
STATUTORY INSTRUMENTS

2003 No. 2679

**The Newport (South Wales) Harbour
Revision (Constitution) Order 2003**

Citation and commencement

1.—(1) This Order may be cited as the Newport (South Wales) Harbour Revision (Constitution) Order 2003, and shall come into force on 21st October 2003.

(2) The Newport (South Wales) Harbour Acts and Orders 1836 to 1991 and this Order may be cited together as the Newport (South Wales) Harbour Acts and Orders 1836 to 2003.

Interpretation

2. In this Order—

“the Act of 1890” means the Newport (Monmouthshire) Harbour Act 1890(1);

“the Commissioners” means the Newport (South Wales) Harbour Commissioners;

“The Clerk” means the Clerk to the Commissioners as defined in section 6 of the Newport (Monmouthshire) Harbour Act 1890(2) and section 3 of the Commissioners Clauses Act 1847(3);

“the Harbour” means the Port or Harbour of Newport as defined in section 5 of the Act of 1890, that is those parts of the Bristol Channel and Rivers Usk and Ebbw which lie between an imaginary line drawn in a S.79°W. true direction from Goldcliff until it meets the shore of the Bristol Channel eastward of the Peterstone Wentlooge Church and the bridge over the River Usk at Newbridge and the bridge carrying the South Wales Railway of the Great Western Railway Company over the River Ebbw and the banks and shores of such parts of the said channel and rivers and any works on such banks and shores and all streams pools creeks havens bays and inlets within those limits;

“the new constitution date” means 1st November 2003.

Constitution of Commissioners

3.—(1) On and after the new constitution date, the Commissioners shall consist of—

- (a) five members appointed by the Commissioners;
- (b) two members nominated by the Newport City Council and appointed by the Commissioners; and
- (c) an officer employed by the Commissioners.

(2) Each Commissioner appointed under paragraph (1)(a) or (b) above shall be a person who appears to those persons making the appointment to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Commissioners of their

(1) 1890 c.cxliv.
(2) 1890 c.cxliv.
(3) 1847 c. 16.

functions including in particular (but without prejudice to the generality of the foregoing) special knowledge, experience or ability in one or more of the following matters—

- (a) management of harbours;
- (b) shipping or other forms of transport;
- (c) appropriate commercial or industrial experience;
- (d) financial management;
- (e) administration and organisation of workers;
- (f) sport and recreational use of the harbour;
- (g) environmental matters affecting harbours;
- (h) specific knowledge of or interest in the local community and wider community in the economic and social context within which the Commissioners operate;
- (i) tourism and leisure; and
- (j) any other skills and abilities considered from time to time by the Commissioners to be relevant to the discharge by them of their functions;

and the Commissioners shall secure, so far as reasonably practicable, that the Commissioners appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by them of their functions.

(3) In making an appointment under paragraph (1)(a) or (b) above or article 7 below, the Commissioners shall act in accordance with any guidance issued by the Secretary of State from time to time with respect to the exercise of such functions.

Appointment and terms of office of first Commissioners

4. The first appointments under article 3(1)(a) or (b) above shall be made on, or as soon as reasonably practicable after 21st October 2003, and of the Commissioners so appointed—

- (a) three shall hold office for a period of two years from the new constitution date;
- (b) two, one of whom shall be appointed as the Chairman, shall hold office for a period of three years from the new constitution date;
- (c) two shall hold office for a period of four years from the new constitution date.

Terms of office of subsequent Commissioners

5. A Commissioner appointed under article 3(1)(a) or (b) above (other than a Commissioner appointed under article 4 above) shall, unless appointed to fill a casual vacancy and subject to articles 8 and 9 of, and paragraph 10 of Schedule 2 to, this Order hold office for a term of three years from the date of his appointment.

Power to co-opt additional Commissioners

6. The Commissioners referred to in article 3(1) above may at any time co-opt one additional person to serve as a Commissioner for such period not exceeding twelve months as the co-opting Commissioners may specify at the time of co-option.

Casual vacancies

7.—(1) A casual vacancy arising in the office of a Commissioner appointed by the Commissioners shall, unless it is not reasonably practicable to do so, be filled by the appointment

of a Commissioner by the Commissioners, and any such appointment shall be made in accordance with article 3(2) and (3) above.

(2) A Commissioner appointed to fill a casual vacancy under this article shall, subject to articles 8 and 9 of, and paragraph 10 of Schedule 2 to, this Order, hold office, during the remainder of the term for which the Commissioner whom he replaces was appointed.

Declaration to be made by Commissioners

8. No person shall act as a Commissioner until he has made the declaration set out in Schedule 1 to this Order (or a declaration to that effect); and a person shall cease to be a Commissioner if he fails to make that declaration within three months of the date of his appointment.

Disqualification of Commissioners

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

- (a) has been absent from meetings of the Commissioners for a period of three consecutive months 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, unwilling 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.

(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 may be treated as attendance at a meeting of the Commissioners.

Indemnity insurance for Commissioners

10. The Commissioners may enter into, and pay premiums for, a contract of insurance to indemnify the Commissioners jointly or severally against personal liability arising from any act or omission of the Commissioners or any of them; not being an act or omission which the Commissioner or Commissioners in question knew to be a breach of his or their duty or concerning which he or they were reckless as to whether it was such a breach.

Incidental provisions applying to Commissioners

11. On and after the new constitution date the provisions of Schedule 2 to this Order shall have effect with respect to the Commissioners.

Advisory Bodies

12.—(1) The Commissioners shall establish one or more advisory body or bodies which the Commissioners shall consult on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.

(2) The Commissioners shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by such an advisory body whether or not that advisory body has been consulted by the Commissioners on the matter, recommendation or representation so referred or made.

(3) The advisory body or bodies established pursuant to this article shall consist of such number or numbers of persons appointed by the Commissioners as the Commissioners shall from time to time consider appropriate.

(4) Appointments to an advisory body established under this article shall be made by the Commissioners in accordance with a scheme prepared by them for that purpose which shall provide for the appointment of persons who, in the opinion of the Commissioners, are representative of persons having an interest in the functioning of the harbour.

(5) Any such advisory body may determine its own quorum and procedure and shall appoint a Chairman, who shall make arrangements for that advisory body to meet not less than twice a year.

(6) An individual member of any such advisory body may, on giving notice in writing to the Chairman of that body, send a substitute to any meeting of the body.

(7) A member of such an advisory body shall hold office for the period of three years from that date of his appointment and at the end of that period shall be eligible for reappointment.

(8) A member of such an advisory body may resign his office at any time by notice in writing given to the chairmen of the Commissioners.

Repeals

13. On the new constitution date the enactments mentioned in the first and second columns of Schedule 3 to this Order shall be repealed or revoked to the extent specified in the third column of that Schedule.

Amendments

14.—(1) Section 4 of the Act of 1890 shall have effect as if the following were substituted for the words “the Commissioners Clauses Act 1847 except section 16 and 54 of that Act”

“The Commissioners Clauses Act 1847 except sections 6 to 10, 12, 14, 16 to 39, 48, 49 to 52, 54, 57, 66, 67, 68, 70 to 74, 84, 89 to 91, 92, 94, 95, 101, 110, 111 and Schedule (A) of that Act.”

(2) References in the Commissioners Clauses Act 1847(4) as so incorporated to monthly meetings shall be construed as references to the meetings held in accordance with paragraph 9(2), Schedule 2 to this Order.

(3) Section 3 of the Newport (Monmouthshire) Harbour Act 1869(5) shall have effect as if the following were substituted for the words “and the provisions of” The Commissioners Clauses Act 1847 “with respect to the mortgages to be executed by the Commissioners”.

“and the provisions of ‘The Commissioners Clauses Act 1847’ with respect to the mortgages to be executed by the commissioners except Section 84 of that Act”

(4) Section 3 of the Newport (Monmouthshire) Harbour Act 1869 shall have effect as if the following were substituted for the words “The Harbours, Docks and Piers Clauses Act, 1847,”

“The Harbours Docks, and Piers Clauses Act 1847 except sections 50, 97 and 98”.

(4) 1847 c. 16.

(5) 1869 c.cxviii

Signed by authority of the Secretary of State for Transport

14th October 2003

Phil Cavey
Head of Ports Division,
Department for Transport