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WELSH STATUTORY INSTRUMENTS

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**2011 No. 1565**

**The Saundersfoot Harbour Empowerment Order 2011**

**PART 8**

MISCELLANEOUS

**Advisory Committee**

**58.**—(1) The Commissioners must establish a committee to be known as the Saundersfoot Harbour Advisory Committee, which they must consult (except in cases of special urgency) on all matters substantially affecting the management, maintenance, improvement, conservation, protection or regulation of the harbour and its navigation.

(2) Subject to the provisions of this article, the advisory committee is to consist of not less than seven members appointed by the Commissioners, of whom—

- (a) one is to be appointed on the nomination of the Royal Yachting Association;
- (b) one is to be appointed on the nomination of the Pembrokeshire Coast National Park Authority;
- (c) one is to be appointed following consultation with persons who, in the opinion of the Commissioners, are representative of local fishing interests in the harbour;
- (d) one is to be appointed on the nomination of the Saundersfoot Sailing Club;
- (e) one is to be appointed following consultation with persons who, in the opinion of the Commissioners are representative of commercial interests in the harbour other than boating and fishing; and
- (f) at least two must be appointed to represent such persons interested in the harbour, other than those mentioned in the preceding sub-paragraphs of this paragraph, as the Commissioners from time to time think fit.

(3) If it appears to the Commissioners in the case of any of the appointments referred to in paragraph (2) that—

- (a) the body by whom the nomination is to be made has refused or failed to nominate a member after being requested by the Commissioners to do so, or
- (b) the body by whom any of the said nominations is to be made has ceased to have an identifiable existence,

the appointment in question may be made by the Commissioners after consultation with such persons (if any) appearing to the Commissioners to be representative of the interests represented, or formerly represented, by the nominating body specified in the relevant sub-paragraph of paragraph (2) as the Commissioners consider appropriate.

(4) The Commissioners must take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by the advisory committee whether or not the committee has been consulted by the Commissioners on the matter, recommendation or representation so referred or made.

(5) The advisory committee may determine its own quorum and procedure and must appoint a chairman.

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

(7) A member of the advisory committee holds office for the period of three years from the date of appointment and at the end of the period is eligible for re-appointment.

(8) A member of the advisory committee may resign office at any time by notice in writing given to the chief executive of the Commissioners.

(9) The Commissioners must provide reasonable accommodation for the meetings of the advisory committee and must defray such reasonable expenses as may be incurred by the advisory committee in connection with the provision of secretarial services for the advisory committee.

(10) The Commissioners may pay the travel and subsistence costs of advisory committee members.

### **Defence of due diligence**

**59.**—(1) In proceedings for an offence under any provision of this Order mentioned in paragraph (2), it will be a defence for the Commissioners to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) The provisions referred to in paragraph (1) are—

- (a) article 46;
- (b) article 47;
- (c) article 48; and
- (d) article 51.

(3) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the Commissioners are not, without leave of the court, entitled to rely on that defence unless, within a period of at least seven clear days before the hearing, they have served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in their possession.

### **Boarding of vessels**

**60.** A duly authorised officer of the Commissioners may, on producing written authority if so required, enter and inspect a vessel in the harbour—

- (a) for the purposes of any enactment relating to the harbour (including any enactment so relating contained in subordinate legislation) or of any byelaw of the Commissioners relating to the harbour, including its enforcement;
- (b) to prevent or extinguish fire;

but, except in an emergency, no entry is to be made under this article without notice first having been given to the owner or the person appearing to have charge of the vessel; and the notice must have annexed to it a copy of this article.

### **Obstruction of officers**

**61.**—(1) Any person who—

- (a) intentionally obstructs an officer of the Commissioners acting in pursuance of this Order;

- (b) without reasonable excuse fails to comply with a requirement properly made by such an officer; or
- (c) without reasonable excuse fails to give such an officer any information which that officer may require for the purpose of the performance of his or her functions;

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who in giving such information makes a statement which that person knows to be false is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Crown Rights**

**62.**—(1) Nothing in this Order affects 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 authorises any person to take, use, enter upon or in any manner interfere with, any land or interest in land (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or harbour)—

- (a) belonging to Her Majesty in right of Her 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 terms and conditions.

(3) For the purposes of this article, “government department” includes the Welsh Ministers where appropriate.

### **Saving for Trinity House**

**63.** Nothing in this Order prejudices or derogates from the rights, duties or privileges of Trinity House.

### **Revocation**

**64.** The 1958 Order is revoked.

### **Costs of Order**

**65.** All costs, charges and expenses preliminary to, and of and incidental to, the preparing for, obtaining and passing of this Order, or otherwise in relation to it, must be paid by the Commissioners.