

1989 No. 2036

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Boston Harbour Revision Order 1989**

<i>Made</i> - - - -	<i>19th June 1989</i>
<i>Laid before Parliament</i>	<i>25th July 1989</i>
<i>Coming into force</i>	<i>7th November 1989</i>

Whereas objections to the application of this Order have been duly made and not withdrawn and the Secretary of State for Transport is required, in accordance with the procedure prescribed in paragraph 4A of Schedule 3 to the Harbours Act 1964(a) to give notice of the making of this Order and its effect to the persons opposing the Order:

And whereas this Order shall come into force 28 days after the giving of such notice unless such persons within that period give notice to the Secretary of State that they maintain their opposition to the Order, and their opposition is not withdrawn within that period, in which case it shall come into force at such time as is prescribed by the Statutory Orders (Special Procedure) Act 1945(b);

Now therefore the Secretary of State for Transport in exercise of the powers conferred by section 14 of the Harbours Act 1964 and now vested in him(c) (being the appropriate Minister under section 14(7) of that Act for the purpose of making this Order) and of all other powers enabling him in that behalf, and on the application of the Boston Borough Council in accordance with Section 14(2) of the Harbours Act 1964, hereby makes the following Order:—

**Citation**

1.—(1) This Order may be cited as the Boston Harbour Revision Order 1989.

(2) The Boston Corporation Acts 1812 to 1935 and this Order may be cited together as the Boston Harbour Acts and Order 1812 to 1989.

**Interpretation**

2. In this Order—

“the Company” means Port of Boston Limited;

“the Council” means the Boston Borough Council;

“the undertaking” means, in relation to any period before the vesting day, the undertaking of the Council in relation to the Boston port, harbour and dock, and in relation to any period on and after the vesting day, the undertaking of the Company as from time to time authorised;

“the vesting day” has the meaning given to it by article 3 of this Order.

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

(b) 1945 c.18, as amended by the Statutory Orders (Special Procedure) Act 1965 (c.43).

(c) See section 57(1) of the Harbours Act 1964 and S.I. 1981/238.

### **Vesting day**

3. In this Order "the vesting day" means the day after the day on which expires a period of four weeks beginning with the date on which this Order comes into force.

### **Designation of Company as harbour authority**

4. On the vesting day the Company shall become the harbour authority for the Boston port, harbour and dock and the Council shall cease to be the harbour authority.

### **Transfer of functions, property etc.**

5.—(1) On the vesting day there shall be transferred from the Council to the Company all statutory and other powers and duties conferred or imposed on the Council in relation to the undertaking, and accordingly as from that day all such statutory provisions, and any byelaws made thereunder, shall have effect, subject to the necessary modifications, as if for any reference therein (however worded and whether express or implied) to the Council there were substituted a reference to the Company.

(2) On the vesting day there shall be transferred to and vested in the Company the undertaking as existing immediately before that day, including the lands, works, buildings, machinery, and stores, all other real and personal property, assets and effects, rights, powers and privileges vested in or enjoyed by the Council, and all liabilities and obligations to which the Council are then subject, in relation to the undertaking.

(3) Every byelaw in force in relation to the undertaking immediately before the vesting day, and every licence issued thereunder and in force immediately before that day shall have effect as if made or issued by the Company and, in the case of byelaws, confirmed as provided in this Order.

### **Incorporation of Harbours, Docks and Piers Clauses Act 1847**

6. As from the vesting day, the Harbours, Docks, and Piers Clauses Act 1847(a) (except sections 6 to 19, 24, 25, 31, the proviso to section 32, sections 42 and 48 to 50), so far as applicable to the purposes of and not inconsistent with the provisions of this Order, is hereby incorporated with this Order subject to the following modifications, that is to say:—

- (a) section 23 shall be read and have effect as if the words "provided that no such lease be granted for a longer term than three years" were omitted;
- (b) section 63 shall be read and have effect as if for the words from "liable to" to the end of the section there were substituted the words "be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale"; and
- (c) section 69 shall be read and have effect as if for the words from "shall forfeit" to the end of the section there were substituted the words "shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale".

### **Contracts to be binding**

7. All purchases, sales, conveyances, deeds, contracts and agreements entered into or made by the Council and in force at the vesting day shall be as binding and of as full force and effect in every respect against or in favour of the Company as they have heretofore been against or in favour of the Council and may be enforced as fully and effectively as if instead of the Council the Company had been a party thereto.

### **Proceedings not to abate**

8. All legal and other proceedings begun before the vesting day and relating to any property or liabilities transferred to the Company under this Order may be carried on with the substitution of the Company as a party to the proceedings in lieu of the Council and any such proceedings may be amended in such manner as may be necessary for that purpose.

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(a) 1847 c.27 (10 & 11 Vict.).

## Byelaws

9.—(1) Subsections (3) to (8) and (11) of section 236 and section 238 of the Local Government Act 1972(a) (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made by the Company under any statutory power transferred to the Company by this Order as if the Company were a local authority and the secretary of the Company were a proper officer of a local authority; but, subject to paragraph (2) below, the Secretary of State may confirm the byelaws with such modifications as he thinks fit.

(2) Where the Secretary of State proposes to make a modification which appears to him to be substantial, he shall inform the Company and require it 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 Company and by other persons who have been informed of it.

## Repeals

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

19th June 1989

*Paul Channon*  
Secretary of State for Transport

## SCHEDULE ENACTMENTS REPEALED

(1) <i>Enactment</i>	(2) <i>Extent of repeal</i>	
7 & 8 Geo. 4 c.lxxix	An Act to extend and enlarge the powers of an Act passed in the fifty-second year of His late Majesty for improving the Port and Harbour of Boston in the county of Lincoln.	The whole Act from the section of which the marginal note is "Treasurer and clerk not to be the same person" to the end.
5 Vic. Sess 2. c.lx	An Act for amending the several Acts relating to the Port and Harbour of Boston in the county of Lincoln.	Sections 1, 7 to 32, 34, 41 and 42.
44 & 45 Vic. c.cxii	Boston Dock Act 1881	Sections 1, 2, 4, 20, 24, 26 to 29, 31 to 33, 36, 38 to 40, 52, 60 to 68, 70, 78 and 79.
25 & 26 Geo. 5 c.cvi	Boston Corporation Act 1935.	Sections 1, 14 to 16, 21 to 25, 27, 28 (except as to purpose (a)), 29 to 35, 41 and 42 and Schedules 2 and 3.

(a) 1972 c.70.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order designates Port of Boston Limited as the harbour authority for the Boston port, harbour and dock, and transfers to and vests in Port of Boston Limited the Boston port, harbour and dock undertaking together with all rights, interests and privileges presently vested in or used or enjoyed by the Boston Borough Council in relation to that undertaking. Provision is made for all purchases, sales, conveyances, deeds, contracts and agreements entered into or made by Boston Borough Council in relation to that undertaking to remain binding and in full force against or in favour of the Company and for all legal or other proceedings in relation to that undertaking to be carried on with the substitution of the Company as a party to the proceedings in lieu of the Council.

The Order also provides for the repeal of certain provisions of certain Acts applying to the Council in respect of the undertaking.

The applicants for the Order are the Boston Borough Council, Municipal Buildings, Boston, Lincolnshire PE21 8QR.

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