
WELSH STATUTORY INSTRUMENTS

2011 No. 1565

The Saundersfoot Harbour Empowerment Order 2011

PART 2

THE COMMISSIONERS

The Commissioners

4.—(1) Subject to article 9 there is to be a body of eight Commissioners, to be known as the Saundersfoot Harbour Commissioners, appointed in accordance with Part 2 of this Order and with power to exercise the functions conferred on the Commissioners by or under this Order.

(2) Subject to the provisions of this Order, the Commissioners must carry on the undertaking as if in all respects the Commissioners were the same person as the former Commissioners.

Constitution of Commissioners

5.—(1) On and after the new constitution date, the Commissioners are to consist of—

- (a) one member appointed by each of—
 - (i) Pembrokeshire County Council; and
 - (ii) Saundersfoot Community Council; and
- (b) six members appointed by the appointments panel.

(2) Each Commissioner appointed under paragraph (1) is to be a person who appears to the appointing body to have special knowledge, experience or ability appropriate to the efficient, effective and economic discharge by the Commissioners of their functions including 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) sea fishing;
- (d) appropriate commercial or industrial experience;
- (e) financial management;
- (f) administration and organisation of workers;
- (g) sport and recreational use of the harbour;
- (h) environmental matters affecting harbours;
- (i) specific knowledge of or interest in the local community and wider community in the economic and social context within which the Commissioners operate;
- (j) tourism and leisure; and
- (k) 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 appointments panel must endeavour to ensure 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.

Selection of Commissioners

6.—(1) Each appointing body must make the appointments provided for by article 5 of this Order on merit, in accordance with a published recruitment policy and having had regard to equal opportunities.

(2) In making an appointment under article 5(1) each appointing body must act in accordance with any guidance issued by the Welsh Ministers from time to time with respect to the exercise of such functions.

Appointments panel

7.—(1) There is to be an appointments panel, consisting of—

- (a) the chair or vice-chair of the Commissioners;
- (b) one person nominated by the advisory committee;
- (c) one person nominated by Pembrokeshire County Council; and
- (d) one person nominated by Saundersfoot Community Council.

(2) The appointments panel must consult the Commissioners before making any appointment, and must give the clerk notice in writing of every appointment that it makes.

(3) Each member of the appointments panel must act independently, and not as the delegate of the body which nominated that member.

(4) The acts and proceedings of the appointments panel will not be invalidated by any single vacancy in their number.

Appointment of Commissioners and terms of office

8.—(1) The first appointments under article 5(1) must be made as soon as reasonably practicable after this Order comes into force and, in any event, before the new constitution date.

(2) Of the Commissioners so appointed—

- (a) four, one of whom must be appointed to chair the Commissioners, will hold office for a period of three years commencing on the new constitution date;
- (b) four will hold office for a period of four years commencing on the new constitution date.

(3) At the expiry of their term of office the appointments panel may extend the term of office of one or more (but not more than four) of the Commissioners they appointed under article 5(1)(b) by up to a maximum of a year.

Transitional provisions

9.—(1) On the day this Order comes into force, each of—

- (a) the Welsh Ministers;
- (b) Pembrokeshire County Council; and
- (c) Saundersfoot Community Council;

must appoint an initial interim Commissioner to carry on the undertaking and exercise the functions conferred on the Commissioners by this Order during the period between the date on which this Order comes into force and the new constitution date.

(2) Each initial interim Commissioner appointed under article 9(1) will hold office and, in the case of the chair and vice-chair, in that capacity until the new constitution date as if appointed under article 5 of this Order unless, prior to the new constitution date, that initial interim Commissioner dies, resigns or becomes disqualified from office.

(3) Subject to paragraph (4), article 15 and Schedule 2 do not apply to the initial interim Commissioners.

(4) In exercising their functions, the initial interim Commissioners must comply with any direction given by the Welsh Ministers about any provision of this Order (with such modifications (if any) as may be specified by the Welsh Ministers in the direction) that is deemed to apply to the initial interim Commissioners.

(5) On the new constitution date—

- (a) all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or having effect as if they had been given) by, or to, the initial interim Commissioners will be of full force and effect in favour of, or against, the Commissioners; and
- (b) any action or proceeding or any cause of action or proceeding, pending or existing at the new constitution date by, or against, the initial interim Commissioners will not be prejudicially affected by reason of this Order, and may be continued, prosecuted and enforced by, or against, the Commissioners.

Terms of office of subsequent Commissioners

10.—(1) Subject to the following provisions of this article, a Commissioner appointed under article 5(1) holds office for a period of three years from the date of appointment.

(2) Paragraph (1) does not apply to Commissioners appointed in accordance with article 8(1) or under article 11.

(3) Paragraph (1) is subject to articles 12 and 13 and paragraph 10 of Schedule 2.

Casual vacancies

11.—(1) If a casual vacancy occurs in the office of a Commissioner, the appointments panel must appoint another person to fill the vacancy, unless it is not reasonably practicable to do so, and must comply with articles 5(2) and 6 in doing so, as if the references in those articles to article 5(1) and article 5 were references to this article.

(2) Subject to articles 12 and 13 and paragraph 10 of Schedule 2, a Commissioner appointed to fill a casual vacancy under this article holds office during the remainder of the term of the Commissioner whose office was vacated (including any extension of that term).

Declaration to be made by Commissioners

12.—(1) No person may act as a Commissioner under article 4 until that person has made the declaration set out in Schedule 1 to this Order (or a declaration to that effect).

(2) A person who fails to make that declaration within three months of being appointed ceases to be a Commissioner.

Disqualification of Commissioners

13.—(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 creditors; or
- (c) is incapacitated by physical or mental illness from discharging the functions of Commissioner; or
- (d) is otherwise unable, unwilling or unfit to discharge the functions of a Commissioner;

the Commissioners may declare that person's office as a Commissioner to be vacant, upon which the office will be vacant.

(2) For the purposes of paragraph (1)(a) the attendance of a Commissioner at a meeting of any committee of the Commissioners of which that Commissioner is a member may be treated as attendance at a meeting of the Commissioners.

Indemnity insurance for Commissioners

14. 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 her or their duty or concerning which he she or they were reckless as to whether it was such a breach.

Provisions applying to Commissioners

15. Subject to article 9 in relation to the initial interim Commissioners, the provisions set out in Schedule 2 to this Order have effect with respect to the Commissioners.