

2000 No. 3175

HARBOURS, DOCKS, PIERS AND FERRIES

The Harwich Haven Harbour Revision Order 2000

Made - - - - - 27th November 2000

Coming into force - - - - - 28th November 2000

Whereas the Harwich Haven Authority has applied for a harbour revision order under section 14 of the Harbours Act 1964(a);

And whereas an objection to the application made pursuant to Schedule 3 to the said Act has been withdrawn;

And whereas the Secretary of State for the Environment, Transport and the Regions is satisfied as mentioned in subsection (2)(b) of the said section 14;

Now, therefore, the Secretary of State for the Environment, Transport and the Regions (being the appropriate Minister under subsection (7) of the said section 14(b)), in exercise of the powers conferred by that section and now vested in him(c), 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 Harwich Haven Harbour Revision Order 2000 and shall come into force on 28th November 2000.

(2) The Harwich Harbour Acts and Orders 1973 to 1993 and this Order may be cited together as the Harwich Harbour Acts and Orders 1973 to 2000.

Interpretation

2.—(1) In this Order—

“the 1973 Order” means the Harwich Harbour Revision Order 1973(d);

“appointing authority” means any of the authorities mentioned in article 3(2) of the 1973 Order as substituted by article 3 of this Order;

“the appointed day” means the 56th day after the day on which this Order comes into force;

“the Authority” means the Harwich Haven Authority;

“Board member” means a member of the Authority;

“the Chief Executive” means the chief executive of the Authority;

“the Harbour Master” means the harbour master of the Authority;

“the Haven” means the area comprising—

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

(c) S.I. 1981/238 and S.I. 1997/2971.

(d) S.I. 1974/991.

- (a) Harwich Harbour as described in section 4(1)(a) of the Harwich Harbour Act 1974(a); and
- (b) the Harwich seaward area as described in section 4(1)(b) of that Act and extended by article 3 of the Harwich Harbour Revision Order 1979(b), section 3 of the Harwich Harbour Act 1988(c) and article 3 of the Harwich Haven Harbour Revision Order 1993(d).

Constitution of the Board

3. For article 3 (Constitution of the Board) of the 1973 Order there is substituted the following:—

“3.—(1) On and after the appointed day the Authority shall consist of—

- (a) the Chairman and seven other Board members appointed by the appointing authorities;
- (b) the Chief Executive; and
- (c) the Harbour Master or another executive of the Authority appointed by the Chairman after consultation with the Chief Executive.

(2) The appointing authorities and the number of Board members appointed by each are—

- (a) the Secretary of State: the Chairman and four others; and
- (b) the Authority: three.”.

Board members: selection and specialist skills

4. The following articles are inserted after article 3 of the 1973 Order:—

“Selection of board members

3A.—(1) Each appointing authority shall make the appointments provided for by article 3 of this Order on merit and having had regard to equal opportunities.

(2) Each Board member is independent and, accordingly, the appointing authorities shall not appoint any Board member to be a representative of any particular interest.

Board members’ specialist skills

3B.—(1) The appointing authorities shall together take steps to secure that the appointments made by them provide an appropriate balance of skills, competencies and experience which shall include, but not be limited to, current knowledge and experience of the ports industry in the region, environmental matters affecting the Haven and commercial activities in, and recreational use of, the Haven.

(2) Of the four Board members other than the Chairman appointed by the Secretary of State under article 3(2)(a) of this Order, one shall be a person who appears to the Secretary of State to have knowledge and experience of environmental matters affecting the area of the Haven.

(3) Of the three Board members appointed by the Authority under article 3(2)(b) of this Order, one shall be a person who appears to the Authority to have relevant current maritime expertise, and the other two shall be persons who appear to the Authority to have relevant current knowledge and experience of the port industry in the region.”.

Appointment and terms of office

5. For article 4 (Appointment of Conservators) of the 1973 Order there is substituted the following:—

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- (a) 1974 c.i.
 - (b) S.I. 1979/1656.
 - (c) 1988 c.xxxiv.
 - (d) S.I. 1993/1962.

“Appointment and terms of office

4.—(1) Each appointing authority shall make the appointments provided for by this Order—

- (a) in the case of appointments which are to have effect on the appointed day, by 1st November 2000 or the third day after this Order comes into force, whichever is later; and
- (b) in the case of subsequent appointments which fall to be made in any year, by not later than 1st November in that year.

(2) The Chief Executive shall hold office as a Board member so long as he remains Chief Executive.

(3) The Harbour Master or other executive appointed under article 3(1)(c) of this Order (“the appointed executive”) shall hold office for a term of 12 months unless he previously ceases to hold the executive position held by him at the time of his appointment.

(4) Each of the appointed Board members shall (unless he previously resigns) hold office—

- (a) in the case of—
 - (i) the Chairman, and
 - (ii) two of the Board members appointed by the Authority, whose appointment is to have effect on the appointed day, for a term of four years; and
- (b) in the case of all other appointments, for a term of three years.

(5) Upon ceasing to hold office, each Board member shall be eligible for reappointment unless—

- (a) he has already held office for three terms, or in the case of the appointed executive, nine terms; or
- (b) he has already held office for two terms, or in the case of the appointed executive, six terms, and there are no exceptional reasons for his reappointment.

(6) Notwithstanding paragraph (5) of this article, the Chairman may serve as a Board member for a total of four terms, but may not hold office as Chairman for more than three terms.

(7) The appointments provided for by this Order shall be notified in writing to the Chief Executive.”.

Disqualification of Board members

6. Article 7 of the 1973 Order is amended as follows:—

- (a) in paragraph (1), for the words “If the Board are satisfied that” there are substituted the words “This article applies where”;
- (b) after paragraph (1)(a) there is inserted—
 - “(aa) has knowingly failed in a material respect to act in his capacity as a Board member independently of any particular interest;
 - (aaa) appears to the Chairman to be unable or unwilling adequately to discharge his functions as a Board member;”;
- (c) after paragraph (1)(d), the words “the Board may” to the end of paragraph (1) are omitted; and
- (d) after paragraph (1) there is inserted—
 - “(1A) If—
 - (a) the Chairman, or
 - (b) the Authority,is satisfied that this article applies to any Board member, and that the Board member should be disqualified from office in consequence, the Chairman or, as the case may be, the Authority may declare his office as a Board member to be vacant, and thereupon the office shall become vacant.
 - (1B) Before satisfying himself as described in paragraph (1A) of this article the Chairman shall consult all Board members other than the member in respect of whom a declaration is being considered.”.

Publication of accounts

7. In the Harwich Harbour Act 1974—

(a) the following subsection is inserted after section 68(3):—

“(4) The Authority shall make the accounts, as approved at the meeting referred to in subsection (3) of this section, and the strategy plan required by section 68A (Strategy plans) of this Act, available at its principal office for inspection, and for the purchase of copies at a reasonable price.”;

(b) the following section is inserted after section 68:—

“Strategy plans. **68A.** The Authority shall prepare, by way of supplement to the annual accounts, a strategy plan containing—

- (a) general information about the Authority and Board 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 accounts, its operational performance and future plans.”.

Signed by authority of the Secretary of State for the Environment,
Transport and the Regions

Stephen Reeves
Head of Ports Division

27th November 2000

Department of the Environment, Transport and the Regions

EXPLANATORY NOTE

(This note is not part of the Order)

This Order—

- (a) alters the constitution of the Harwich Haven Authority; and
- (b) provides for the Authority’s accounts to be made publicly available.

The previous constitution provided for six of the ten members of the Authority to be appointed by appointing bodies other than the Authority or the Secretary of State. The new constitution provides for eight of the Board members to be appointed by the Authority or the Secretary of State. The remaining two members are the Chief Executive of the Authority and either the Harbour Master or another executive by virtue of their respective offices, thereby securing executive representation on the Authority.

The Order makes specific provision concerning the appointment of Board members with specialist skills. It also alters the number of terms of office which an appointed Board member may hold and widens the power of the Authority and the Chairman to disqualify Board members in certain circumstances.

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