

1988 No. 1040

HARBOURS, DOCKS, PIERS AND FERRIES

The Gloucester Harbour Revision Order 1988

Made - - - - - *29th March 1988*

Coming into force *30th March 1988*

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 Gloucester Harbour Trustees in accordance with that section, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Gloucester Harbour Revision Order 1988 and shall come into force on 30th March 1988.

(2) The Gloucester Harbour Orders 1889 to 1963 and this Order may be cited together as the Gloucester Harbour Orders 1889 to 1988 and shall be construed and read together as one enactment except so far as may be inconsistent with or repugnant to the purposes thereof.

Interpretation

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

“appointing authority” means each of the persons by whom Trustees may be appointed in accordance with article 3 (Constitution of Trustees) of this Order;

“the harbour” means the harbour of Gloucester within the limits prescribed by article 10 (Limits of harbour) of this Order;

“the new constitution date” means the first day after the expiry of two weeks following the coming into force of this Order;

“the Order of 1890”, “the Order of 1959” and “the Order of 1963” mean respectively the Gloucester Harbour Order 1890, confirmed by the Pier and Harbour Orders Confirmation (No. 3) Act 1890(c), the Gloucester Harbour Order 1959, confirmed by the Pier and Harbour Order (Gloucester) Confirmation Act 1959(d), and the Gloucester Harbour Order 1963, confirmed by the Pier and Harbour Order (Gloucester Harbour) Confirmation Act 1963(e);

“the Trustees” means the Gloucester Harbour Trustees incorporated by the Order of 1890.

Constitution of Trustees

3.—(1) On and after the new constitution date the Trustees shall consist of not less than nine, nor more than twelve, persons of whom nine shall be appointed as follows—

(a) three by the British Waterways Board;

(a) 1964 c.40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c.56) and section 18 and Schedule 6 paragraphs 2 to 4.

(b) S.I. 1981/238.

(c) 1890 c.xcvii.

(d) 1959 c.xxxvii.

(e) 1963 c.xxi.

- (b) one, representative of shipowning interests trading to or within or using the harbour, jointly by the General Council of British Shipping and the Institute of Chartered Shipbrokers;
- (c) one, representative of commercial interests other than the British Waterways Board trading to or within, or dependent upon, the harbour, by the Trustees otherwise holding office under this paragraph after consultation with those persons appearing to them to be representative of those commercial interests;
- (d) one by the Central Electricity Generating Board;
- (e) one by the Gloucestershire County Council;
- (f) one by the Gloucester City Council;
- (g) one by the Stroud District Council.

(2)(a) If a majority of the persons being relevant licence holders or of the relevant authorised pilots (as the case may be) have agreed in the terms of paragraph (a) or (b) of section 4(2) of the Pilotage Act 1987^(a) (as to not needing contracts of employment) there shall be added to the nine Trustees appointed under paragraph (1) above one person, representative of pilots, appointed by the Amalgamated Gloucester Pilots or if that body ceases to have an identifiable existence, by the Trustees otherwise holding office under paragraph (1) above after consultation with such other bodies or persons appearing to them to be representative of pilots.

A person appointed under this paragraph shall cease forthwith to hold office and this paragraph shall cease to have effect if a majority of the relevant authorised pilots are offered and accept employment by the Trustees.

(b) The Trustees otherwise holding office, at a meeting at which not less than six of them are present—

- (i) in default of an appointment made under paragraph (1)(b) above, in accordance with paragraph (1) of article 4 (Appointment of Trustees) of this Order, shall appoint a person appearing to them to be representative of shipowning interests;
- (ii) may, at their discretion, appoint not more than two persons as additional Trustees being in each case a person who in the opinion of the Trustees has knowledge or experience which would be of value to the Trustees in the discharge of their functions;

but a Trustee holding office in right of an appointment made under sub-paragraph (ii) hereof shall not vote respecting any appointment proposed under that sub-paragraph.

(3)(a) The persons appointed under paragraphs (1)(b) and (c) and (2)(a) above by the General Council of British Shipping, the Institute of Chartered Shipbrokers and the Trustees otherwise holding office under paragraph (1) above, as the case may be, shall in each case by persons who appear to them to have had wide experience of, and shown capacity in, the interests to be represented by the person to be appointed or to have had in some other respect knowledge or experience which would be of value to the Trustees in the discharge of their functions.

(b) Regard shall be had under paragraphs (1)(b) and (c) and (2)(b) above to the desirability of appointing persons who are familiar with the special requirements and circumstances of the areas predominantly served by the undertaking of the Trustees.

(4) The first appointment under paragraph (1)(c) above after the coming into operation of this Order shall be made as soon as reasonably practicable after the new constitution date by the other Trustees then in office; and every subsequent such appointment shall be made in anticipation by the Trustees (including any in office under paragraph (2)(b)(ii) above) before the expiry of their term of office.

Appointment of Trustees

4.—(1) Each appointing authority shall not later than the new constitution date, and not later than 1st June in every third year thereafter, make their respective appointments in accordance with article 3 (Constitution of Trustees) of this Order.

^(a) 1987 c.21.

(2) Each Trustee so appointed shall (unless he shall previously die or resign) hold office—

- (a) in the case of the first appointments from the appointed day until 31st July 1990; and
- (b) in the case of subsequent appointments (other than appointments to fill a casual vacancy) from 1st August next following his appointment for a term of three years; and upon ceasing to hold office shall be eligible for reappointment.

(3) The provisions of the Order of 1890 mentioned below are hereby amended as follows—

In sections 4 (provision in case Trustee not appointed), 5 (casual vacancies) and 6 (removal of Trustees) for the words “two years” there shall in each case be substituted “three years”;

In the said sections 5 and 6 and in section 7 (notice of appointment of Trustees to be given) for the words “commissioners corporation County council or company” there shall in each case be substituted “body or person”;

In paragraph 1 of section 9 (as to quorum) for the word “seven” there shall be substituted “four”.

(4) Section 1 (Constitution of Trustees) and section 3 (Appointment of additional Trustees) of the order of 1890 are hereby repealed.

Reserve fund

5. Section 8 (Reserve fund) of the Order of 1959 is hereby amended as follows—

After the word “undertaking” there shall be inserted the words “(including so much thereof as relates to the provision of pilotage services)”;

For the words “the revenue received under the Gloucester Harbour Orders 1889 to 1959” there shall be substituted the word “revenue”.

Acceptance of contributions, loans, etc.

6. The Trustees may accept from any person gifts (including gifts of land), contributions, grants, loans or guarantees on such terms as the Trustees think fit for or in connection with any of their functions.

Power to borrow

7.—(1) The Trustees may from time to time borrow upon the security of all or any of the revenues and property of the Trustees and by any method or methods they see fit, such sums of money as they think necessary:

Provided that:

- (i) the amount outstanding in respect of monies so borrowed shall not at any time exceed £500,000;
- (ii) in calculating for the purpose of this article the amount outstanding in respect of monies borrowed by the Trustees there shall be excluded any sums borrowed for the purpose of repaying within twelve months of the date of borrowing any sum for the time being outstanding by way of principal on any amount previously borrowed.

(2) Monies borrowed by the Trustees under this article shall be applied only to purposes to which capital money is properly applicable.

(3) For the purposes of the last foregoing paragraph, but without prejudice to the generality thereof, purposes to which capital money is properly applicable shall be deemed to include:—

- (a) the provision of pilotage services;
- (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 Trustees under this article; and
- (c) the repayment within twelve months of the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

(4) Section 28 (Power to borrow) of the Order of 1890 is hereby repealed.

Temporary borrowing

8. The Trustees may borrow temporarily, by way of overdraft or otherwise, such sums as they may require for meeting their obligations or discharging their functions under or in pursuance of any enactment:

Provided that the total amount outstanding at any one time of the money as borrowed shall not exceed £50,000.

Byelaws

9.—(1) The byelaws which may be made by the Trustees under section 83 of the Harbours Docks and Piers Clauses Act 1847(a) or otherwise under the Gloucester Harbour Orders 1889 to 1988 may provide that any person contravening or failing to comply with any byelaw shall be liable on summary conviction to a fine not exceeding £400.

(2) All byelaws so made by the Trustees after the coming into operation of this Order shall be subject to the provisions contained in section 236(3) to (8) and (11) and section 238 of the Local Government Act 1972(b) and those sections shall for the purposes of this article be construed as if the Trustees were a local authority within the meaning of those sections and the clerk to the Trustees were the proper officer of that local authority.

(3) The said section 236 in its application to byelaws made by the Trustees shall have effect as if in subsection (7) of that section after the word "confirm", where it firstly occurs in that subsection, the words "with or without modification" were inserted:

Provided that where the Secretary of State proposes to make a modification which appears to him to be substantial he shall inform the Trustees and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification and shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Trustees and by other persons who have been informed of it.

(4) As from the coming into operation of this Order, section 11 (Byelaws) of the Order of 1959 shall cease to have effect and section 12 (Inquiries) of that Order shall be amended by the substitution of the words "section 9 (Byelaws) of the Gloucester Harbour Revision Order 1988" for the words "this Order".

Limits of harbour

10.—(1) The limits within which the Trustees have authority and within which the enactments relating to the harbour apply shall comprise the area of the tideway of the Severn estuary to mean high water springs and lying between the following seaward and inward limits, namely:—

The seaward limit—a line from the Welsh shore at Redwick in the county of Gwent at reference point ST 41293 83182 (latitude 51° 32.6' north, longitude 2° 50.8' west) due south to the limits of the Port of Bristol as prescribed by Article 3 and Schedule 1 to the Bristol Port and Harbour Revision Order 1972(c) at reference point ST 41239 78475 (latitude 51° 30.1' north, longitude 2° 50.8' west) and (thereafter conterminous with the limits of that Port) thence north-eastward to the beacon on Denny Island at reference point ST 45932 81017 and thence to the English shore south of Severn Beach in the county of Avon at reference point ST 53780 83720.

The inward limits—

- (a) on the river Severn, the foot of the weir at Maisemore in the county of Gloucestershire at reference point SO 81812167 on the western parting of the river and to the foot of the weir known as Llanthony Weir in the city of Gloucester at reference point SO 82191820 on the eastern parting of the river;
- (b) on the river Wye, the downstream face of Bigsweir Bridge at reference point SO 538051 on the boundary of the county of Gloucestershire and the county of Gwent.

(a) 1847 c.27.

(b) 1972 c.70.

(c) S.I. 1972/1931.

In this paragraph reference points refer to the map co-ordinates on the National Grid used by the Ordnance Survey and shall be construed as if the words "or thereabouts" were inserted after each such reference point.

(2) Section 12 (Limits of Order) of the Order of 1890 and section 6 (Extension of harbour limits) of the Order of 1963 are hereby repealed.

Signed by authority of the Secretary of State
29th March 1988

J. W. S. Dempster
An Under Secretary in the
Department of Transport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order reconstitutes the Gloucester Harbour Trustees so as to consist of not less than nine nor more than twelve persons for terms of three years, of whom nine shall be appointed as follows—

- (a) three by the British Waterways Board;
- (b) one representative of shipowning interests trading to or within or using the Port of Gloucester, jointly by the General Council of British Shipping and the Institute of Chartered Shipbrokers;
- (c) one representative of commercial interests other than those of the British Waterways Board trading to or within, or dependent upon the harbour, by the Trustees otherwise appointed after appropriate consultation;
- (d) one by the Central Electricity Generating Board;
- (e) one by the Gloucestershire County Council;
- (f) one by the Gloucester City Council;
- (g) one by the Stroud District Council.

If a majority of the relevant licensed or authorised pilots agree not to require contracts of employment then an additional Trustee representing the pilots shall be appointed by the Amalgamated Gloucester Pilots, or otherwise by the Trustees after appropriate consultation; but this appointment ceases if subsequently pilots become so employed. In addition, the foregoing Trustees may co-opt two further Trustees.

The Order also makes further provision as to the Trustees' powers respecting a reserve fund, the acceptance of gifts, borrowing powers and byelaws.

It further re-defines the limits of the harbour of Gloucester, and extends the inward limits in the River Severn.

The applicants for this Order are the Gloucester Harbour Trustees.