

1981 No. 1097

HARBOURS, DOCKS, PIERS AND FERRIES

The Poole Harbour Revision Order 1981

<i>Made</i>	- - - -	21st May 1981
<i>Laid before Parliament</i>		16th June 1981
<i>Coming into operation</i>		27th July 1981

The Secretary of State for Transport in exercise of the powers conferred by section 14 of the Harbours Act 1964(a) and now vested in him(b) and of all other powers enabling him in that behalf, and on the application of the Poole Harbour Commissioners, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Poole Harbour Revision Order 1981 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(c).

(2) The Poole Harbour Acts and Orders 1756 to 1925 and this Order may be cited together as the Poole Harbour Acts and Orders 1756 to 1981.

Interpretation

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

“the Act of 1895” means the Poole Harbour Act 1895(d);

“appointing authority” means each of the persons by whom Commissioners are, or are to be, appointed in accordance with article 3 (Change of constitution) of this Order;

“the Commissioners” means the Poole Harbour Commissioners;

“the new constitution date” means 1st November 1981 or the first day of the third month after the expiry of the month current at the commencement of this Order whichever is the later;

“trader” means a person, partnership, or body corporate qualified under article 8 (Qualification of electors of traders’ members) of this Order as an elector of traders’ members;

“traders’ members” means the Commissioners elected by the traders.

(a) 1964 c. 40.

(b) S.I. 1981/238.

(c) 1945 c. 18 (9 & 10 Ges. 6); 1965 c. 43.

(d) 1895 c. lxx.

Change of constitution

3.—(1) On and after the new constitution date the Commissioners shall, subject to any casual vacancies, consist of—

- (a) the Chairman appointed by the Secretary of State, after consultation with the National Ports Council and with the Commissioners, who shall be a person appearing to the Secretary of State to have knowledge and experience of local conditions and of interests in the area of the harbour of Poole;
- (b) the Chief Executive of the Commissioners for the time being; and
- (c) thirteen other Commissioners appointed or elected as provided by paragraph (2) of this article.

(2) The Commissioners appointed or elected under this paragraph shall be as follows:—

- (a) one Commissioner appointed by the Dorset County Council;
- (b) three Commissioners appointed by the Poole Borough Council;
- (c) one Commissioner appointed by the Purbeck District Council;
- (d) five Commissioners elected by the traders and who shall themselves be traders;
- (e) one Commissioner appointed by the Secretary of State after consultation with the Royal Yachting Association and Poole Yachting Association;
- (f) one Commissioner appointed by the Transport and General Workers Union from amongst the employees of the Commissioners;
- (g) one Commissioner appointed by the Secretary of State after consultation with the Southern Sea Fisheries District Committee and such other bodies or persons appearing to him to be representative of the fishing industry at Poole as he considers appropriate.

Appointment of Commissioners and tenure of office

4.—(1) Each appointing authority shall not later than the sixth day preceding the new constitution date make their respective appointment in accordance with article 3 (Change of constitution) of this Order.

(2) Each Commissioner so appointed shall take office on the new constitution date and shall (unless he shall previously die, resign or be disqualified) continue in office until 31st October 1984:

Provided that any Commissioner appointed by the Dorset County Council, by the Poole Borough Council and by the Purbeck District Council shall (unless he shall previously die, resign or be disqualified) continue in office for such period up to a maximum of three years respectively as the appointing authority shall at the time of making the appointment determine.

(3) (a) Each appointing authority shall not later than one month before the term of office of the Commissioner appointed by them expires make their respective appointment in accordance with article 3 of this Order.

(b) Each Commissioner so appointed shall be eligible for reappointment at the expiration of his term of office unless he is disqualified under article 12 (Disqualification of Commissioners) of this Order.

(4) The appointments made under this article shall be notified in writing to the Clerk to the Commissioners.

Election of traders' members and tenure of office

5.—(1) The traders shall not later than the sixth day preceding the new constitution date elect the five traders' members in accordance with the Act of 1895.

(2) Notwithstanding the provisions of the Act of 1895, as soon as practicable after the commencement of this Order the Clerk to the Commissioners shall make out and deliver to the Commissioners a list of the electors of traders' members qualified on 25th March 1981 in accordance with the provisions of this Order, and such list shall have effect for the first election of traders' members under this Order and shall for all purposes of the Act of 1895 be substituted for the list of electors in force under that Act immediately before the commencement of this Order.

(3) The traders' members so elected shall take office on the new constitution date and (unless in any such case he shall previously die, resign or be disqualified) the member who was lowest on the poll shall continue in office until 31st October 1982, the two members who were next lowest on the poll shall continue in office until 31st October 1983 and the remaining two members shall continue in office until 31st October 1984.

(4) If there shall have been no poll at the election under paragraph (1) of this article or an equality of votes between any two or more members, the order of retirement of the members elected at that election shall be determined in manner provided by section 20 of the Commissioners Clauses Act 1847(a).

(5) Subject to paragraph (3) of this article each traders' member shall (unless he shall previously die, resign or be disqualified) continue in office for a period of three years.

(6) Each traders' member shall be eligible for re-election at the expiration of his term of office unless he is disqualified under article 12 (Disqualification of Commissioners) of this Order.

Qualification of traders' members

6. Subject to article 12 (Disqualification of Commissioners) of this Order a person shall be qualified to be a traders' member if:—

- (1) he is, or is a partner in a firm which is, qualified as an elector of traders' members in accordance with article 8 (Qualification of electors of traders' members) of this Order being at the date of nomination either a ratepayer of the borough of Poole or having a place of residence within a radius of ten miles of the harbour office at Poole; or
- (2) he is qualified under article 7 (Nominees of Companies qualified to be traders' members) of this Order:

Provided that only one partner in any firm shall be so qualified and in case more than one partner in any firm are nominated at any election the nomination of the partner first nominated shall be valid.

Nominees of Companies qualified to be traders' members

7. Where any Company incorporated by Act of Parliament or under the Companies Act 1948(b) and having an office or place of business within the borough of Poole is qualified as an elector of traders' members in accordance with article 8 (Qualification of electors of traders' members) of this Order such Company may from time to time by notice in writing under their Common

(a) 1847 c. 16.

(b) 1948 c. 38.

Seal addressed to the Clerk to the Commissioners appoint one person being a director or general manager of the Company and any person so appointed and accepting such appointment by writing addressed to the Clerk to the Commissioners shall be qualified to be a traders' member and shall, subject to the provisions of the Act of 1895 and this Order, continue so qualified so long as the Company appointing him shall retain the said qualification or until he dies or becomes disqualified under article 12 (Disqualification of Commissioners) of this Order.

Qualification of electors of traders' members

8. The qualification of electors of traders' members shall be regulated as follows, that is to say:—

- (1) every person, partnership, or body corporate importing or exporting goods by sea to or from the harbour on which dues are paid to the Commissioners to the amount of £50 or upwards during the twelve months ending 25th March immediately preceding the day of election shall be qualified to vote for each traders' member according to the following scale, that is to say, one vote for the first £50 so paid and an additional vote for each additional £250 so paid above the first £50;
- (2) (a) every person, partnership or body corporate being the registered owner of shipping registered at the Port of Poole and used wholly or mainly for carrying passengers or cargo (other than fish) to the amount of one hundred tons or upwards of gross registered tonnage on which boomage rates have been paid to the Commissioners during the twelve months ending 25th March immediately preceding the day of election shall be qualified to vote for each traders' member according to the following scale, that is to say, one vote in respect of the first one hundred tons of registered tonnage and an additional vote for each additional two hundred tons above the first one hundred;
(b) where a ship is registered in distinct and several shares in the names of more owners than one or jointly registered without severance of interest in the names of more owners than one the person entitled to vote in respect of such ship shall be the person registered as managing owner;
- (3) no person, partnership or body corporate shall be entitled to more than six votes in all (whether as payer of dues or owner of shipping or both) for each of any number of traders' members not exceeding the number to be elected.

Application of provisions of Act of 1895 to elections

9. Sections 17 to 24, 26, 29 and 35 of the Act of 1895 shall apply to the qualification and election of the five Commissioners to be elected by the traders and for the purposes of those sections those Commissioners shall be the traders' members.

Casual vacancies

10.—(1) if a casual vacancy occurs in the office of a Commissioner—

- (a) if the Commissioner is appointed, the person or body, as the case may be, by whom that Commissioner was appointed shall as soon as practicable appoint another person to fill the vacancy;
- (b) if the Commissioner is elected, the other elected Commissioners shall as soon as practicable appoint another person to fill the vacancy.

(2) A person appointed to fill a casual vacancy shall (unless he shall previously die, resign or be disqualified) hold office during the remainder of the term for which the person in whose place he has been appointed was appointed or elected.

Resignation of Commissioners

11. A Commissioner may at any time while he is in office resign his office by notice in writing to the Clerk to the Commissioners and also, in the case of an appointed Commissioner, to the appointing authority by whom he was appointed.

Disqualification of Commissioners

12.—(1) If the Commissioners are satisfied that a Commissioner—

- (a) has been absent from meetings of the Commissioners for six consecutive months or more without the permission of the Commissioners; or
- (b) has become bankrupt or has 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 or unfit to discharge the functions of a Commissioner;

the Commissioners may declare his office as a Commissioner to be vacant and thereupon the office shall become vacant and the Clerk to the Commissioners shall notify the fact to the appointing authority, if the Commissioner is appointed.

(2) For the purposes of paragraph (1)(a) of this article the attendance of a Commissioner at a meeting of any committee of the Commissioners of which he is a member shall be treated as attendance at a meeting of the Commissioners.

Provisions applying to Commissioners

13. The provisions set out in Schedule 1 to this Order shall have effect with respect to the Commissioners.

Amendments and repeal

14.—(1) Section 2 of the Act of 1895 shall have effect as if the following were substituted therefor—

“Commissioners
Clauses Act 1847
incorporated.

2. The provisions of the Commissioners Clauses Act 1847 with respect to the qualification of the Commissioners (except sections 6 to 10) and with respect to the meetings and other proceedings of the Commissioners and their liabilities (except sections 36 to 39, 51 and 54) and with respect to the giving of notices and orders are hereby incorporated with and form part of this Act:

Provided that section 16 as so incorporated shall have effect as if the words “or who for six months in succession is absent from all meetings of the Commissioners” were omitted therefrom.”

(2) The provisions of the Act of 1895 referred to in column (1) of Schedule 2 to this Order shall have effect subject to the amendments specified in column (2) of that Schedule being amendments consequential on the foregoing provisions of this Order.

(3) The enactments referred to in column (1) of Schedule 3 to this Order are hereby repealed to the extent specified in column (2) of that Schedule.

(4) Notwithstanding anything contained in the Poole Harbour Acts and Orders 1756 to 1981, each of the persons holding office as a Commissioner at the commencement of this Order shall unless he shall previously die, resign or become disqualified for being a Commissioner continue to hold that office until the new constitution date.

Costs of Order

15. All costs, charges and expenses of and incidental to the preparing and obtaining of this Order or otherwise incurred in reference thereto (other than costs, charges or expenses which any person is lawfully ordered to pay by the Secretary of State or a joint committee of both Houses of Parliament or any costs, charges and expenses incurred in opposing this Order) shall be paid by the Commissioners.

21st May 1981.

Norman Fowler,
Secretary of State for Transport.

PROVISIONS APPLYING TO THE COMMISSIONERS

1. (1) At the first meeting of the Commissioners held on or after the new constitution date and at the first meeting of the Commissioners in each year thereafter the Commissioners present at the meeting shall choose one of their number to act as vice-chairman.

(2) So long as he continues as a Commissioner the person chosen under subparagraph (1) of this paragraph to act as vice-chairman shall hold office as such from and including the meeting at which he is chosen until the next appointment of a vice-chairman.

2. (1) If any casual vacancy occurs in the office of vice-chairman the Commissioners may choose some other Commissioner to fill the vacancy.

(2) So long as he continues as a Commissioner every person chosen under this paragraph to act as vice-chairman shall continue in office as such so long as the person in whose place he has been so chosen would have been entitled to continue in office if such vacancy had not occurred.

3. In the absence of the chairman the person for the time being holding office as vice-chairman shall have and may exercise all the powers of the chairman.

4. If at any meeting of the Commissioners neither the chairman nor the vice-chairman is present the Commissioners present at the meeting shall choose one of their number to be chairman of the meeting.

5. The Commissioners may act notwithstanding a vacancy in their number and no act of the Commissioners shall be deemed to be invalid by reason of any irregularity in the appointment of any Commissioner, or by reason of any person irregularly acting as a Commissioner.

6. The Commissioners may, subject to such conditions as they think fit, delegate any of their functions to a committee of the Commissioners.

7. If at any meeting of the Commissioners or of a committee of the Commissioners there is an equality of votes on any question the chairman of the meeting shall have a second or casting vote.

8. (1) If a Commissioner has any pecuniary 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;

and is present at a meeting of the Commissioners or of any committee of the Commissioners at which that contract or matter is considered, he shall—

- (i) so soon as practicable after the commencement of that meeting disclose his interest;
- (ii) not vote on any question with respect to that contract or matter; and
- (iii) withdraw from the meeting if the Commissioners present by resolution require him so to do.

(2) 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.

9. Subject to the provisions of this Schedule and of the Act of 1895 the procedure and business of the Commissioners shall be regulated in such manner as the Commissioners may from time to time determine.

10. The Commissioners shall appoint a clerk, a harbour master and such other officers and servants as they may think necessary or expedient on such terms and conditions as they think fit.

11. The Commissioners may pay to their Chairman or any other of their number, such remuneration, allowance and expenses as they may determine.

SCHEDULE 2

Article 14(2)

AMENDMENTS TO THE ACT OF 1895

(1) Section	(2) Amendment
Section 17 (Lists of electors of traders' members to be made out)	In subsection (1) for the words "companies and municipal corporations" there shall be substituted the words "and bodies corporate". In subsection (2) for the words "company and municipal corporation" there shall be substituted the words "and body corporate". In subsection (3) for the word "fail" there shall be substituted the word "fails" for the word "make" in the second place where it occurs there shall be substituted the word "makes" and for the word "omit" there shall be substituted the word "omits".
Section 19 (Revision of lists of electors of traders' members)	In subsection (1) for the words "Board of Trade" there shall be substituted the word "Commissioners" and for the words "Trustees or the Commissioners as the case may be" there shall be substituted the words "Poole Port Users Association" and in subsection (4), (5) and (6) for the words "company or municipal corporation" there shall be substituted the words "or body corporate".
Section 22 (Revised lists to be conclusive evidence of right to vote)	For the words "companies or municipal corporations" there shall be substituted the words "or bodies corporate".
Section 29 (Expenses of revision of lists and elections)	For the words "three guineas" there shall be substituted "£15"; and for the words "Act of 1756 and the Orders of 1891 and 1894" there shall be substituted the words "Harbours Act 1964".

(1) Enactment	(2) Extent of repeal
Act of 1895	<p>Sections 10, 11, 12, 15 and 16.</p> <p>In section 17(1) the words “The Town Clerk shall on or before the fifteenth day of July in the year one thousand eight hundred and ninety-five and”; the word “subsequent”; the words “to the Trustees or” and the words “as the case may be”.</p> <p>In section 17(3) the words “the Town Clerk or” and the words “as the case may be” in both places where those words occur.</p> <p>In section 18 the words “On or before the thirty-first day of July in the year one thousand eight hundred and ninety-five the Trustees and”; the word “succeeding” and, in both places where those words occur, the words “the Trustees or” and the words “as the case may be”.</p> <p>In section 19(1) the words “in the year one thousand eight hundred and ninety-five and on or before the same date” and the word “succeeding”.</p> <p>In section 19(3) the words “of the Trustees or” and the words “as the case may be”.</p> <p>In section 20 the words “the Trustees or” where those words first occur, the words “as the case may be” and the words “trustees or” where those words secondly occur.</p> <p>In section 23 the words “the Trustees or” and the words “as the case may be”.</p> <p>In section 24(1) the words “The Town Clerk in the year one thousand eight hundred and ninety-five and” and the word “subsequent” and in section 24(3) and (6) the words “with such variations as may be necessary in the case of the first election”.</p>
<p>The Poole Harbour Act 1914</p> <p>The Poole Harbour Order 1915</p> <p>The Poole Harbour Act 1925</p>	<p>Section 25.</p> <p>In Section 29 the words “by the Trustees or” in both places where those words occur; the words “the costs and expenses of the Board of Trade in connection with the appointment of revisors also” the words “as the case may be” wherever those words occur and the words “or Trustees”.</p> <p>Section 56.</p> <p>The whole Order.</p> <p>Sections 11, 12 and 13.</p>

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order alters the constitution of the Poole Harbour Commissioners so as to consist of 15 Commissioners 9 of whom are to be appointed as follows:—

- (a) the Chairman by the Secretary of State for Transport after consultation with the National Ports Council and the Commissioners;
- (b) one by the Dorset County Council;
- (c) three by the Poole Borough Council;
- (d) one by the Purbeck District Council;
- (e) one by the Secretary of State after consultation with the Royal Yachting Association and the Poole Yachting Association;
- (f) one by the Transport and General Workers Union;
- (g) one by the Secretary of State after consultation with the Southern Sea Fisheries District Committee and such other bodies or persons appearing to him to be representative of the fishing industry at Poole.

Five are to be elected by the traders and who themselves shall be traders and in addition the Chief Executive of the Commissioners for the time being is to be a Commissioner.

The Order makes consequential amendments and repeals in certain enactments relating to the constitution of the Commissioners.

The Order also provides for the revisors of the lists of electors being appointed by the Commissioners on the request of the Poole Port Users Association instead of being appointed by the Secretary of State on the request of the Commissioners.