



Milford Haven Port Authority Act 2002

CHAPTER v

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Milford Haven Port Authority Act 2002

2002 CHAPTER v

An Act to alter the constitution of and confer further powers upon the Milford Haven Port Authority. [7th November 2002]

WHEREAS—

- (1) By the Milford Haven Conservancy Act 1958 (c. 23) the Milford Haven Conservancy Board (hereinafter referred to as “the Board”) were established and charged with the duty of taking such steps as the Board may from time to time consider necessary or expedient to maintain, improve, protect and regulate the navigation and in particular the deep-water facilities in an area defined in that Act:
- (2) By various subsequent Orders and by the Milford Haven Conservancy Act 1975 (c. xxviii) the powers and duties of the Board were amended and extended and the area in respect of which the functions of the Board are discharged was extended:
- (3) By the Milford Haven Conservancy Act 1983 (c. xix) the provisions of the various enactments by which, or by reference to which the constitution, powers, rights, authorities, privileges, duties and obligations of the Board were then defined, were consolidated with amendments:
- (4) By the Milford Haven Port Authority Act 1986 (c. xx) the name of the Board was altered to the Milford Haven Port Authority:
- (5) It is expedient that the constitution of the Milford Haven Port Authority (hereinafter referred to as “the Authority”) should be altered as provided in this Act:
- (6) It is expedient that the investment powers of the Authority should be extended:

- (7) It is expedient that the other provisions contained in this Act should be enacted:
- (8) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

PRELIMINARY

1 Citation and commencement

- (1) This Act may be cited as the Milford Haven Port Authority Act 2002 and shall come into operation at the end of the period of two months beginning with the date on which it is passed.
- (2) The Milford Haven Conservancy Act 1983 (c. xix), the Milford Haven Port Authority Act 1986 (c. xx), the Milford Haven Port Authority Harbour Revision Order 2000 (S.I. 2000/2255) and this Act may together be cited as the Milford Haven Port Authority Acts and Orders 1983 to 2002.

2 Interpretation

In this Act, except as otherwise expressly provided or unless the context otherwise requires—

“the Act of 1983” means the Milford Haven Conservancy Act 1983;

“appointing body” means either of the persons (namely the Authority and the Secretary of State) by whom members are, or are to be, appointed in accordance with section 4 (Constitution of Authority) of this Act;

“the Authority” means the Milford Haven Port Authority;

“the Chief Executive” means the Chief Executive of the Authority, appointed under paragraph 17 of Schedule 1 to the Act of 1983 and renamed under section 13 (Chief Executive of Authority) of this Act;

“the existing members” means the members of the Authority before the new constitution date;

“the harbourmaster” has the meaning assigned to it by section 2 (Interpretation, etc.) of the Act of 1983;

“the haven” has the meaning assigned to it by section 3 (The haven) of the Act of 1983;

“member” means a member of the Authority, and includes the chairman of the Authority;

“the new constitution date” means 1st April 2003;

“vessel” has the meaning given by subsection (1) of section 2 (Interpretation, etc.) of the Act of 1983.

3 Incorporation of enactments

- (1) Section 52 of the Harbours, Docks, and Piers Clauses Act 1847 (c. 27) is incorporated with this Act.
- (2) In construing that section as so incorporated—
“the special Act” means this Act;
“the harbour, dock or pier” means the haven;
“vessel” has the meaning given by subsection (1) of section 2 (Interpretation, etc.) of the Act of 1983.
- (3) Sections 15, 53, 56, 58, 59, 62 to 64, 67 and 109 to 111 of the Commissioners Clauses Act 1847 (c. 16) are (so far as applicable and not inconsistent with the Milford Haven Port Authority Acts and Orders 1983 to 2002) incorporated with this Act.
- (4) In construing those sections as so incorporated—
“the Commissioners” means the members of the Authority; and
“the special Act” means this Act.

PART 2

THE MILFORD HAVEN PORT AUTHORITY

4 Constitution of Authority

- (1) Subject to subsection (2) below, on and after the new constitution date the Authority shall, subject to sections 9 (Declaration to be made by members) and 10 (Casual vacancies) of this Act consist of the following members—
 - (a) the Chief Executive;
 - (b) the chairman of the Authority, appointed by the Secretary of State;
 - (c) not less than eight and not more than nine members appointed by the Secretary of State of whom—
 - (i) one member shall be appointed after consultation with such persons appearing to him to be representative of organised labour in Wales as he considers appropriate;
 - (ii) two members shall be appointed after consultation with the Pembrokeshire County Council;
 - (iii) two members shall be appointed after consultation with such persons who—
 - (a) appear to the Secretary of State to be representative of bodies engaged in the oil industry and other commercial operations; and
 - (b) have a substantial interest in the haven;
as he considers appropriate; and
 - (d) two members appointed by the Authority, if they so decide, both of whom shall be officers of the Authority, and who shall hold or vacate their offices as members at the discretion of the Authority.

- (2) If at any time no member of the Authority has wide experience of navigation (including the command of sea-going ships, pilotage and navigational aids), the persons holding office under subsection (1) above shall appoint as an additional member of the Authority a person, not being an officer of the Authority, who in their opinion has such experience.

5 Selection of members

- (1) Each appointing body shall make the appointments provided for by section 4 (Constitution of Authority) of this Act on merit, in accordance with a published recruitment policy and having had regard to equal opportunities.
- (2) Each member appointed by the Secretary of State under the said section 4 shall be a person who appears to the Secretary of State to have special knowledge, experience or ability which—
 - (a) is in one or more of the matters mentioned in subsection (3) below; or
 - (b) is otherwise appropriate to the efficient, effective and economic discharge by the Authority of their functions.
- (3) The matters are—
 - (a) management of ports or harbours;
 - (b) shipping;
 - (c) navigation of ships;
 - (d) the protection or conservation of the environment;
 - (e) commercial, financial, industrial or legal matters;
 - (f) water related leisure activities;
 - (g) the organisation of workers;
 - (h) local government.
- (4) In making an appointment under the said section 4 or under section 10 (Casual vacancies) of this Act the appointing body 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.

6 Appointment of first members

The first appointments under section 4 (Constitution of Authority) of this Act shall be made on, or as soon as reasonably practicable after, 1st February 2003, and those members so appointed shall hold office from the new constitution date.

7 Term of office of members

- (1) A person appointed by the Secretary of State as a member of the Authority shall cease to hold office at the end of such period not exceeding three years from the date of the appointment as the Secretary of State may in making the appointment specify and in specifying such period the Secretary of State shall have regard to the desirability of retirement in rotation.

- (2) A person appointed under subsection (2) of section 4 (Constitution of Authority) of this Act shall cease to hold office at the end of such period not exceeding three years from the date of the appointment as the persons making the appointment specify at the time of the appointment.

8 Transitional co-opted members

- (1) This section applies if fewer than two of the existing members is appointed in accordance with section 6 (Appointment of first members) of this Act.
- (2) The existing members shall, between 1st February 2003 and the new constitution date, co-opt from their number no more than two other members to serve, in addition to the members appointed in accordance with the said section 6, as co-opted members for a period of six months beginning on the new constitution date.

9 Declaration to be made by members

No person shall act as a member until he has made the declaration set out in Schedule 1 to this Act (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.

10 Casual vacancies

- (1) Subject to subsection (3) below, if a casual vacancy occurs in the office of a member appointed under subsection (1) of section 4 (Constitution of Authority) of this Act, the appointing body shall appoint another person to fill the vacancy.
- (2) A person appointed to fill a casual vacancy shall, subject to sections 9 (Declaration to be made by members) and 11 (Disqualification of members) of and paragraph 3 of Schedule 2 to, this Act, hold office during the remainder of the term for which the person in whose place he has been appointed was appointed.
- (3) A casual vacancy occurring less than four months before the end of the vacating member's normal term of office may at the discretion of the appointing body be left unfilled.

11 Disqualification of members

If an appointing body is satisfied that a member whom they have appointed to the Authority—

- (a) has without the permission of the Authority been absent from the meetings of the Authority—
 - (i) during a period when three such meetings have been held; or
 - (ii) for a period of three consecutive months;whichever of those 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 appointing body may declare his office as a member to be vacant and thereupon his office shall become vacant.

12 Indemnity insurance for members

The Authority may subscribe, and pay premiums, for a policy of insurance to indemnify the members jointly or severally against personal liability arising from any act or omission of the members or of any of them, not being an act or omission—

- (a) which the member or members in question knew to be a breach of his or their duty; or
- (b) concerning which, he or they were reckless as to whether it was such a breach.

13 Chief Executive of Authority

The general manager of the Authority shall on and after the coming into force of this Act be known as the Chief Executive of the Authority and references to the general manager in any local enactment or in any document applicable to the Authority shall be construed accordingly.

14 Provisions applying to members

On and after the new constitution date, Schedule 2 to this Act shall have effect with respect to the Authority.

PART 3

DIRECTIONS TO VESSELS

15 General directions to vessels

- (1) The Authority may give directions (“general directions”) for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the haven, and the approaches to it.
- (2) Without prejudice to the generality of subsection (1) above, general directions may be given for any of the following purposes:—
 - (a) for designating areas, routes or channels in the haven and the approaches to it which vessels are to use, or refrain from using, for movement or mooring;
 - (b) for securing that vessels move only at certain times or during certain periods;
 - (c) for requiring the master of a vessel to give to the harbourmaster information relating to the vessel reasonably required by the harbourmaster for the purposes of this section.

- (3) General directions may apply—
 - (a) to all vessels or to a class of vessels designated, or the designation of which is provided for, in the direction;
 - (b) to the whole of the haven and the approaches to it or to a part designated, or the designation of which is provided for, in the direction;
 - (c) at all times or at times designated, or the designation of which is provided for, in the direction;

and every direction given under this section shall specify the extent of its application in relation to the matters referred to in paragraphs (a), (b) and (c) of this subsection.

- (4) The Authority may revoke or amend general directions.
- (5) The Authority shall not exercise any power conferred by subsection (1) or (4) above except after consultation with—
 - (a) the Chamber of Shipping;
 - (b) the Royal Yachting Association; and
 - (c) the advisory committee established under section 15 (Advisory committee) of the Act of 1983.

16 Publication of general directions

- (1) This section applies to the giving of notice of a general direction and of any amendment or revocation of such a direction.
- (2) The notice shall, except in case of emergency, be published by the Authority as soon as practicable in Lloyd's List or some other newspaper specialising in shipping news.
- (3) If the notice relates to the giving or amendment of a direction, it shall state a place at which copies of the direction may be inspected and bought, and the price of such copies.
- (4) In an emergency, the notice may be given in any manner the Authority consider appropriate.

17 Special directions to vessels

- (1) In addition to the directions which he may give under section 52 of the Harbours, Docks, and Piers Clauses Act 1847 (c. 27) the harbourmaster may give a direction ("a special direction") under this section—
 - (a) requiring any vessel anywhere within the haven or the approaches to it to comply with a requirement made in or under a general direction;
 - (b) prohibiting the mooring of vessels in any particular part or parts of the haven;
 - (c) regulating or requiring the movement, mooring or unmooring of a vessel, regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores otherwise than at a dock or pier.
- (2) A special direction may be given in any manner considered by the harbourmaster to be appropriate.

- (3) The harbourmaster may revoke or amend a special direction.

18 Master's responsibility to be unaffected

The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

19 Failure to comply with directions

The master of a vessel who fails without reasonable excuse to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

20 Enforcement of directions

- (1) Without prejudice to any other remedy available to the Authority, if a special direction is not complied with within a reasonable time, the harbourmaster may put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.
- (2) If there is no one on board the vessel to comply with a special direction, the harbourmaster may proceed as if the direction had been given and not complied with, but he shall not do so unless after reasonable inquiry has been made, the master cannot be found.
- (3) Expenses incurred by the Authority in the exercise of the powers conferred by this section shall be recoverable by the Authority as if they were a charge of the Authority in respect of the vessel.

PART 4

MISCELLANEOUS AND SUPPLEMENTAL

21 Publication of Authority's annual statement of accounts and business strategy

- (1) As soon as reasonably practicable after their annual statement of accounts is prepared, the Authority—
 - (a) shall make available a copy of the statement for a period of three months at the offices of the Authority for inspection free of charge by members of the public; and
 - (b) shall, subject to the payment of a reasonable charge, supply a copy of the statement to any person who requests to be supplied with a copy.
- (2) The Authority shall prepare, by way of supplement to the annual statement of accounts, a business strategy containing—
 - (a) general information about the Authority and its members;
 - (b) statements of the Authority's key policies, its strategic objectives, and its targets for a stated period not less than the coming financial year;

- (c) a statement outlining the Authority's operations during the period covered by the statement, its operational performance and future plans;

and the business strategy shall be made available in the same way as the annual statement of accounts.

22 Powers of investment, etc.

- (1) Subject to subsection (2) below, the Authority may—
 - (a) acquire by agreement any business, undertaking or assets;
 - (b) subscribe for or acquire any shares, stock, debentures, debenture stock or any other security of a like nature of any body corporate;
 - (c) form and promote, or join with any other person in forming and promoting a company for carrying on any function;
 - (d) provide loans and guarantees and make other kinds of financial provision to or in respect of companies;
 - (e) dispose of or discontinue the whole or any part of their undertaking acquired under this section and held for the purposes of the haven but subject to all liabilities and obligations in respect thereof to which the Authority are subject;
 - (f) dispose of any shares or other securities subscribed for or acquired under this section; and
 - (g) provide assistance (whether financial or otherwise) to any person;

and may do such other things which are calculated to facilitate, or to be conducive or incidental to, the exercise of any powers conferred by this subsection.

- (2) The powers of the Authority under this section may be exercised if, and only if, in the opinion of the Authority the exercise of the powers is likely to provide economic, social, cultural or environmental benefits to all or some of the population of Pembrokeshire or any part of Pembrokeshire.
- (3) The powers of the Authority under this section are additional to the powers of the Authority under section 9 of the Act of 1983 and section 37 of the Docks and Harbours Act 1966 (c. 28).

23 Crown rights

Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown.

24 Repeals

On the new constitution date Part I (Constitution of Board) of and paragraphs 18 and 20 to 24 of Schedule 1 to the Act of 1983 shall be repealed.

SCHEDULES

SCHEDULE 1

Section 9

FORM OF DECLARATION BY MEMBERS

MILFORD HAVEN PORT AUTHORITY

MILFORD HAVEN PORT AUTHORITY ACTS AND ORDERS 1983 TO 2002

DECLARATION

I [FULL NAME] do solemnly declare

- (1) that I will faithfully and impartially, according to the best of my skill and judgment, execute all the powers and authorities vested in me as a member of the Milford Haven Port Authority by virtue of the Milford Haven Port Authority Acts and Orders 1983 to 2002;
- (2) that I have read and understood the notes entitled “Note for Guidance of Members 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 sub-paragraph (6) of paragraph 7 of Schedule 2 to the Milford Haven Port Authority Act 2002, 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, or any new interest, such as is mentioned in those notes, which I may acquire:

Made and signed in Milford Haven, in the County of Pembrokeshire, on the

..... day of

..... (signature)

Witnessed by the Chief Executive

.....

as a member of the Milford Haven Port Authority (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”.

SCHEDULE 2

Sections 10 and 14

PROVISIONS APPLYING TO THE AUTHORITY

Meetings of Authority

- 1 (1) The first meeting of the Authority after the new constitution date shall be convened by the Chief Executive as soon as reasonably possible after that date and the Chief Executive shall send notice of that meeting by post to each of the members.
- (2) The Authority shall meet at least six times in each year commencing on 1st January.

Chairman and vice-chairman of Authority

- 2 (1) There shall be a vice-chairman of the Authority who shall be appointed by the members from among the members holding office under subsection (1)(b) or (c) of section 4 (Constitution of Authority) or section 10 (Casual vacancies) of this Act.
- (2) The first vice-chairman taking office after the new constitution date shall be appointed as soon as practicable after the new constitution date.
- (3) Subject to sub-paragraph (4) below, every vice-chairman appointed under sub-paragraph (1) above shall, unless he resigns his office as vice-chairman or ceases to be a member, hold office for a period of three years.
- (4) If those of the members who are appointed under subsection (1)(b) or (c) of section 4 (Constitution of Authority) or section 10 (Casual vacancies) of this Act are satisfied that the vice-chairman should cease to hold his office as such, they may—
 - (a) terminate his office as such; and
 - (b) appoint another member to be vice-chairman during the remainder of the term for which the former vice-chairman was appointed.
- (5) On a casual vacancy occurring in the office of chairman of the Authority, the vacancy shall be filled by the appointment by the Secretary of State, of an acting chairman, from among the members of the Authority, and the acting chairman shall hold office until a chairman is appointed by the Secretary of State.
- (6) A member appointed under sub-paragraph (5) above to fill a casual vacancy in the office of 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 whom he replaces was appointed.
- (7) In the absence of the chairman, or as the case may be, the acting chairman, the person for the time being holding office as vice-chairman shall have and may exercise all the powers of the chairman or the acting chairman.

- (8) If at a meeting of the Authority neither the chairman nor the vice-chairman is present the members present shall choose one of their number to be chairman of the meeting.

Vacation of office by members

- 3 (1) A person appointed by the Secretary of State as a member of the Authority may resign his office at any time by notice in writing given to the Secretary of State and the chairman of the Authority, or if that person is the chairman, the vice-chairman.
- (2) A person appointed by the Authority under subsection (1)(d) or (2) of section 4 (Constitution of Authority) of this Act may resign his office at any time by notice in writing given to the chairman of the Authority or if that member is the chairman, the vice-chairman.

Reappointment of members

- 4 (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 section 11 (Disqualification of members) of this Act.
- (2) Subject to sub-paragraph (3) below, a vacating appointed member shall not be eligible for reappointment as a member where he has held office for three consecutive terms.
- (3) A person appointed as chairman of the Authority may hold office for not more than three consecutive terms as chairman notwithstanding that he may have previously held office as a member for up to three consecutive terms immediately preceding his appointment as chairman.
- (4) For the purposes of this paragraph, “term” does not include:—
 - (a) the first term of any member appointed to take office on the new constitution date; or
 - (b) the remainder of a term during which the member was appointed to fill a casual vacancy under section 10 (Casual vacancies) of this Act.
- (5) In this paragraph “appointed member” means a member appointed under subsection (1)(b) or (c) of section 4 (Constitution of Authority) of this Act.

Reappointment of chairman

- 5 (1) A person appointed as chairman of the Authority shall not be eligible for reappointment as the chairman or as a member where, immediately before his appointment, he has served as chairman for three terms.
- (2) For the purposes of this paragraph, “term” does not include—
 - (a) a term served by the person as chairman where that term is less than three years; or
 - (b) the remainder of a term during which the member was appointed as acting chairman under paragraph 2 above.

Committees

- 6 The Authority 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) (c. 40) to a committee of the Authority consisting wholly of members of the Authority.

Proceedings of Authority and Committees

- 7 (1) Every question at a meeting of the Authority or a committee of the Authority shall be decided by a majority vote of the members present and voting.
- (2) If at any meeting of the Authority there is an equality of votes on a question, the chairman of the meeting shall have a second or casting vote.
- (3) The quorum required for a meeting of the Authority shall be five.
- (4) The Authority shall cause minutes to be made—
- (a) of the names of members present at a meeting of the Authority or of a committee of the Authority; and
 - (b) of all proceedings or resolutions at such meeting;
- and such minutes, if signed by a person purporting to be chairman of the meeting to which the minutes relate or of a subsequent meeting at which the minutes were approved as a correct record, shall be received in evidence without further proof.
- (5) If a member has any interest, direct or indirect—
- (a) in any contract or proposed contract to which the Authority are or would be a party, or is a director of a company or body with which the contract or proposed contract is made or proposed to be made,
 - (b) in any other matter with which the Authority are concerned,
- he shall declare that interest.
- (6) If a member is present at a meeting of the Authority or of any committee of the Authority at which a contract or other matter in which he has an interest is to be considered, he shall—
- (a) as soon as is practicable after the commencement of that meeting, disclose his interest;
 - (b) not vote on any question with respect to that contract or matter; and
 - (c) withdraw from the meeting—
 - (i) at any time if the members present by resolution require him to do so; and
 - (ii) while a decision on that contract or matter is being made.
- (7) Sub-paragraphs (5) and (6) above shall not apply to any interest—
- (a) which a member has in respect of the payment to the Authority of harbour dues;
 - (b) which arises in respect of the provision of harbour services or facilities affecting the trading community in general;

- (c) which a member has as an employee of a public utility undertaking or as a shareholder, not being a director of a company, unless he possesses more than five per cent of the issued share capital of the company; or
- (d) which the members present at the meeting by resolution declare to be too remote.

Validity of acts of Authority

- 8 The acts and proceedings of the Authority, or of any committee of the Authority, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as a member, or as chairman or vice-chairman, of the Authority or committee.

Authentication of seal

- 9 (1) The application of the seal of the Authority shall be authenticated by the signature—
- (a) of the chairman of the Authority or some other member authorised by the Authority to authenticate the application of the seal; and
 - (b) of the Chief Executive or some person authorised by the Authority to act in his place in that behalf.
- (2) The Authority 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.

General

- 10 The Authority may appoint upon such terms and conditions as they see fit a Chief Executive, a secretary and such other officers and servants as they may determine.
- 11 Subject to the provisions of this Schedule, the procedure of the Authority shall be regulated in such manner as the Authority determine.