
STATUTORY INSTRUMENTS

1991 No. 237

HARBOURS, DOCKS, PIERS AND FERRIES

The Sealink (Transfer of Folkestone Harbour) Harbour Revision Order 1991

Made - - - - *7th February 1991*

Coming into force - - *8th February 1991*

Whereas the making of this Order is not opposed:

Now therefore the Secretary of State for Transport (being the appropriate Minister under section 14(7) of the Harbours Act 1964⁽¹⁾ for the purpose of making this Order), in exercise of the powers conferred by the said section 14 and now vested in him⁽²⁾ and of all other powers enabling him in that behalf, and on the application of Folkestone Properties Limited hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Sealink (Transfer of Folkestone Harbour) Harbour Revision Order 1991 and shall come into force on 8th February 1991.

Interpretation

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

“the Company” means Folkestone Properties Limited;

“the day of transfer” means either—

(a) the day after the day on which expires a period of four weeks beginning with the day on which this Order comes into force; or

(b) the day after the date of the expiration or sooner determination (otherwise than by surrender) of the term of years granted by the underlease,

whichever is the later;

“enactment” means any Act or any order or scheme made under an Act;

“Sealink” means Sealink Harbours Limited;

(1) 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, 12 and 14.

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

“the transferred harbour” means the harbour of Folkeston as regards which there are vested in Sealink immediately before the day of transfer statutory powers or duties of improvement, maintenance or management;

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

“the underlease” means the underlease of part of the land vested in Sealink and held by it for the purposes of the transferred harbour dated the 6th day of April 1990 and made between the Company of the one part and Sealink of the other part.

(2) In this Order a reference to the undertaking of Sealink at the transferred harbour is a reference to the powers, duties, property, rights and liabilities of Sealink in relation to that harbour which are transferred by this Order.

(3) As soon as practicable after the day of transfer the Company shall publish in the London Gazette and in one or more local newspapers circulating in the locality where the transferred harbour is situate a notice stating that that day has occurred and that accordingly the functions and property of Sealink in relation to the transferred harbour have been transferred to the Company and that the Company has become the harbour authority for the transferred harbour in place of Sealink.

Designation of Company as harbour authority

3. On the day of transfer the Company shall become the harbour authority for the transferred harbour and Sealink shall cease to be the harbour authority for that harbour.

Transfer of functions, property etc.

4.—(1) On the day of transfer all property vested in Sealink held by it for the purposes of the transferred harbour and all rights and liabilities incurred by it for the purposes of the transferred harbour shall be transferred to and vested in the Company.

(2) On the day of transfer the powers and duties conferred or imposed on Sealink by any statutory provisions of local application applied in relation to it by the Scheme dated 27th October 1981 made by Sealink U.K. Limited pursuant to section 2 of the Transport Act 1981 and approved by the Secretary of State with modifications on 5th July 1982 read with Schedule 4 to the Transport Act(3) as applied by the said section 2 (subject to any subsequent repeal or amendment of any such statutory provision), or by any enactment subsequent to that Scheme, for the purpose, or in connection with, the improvement, maintenance or management of the transferred harbour shall be transferred to the Company and accordingly as from that day any such statutory provision of local application shall, so far as it relates to the transferred harbour and with any necessary modifications, apply in relation to the Company as if for references to Sealink there were substituted (unless the context otherwise requires) references to the Company.

Saving of byelaws etc.

5. As from the day of transfer any byelaw, regulation, licence or consent made, issued or granted by Sealink in relation to the transferred harbour and in force immediately before that day shall notwithstanding the making of this Order continue in force and shall be deemed to have been made, issued or granted by the Company.

Savings of agreements etc.

6. All sales, conveyances, leases, grants, assurances, deeds, contracts, bonds, agreements, notices and demands affecting the undertaking of Sealink at the transferred harbour and in force immediately before the day of transfer (other than any lease or deed the parties to which include both Sealink and

(3) 1968 c. 73.

the Company) shall (in so far as they relate to that undertaking) on and from that day be as binding and of as full force and effect in every respect and may be enforced as fully and effectively against or in favour of the Company as if (except in any case where the Company as agent for Sealink is already a party thereto, or bound thereby or entitled to the benefit thereof) the Company instead of Sealink had been a party thereto or bound thereby or entitled to the benefit thereof.

Continuance of proceedings

7. Nothing in this Order shall release, discharge or suspend any action, arbitration or other proceeding, or any cause of action, arbitration or other proceeding, pending or existing immediately before the day of transfer by or in favour of or against Sealink or by or in favour of or against the Company as agent for Sealink, in relation to Sealink's undertaking at the transferred harbour and any such action, arbitration or proceeding or cause of action, arbitration or proceeding (other than an action, arbitration or proceeding which is or may be an issue between Sealink and the Company or Sea Containers Ltd.) may be maintained, prosecuted or continued by or in favour of or against the Company and may be amended in such manner as may be necessary for that purpose.

Charges

8.—(1) On and after the day of transfer the Company shall in the exercise of statutory powers and duties at the transferred harbour, have power to make such reasonable charges for its services and facilities as it thinks fit.

(2) This article does not apply in relation to—

- (a) ship, passenger and goods dues; or
- (b) charges ascribable to the running of a ferry service in or from a harbour;

and does not authorise the making of any charge in a case where an enactment relating to the transferred harbour expressly provides for freedom from charges or otherwise prohibits the making of any charge.

(3) The provisions of sections 27 to 48 of the Harbours, Docks and Piers Clauses Act 1847⁽⁴⁾ (which provide for various matters connected with liabilities for and collection of the rates to be taken by undertakers) as incorporated with or applied by any enactment relating to the transferred harbour apply to charges under this article as if they were rates payable under that enactment.

Disposal of property no longer required for the transferred harbour

9. On and after the day of transfer the Company, in respect of property vested in it and held for the purposes of the transferred harbour which is no longer required for those purposes, may dispose of such property in such manner, whether by way of sale, exchange, lease, the creation of any easement, right or privilege or otherwise, for such period, upon such conditions and for such consideration as it thinks fit.

Saving for Trinity House

10. None of the provisions of this Order shall prejudice or derogate from any of the powers, rights, duties or privileges of Trinity House.

(4) 1847 c. 27.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Transport.

7th February 1991

H.B. Wenban-Smith
An Under-Secretary in the
Department of Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This Order transfers Folkestone harbour from Sealink Harbours Limited to Folkestone Properties Limited.

The Applicant for the Order is Folkestone Properties Limited.