

2004 No. 1506

HARBOURS, DOCKS, PIERS AND FERRIES

**The Shoreham Port Authority Harbour Revision
(Constitution) Order 2004**

Made - - - - - *8th June 2004*

Coming into force - - - *16th June 2004*

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Whereas the Shoreham Port Authority have applied for a harbour revision order under section 14 of the Harbours Act 1964(a):

And whereas objections to the application made pursuant to paragraph 10(2)(b) of Schedule 3(b) to that Act have been withdrawn:

(a) 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56), section 18 and Schedule 6, paragraphs 2 to 4 and 14, and by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 1.

(b) Schedule 3 was substituted by S.I. 1999/3445, as amended by S.I. 2000/2391.

Now, therefore the Secretary of State for Transport (being the appropriate Minister under subsection (7) of the said section 14(a), in exercise of the powers conferred by that section and now vested in him(b), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Shoreham Port Authority Harbour Revision (Constitution) Order 2004, and shall come into force on 16th June 2004.

(2) The Shoreham Port Authority Acts and Orders 1926 to date and this Order may be cited together as the Shoreham Port Authority Acts and Orders 1926 to 2004.

Interpretation

2. In this Order—

“the Authority” means the Shoreham Port Authority;

“the Board” means the Board of the Authority from time to time;

“the new constitution date” means 21st June 2004;

“the 1968 Order” means the Shoreham Port Authority Revision Order 1968(c); and

“the 1985 Order” means the Shoreham Port Authority Revision Order 1985(d).

Constitution of the Board

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

(a) 9 members appointed by the Authority;

(b) the Chief Executive for the time being of the Authority; and

(c) if the Board shall so decide not more than 2 additional full-time officers of the Authority.

(2) Each member appointed under paragraph (1)(a) above shall be a person who appears to the Authority to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Authority of its 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 ports or harbours;

(b) knowledge and experience of representation within the locality of Adur District Council and/or West Sussex County Council;

(c) knowledge and experience of representation within the locality of Brighton and Hove City Council;

(d) knowledge and experience of private commercial activities within the Port of Shoreham;

(e) shipping or the navigation of ships;

(f) industrial, commercial legal and financial management;

(g) recreational maritime activities;

(h) environmental maritime activities;

(i) the organisation of labour, safety and personnel management;

(j) commercial marketing, public relations or information technology;

(k) any other skills and abilities considered from time to time by the authority to be relevant to the discharge of their functions;

and the Authority shall secure, so far as reasonably practicable, that the members appointed by it 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 the Authority of its functions.

(a) For the definition of “the Minister” (mentioned in section 14(7)) see section 57(1).

(b) S.I. 1981/238.

(c) S.I. 1968/2042.

(d) S.I. 1985/1251.

(3) In making an appointment under paragraph (1)(a) or (c) above, the Authority 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 members

4. The first appointments under article 3(1)(a) above shall be made on or as soon as practicable after the date on which this Order comes into force and on the following basis—

- (a) the members currently appointed under paragraphs 2(b), (c), (d), (f), (h) of Part I of Schedule 1 to the 1968 Order shall be replaced with five members appointed hereunder with effect from the new constitution date;
- (b) the other members who have been appointed under the 1968 Order shall be re-appointed hereunder and shall hold office until 31 December 2005.

Terms of office of subsequent members

5. A member appointed under article 3(1)(a) or (c) above (other than a member appointed under sub-paragraph 4(1)(b)) shall, unless appointed to fill a casual vacancy and subject to the provisions of Schedule 1 to the 1968 Order and articles 6 and 8 of, and paragraph 11 of Schedule 2 to this Order, hold office for a term of three years from the date of his appointment.

Declaration to be made by members

6. No person shall act as a member 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 member if he fails to make that declaration within three months of the date of his appointment.

Casual vacancies and co-opted members

7.—(1) A casual vacancy arising in the office of a member appointed under article 3(1)(a) above shall, unless it is not reasonably practicable to do so, be filled by the appointment of a member in accordance with article 3(2) and 3(3) above.

(2) A member appointed to fill a casual vacancy under this article shall, subject to articles 6 and 8 of, and paragraph 11 of Schedule 2 to, this Order, and subject to the provisions of the 1968 Order, hold office, during the remainder of the term for which the member whom he replaces was appointed.

(3) The members of the Authority referred to in article 3(1)(a) above may at any time co-opt not more than two persons to serve as members for such period not exceeding twelve months as the co-opting members may specify at the time of co-option.

Disqualification of members

8. If the Board is satisfied that a member—

- (a) has without the permission of the Authority been absent from the meetings of the Board—
 - (i) for a period during which three such meetings have been held;
 - (ii) for a period of three consecutive months,whichever of these periods is the longer; or
 - (b) has become bankrupt or made an arrangement with his creditors; or
 - (c) is incapacitated by physical or mental illness from discharging the functions of a member; or
 - (d) is otherwise unable, unwilling or unfit to discharge the functions of a member;
- the Board may declare his office as a member to be vacant and thereupon the office shall become vacant.

Incidental Provisions

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

Borrowing Limit

10. In article 3(1) of the 1985 Order (which specifies the limit for the borrowing powers of the Authority) for the words “twenty million pounds” there shall be substituted the words “50 million pounds (or that sum adjusted in accordance with article 11 of the Shoreham Port Authority Harbour Revision (Constitution) Order 2004)”.

CPI adjustment of borrowing limit

11.—(1) The Board shall adjust that sum mentioned in article 3(1) of the 1985 Order in line with any movement (calculated to 1 decimal place) in CPI which occurred during the year ended on 31st December immediately preceding the anniversary in question.

(2) Any adjustment referred to in paragraph (1) above, shall be recorded in the next following annual statement of accounts prepared by the Authority.

(3) In paragraph (1) above, “CPI” means the Consumer Price Index, being the main measure of inflation published in the monthly publication of the Office of National Statistics known as “Monthly Digest of Statistics”, or any successor from time to time of that index.

Consequential amendments

12.—(1) In section 50(6) of the Shoreham Harbour Act 1949, for the words “neither the Trustees nor the authority shall use” there shall be substituted the words “The Trustees shall not use”.

(2) In paragraph 9 of Part 1 of Schedule 1 to the 1968 Order, for the word “seventieth” there shall be substituted the words “sixty fifth”.

Repeals and revocations

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

Signed by the authority of the
Secretary of State for Transport

8th June 2004

Phil Carey
Head of Ports Division
Department for Transport

FORM OF DECLARATION BY MEMBERS

SHOREHAM PORT AUTHORITY

SHOREHAM PORT AUTHORITY HARBOUR ACTS AND ORDERS 1926 TO 2004

DECLARATION

I, [FULL NAME] do solemnly declare

(1) that I will faithfully and impartially, according to the best of my skill and judgement, execute all the powers and authorities vested in me as a member of the Shoreham Port Authority by virtue of the Shoreham Port Authority Harbour Orders 1926 to 2004;

(2) that I have read and understood the notes entitled "Note for Guidance of Board on the Disclosure of Financial and Other Interests" and "Duties of members" and that I will comply with the requirements as to the disclosure of such interests, laid down by Schedule 1, Part II, paragraph 9 to the Shoreham Port Authority Harbour Revision Order 1968, and in particular that:

- (a) I have disclosed to the Chief Executive details of every financial or other interest such as is mentioned in those notes;
- (b) I will in future notify the Chief Executive of any alteration in those interests, of any new interest, such as is mentioned in those notes, which I may acquire.

Made and signed in Shoreham, on the day of

(signature)

Witnessed by the Chief Executive as a Shoreham Port Authority Board member

(signature)

Note: Where the declaration is to be made by the Chief Executive, the Form shall be amended so that, for references to "the Chief Executive", there are substituted references to "the Chairman".

INCIDENTAL PROVISIONS RELATING TO BOARD

Appointment of chairman and vice-chairman of Board

1. There shall be a chairman of the Board who shall be appointed by those of the members who are appointed under article 3(1) or 7 above from among their number.
2. The first chairman taking office after the new constitution date shall be appointed from members appointed under article 3(1)(a) or 7 above at the first meeting of the Board referred to in paragraph 9 below and, subject to paragraph 7 below, shall, unless he resigns his office as chairman or ceases to be a member, continue in office as chairman for a period of one year.
3. Subject to paragraph 7 below, every chairman subsequently appointed under paragraph 1 above shall, unless he resigns his office as chairman or ceases to be a member, hold office for 1 year.
4. There shall be a vice-chairman of the Board who shall be appointed by those of the members appointed under article 3(1) or 7 above from among their number.
5. The first vice-chairman holding office after the new constitution date shall be appointed at the first meeting of the Board referred to in paragraph 9 below and, subject to paragraph 7 below, shall, unless he resigns his office as vice-chairman or ceases to be a member, continue in office as vice-chairman for a period of one year.
6. Subject to paragraph 7 below, every vice-chairman subsequently appointed under paragraph 4 above shall, unless he resigns his office as vice-chairman or ceases to be a member, hold office for 1 year.

7. If the Board is satisfied that the chairman or vice-chairman should cease to hold his office as such, they may terminate his office as such and appoint another member to be chairman or vice-chairman during the remainder of the term for which the former chairman or vice-chairman was appointed.

8.—(1) On a casual vacancy occurring in the office of chairman or vice-chairman of the Board, the vacancy shall be filled by those of the members who are appointed under article 3(1) or 7 above at a meeting held as soon as practicable after the vacancy occurs.

(2) A member appointed under this paragraph to fill a casual vacancy in the office of chairman or vice-chairman shall, unless he resigns that office or ceases to be a member, hold that office during the remainder of the term for which the chairman or vice-chairman whom he replaces was appointed.

Meetings of Board

9.—(1) The first meeting of the Board after the new constitution date shall be convened as soon as practicable by the Chief Executive for such date as he may fix; and he shall make arrangements for notice of that meeting to be sent by post to each of the other members of the Board.

(2) The Board shall meet at least six times in every year.

Executive members

10. Any full-time officer of the Authority, who is appointed to serve as a member thereof under article 3(1)(c) or subsequently by the Board shall hold and vacate his office as a member at the discretion of the Authority but may at any time resign their membership by notice in writing given to the Chairman of the Board. If such a member ceases to be a full-time officer of the Authority he shall thereupon cease to be a member of the Board. However, the termination by the Board of the appointment as a member thereof of a full-time office, other than the Chief Executive, shall be without prejudice to their appointment as an officer of the Authority.

Vacation of office by members

11. A member (other than the Chief Executive) may resign his office at any time by notice in writing given to the chairman of the Board or, if that member is the chairman, the vice-chairman.

Reappointment of members

12.—(1) Subject to the provisions of this Schedule, a vacating appointed member shall be eligible for reappointment as a member unless he has been disqualified from office under article 8 of this Order.

(2) A vacating appointed member (including a chairman of the Board who is an appointed member) shall not be eligible for reappointment as a member where, immediately before the date in question, he has held office as an appointed member for three consecutive terms.

(3) For the purposes of this paragraph, “term” does not include—

- (a) the remainder of a term during which the member was appointed to fill a casual vacancy under article 7; and
- (b) any term served by the member prior to the new constitution date.

(4) In this paragraph “appointed member” means a member appointed under article 3(1)(a) or (c).

Committee

13. The Board may, consistently with their duties and subject to such conditions as they think fit, delegate any of their functions (other than functions set out in sub-paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964(a) to a committee of the Board.

Proceedings of Board and committees

14. The quorum required for a meeting of the Board shall be six of which number at least one will be the Chief Executive of the Authority or his duly appointed proxy.

15. Every question at a meeting of the Board or of a committee of the Board shall be decided by a majority vote of the Board present and voting.

16. Written notice of any meeting of the Board shall be served on each member of the Board not less than seven clear days before the date of the meeting specifying the time, date and place of the meeting.

(a) Paragraph 9B was inserted by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9.

Authentication of seal and other documents

17.—(1) The application of the seal of the Board shall be authenticated by the signature of the chairman of the Board or some other member authorised by the Board to authenticate the application of the seal, and of the Chief Executive of the Board or some person authorised by the Board to act in his place in that behalf.

(2) The Board may authorise a person to act instead of the Chief Executive under this paragraph whether or not the Chief Executive is absent or incapable of acting.

(3) Any notice, licence or other document given or issued by the Board shall, unless the contrary intention is expressed, be sufficiently authorised if signed by the Chief Executive of the Board or a duly authorised officer of the Board.

General

18. Subject to the provisions of this Schedule, the procedure and business of the Board and of any committee of the Board shall be regulated in such manner as the Board may from time to time determine.

SCHEDULE 3

Article 12

REPEALS AND REVOCATIONS

<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal or revocation</i>
1949 c.lix.	Shoreham Harbour Act 1949.	Section 13. Sections 26 to 28. In section 49, on each occasion where the words “the authority”, “and the authority”, “or the authority” and “or by the authority” appear. In section 50, on each occasion where the words “and the authority” and “or the authority” appear. In section 52, on each occasion where the words “and the authority” and “or the authority” appear. In section 53, on each occasion where the words “and the authority” and “or the authority” appear.
S.I. 1968/2042	The Shoreham Port Authority Revision Order 1968.	Article 5(1). Schedule 1, Part I, paragraphs 2, 3, 4, 8, 10, 11. Schedule 1, Part II, paragraphs 1(1), 1(2) and 8. In paragraph 10, the words “in bound or loose leaf books for that purpose”.
S.I. 1978/647	The Shoreham Port Authority Revision Order 1978.	Article 4.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order reconstitutes the Board of the Shoreham Port Authority as from 21st June 2004. It provides for the Board to consist of a body of nine persons with experience in relevant matters. The Chief Executive will be a member of the Board. If the Board so decides, up to 2 full-time officers of the Authority will also be members of the Board.

The Order also includes other provisions with respect to the Board's constitution and it provides for an increased borrowing limit. The Order also repeals or revokes certain provisions of existing local legislation.

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