



Whitehaven Harbour Act 2007

CHAPTER i

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Whitehaven Harbour Act 2007

CHAPTER i

An Act to transfer to Whitehaven Harbour Commissioners all rights, properties, assets and obligations of W3M Charitable Foundation, Whitehaven Development Company Limited and W3M (Trading) Limited; to dissolve those companies; and for other purposes. [19th July 2007]

WHEREAS—

- (1) By the Whitehaven Town and Harbour (Incorporation) Act 1885 (c. cxxv), trustees of the town and harbour of Whitehaven (hereinafter called “the trustees”) were incorporated with power to carry on and improve the harbour undertaking:
- (2) By Royal Charter, dated 11th July 1894, the town and harbour of Whitehaven within the limits specified in the said Charter was created a municipal borough:
- (3) By a scheme prepared in connection with the grant of the said Royal Charter and duly confirmed on 27th June 1894, the trustees were abolished and the Whitehaven Harbour Commissioners were established as a body corporate separate from the trustees and all the property that had previously been vested in the trustees for harbour purposes was transferred to the Commissioners:
- (4) By the Whitehaven Town and Harbour Acts and Orders 1708 to 2002, powers and authorities have been conferred on the Commissioners and their predecessors for the improvement of the harbour of Whitehaven:
- (5) W3M Charitable Foundation is a company limited by guarantee and established according to the laws of England whose objects include the promotion for the benefit of the public in England and Wales and in particular in the county of Cumbria of any charitable purpose including the provision of public facilities involving docks, ports and harbours:

- (6) Whitehaven Development Company Limited and W3M (Trading) Limited are both wholly owned subsidiaries of W3M Charitable Foundation:
- (7) The Whitehaven companies have carried out a number of projects involving the regeneration of Whitehaven harbour and its environs:
- (8) It would be of public and local advantage to transfer the undertakings of the Whitehaven companies to the Commissioners and thereupon to dissolve the Whitehaven companies:
- (9) It is expedient that the other provisions contained in this Act should be enacted:
- (10) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Short title, commencement and citation

- (1) This Act may be cited as the Whitehaven Harbour Act 2007.
- (2) This Act shall come into force 30 days after it has received Royal Assent.
- (3) The Whitehaven Town and Harbour Acts and Orders 1708 to 2002 and this Act may be cited together as the Whitehaven Town and Harbour Acts and Orders 1708 to 2007.

2 Interpretation

In this Act, unless the subject or context otherwise requires—

“the Big Lottery Fund” includes any statutory or other successor to the functions of the Big Lottery Fund being functions which are relevant to the project assets;

“the Commissioners” means the Whitehaven Harbour Commissioners;

“the harbour” has the meaning given by article 2 (interpretation) of the Whitehaven Harbour Revision Order 1996 (S.I. 1996/1627);

“the Millennium Agreement” means the agreement made between the Millennium Commission and W3M Charitable Foundation and dated 18th March 1999, as varied by the supplemental agreement made on the same date between the Millennium Commission, W3M Charitable Foundation and W3M (Trading) Limited and certified copies of which have been deposited at—

- (a) the offices of the Commissioners; and
- (b) Cumbria Record Office and Local Studies Library, Scotch Street, Whitehaven, Cumbria CA28 7NL;

“the Millennium Commission” means the body corporate which was established by section 40 of the National Lottery etc. Act 1993 (c. 39) and which was dissolved on 1st December 2006 by the National Lottery Distributors Dissolution Order 2006 (S.I. 2006/2915) and whose property rights and liabilities were, on that date, by virtue of section 17(2) of the National Lottery Act 2006 (c. 23), vested in the Big Lottery Fund;

“the operative day” means the day which the Commissioners shall determine in accordance with section 3 (operative day) of this Act;

“project assets” means the assets defined as such in the Millennium Agreement being the assets utilised or incorporated in, or acquired, created or improved by any of the Whitehaven companies as part of the project enabled by grant monies provided by the Millennium Commission pursuant to the Millennium Agreement; and, without prejudice to the integrity of that definition, includes the project assets specified in the Schedule to this Act; and

“the Whitehaven companies” means W3M Charitable Foundation, Whitehaven Development Company Limited and W3M (Trading) Limited.

3 Operative day

- (1) The Commissioners shall determine a day to be the operative day for the purposes of this Act being a day falling in the period beginning with the date on which this Act comes into force and ending six months after that date.
- (2) Before the day so determined the Commissioners shall publish a notice in the London Gazette of the day so determined, stating that it is the operative day for the purposes of this Act.
- (3) The publication of a notice under subsection (2) above shall be conclusive evidence of the operative day for the purposes of this Act, and a photocopy or other reproduction, certified by an authorised officer of the Commissioners, of a page or part of a page of the London Gazette containing the notice shall be conclusive evidence of publication of the notice.

4 Dissolution of Whitehaven companies

- (1) On the operative day, the Whitehaven companies shall be dissolved.
- (2) The Commissioners shall notify the registrar of the effect of subsection (1) above within 14 days of the operative day; and the registrar shall record the dissolution of the Whitehaven companies.
- (3) In subsection (2) above, “the registrar” has the meaning given in section 744 of the Companies Act 1985 (c. 6).

5 Transfer of property, functions, etc. to Commissioners

- (1) Such of the following as immediately before the operative day belonged to or were vested in or exercisable by the Whitehaven companies—
 - (a) all property, real and personal, of every description (including the project assets and things in action), and
 - (b) all rights, interests, privileges, and functions,shall on the operative day, without any conveyance, transfer, assignment or other instrument, be transferred to and vested in, or be exercisable by, the Commissioners for all the estate and interest therein of the Whitehaven companies.
- (2) Subject to section 10 (for protection of Big Lottery Fund) of this Act, all property, rights, interests, privileges and functions transferred to the Commissioners by subsection (1) above shall be used or exercised by the Commissioners solely for the purposes of the improvement, maintenance and management of the harbour for the public benefit, and as part of the Commissioners' harbour undertaking.
- (3) In this section "functions" includes functions conferred by or under any enactment.

6 Transfer of obligations, etc. to Commissioners

- (1) Subject to section 10 (for protection of Big Lottery Fund) of this Act and to subsection (2) below, all debts and obligations of the Whitehaven companies shall on the operative day be transferred and attached to the Commissioners and shall thereafter be discharged and satisfied by the Commissioners.
- (2) This section shall not apply to any debenture or legal charge created by any one of the Whitehaven companies over any project assets of the company in question for the benefit of the Big Lottery Fund and on the operative day any such debenture or legal charge shall be discharged and cease to have any effect and the project assets in question shall on and from that day be held by the Commissioners free from any liability formerly arising under any such debenture or legal charge.

7 Savings for agreements, deeds, actions, etc.

Such of the following as immediately before the operative day were existing or pending in favour of, or against, the Whitehaven companies—

- (a) all agreements, appointments, awards, contracts, deeds and other instruments, and
 - (b) all actions and proceedings and causes of action or proceedings,
- shall on and from the operative day continue and may be carried into effect, enforced and prosecuted by, or in favour of, or against, the Commissioners to the same extent and in like manner as if the Commissioners instead of the Whitehaven companies had been party to, or interested in, the same respectively.

8 Continuation of employment

- (1) On the operative day every member of the staff of the Whitehaven companies (other than a non-executive director) shall become a member of the staff of the Commissioners and the contract of employment of every such member shall transfer in accordance with, and to the extent provided by, the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (2) Employment of members of the staff to which subsection (1) above applies shall be deemed for all purposes to be a single continuing employment.

9 Final accounting periods of Whitehaven companies

Notwithstanding any enactment or other rule of law to the contrary, the Whitehaven companies may produce final accounts for a period greater than one year ending on the operative day.

10 For protection of Big Lottery Fund

- (1) The following provisions of this section shall have effect unless otherwise agreed in writing between the Commissioners and the Big Lottery Fund.
- (2) The Commissioners shall hold and use the project assets for the public benefit and, for that purpose, shall perform and comply with the obligations contained in clauses 5.1, 5.4.2, 5.5, 5.7 to 5.12, 5.14, 5.15 and 6 to 9 of and paragraphs 1, 4, 5, 6, 11 and 12 to 16 of Schedule 8 to the Millennium Agreement and with any other extant obligations contained in that agreement.
- (3) The Commissioners shall not sell or otherwise dispose of any interest in any of the project assets without first obtaining the written consent of the Big Lottery Fund.
- (4) In giving their consent under subsection (3) above, the Big Lottery Fund may require the Commissioners to pay to the Big Lottery Fund a sum equal to not more than one half of the net proceeds of disposal of the interest in the project asset in question.

SCHEDULE

Section 2

PROJECT ASSETS

<i>Description of project asset</i>	<i>Location</i>
Harbour	
Boy on a Capstan	Sugar Tongue
Shoal of Mackerel	Millennium Prom North
Bicycle Stands	Millennium Prom East
C2C	Hub Slipway
John Paul-Jones	Millennium Prom South
Trading Benches	Lime Tongue
Millennium Benches	Millennium Prom North/East/South
Sea saying Benches	Sugar Tongue
Knot Bollards	Millennium Prom East
Crows Nest	Inner Harbour (Water Space)
Wave	Lime Tongue
Wave Lighting	Lime Tongue
Lighting Columns (40)	Millennium Prom North/East/South
Tented Structure	Hub
Crustacean Tessellations	Hub
Feature Lighting	Hub
Paving	Hub
Paving	Sugar Tongue
Paving	Lime Tongue
Paving	Millennium Prom North/East/South
Paving	North Wall
Paving	West Pier
Paving	Old Quay
Dolphin Tessellations	Bulwark Quay
Railings	Millennium Prom North/East/South
Quay Copings	Harbour General
Fish Gates	Millennium Prom North
Litter Bins	Millennium Prom North/East/South
Electrical Feeder Pillars	Millennium Prom North/East/South
Electrical Controls	Sugar Tongue
Access Ladders	Harbour General
Bollards	Harbour General
Trees	Harbour General
Signage	Millennium Prom North/East/South
Freehold Land	Hub
Land fronting the harbour leased to W3M Charitable Foundation by Whitehaven Development Company but excluding Whitehaven Harbour Commissioners' Offices and Workshop	Harbour

<i>Description of project asset</i>	<i>Location</i>
Town	
Man @ Dog	Flatt Walks
Two Sailors	Market Place
Plaques	Town Centre
Child Miners	St Nicholas Gardens
Beacon	
Quest Computers/Software/Scoring Equipment	Beacon visitor attraction
Scoring Machine	Beacon visitor attraction
First Floor (leasehold with Copeland Borough Council)	Beacon visitor attraction
Rum Story	
Rum Story Building (freehold)	27 Lowther Street
Displays:—	
Rain Forest	Courtyard 2
Sugar Making Workshop	Courtyard 2
Draymen	Ground floor bond
Rum Making from Sugar Cane (Film)	First floor bonded warehouse
African Village	First floor bonded warehouse
Slave Ship/Branding	First floor bonded warehouse
Punch House	First floor bonded warehouse
Jeffersons	Second floor bonded warehouse
Rum in the Navy	Second floor bonded warehouse
Cooperage	Second floor bonded warehouse
Pirates & Smuggling	Second floor bonded warehouse
Rum & Revolution/Prohibition	Second floor bonded warehouse
Jazz Age	Second floor bonded warehouse
Rusties Rum Fun Room	Second floor bonded warehouse
The British Queen Painting	Courtyard 1 Office
Jefferson's Office & Family Records	Courtyard 1 Office
Kinetic Clock	Courtyard 1
Graphic Panels	Rum Story
Computers/AV Equipment	Rum Story
Electrical Supply	Rum Story
Shop	Courtyard 1
Cafe	Courtyard 1
Kitchen Equipment	Cafe

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