity related to a vessel in the harbour except in accordance with a licence issued by the Commissioners under this article, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Power with respect to disposal of wrecks

45. —(1) In its application to the Commissioners, section 252 of the Merchant Shipping Act 1995 (which confers on bodies which are harbour authorities within the meaning of that Act powers with respect to any vessel sunk, stranded or abandoned in, or in or near any approach to, any harbour or tidal water in such manner as to be an obstruction or danger to navigation) shall have effect in relation to the harbour and the approaches thereto within the pilotage limits in relation to a vessel sunk, stranded or abandoned before, as well as after, the coming into force of this Order.

(2) Subject to paragraph (3) below, and to any enactment for the time being in force limiting his liability, the Commissioners may recover from the owner or master of any vessel in relation to which they have exercised their powers under the said section 252 any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) (a) Except in a case which is in the opinion of the Commissioners a case of emergency, paragraph (2) above 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 252,

(a) 1966 c.28; section 37(3) was repealed by the Transport and Works Act 1992 (c.42), Schedule 4 (Part II).

(b) 1964 c.40

other than the power of lighting and buoying, the Commissioners has given to the owner or master of the vessel not less than 48 hours' notice of their intention to do so.

(b) If before the notice expires the Commissioners receive from the owner or master counter-notice in writing that he desires to dispose of the vessel himself, he shall be at liberty to do so; and the Commissioners shall not exercise the powers in the said section 252 in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner or master 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 Commissioners.

(4) Notice under paragraph (3) above to the owner or master of any vessel may be served by the Commissioners either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom or, if the owner or master or any such place of business or abode is not known to the Commissioners, or is not in the United Kingdom, by displaying the notice at the office of the Commissioners for the period of its duration.

(5) In this article "owner", in relation to any vessel, means the person who was the owner of the vessel at the time of the sinking, stranding or abandonment thereof and "master", in relation to any vessel, means the person who was the master of the vessel at the time of the sinking, stranding or abandonment thereof.

(6) The powers conferred on the Commissioners by this article shall be in addition to and not in derogation of any other powers exercisable by it for or with respect to the removal of wrecks within the harbour and the approaches thereto.

Power to deal with unseviceable vessels

46.—(1) In addition to the powers conferred on the harbour master by section 57 of the Act of 1847 and on the Commissioners by the Merchant Shipping Act 1995 the Commissioners may sell, break up or otherwise dispose of any vessel which is unseviceable and has been laid by or neglected in the harbour or on land immediately adjoining the harbour.

(2) The Commissioners may retain out of the proceeds of sale and such vessel, or any part of such proceeds, 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 on the act of 1847 and shall pay the surplus, if any, to the person or body entitled to that surplus.

(3) If the proceeds of the sale are insufficient to reimburse the Commissioners for the said expenses, or there is no sale, the Commissioners 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 Commissioners shall, before exercising their powers under this Article, give 14 days' notice in writing of its 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 the area of the Commissioners, provided that, if the registered owner or his place of business or address is not known to the Commissioners or is outside of the United Kingdom,

the notice may be given by displaying it at the principal office of the Commissioners for two successive weeks.

Removal of obstructions other than vessels

47. —(1) The Commissioners may remove anything, other than a vessel, causing or likely to become an obstruction to, or cause interference with, navigation in any part of the harbour or any approach thereto within the pilotage limits and may take such steps as appear to them to be appropriate to prevent or minimise such obstruction or interference.

(2) If anything removed by the Commissioners under paragraph (1) above is so marked as to be readily identifiable as the property of any person, the Commissioners shall, within 28 days of its coming into their custody, give written notice to that person stating that, upon proof of ownership to the reasonable satisfaction of the Commissioners and payment of any reasonable expenses incurred by the Commissioners under paragraph 2 of this article, possession may be re-taken at a place named in the notice within the period specified in the notice (being not less than 14 days after the notice is served) and, if possession of the thing removed is not so retaken, it shall at the end of that period vest in the Commissioners.

(3)(a) Notwithstanding the provisions of paragraph (2) above the Commissioners may, at such time and in such manner as they think fit, dispose of anything removed under paragraph (1) above which is not so marked as to be readily identifiable as the property of any person or which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

(b) If anything disposed of by the Commissioners under this paragraph is sold, the Commissioners may retain out of the proceeds of sale any expenses incurred by them under this article, and any surplus—

- (i) shall be paid to any person who within three months from the time when the thing came into the custody of the Commissioners proves to the reasonable satisfaction of the Commissioners that he was the owner thereof at that time; or
- (ii) if within the said period no person proves his ownership at the said time, shall vest in the Commissioners.

(4) If the proceeds of sale of anything removed under this article are insufficient to reimburse the Commissioners for the said expenses, or there is no sale because the thing is unsaleable, the Commissioners may recover the deficiency, or, where there is no sale, the whole of the expenses, from the person who was the owner at the time when the thing removed came into the custody of the Commissioners or who was the owner at the time of its abandonment or loss.

PART 8

SAVINGS, REPEALS AND AMENDMENTS

Savings

48. Nothing in this Order shall affect prejudicially any estate, right, power, privilege, liberty, franchise or exemption of -

- (a) the Duke of Norfolk and the Earl of Arundel; or
- (b) Arun District Council.

Saving for Trinity House

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

Crown Rights

50.—(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 undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or interests in land or any rights of whatsoever description (including any portion of the shore or bed of the sea or 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 the Crown Estate 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.

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

Saving for existing Byelaws etc.

51. — On or after the date of this Order any byelaw, direction, regulation, licence, lease, consent or other agreement made, issued, entered into or granted by the Board in relation to the harbour undertaking and in force immediately before that date, shall, notwithstanding the repeals, revocations and amendments set out in this Order and the change of name of the Littlehampton Harbour Board to the Littlehampton Harbour Commissioners under article 5 on the new constitution date continue to have effect.

Amendment of the Order of 2015, the Act of 1972 and the Act of 1927

52. —(1) From the date of this Order the Order of 2015 shall be amended as follows:

(i) In PART 1 (Preliminary) Article 2 (Interpretation):

(a) the following definition shall be inserted between the definitions of “the 1988 HRO” and “the Board”:

“ashore” means all those parts of the harbour which are not constituted of land covered by water at the level of low water.

(b) the following definition shall be inserted between the definition of “the harbour master” and the definition of the “harbour undertaking”:

“harbour operations” includes,—

(a) the marking, lighting or dredging of the harbour or any part thereof or its approaches within the pilotage limits;

(b) the berthing or dry docking of a vessel;

(c) the warehousing, sorting, weighing or handling of goods;

(d) the movement of goods and vehicles (including parking, designated and prohibited areas, speed limits, removal from the harbour);

(e) the towing, or moving of a vessel;

- (f) the loading or unloading of goods, or embarking or disembarking of passengers;
- (g) energy generation;
- (h) the control of use of the port by members of the public and other third parties (including movement, conduct, authorised activities, designated and prohibited areas) but not so as to cause an interference with any public right of way.

(d) the following definition shall be inserted between the definition of “jet bike” and the definition of the “special direction”:

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

(e) the definition of "vessel" shall be deleted in its entirety and replaced with the definition of "vessel" contained in Article 2(1) of this Order;

(ii) In PART 2 (Harbour Regulation) Article 4 shall be deleted in its entirety and replaced with the following wording:

Power to give general directions as to use of the harbour, etc.

4.—(1) The Commissioners may, in accordance with the requirements of article 5, give a direction for—

- (a) the ease, convenience or safety of navigation;*
- (b) the safety of persons;*
- (c) the protection of property, flora or fauna; or*
- (d) the ease, convenience or safety of port operations ashore*

within the harbour or the harbour approaches within the pilotage limits.

(2) A direction under this article may apply—

- (a) to all vessels or to a class of vessels;*
- (b) to all vehicles or to a class of vehicle;*
- (c) to persons designated in the direction;*
- (d) to the whole of the harbour or to a part;*
- (e) at all times or at certain times or at certain states of the tide; or*

and every direction must specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b), (c), (d) and (e).

(3) The Commissioners may amend or revoke a direction given under paragraph (1).

(2) From the date of this Order the Act of 1972 shall be amended as follows:

(i) In section 5 (Interpretation) the insertion of the following definition on a new line immediately after the definition of “the harbour board”

““the infrastructure fund” means the fund established and maintained under article [] of the Littlehampton Harbour Revision Order [2020].

(ii) In section 19(3) the insertion of the words ‘*eighty percent of*’ between the words “*the two Councils*” and “*the amount (if any)*” and the addition of the words “*The remaining twenty percent may be paid into the infrastructure fund*” at the end of the section, immediately after the words “*during that year.*”.

(iii) In section 20:

- a. in the final paragraph, the deletion of the word ‘*sixthly*’ and its replacement with the word “*seventhly*” and the insertion of the words “*or the infrastructure fund*” between the words “*reserve fund*” and “*to be exceeded*”.
- b. the insertion of the following paragraph on a new line immediately after the words “*into the reserve fund;*” in the fifth paragraph
“*sixthly in the payment of credit balances on the revenue account into the infrastructure fund;*”

(iv) In section 22 the deletion of subsection 22(2)(b) in its entirety.

(3) From the date of this Order the Act of 1927 shall be amended as follows:

(i) In section 3 (Interpretation):

(a) the definition of "vessel" shall be deleted in its entirety and replaced with the definition of "vessel" contained in Article 2(1) of this Order;

(b) the definition of Jet Bike in Article 2(1) of this Order shall be inserted.

(ii) In section 46 the words ‘*not exceeding in all twenty-five acres*’ shall be deleted.

Revocation / Repeal

53. —On the date of this Order the enactments mentioned in the first and second columns of the Schedule 3 to this Order shall be revoked or repealed (as appropriate) to the extent specified in the third column of that Schedule.

Signed by authority of Marine Management Organisation

[Name]

Chief Executive Officer

An authorised employee of the
Marine Management Organisation.

[Date] 20[X].

SCHEDULES

Article []

SCHEDULE 1

FORM OF DECLARATION BY COMMISSIONERS

LITTLEHAMPTON HARBOUR COMMISSIONERS

LITTLEHAMPTON ACTS AND ORDER 1927 to 20[X]

DECLARATION

I, [FULL NAME] do solemnly declare:

- (1) that I will faithfully and impartially, according to the best of my skill and judgement, execute all the powers and authorities vested in me as a Commissioner by virtue of the Littlehampton Acts and Orders 1927 to [20[X];
- (2) that I have read and understood the notes entitled "[Note for Guidance of Commissioners on the Disclosure of Financial and Other Interests]" and ["Duties of Commissioners"] and that I will comply with the requirements as to disclosure of such interests, laid down by paragraph 16 of Schedule 2 to the Littlehampton Harbour Revision Order 20[X], and in particular that:
 - a. I have disclosed to the Chief Executive details of every financial and other interest as is mentioned in those notes;
 - b. I will in future notify the Chief Executive as soon as reasonably practicable of any alteration in those interests, or any new interest such as mentioned in those notes, which I may acquire.

Made and signed in Littlehampton on the

.....day of)
signature:.....

.....)

Witnessed by the [Chief Executive]/[Harbour Master]

.....)
signature:.....

as a Commissioners

Note: Where the declaration is to be made by the Chief Executive / harbour master the references to the Chief Executive / harbour master above shall be read as references to the Chairperson

SCHEDULE 2

INCIDENTAL PROVISIONS RELATING TO THE COMMISSIONERS

Appointment of chairperson and vice-chairperson of the Commissioners

1. There shall be a chairperson of the Commissioners who shall be appointed by those of the Commissioners who are appointed under article 6(1)(a), (b) or (c) or article 10 above from among their number.

2. The first chairperson appointed under article 7(2) above shall, subject to paragraph 7 below, and unless they resigns their office as chairman or ceases to be a Commissioners, continue in office as chairperson until their initial term of office as a Commissioners has expired.

3. Subject to paragraph 7 below, every chairperson subsequently appointed under paragraph 1 above shall, unless they resigns their office as chairperson or ceases to be a Commissioner, hold office for a period of three years.

4. There shall be a vice-chairperson of the Commissioners who shall be appointed by those of the Commissioners who are appointed under article 6(1)(a), (b) or (c) or 10 above from among their number.

5. The first vice-chairperson appointed under article 7(2) above shall, subject to paragraph 7 below, and unless they resigns their office as vice-chairperson or cease to be a Commissioner, continue in office as vice-chairperson until their initial term of office as a Commissioner has expired.

6. Subject to paragraph 7 below, every vice-chairperson subsequently appointed under paragraph 4 above shall, unless they resigns their office as vice-chairperson or cease to be a Commissioners, hold office for a period of three years.

7. If those of the Commissioners who are appointed under article 6(1)(a), (b) or (c) or 10 above are satisfied that the chairperson or vice-chairperson should cease to hold his office as such, they may terminate his office as such and appoint another Commissioner to be the chairperson or vice-chairperson during the remainder of the term for which the former chairperson or vice-chairperson was appointed.

8.—(1) On a casual vacancy occurring in the office of chairperson or vice-chairperson of the Commissioners, the vacancy shall be filled by those of the Commissioners who are appointed under article 6(1)(a), (b) or (c) or 10 above at a meeting held as soon as practicable after the vacancy occurs.

(2) A Commissioner appointed under this paragraph to fill a casual vacancy in the office of chairperson or vice-chairperson shall, unless he resigns that office or ceases to be a Commissioner, hold that office during the remainder of the term for which the chairperson or vice-chairperson whom they replace was appointed.

Meetings of Commissioners

9.—(1) The first meeting of the Commissioners after the new constitution date shall be convened as soon as practicable by the Chief Executive for such date as the Chief Executive

may fix; and the Chief Executive shall make arrangements for notice of that meeting to be sent by post to each of the other Commissioners.

(2) The Commissioners shall meet at least six times a year.

Vacation of office by Commissioners

10. A Commissioner (other than the Chief Executive) may resign his office at any time by notice in writing given to the chairperson of the Commissioners or, if that Commissioner is the chairperson, the vice-chairperson.

Reappointment of Commissioners

11.—(1) Subject to the provisions of this Schedule, a vacating Commissioner shall be eligible for reappointment as a Commissioner unless he has been disqualified from office under article 11 above.

(2) A vacating appointed Commissioner shall not be eligible for reappointment as a Commissioner where, immediately before the date in question, he has held office for two consecutive terms unless he is the chairperson of the Commissioners or in respect of the third consecutive term following public advertisement of the role and a competitive appointment process.

(3) A chairperson of the Commissioners who is an appointed Commissioner shall not be eligible for reappointment as a Commissioner where, immediately before the date in question, he has held office as a Commissioner for three consecutive terms or in respect of the fourth consecutive term following public advertisement of the role and a competitive appointment process.

(4) For the purposes of this paragraph, “term” does not include—
(a) a term referred to in article 7(3)(a) or (b) or paragraph (4)(a) above;
(b) the remainder of a term during which the Commissioner was appointed to fill a casual vacancy under article 10 above; or
(c) any term served by the Commissioner prior to the new constitution date.

(5) In this paragraph “appointed Commissioner” means a Commissioner appointed under article 6(1)(a), (b) or (c) above.

Reappointment of chairperson

12.—(1) A chairperson of the Commissioners shall not be eligible for reappointment as the chairperson where, immediately before the date in question, he has served as chairperson for three consecutive terms.

(2) For the purposes of this paragraph, “term” does not include—
(a) a term served by the Commissioner as chairperson under paragraph 2 above where that term is less than 3 years;
(b) the remainder of a term during which the Commissioner was appointed to fill a casual vacancy in the office of chairperson under paragraph 8 above; or

(c) any term served by the Commissioner as chairperson prior to the new constitution date.

Committees

13. The Commissioners may, consistently with their duties and subject to such conditions as they think fit, delegate any of their functions (other than the functions set out in subparagraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964(6)) to a committee of the Commissioners.

Proceedings of the Commissioners and committees

14. The acts and proceedings of the Commissioners, or of any committee of the Commissioners, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as a Commissioner, or as chairperson or vice-chairperson, of the Commissioners or committee.

15. The quorum required for a meeting of the Commissioners shall be five.

16.—(1) If a Commissioner has any interest, direct or indirect—
(a) in any contract or proposed contract to which the Commissioners are or would be a party or is a director of a company or body with which the contract or proposed contract is made or proposed to be made; or
(b) in any other matter with which the Commissioners are concerned,
he shall declare that interest.

(2) If a Commissioner is present at a meeting of the Commissioners or of any committee of the Commissioners at which a contract or other matter in which he has an interest is to be considered he shall—

- (a) as soon as is practicable after the commencement of that meeting disclose his interest;
- (b) not vote on any question with respect to that contract or matter; and
- (c) withdraw from the meeting—
 - (i) at any time if the Commissioners present by resolution require him to do so; and
 - (ii) while a decision on that contract or matter is being made.

(3) This paragraph shall not apply to any interest—

- (a) which a Commissioner has in respect of the payment to the Commissioners of harbour dues;
- (b) which arises in respect of the provision of harbour services or facilities affecting the trading community in general;
- (c) which a Commissioner has as an employee of a public utility undertaking or as a shareholder, not being a director of a company, unless he possesses more than five per cent of the issued share capital of that company; or
- (d) which the Commissioners present at the meeting by resolution declare to be too remote.

17. The person for the time being holding office as vice-chairperson shall have and may exercise in the absence or incapacity of the chairman all the functions of the chairperson.

18. If at any meeting of the Commissioners neither the chairperson nor the vice-chairperson are present the Commissioners present at the meeting shall choose one of their number to be the chairperson of the meeting.

19.—(1) Every question at a meeting of the Commissioners or of a committee of the Commissioners shall be decided by a majority vote of the Commissioners present and voting.

(2) If at any meeting of the Commissioners or of a committee of the Commissioners there is an equality of votes on any question the chairperson of the meeting shall have a second or casting vote which he may exercise for or against the status quo.

Authentication of seal and other documents

20.—(1) The application of the seal of the Commissioners shall be authenticated by the signature of the chairperson of the Commissioners or some other Commissioner authorised by the Commissioners to authenticate the application of the seal, and of the Chief Executive of the Commissioners or some person authorised by the Commissioners to act in his place in that behalf.

(2) The Commissioners may authorise a person to act instead of the Chief Executive under this paragraph whether or not the Chief Executive is absent or incapable of acting.

(3) Any notice, licence or other document given or issued by the Commissioner shall, unless the contrary intention is expressed, be sufficiently authorised if signed by the Chief Executive of the Commissioners or a duly authorised officer of the Commissioners.

Remuneration of Commissioners

21. The Commissioners may pay to the chairperson and other Commissioners such salary, allowances and expenses as the Commissioners from time to time determine.

General

22. Subject to the provisions of this Schedule, the procedure and business of the Commissioners and of any committee of the Commissioners shall be regulated in such manner as the Commissioners may from time to time determine.

23. The Commissioners may appoint a Chief Executive and such other persons as from time to time they think necessary or desirable for and incidental to the performance of their functions and pay to them such remuneration as the Commissioners think fit.

SCHEDULE 3
REVOCATION / REPEAL

Article 53

Number	Short Title	Extent of Revocation / Repeal
1972 c. 1	West Sussex County Council Act 1972	Sections 6 to 15 (inclusive) and sections 23, 24 and 30
SI 1986/124	Littlehampton Harbour Order 1986	Articles 3, 4 and 5
17 & 18 Geo. V c. lxxvii	Littlehampton Harbour and Arun Drainage Outfall Act 1927	Sections 8, 9, 43, 49 to 51 (inclusive), 53 and 55 to 69 (inclusive)
33 Geo, III, c.c.	An Act to explain and amend an Act made in the sixth year of the reign of his late Majesty King George the Second intituled "An Act for erecting Piers in, and for repairing and keeping in repair the harbour of Little Hampton, called Arundel Port, in the County of Sussex"; and for empowering the Commissioners acting under the said Act to improve the Navigation of the River Arun, from the said Harbour to the Town of Arundel in the said County.	Section 17

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made on the application of Littlehampton Harbour Board modernises and consolidates the statutory harbour powers applying in relation to Littlehampton Harbour.

The Order provides for:

[]

To facilitate that above, the Order repeals / revokes the Acts and Orders set out in Schedule 3 to the Order and amends the Acts and Orders set out in article 52.