

2007 No. 1423

HARBOURS, DOCKS, PIERS AND FERRIES

The Brighton West Pier Harbour Revision Order 2007

Made - - - - *9th May 2007*

Coming into force - - *30th May 2007*

The Brighton West Pier Trust is a company limited by guarantee with charitable objects and is incorporated in, and in accordance with the laws of, England. It was formerly registered as the Brighton West Pier Society Limited and has applied for a harbour revision order under section 14 of the Harbours Act 1964(a);

The Secretary of State is the appropriate Minister under section 14(7) of that Act(b) and is satisfied as mentioned in section 14(2)(b) of that Act;

The Secretary of State in exercise of the powers conferred by that section and now vested in him(c), makes the following Order—

Citation and commencement

1.—(1) This Order may be cited as the Brighton West Pier Harbour Revision Order 2007 and shall come into force on 30th May 2007.

(2) The Brighton West Pier Acts and Orders 1866 to 1979 and this Order may be cited together as the Brighton West Pier Acts and Orders 1866 to 2007.

Interpretation

2. In this Order—

“the Act of 1847” means the Harbours, Docks and Piers Clauses Act 1847(d);

“the existing pier enactments” means the Brighton West Pier Acts and Orders 1866 to 1979;

“the pier” means the Brighton West Pier as constructed by the former Brighton West Pier Company or their predecessors in title and the land, buildings, works, plant, property and conveniences connected therewith; and includes any reconstruction thereof carried out from time to time by or on behalf of the Trust, pursuant to the powers conferred by the existing pier enactments; and

“the Trust” means the Brighton West Pier Trust.

(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; by the Transport and Works Act 1992 (c.42), section 63 and Schedule 3, paragraph 1; by the Criminal Justice Act 1982 (c. 48), sections 37 and 46; and by S.I. 2006/1177, regulation 2 and Schedule, Part 1.

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

(c) S.I. 1981/238.

(d) 1847 c.27.

Charges and conditions for entry on pier

3.—(1) In addition to the power to demand, take and recover ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Trust may, subject to paragraph (2), demand, take and recover from persons entering and using the pier such other charges, and may impose such conditions for entry, as the Trust may from time to time determine.

(2) The additional powers conferred by paragraph (1) shall not be exercisable in relation to passengers entering or leaving the pier by means of a vessel using the pier.

Power to lease etc.

4.—(1) For the purposes of this Order and the existing pier enactments, the Trust may at any time lease or grant either or both—

- (a) the use or occupation of the pier; or
- (b) the power to demand, take and recover the charges exigible under article 3;

for such period or periods and on such terms and conditions as may be agreed between the Trust and the persons taking the same.

(2) A lease or grant made or given under paragraph (1) may include provisions delegating to the lessee or grantee the performance of any of the functions of the Trust other than those specified in sub-paragraphs (a) to (f) of paragraph 9B of Schedule 2 to the Harbours Act 1964.

Byelaws

5.—(1) In addition to the byelaws which may be made by the Trust under section 83 of the Act of 1847 or any other enactment contained in the existing pier enactments, the Trust may make byelaws for the good rule and government of the pier.

(2) Byelaws made under this article or under the existing pier enactments may be expressed to be applicable to all or any part of the pier.

(3) Section 236(3) to (8) and section 238 of the Local Government Act 1972^(a) shall apply to all byelaws made by the Trust under this article or under the existing pier enactments.

(4) In its application to byelaws made by the Trust under this article or under the existing pier enactments, section 236(7) of the Local Government Act 1972 shall, subject to paragraph (6), be construed as if it had been amended by the insertion of the words “with or without modifications” after the word “confirm” in the second place where that word occurs.

(5) The confirming authority for the purposes of this article and of section 236 of the Local Government Act 1972 in its application to byelaws made by the Trust shall be the Secretary of State.

(6) Where the Secretary of State proposes to make a modification which appears to him to be substantial—

- (a) he shall inform the Trust and require it to take any steps he thinks necessary for informing persons likely to be concerned by that modification; and
- (b) he shall not confirm the byelaws until there has elapsed such a period as he thinks reasonable for the Trust and other persons who have been informed of the proposed modification to consider and comment upon it.

(7) Byelaws made by the Trust under this article or under the existing pier enactments may contain provisions imposing upon a person offending against any such byelaw a fine on summary conviction not exceeding level 3 on the standard scale.

(8) Byelaws made under this article or under the existing pier enactments may provide that, in proceedings for an offence against any such byelaw, it shall be a defence for the person charged to

(a) 1972 c.70.

prove that he took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

Crown rights

6.—(1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown, and in particular and without prejudice to the generality of the foregoing nothing in this Order shall authorise the Trust or any lessee or licensee of the Trust to take, use, enter upon or in any manner interfere with any land or interest in land or any rights of whatsoever description (including any portion of the shore or bed of the sea)—

- (a) belonging to Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under paragraph (1) may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.

Saving for Brighton and Hove City Council

7. Nothing in this Order shall prejudice or derogate from any functions of Brighton and Hove City Council.

Saving for Trinity House

8. Nothing in this Order shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of the Corporation of Trinity House of Deptford Strond.

Repeals

9. The enactments mentioned in the first and second columns of the Schedule to this Order are repealed to the extent specified in the third column of that Schedule.

Signed by authority of the Secretary of State for Transport

9th May 2007

Phil Carey
Head of Ports Division
Department for Transport

SCHEDULE

Article 9

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1866 c.cclxi	Brighton West Pier Act 1866	Sections 20 and 48 to 50. The Schedule.
1890 c.lxii	Brighton West Pier Act 1890	Section 28, the proviso to section 29, section 30 and, in section 31, the words “not exceeding one shilling for each person”.
1954 c.xxxi	Pier and Harbour Order (Brighton) Confirmation Act 1954	The whole Act.

EXPLANATORY NOTE

(This note is not part of the Order)

The Brighton West Pier is owned by the Brighton West Pier Trust. This Order will confer upon the Trust powers for making charges and imposing conditions for entry upon the pier, for leasing the pier, for making byelaws to regulate the pier, and for connected purposes.

£3.00

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